

LEGITIMACY OF LAND EXCHANGE IN INTERNATIONAL LAW: THE CASE OF RUSSIA AND UKRAINE

LEGITIMIDADE DA TROCA DE TERRAS NO DIREITO INTERNACIONAL: O CASO DA RÚSSIA E DA UCRÂNIA

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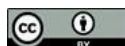
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Abstract

This study seeks to examine the legality of land exchange under international law through the study of Russia and Ukraine case. In the wake of Russia's annexation of the Crimean Peninsula in 2014, followed by a war that began in 2022, it has been suggested that the war could be ended by exchanging territories that Russia has seized, particularly in Donetsk and Luhansk regions. Therefore, this research seeks to explore the legal framework governing the transfer of sovereignty between states and to examine the extent to which such transfer is legitimate in the perspective of equipped disputes. In addition, it examines whether this exchange violates well-established principles of international law, including territorial honor and the prohibition of acquiring territory by force. The United Nations Charter, the resolutions of the General Assembly, and the jurisprudence of the International Court

Resumo

Este estudo procura examinar a legalidade da troca de territórios ao abrigo do direito internacional através do estudo do caso da Rússia e da Ucrânia. Na sequência da anexação da Península da Crimeia pela Rússia em 2014, seguida de uma guerra que começou em 2022, tem sido sugerido que a guerra poderia ser encerrada através da troca de territórios que a Rússia tomou, particularmente nas regiões de Donetsk e Luhansk. Portanto, esta pesquisa busca explorar o quadro jurídico que rege a transferência de soberania entre Estados e examinar até que ponto tal transferência é legítima na perspectiva de disputas equipadas. Além disso, examina se essa troca viola princípios bem estabelecidos do direito internacional, incluindo a honra territorial e a proibição de adquirir território pela força. A Carta das Nações Unidas, as resoluções da



of Justice will be examined in this context. We use a comparative approach in this study by looking at historical examples of land exchanges, including those that took place in European regions and between Egypt and Jordan on the one hand, and Israel on the other. In the context of any potential peace accords between Russia and Ukraine, the emphasis is on evaluating the legitimacy of such transfers. The research concludes that the process of land exchange in itself does not establish an abuse of international law as long as it is carried out with the consent of the concerned states and the approval of the constitutional authorities in both countries, particularly if such treaties are registered with the United Nations in accordance with the UN Charter. However, exchanges conducted under military pressure represent an obvious violation of international law and lack international legitimacy.

Keywords: Russia. Ukraine. land exchange. international law. United Nations.

Assembleia Geral e a jurisprudência do Tribunal Internacional de Justiça serão examinadas neste contexto. Utilizamos uma abordagem comparativa neste estudo, analisando exemplos históricos de trocas de territórios, incluindo aqueles que ocorreram em regiões europeias e entre o Egito e a Jordânia, por um lado, e Israel, por outro. No contexto de quaisquer acordos de paz potenciais entre a Rússia e a Ucrânia, a ênfase está na avaliação da legitimidade de tais transferências. A pesquisa conclui que o processo de troca de terras em si não constitui um abuso do direito internacional, desde que seja realizado com o consentimento dos Estados envolvidos e a aprovação das autoridades constitucionais de ambos os países, especialmente se tais tratados forem registrados nas Nações Unidas, de acordo com a Carta das Nações Unidas. No entanto, as trocas realizadas sob pressão militar representam uma violação óbvia do direito internacional e carecem de legitimidade internacional.

Palavras-chave: Rússia. Ucrânia. troca de terras. direito internacional. Nações Unidas.

1 INTRODUCTION

Civil wars and conflicts have always been, and continue to be, among the greatest challenges facing the international order since the establishment of the United Nations in 1945 up to present. Border disputes, in particular, represent a major challenge both for international relations and international law. When the Soviet Union collapsed and disintegrated into several states, one of the enduring challenges faced by some of the newly independent states was the persistence of border disputes with the mother state, Russia. On the one hand, this led to considerable political tension, and on the other to military clashes. Due to these obstacles and difficulties, re-drawing borders across the European continent was a difficult task. (Shaw, 2017).

A significant challenge to Europe and the international legitimate order is the Russian-Ukrainian conflict, which creates a intimidation to the harmony and collateral for which the UN was founded. Consequently, this research identifies several legal questions concerning the legitimacy of the proposed solutions to end the Russian–Ukrainian conflict, including the idea of land exchange as a means of reaching a ceasefire and achieving a political compromise between Russia and Ukraine.

Russia has controlled several eastern Ukraine regions during the current war. In the aftermath of this development, Russia, Ukraine, and the West began using these lands as bargaining chips. Therefore, the main question is: Does international law allow Russia to maintain control over the territories it occupied in eastern Ukraine in exchange for reaching a political settlement? Does land exchange have legal validity as a way of settling international clashes? How about the issue of unlawful occupation or forcible annexation?

This paper examines the legal foundations of land exchange by reviewing precedents where States used this technique for peaceful dispute settlement. In addition to examining relevant legal texts from the UN Charter and customary international law, these questions also examine historical precedents of state land exchanges. The Russian-Ukrainian case will be addressed specifically and evaluated from an international legal outlook.

2 THE CONCEPTUAL AND LEGAL FOUNDATIONS OF LAND EXCHANGE IN INTERNATIONAL LAW

2.1 The concept of land exchange and its distinction from forcible annexation

2.1.1 Defining land exchange as a negotiated mechanism grounded in mutual consent

This study will start by defining land exchange in international law. Many jurists agree that land exchange refers to the process of mutually transferring sovereignty over specific parts of territory under a written treaty that satisfies all the essential elements of a valid treaty, especially the absence of coercion. As Crawford (2019) affirms, the fundamental criterion of legality in this context is the freedom of will; no agreement extracted under threat, or the use of force has legal validity.

Thus, land exchange is an expansion of the idea of consensual cession of clearly defined territory, agreed upon by states—particularly neighbouring states—in order to resolve border disputes (Shaw, 2017). According to the 1969 Vienna Convention on the Law of Treaties (VCLT), regarded as the foundational treaty governing relations between states, a land exchange requires the essential element of state sovereignty and the capacity of states to conclude such treaties. States, have the competence to dispose of their

territories in accordance with international law. This freedom is, however, subject to one fundamental requirement: a treaty cannot be concluded by force or coercion, as reaffirmed explicitly in the Vienna Convention.

Coerced land transfers or exchanges are universally considered invalid and void *ab initio*. Aside from establishing this principle as part of customary international law, the UN General Assembly has repeatedly stated in Resolution 3314 (1974) that any acquisition of territory by force constitutes an act of aggression. This statement is reiterated in the Declaration on Friendly Relations of 1970. (UN General Assembly, 1970; UN General Assembly, 1974). The 2015 India-Bangladesh agreement, in which about 162 border enclaves were exchanged, is an example of a lawful land exchange. There was an option for residents of those territories to choose their nationality, making this an important contemporary precedent for land exchanges. These arrangements respect the right of local residents to determine their nationality, preventing future conflicts. In order for such agreements to be legitimate, they must be ratified by the government of both countries and registered with the United Nations, in accordance with the Charter of the United Nations (Ministry of External Affairs, 2015; Nayar, 2020).

Based on the above, land exchange can be defined as a mutual transfer of sovereignty over clearly delimited territories between two or more states, documented under a written treaty governed by the principles of international law.

2.2 Differentiating contractual territorial adjustment from annexation and unlawful occupation

There is no doubt that consensual and peaceful land exchange differs fundamentally from forcible annexation or unlawful occupation. Legal and diplomatic channels must be used to modify internationally recognized borders. Military force or threats of force used to annex territory are gross violations of the UN Charter, especially Article 2(4), which prohibits the use of force against a state's territorial integrity or political independence.

International Court of Justice has consistently affirmed this position, most notably in its Advisory Opinion on Namibia of 1971, which asserted that colonialism and illegal land acquisition do not have legal effects, and that all states are obligated not to recognize them. (ICJ, 1971).

There is no way that military occupation can give the occupying power sovereign rights nor can it change the legal status of the territory. In spite of the occupying power, sovereignty remains with the original state. Thus, forced annexation or occupation violates international law's peremptory norms (*jus cogens*) (Metwally, 1969; Abd al-Hamid, 1984). According to the ICJ, stable borders are essential to stable international relations, and sovereignty cannot be transferred without a valid legal document (ICJ, 1986; Shaw, 2017).

It is necessary to distinguish lawful from unlawful territorial exchanges, and the process must be based on a freely concluded agreement devoid of coercion.

2.3 The role of state sovereignty in international territorial arrangements

All territorial arrangements are legitimated by the principle of state sovereignty. A state has the inherent right to dispose of its territory by cession or exchange in accordance with international law. It must be noted, however, that sovereignty is not absolute: it is constrained by peremptory norms, foremost of which is the prohibition of force or threat against territorial integrity, a principle reaffirmed in numerous provisions of the VCLT. (1969, arts. 6, 26, 52).

Another essential principle requiring good faith observance of treaties is *pacta sunt servanda*. In this way, boundary treaties are made more durable and stable. However, boundary treaties are not subject to the doctrine of fundamental change of circumstances *rebus sic stantibus* since its application would undermine international stability. (Shaw, 2017). It is also important to consider the position of the inhabitants of the territories subject to exchange. It should be decided by referendum after border disputes have been resolved, regardless of their previous nationality. According to scholars, this principle is deeply rooted in international law. (Metwally, 1969; Abd al-Hamid, 1984). The exchange of territory without consultation with its residents, who are directly affected, is illogical and illegitimate. As a result of land exchange, one nationality may be renounced, another acquired, and certain rights may be lost or gained. It is difficult to legitimize any exchange without addressing this aspect.

The interchange of enclaves between India and Bangladesh in 2015 was legitimized by an option for residents of the transferred enclaves to choose Indian or Bangladeshi citizenship. (Nayar, 2020). This illustrates that sovereignty is not only a

government decision, but also closely ties into international legitimacy, which prioritizes the rights of peoples.

2.4 Historical and comparative perspectives

There have been notable land exchanges in Europe, as well as between Egypt and Israel, and between Jordan and Israel. These practical cases offer a clearer illustration of the legality of land exchanges between states.

2.4.1 Regional land exchanges in Europe

The peaceful exchange of land between states in Europe provides an instructive example. All of these exchanges were negotiated and validated by domestic constitutional ratifications, which gave them a legal dimension. European land exchanges have always been governed by international law, and territorial annexations have never been enforced by force.

In 2016, Belgium and the Netherlands re-demarcated their shared river border, the Meuse/Maas, between them. Upon completion of the constitutional ratification process in both states, two years after the treaty was signed, the land exchange took effect. This agreement was registered under the UN Charter and published on the official UN website. A detailed map of the new borders was included in the treaty, which strengthened its legality under international law. (United Nations, 2016; Overheid.nl, n.d.).

There was a similar case between the Netherlands and Germany in 1960, known as the Final Settlement Treaty. Approximately 33 boundary points were adjusted during the three years following the land exchange's signature. In order to reflect the new international border, new maps were issued in consensual and peaceful fashion. In both states, the agreement has been ratified, and it has been officially registered with the United Nations (U.S. Department of State, 1964).

A third instance occurred in 2022 when Canada and Denmark resolved their dispute over Hans/Tartupaluk island in Greenland. The boundary in that region was redefined by a treaty. A significant feature of the agreement is that Indigenous peoples' rights were taken into consideration, which further strengthened its legitimacy (Global Affairs Canada, 2022; Lackenbauer & Nielsen, 2022).

The land exchanges in all of these cases were formalized with written international treaties describing the border in precise detail in accordance with domestic constitutional requirements and registered with the UN under Article 102 of the UN Charter. With this international registration, the agreements gained legitimacy under UN auspices, preventing states from claiming coercion in the future even if their constitutional systems change. It is crucial to determine this point in order to make sure that such exchanges are legal in the long run.

2.5 The Jordan–Israel peace treaty (1994) and related territorial adjustments

A peace treaty known as the Treaty of Wadi Araba was signed between Jordan and Israel in 1994 after decades of war. There are 30 articles in the treaty, five annexes, and other maps and protocol implementing the treaty. In each annex, a specific issue is addressed (Israel-Jordan Peace Treaty, 1994, Annex I(a)-(c)). In the first annex, borders and sovereignty are discussed, and in the second, water sharing is discussed.

The extraordinary precision of this treaty left little room for misunderstandings or divergent interpretations. It confirmed Jordan's sovereignty over the Baqoura and Ghamr areas, but granted Israelis who lived and worked there special usage rights for 25 years, subject to mutual renewal. As a result of this annex, the treaty has been widely praised as one of the most unusual.

Under the treaty, Jordan granted sovereignty over these territories, while Israeli farmers and investors could continue to work there under special security arrangements. When the 25-year period ended in 2019, Jordan decided not to renew the arrangement, restoring its sovereignty over both territories. (Israel MFA, 2019).

2.6 The Egypt–Israel peace treaty (1979)

In 1979, the Egypt-Israel Peace Treaty (United Nations, 1979) established a similar arrangement. As part of this treaty, Israel committed to fully withdraw from the Sinai Peninsula within three years of the exchange of ratification instruments.

There was, however, still disagreement over the exact location of boundary markers in the Taba region. A dispute was referred to international arbitration, which

ruled in favor of Egypt in 1988. As a result of the arbitral award, Egypt's claim was confirmed, and Israel followed the decision (UN RIAA, 1988; ECF, 1989).

In both the Jordanian and Egyptian cases, territory was returned through legal means -- peace treaties and binding arbitration -- that ensured precise boundary settlements. Having the treaties registered with the UN gave them enduring legitimacy that could not be challenged in the future. There are, however, significant differences between Jordan-Israel and Egypt-Israel. While the Jordanian treaty allowed Israeli farmers and residents in Baqoura and Ghamr temporary usufruct rights for 25 years, the Egyptian treaty involved no such arrangement.

In northern Sinai, Israel established settlements such as Yamit during its occupation (1967–1982). The peace treaty required Israel to dismantle all settlements, evacuate settlers, and demolish buildings. Egypt regained Sinai after, free of any Israeli civilian presence.

3 INTERNATIONAL LEGAL FRAMEWORK GOVERNING LAND EXCHANGE

3.1 United Nations Charter: respect for sovereignty and the prohibition on acquisition of land by power

There is no question that the UN Charter represents the most authoritative reference regulating international relations and any territorial changes between states. The UN Charter - that was adopted in 1945 - establishes the idea of each state's autonomous equality and expressly forbids using or threatening to use force against any state's political independence or territorial veracity. These principles are currently accepted as peremptory norms (*jus cogens*), from which no derogation is allowed under any circumstances (Shaw, 2017; Crawford, 2019).

In order to be lawful, a land exchange must be the result of free and explicit consent, without coercion. Land exchanges that are induced by coercion are void. This principle was reaffirmed in the case of Iraq's invasion of Kuwait in 1990, when Iraq sought to annex Kuwait as part of its territory. As sensible for preserving international peace and defense, the UN Security Council adopted Resolution 662 declaring the annexation null and void (UN Security Council, 1990). Likewise, the Security Council

adopted Resolution 497 in 1981, declaring Israel's annexation of the Golan Heights invalid. (UN Security Council, 1981). The Council in both cases urged states not to recognize the annexation. There can be no doubt that any territorial adjustment achieved by force is in direct violation of international law.

3.2 The principle of territorial integrity and its interaction with the right to self-determination

Territorial integrity or referred to as the principle of state unity or inviolability, is another fundamental principle of international law. It is closely related to the right of peoples to self-determination. Despite the UN Charter's prohibition on force, reaffirmed in the 1970 Declaration on Friendly Relations, it acknowledges the justification to the self-determination of colonized peoples. (UN General Assembly, 1960).

Scholars have observed (Crawford, 2019) that there may be tensions between these two principles, particularly during times of war or internal conflict. A third mechanism is needed to reconcile territorial integrity and self-determination as long as international law affirms both. The will of the affected populations is often determined by referendums or popular consultations during such situations affected by land exchanges (Metwally, 1969).

Another principle of great importance is the obligation not to recognize territorial acquisitions obtained by force. This doctrine was first formulated in 1932 and later enshrined in the 1970 Declaration on Friendly Relations and the UNGAR 3314 on the Definition of Aggression, which was incorporated into the Rome Statute of the International Criminal Court. Reaffirmation of the principle has occurred repeatedly, including following Iraq's invasion of Kuwait and Israel's annexation of the Golan Heights.

In 2019, President Donald Trump defied this principle by recognizing the Golan Heights as Israeli territory even though the Security Council had declared the annexation void. U.S. stance represents a clear violation of international law and has no legal effect on Israel's illegal annexation of Syrian territory. A similar position was taken by the ICJ in its Namibia Advisory Opinion (1971). All states were obligated not to recognize or assist in the continued presence of South Africa in Namibia. (ICJ, 1971).

4 INTERNATIONAL PRACTICE AND TREATY-BASED SETTLEMENTS

4.1 Bilateral agreements as sources of legitimacy in territorial adjustments

It is essential for a land exchange to be formalized through a treaty, whether bilateral or regional. The legal foundation for resolving disputes over territorial rights is provided by such treaties. The redrawing of internationally recognized borders must be based on binding legal instruments under international law. This principle is based on the doctrine of *pacta sunt servanda*, which states that treaties must be honored. Upon domestic ratification of bilateral treaties, the United Nations must be notified under Article 102 of the Charter so that international visibility and transparency can be assured. (Shaw, 2017; Crawford, 2019).

the 1979 Egypt–Israel Peace Treaty, the 1994 Jordan–Israel Treaty of Peace, and the 2016 Belgium–Netherlands border agreement, are good illustrations of this procedure, and all were ratified domestically and registered with the UN (United Nations, 2016; Cuyvers, 2017). These cases demonstrate that territorial exchanges are legally protected by properly concluded treaties that comply with VCLT, are duly registered, and are published by the UN.

4.2 The role of international adjudication and arbitration in territorial disputes

It is also fundamental to the legitimacy of land exchange agreements that international adjudication and arbitration are used. Legally binding decisions rendered by courts and arbitration tribunals reinforce territorial settlements. The International Court of Justice, the UN's principal judicial organ, has repeatedly reiterated this principle.

In *Burkina Faso v. Mali* (1986), the Court ruled that international stability depends on respecting colonial boundaries. This ruling affirmed the principle of *uti possidetis juris*, which requires newly independent states to respect existing administrative borders (ICJ, 1986). As part of the *Qatar v. Bahrain* case (2001), the ICJ resolved the long-standing dispute between Qatar and Bahrain. (ICJ, 2001).

An example of a successful border settlement is the one between India and Bangladesh. The longstanding dispute has prevented border enclaves from accessing essential services and nationality. A 2014 ICJ judgment on maritime delimitation led to a

2015 Land Boundary Agreement that was ratified by both parliaments. This treaty allowed over 50,000 people to choose between Indian and Bangladeshi nationality. The UN and numerous legal scholars praised this as a model of peaceful territorial adjustment via bilateral treaty, with full respect for the will of the affected populations (Ministry of External Affairs, 2015; Nayar, 2020).

One must also recall the Taba arbitration (1988), which restored Egyptian sovereignty over the Taba area disputed with Israel. The arbitral tribunal ruled in Egypt's favor, and Israel complied with the award, demonstrating the binding power of arbitration in resolving territorial disputes (UN RIAA, 1988; Lapidoth, 1989).

5 APPLICATION TO THE RUSSIAN–UKRAINIAN CONFLICT

Any agreement encompassing a land swap is strictly impeded by Ukraine's constitution, which calls for a national vote to authorise changes to the nation's borders (Zohal, 2021). "Issues of altering the territory of Ukraine are fixed utterly by an All-Ukrainian referendum," according to Article 73.

5.1 The international legal status of the disputed territories

In the early days of modern international relations, alterations to territorial boundaries in Europe during peacetime were primarily achieved through colonization, or inheritance. This stability was shattered by the brutal Thirty Years' War, which lasted from 1618 to 1648. (Lauterpacht, 1946, 29). Territorial disputes, both historical and contemporary, seem to primarily stem from conflicting state claims or, at times, from rival assertions of the same title (Sharma, 1997; Milano, 2006).

Efforts for territorial acquisition (territory, acquisition, whether as a goal or through strategic assessment, serve as the primary reason for the evolution of law and practices regarding territorial conflicts.

An early publication noted approximately 70 arbitrations related to land or maritime boundary conflicts between States from 1794 to 1989 (Stuyt, 1990). Following the implementation of the UN Charter, military force was officially abandoned as a valid method for acquiring territory, and judicial and arbitration methods of resolution have since gained prominence in international relations, as illustrated by the Beagle Channel

Dispute (1978). The precedents set by the Territorial Dispute Case (Libyan Arab Jamahiriya/Chad) (1994), in which Cardinal Samoré mediated prior to the arbitration in 1978 and the Accord-Cadre of 31 August 1989, which included provisions for, among other things, the release of prisoners of war, facilitated both arbitral and judicial resolutions. A dispute is characterized as 'a disagreement regarding a legal point or fact, a conflict of legal perspectives or interests' between involved parties (*Mavrommatis Palestine Concessions, Greece v United Kingdom*, 1924, 11; *Mavrommatis Concessions Cases*). Relevant jurisprudence of the International Court of Justice ('ICJ') is abundant (*Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament, Marshall Islands v India*, paras 33–40).

However, there is still work to be accomplished regarding how a tribunal delineates 'the actual dispute that has been presented to it,' which should not solely rely on 'the claim and final proposals, but also consider diplomatic communications, public declarations, and other relevant evidence.' (*Fisheries Jurisdiction, Spain v Canada*, 1998, para 31). It is likely accurate to assert that the interpretation of the dispute as determined by tribunals closely mirrors the version that has not been settled through negotiation, *albeit* with some modifications in content for the sake of judicial or arbitral processes. A detailed examination of the legal framework and practices surrounding territorial disputes, including both substantive and procedural aspects, is intended to demonstrate over a century of state practice in relation to the principles of international relations, namely territorial sovereignty. (*Corfu Channel Case, United Kingdom v Albania*, 1949, 35).

5.2 Crimea and donbas under international law: occupation or annexation?

An important crisis for international law and global security has been triggered by Russia's annexation of Crimea in 2014 (Merezhko, 2015, 167). In fact, this annexation challenges the principles of contemporary international law. The Ukrainian SSR Constitution of 1978 established Crimea's legal status as part of Ukraine's territory. The Crimean Oblast is listed as one of the oblasts of the Ukrainian SSR in Article 77 of this Constitution. As part of the Ukrainian Soviet Socialist Republic, Sevastopol is known as a "city of republican subordination" (Langstrom, 2023).

In the case that Crimea was turned over to Ukraine in violation of Soviet law, the question arises: Why has Russia never addressed this issue formally throughout the USSR and the 23 years following its dissolution, including during Putin's 14 years as president and prime minister? (Merezhko, 2015, 167). Furthermore, Russia has consistently supported the territorial integrity of Ukraine. Additionally, 54% of the valid votes during the December 1991 referendum supporting Ukraine's independence were in favor of it. A clear and serious violation of international law has taken place by Russia in annexing Crimea, including the UN Charter as well as bilateral agreements between Russia and Ukraine.

Given Russia's own international law doctrine, especially regarding territorial integrity and self-determination (Buchheit, 1981), the action is particularly noteworthy. Accordingly, the justifications for the annexation appear unpersuasive based on Russia's previous legal arguments (Värk, R., 2022).

There is a great deal of complexity in the situation in Donbas. Russian military and material support was provided to non-state armed factions during the conflict in eastern Ukraine at the outset (Fischer, S., 2019). A territory is occupied when a hostile entity governs it, even without formal annexation, according to the Hague Regulations of 1907 and the Fourth Geneva Convention of 1949.

There is substantial evidence that Russia controls armed factions and governance in certain areas of Donbas, which would obligate Russia as the occupying power. (Merkx, G. W., 2023).

However, after Russia recognized Donetsk and Luhansk 'people's republics' in February 2022, and later declared their integration into the Russian Federation, it began asserting an annexation claim. This action has been widely denounced as illegal by the international community.

There are substantial differences between occupation and annexation (Hofmann, R., 2020). Under international humanitarian law, occupation is, from one hand, a temporary condition that prohibits permanent changes to the legal status of the occupied territory. In contrast, the act of annexation violates international law, activating the principle of non-recognition, the obligation not to assist an unlawful situation, and the possibility of state responsibility (Becker, 2022). Crimea and Donbas have been violated by Russia's actions in accordance with international law, including territorial integrity, sovereignty, and force prohibitions.

Donbas initially had an occupation status, but later became a territory that had been annexed. Crimea, on the other hand, has been annexed since 2014. Although complex political realities and conflicting narratives of self-determination are present in both situations, international legal principles denounce territorial acquisition through force. As a result, there is a prevailing consensus that Russia's actions in Crimea and Donbas violate international law and threaten fundamental norms of international law (Global Rights Compliance, 2022).

In most cases, Crimea's historical connections with Ukraine are examined from a cultural and administrative perspective. There is, however, a strong connection between the Donbas region and the nation's industrial heritage and resistance to Russian imperialism (Kyrychenko, K., & Williams, P. R., 2025). However, the Donbas region has always been an important part of Ukrainian territory. Before industrialization, Ukraine had a significant history in Donbas. There were Ukrainian Cossacks living in this region during the 17th century, contributing to Ukrainian identity and safeguarding Ukrainian lands.

5.3 United Nations General Assembly and Security Council Resolutions on Ukraine

The hazards or use of force against a country's political autonomy or territorial integrity are forbidden by the UN Charter. The General Assembly and Security Council stay to maintain this idea, and the ICJ has rendered decisions in the Corfu Channel and Nicaragua cases. (General Assembly resolution 2625) reaffirmed the international community's commitment to refrain from using force and declared that no territorial acquisition resulting from the threat or use of force may be recognised as lawful. Furthermore, GAR 3314 reiterated that acquiring territory by force would not be considered legitimate. This essential legal principle is also reaffirmed in the Helsinki Final Act of 1975, which was signed at the end of the Conference on Security and Co-operation in Europe ("CSCE"), demonstrating Russia's responsibility to adhere to these legal standards.

According to Resolution 68/262, the GA declared Crimea's referendum unconstitutional and affirmed Ukraine's territorial integrity within its internationally recognized borders. In addition, the General Assembly condemned the referendums held in Donetsk, Luhansk, Zaporizhzhia, and Kherson as unlawful endeavors by the Russia to

alter Ukraine's globally documented boundaries. Although Ukraine's annexation has been invalidated by fraudulent referendums in 2014 and 2022, the international community supports its territorial integrity. In fact, several resolutions have been endorsed by both the GA and SC on the Ukrainian situation since Russia annexed Crimea in 2014. Additionally, these documents reflect the legal and political reactions of the international community in response to the dynamics of great-power politics.

The UNGA has adopted several landmark resolutions in response to the Ukrainian crisis, including Resolution 68/262 (2014), which asserted the sovereignty and territorial integrity of Ukraine within internationally recognized borders, rejecting the Crimea referendum, Resolution ES-11/1 (2022) adopted during the Emergency Special Session in March 2022, accusing Russian violence alongside Ukraine, and calling for a rapid withdrawal of Russian forces. International humanitarian law was emphasized in resolution ES-11/2 (2022), which condemned the humanitarian consequences of Russian aggression. In Resolution ES-11/3 (2022), the Ukrainian government rejected Russia's attempts to annex Donetsk, Luhansk, Kherson, and Zaporizhzhia, reaffirming its territorial integrity. and subsequent resolutions (2022–2023) addressed issues such as humanitarian relief, accountability for violations of international law, reparations, and the promotion of a comprehensive, just, and lasting peace in Ukraine.

Despite the fact that they are not legally enforceable, the resolutions represent the global community's perspective. The principles of non-recognition and non-acquisition of territories through force are further strengthened. Although the SC has evaluated the situation in Ukraine, it has been limited in its action by Russia's veto authority as a permanent member. For example, in March 2014, 13 votes were cast for a resolution affirming Ukraine's territorial integrity and invalidating the Crimean referendum, 1 abstention (China), and 1 veto (Russia). The Security Council has condemned Russia's actions numerous times since 2022, but all meaningful measures have been blocked by the veto of Russia. While most members have denounced the aggression and emphasized violations of the UN Charter, the Council has served as a forum for discussion. A disparity exists between the GA and SC, indicating the inherent structural difficulties of collective security (White, N. D., 2015). Due to the paralysis of the UNSC, enforcement actions have been hindered, but the UNGA has become an important forum for voicing global displeasure with Russia. In spite of the difficulty in enforcing these resolutions, collectively, they reinforce the principles of international law regarding

sovereignty, territorial integrity, and the prohibition of aggression. In responding to Ukraine, the UNGA and UNSC illustrated both the limitations and possibilities of the UN system. As a result of Russia's veto, the Security Council has been unable to take decisive action, while the GA has repeatedly confirmed Ukraine's sovereignty and condemned Russian actions. As a result of this collection of resolutions, international legal and political discourse is contributed to, ensuring the validity and observance of UN principles.

5.4 Positions of major powers and the principle of non-recognition of territorial acquisitions by force

The term territorial dispute refers to a lawful clash between two or more states over territorial gaining or attribution (continental or island), or over territorial boundaries and their effect. Territorial disputes are generally based on conflicting claims of sovereignty over a specific region. A dispute is deemed settled by agreement between the parties or by an authoritative decision by a third party.

5.5 Principle of non-recognition: legal basis and historical pedigree

There is a long history of nations not acknowledging territorial gains achieved by force. A contemporary diplomatic expression of this concept can be traced back to the Stimson Doctrine of 1932 (Trone, J.,1996), when the United States declared that territorial alterations resulting from aggression would not be recognized, specifically the actions of the Japanese in Manchuria. UN Charter prohibits the acquisition of territory by force, and this principle underpins it. It is consistently declared by the GA at the UN level: non-recognition is a collective political and legal response to unlawful territory alteration (a state's obligation not to grant legal effect or accept instruments that validate the alteration). The resolutions of the General Assembly regarding Ukraine frequently reference these norms.

5.6 Application to Ukraine: Key UN decisions

Two landmark General Assembly votes exemplify the international community's reliance on non-recognition: Resolution 68/262 (27 March 2014) affirmed Ukraine's territorial integrity and declared the March 2014 Crimean referendum invalid — a clear political expression of non-recognition of Russia's claim over Crimea and UNGA Emergency Session Resolutions (2022) (notably ES-11/3 and ES-11/4): after the large-scale invasion in 2022 and Moscow's attempted annexation of Donetsk, Luhansk, Kherson and Zaporizhzhia, the General Assembly declared the referenda and annexations invalid and called on states not to recognize them (Resolution ES-11/4 passed with 143 in favour, 5 against, 35 abstentions). These votes are explicit, contemporary applications of the non-recognition principle (Saltzman, A. J. D., 2016).

5.7 Major powers: positions and measures

The United States government openly dismisses Russia's assertion of sovereignty over Crimea and has upheld legal and policy mechanisms to deny recognition (for instance, the US 'Crimea non-recognition' policy along with associated executive and congressional actions). Comprehensive sanctions targeting Russian individuals, organizations, and sectors were implemented in 2014 and significantly intensified following February 2022. These actions serve as effective instruments of non-recognition and coercive diplomacy.

5.8 European Union (and the United Kingdom)

The European Union has consistently asserted that it will not acknowledge any efforts to alter Ukraine's borders through the use of force and has implemented comprehensive sanctions packages (including trade restrictions, asset freezes, and travel bans) since 2014, with particular emphasis following 2022; these sanctions regimes are regularly renewed (Council Regulation (EU) 205/1494 of 18 July 2025).

5.9 China

China did not align with the majority on various resolutions concerning Ukraine (China was one of the countries that abstained on ES-11/4) (Tellis, A. J., 2024). Beijing has consistently refrained from directly criticizing Russia, opting instead for appeals for dialogue and mentioning a “peace plan” it has proposed — a position that numerous Western nations interpret as politically favourable to Moscow's unwillingness to acknowledge the full implications of non-recognition.

5.10 India and other Global South States

A combination — numerous nations in the Global South have either abstained or cast votes that differ from those of Western powers on specific resolutions. Among the reasons for this are historical connections with Russia, a desire for strategic independence, economic factors, and concerns about setting a precedent. These complexities are illustrated by several notable abstentions in the General Assembly (including India) on resolution ES-11/4 (Tellis, A. J., 2024).

5.11 Russia

Russia puts forth arguments centered on self-determination, the safeguarding of compatriots, and alleged referenda. These rationales have been largely dismissed in international forums and by most nations and international organizations. Additionally, Russia's position as a permanent member of the Security Council restricts the Council's actions (such as the use of veto), thereby shifting much of the global response to the General Assembly and to unilateral or multilateral sanctions frameworks (Lattmann, T., 2023).

5.12 What a non-recognition in practice: mechanisms and consequences

States formally announce non-recognition through statements, legislation, or policies (this hinders the establishment of diplomatic relations based on the new territorial status and guides domestic legal considerations regarding actions taken in the contested

territories). For instance: US policy declarations and laws that deny recognition of Crimean sovereignty (Milano, E., 2014). Also, sanctions through blocking access to markets, financial systems and technologies reduces the effectiveness of annexation as a *fait accompli* (EU and U.S. sanction regimes are primary examples). Further, states and international organizations decline to treat the occupier's acts as legitimate (e.g., refusal to accept passports issued by occupying authorities; refusal to register property transfers made under annexation). UNGA calls for non-recognition reinforce this practice.

Since sanctions, asset freezes, special tribunals, and cases in international courts are all pathways for accountability, non-recognition is beneficial so long as the wrongful actions remain regarded as such on a global scale. It is evident that these trends are in play in recent developments, including proposals for tribunals and ICC activities regarding Ukraine (Corten, O., & Koutroulis, V., 2022).

6 LIMITS AND POLITICAL REALITIES

Even though non-recognition can serve as a valuable normative and practical tool, its application is neither automatic nor consistent. Besides strategic, economic, and political considerations, geopolitical factors may also influence states' voting decisions. Since permanent UNSC members have the right to veto, enforcement actions within the Security Council can be obstructed, diverting the legal-political struggle to alternative platforms (such as the General Assembly, regional organizations, or unilateral and multilateral sanctions).

A non-recognition principle governs the legal response to Russia's actions in Ukraine (Ryngaert, C., & Sobrie, S., 2011). In addition to sanctions, the United States, the European Union, and the United Kingdom have vigorously implemented non-recognition. Geopolitical considerations have led to other influential states, such as China and several nations in the Global South, adopting more cautious, nuanced, or abstentionist approaches. Among the most explicit statements of non-recognition, the UN General Assembly's 2014 resolution and the 2022 emergency special session represent the most explicit statements of non-recognition regarding Ukraine.

6.1 Feasibility of land exchange: conflict-resolution mechanism

International practice increasingly suggests that land exchanges can be used to resolve territorial disputes (Zcelik, A., Gebre-Medhin, D., & Siniver, A., 2022). As long as the exchanges are based on mutual consent between the involved nations, formalized through treaties under the Vienna Convention on the Law of Treaties (1969), and do not violate the norms of jus cogens, such as the prohibition against forceful territorial acquisition, they are legal. A 2015 India-Bangladesh Land Boundary Agreement (Baral, K. K., 2025) and the 1965 Jordan-Saudi Arabia territorial adjustments (Yitzhak, R., 2025) illustrate the effectiveness of negotiated exchanges in the resolution of protracted border conflicts. However, international law also sets limitations: any land exchange must respect the principle of self-determination and guarantee the protection of the affected populations, thereby protecting their nationality and property rights.

6.2 Legal requirements for a valid land exchange

As part of the peace process agreement, the Palestinian Authority and Israel have been purportedly negotiating a 'land exchange' in recent years. There are differing opinions about the extent of territory to be exchanged, but the proposals would allow Israel to maintain significant settlements in the occupied West Bank in exchange for the establishment of a liberated Palestinian state that would acquire land that is currently within its borders.

International humanitarian law prohibits any territorial exchange or agreement between the occupying power and the occupied population as long as the occupation continues (Ryngaert, C., & Sobrie, 2011). Consequently, territorial exchange agreements reached between parties to an ongoing occupation are prohibited by international law and are null and void for this reason, according to the Vienna Convention on the Law of Treaties. It is legal to exchange land, but its practicality depends heavily on domestic legitimacy and political will. Despite offering a flexible alternative to strict boundary adjudication, it may face considerable opposition from nationalist sentiments and fears of territorial loss. The principle of *uti possidetis juris* may also be undermined by land exchange, especially in colonial territories with a history of occupied territories. Consequently, although international law recognizes land exchange as a feasible method

for dispute resolution, its effective implementation requires a careful balance between state sovereignty, human rights obligations, and international recognition to prevent a pragmatic solution from becoming a catalyst for renewed conflict. (Cotula, L., 2017).

In accordance with Article 2(4) of the United Nations Charter and the Vienna Convention on the Law of Treaties, which prohibit the use of force, a state cannot be compelled to give up or acquire territory. Sovereign equality ensures that states negotiate as equals, free from external influence, ensuring the legitimacy and sustainability of agreements. The combination of these principles ensures that land transfers are lawful and voluntary processes for territorial adjustment, as opposed to annexation or involuntary cession. The legality of land exchanges is therefore based not only on state consent, but also on the impact on the individuals and communities affected.

6.3 Practical challenges: regional security, legitimacy of the international community, and implications for the stability of the international legal order

After Russia occupied part of Donetsk and Luhansk in 2014, territorial concessions and land swaps have periodically been discussed in the context of a negotiated settlement. These proposals, however, face significant challenges under international law.

First of all, any agreement that legitimizes Russian territorial acquisitions would violate Article 2(4) of the UN Charter, which states that force cannot be used to acquire territory. A number of resolutions by the United Nations General Assembly have also declared Crimea's annexation invalid. Secondly, from a regional security standpoint, yielding land to Russia would not only empower Moscow, but would also encourage other nations to adopt similar tactics, putting Eastern Europe's stability at risk and jeopardizing collective security frameworks, such as NATO and the European Union.

Legitimacy is equally important to the international community. Despite Ukraine's consent being obtained under considerable duress, a territorial exchange agreement would be deemed illegal, since it would likely be considered coerced. Furthermore, this would undermine trust in negotiated settlements in general as well as undermine legitimacy. Under Russian rule, Crimea and Eastern Ukraine residents, many of whom consider themselves Ukrainians or oppose Russian governance, would be subjected to human rights abuses, lose citizenship, and have their cultural identity suppressed (Council of

Europe, 2022). Ukraine–Russian conflict illustrates the severe limitations of land exchange as a conflict resolution mechanism: Despite being legal in theory when based on free consent and human rights, it becomes virtually unfeasible when one party's territorial control is based on aggression, condemned by the international community, and condemned by others.

In India-Bangladesh Land Boundary Agreements, land exchanges within the framework of international law are frequently cited as successful and legitimate examples. Following decades of contention, both nations voluntarily agreed to resolve enclaves and disputed territories along their shared border. The agreement was formalized by an international treaty that was approved by both governments and their parliaments. In addition to adhering to the principle of free consent among sovereign equals, this agreement allowed residents to choose their citizenship and stay in their homes. The effective and peaceful resolution of protracted territorial conflicts can be achieved through land exchanges that are based on mutual consent, domestic legitimacy, and international recognition.

The conflict between Ukraine and Russia, however, highlights the limitations of land exchange as a conflict resolution method (Hashimy, Sayed, 2022). With the annexation of Crimea by Russia and the occupation of certain parts of Eastern Ukraine because of the application of force, Russia directly violated Article 2(4) of the UN Charter, as well as multiple UN General Assembly resolutions that upheld Ukraine's territorial integrity. It would be impossible to validate these territorial acquisitions through a land exchange if Ukraine was subject to coercion and persistent aggression. Furthermore, the international community has repeatedly discredited Russia's claims, and an exchange would undermine the prohibition against acquiring territory by force, a fundamental principle of international law. Crimea and Donbas also suffer from human rights violations and suppression of cultural identity, which presents an additional barrier to population protection.

As demonstrated in the India-Bangladesh land exchange case, international law allows land exchanges to take place with mutual consent and consideration for the affected populations (Obaidullah, M., & Howlader, M. R., 2021). A lack of international recognition, coercive measures, and illegitimate practices make these mechanisms ineffective in Ukraine-Russia. According to this comparison, land swaps are legal and

effective not only if they follow overarching international legal standards and are recognized internationally.

6.4 Summary of findings

Despite its usefulness and practicality in certain contexts, the use of land exchange by the Russian-Ukrainian conflict is both legally and politically infeasible. The India-Bangladesh Land Boundary Agreement demonstrates that land swaps are feasible when based on mutual consent, sovereign equality, and the protection of affected populations. The annexation of Crimea and occupation of Eastern Ukraine, however, resulted from Russian use of force, in direct violation of Article 2(4) of the UN Charter and multiple GA resolutions affirming Ukraine's territorial integrity. International law prohibits land exchanges that legitimize territorial gains made through aggression, rather than valid land exchanges.

7 CONCLUSIONS

Russia-Ukraine conflict highlights the vulnerability of the international legal framework. The prohibition against acquiring territory by force, a critical *jus cogens* norm, would be violated if land was exchanged under duress. Additionally, it would undermine the principle of sovereign equality since Ukraine's ability to negotiate would be influenced by external aggression rather than genuine consent. In general, the refusal of the international community to acknowledge Russia's annexation highlights the normative distinction between legitimate territorial changes and illegitimate territorial acquisitions. As a result, land exchange cannot be used as a pretext for legitimizing aggression without compromising the very legal framework aimed at maintaining peace and security. Thus, land exchanges should be recognized under international law as legitimate, but constrained mechanisms, applicable only when they represent voluntary agreements between sovereign equals and ensure the rights of affected populations. In order to solve the Ukrainian and Russian problems effectively, territorial concessions should not be made, as they legitimize unlawful annexations and undermine the credibility of the United Nations. A solution to conflicts based on the UN Charter is more appropriate, such as diplomatic negotiations, third-party mediation, international

enforcement, and security guarantees. Despite their usefulness in less coercive situations, land exchanges can set perilous precedents that could undermine international law in cases of aggressive behavior.

CONFLICT OF INTEREST

The authors have declared that they have no conflicts of interest. Every co-author has seen and approved the final manuscript, thus none of them has anything to conceal regarding their financial interests.

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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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