



The 'might is right' world order

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(Mains GS 2 : Effect of Policies and Politics of Developed and Developing Countries on India's Interests, Indian Diaspora.)

Context:

The Ukraine crisis has exposed the weakness of international law in general and the hollowness of the principle of sovereign equality in particular.

Question of true law:

- British jurist Sir Thomas Erskine Holland famously said international law is at a “vanishing point of jurisprudence” as it is a twilight zone where aspects of law and morality are inseparable.
- The legal theorist John Austin defined law as “command of the sovereign backed by sanction”, thus by applying this principle, there is no authority over and above states in the sovereign state system, and international law is not a law in the strict sense of the term.

Dealings of nations:

- Traditionally, international law consisted of rules and principles governing the relations and dealings of nations with each other.
- Recently, the scope of international law has been redefined to include relations between states and individuals, and relations between international organisations.

- Despite its semi-legal nature, international law has some basic tenets that may be called *grundnorm* and the sovereign equality of nations is one of such *grundnorm*.

Peace full settlement:

- Sovereign equality is juridical in nature, i.e., all states are equal under international law in spite of inequalities between them in areas such as military power, geographical and population size, levels of industrialisation and economic development.
- Sovereign equality, along with collective security, is a fundamental principle of the UN as the UN Charter states that the primary objective of the UN is to save succeeding generations from the scourge of war.
- The principles of sovereign equality and collective security are the sources of non-aggression and peaceful settlement of disputes among nations.

An act of aggression:

- The Russian invasion of Ukraine is an act of aggression and a violation of Ukraine's sovereignty.
- Aggression is defined in international law as any use of armed force in international relations not justified by defensive necessity, international authority, or consent of the state in which force is used.
- It is an act or policy of expansion carried out by one state at the expense of another by means of an unprovoked military attack.
- Many treaties and official declarations since World War I have sought to prohibit acts of aggression to ensure collective security.
- Article 2(4) of the UN Charter exhorts member states to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations".

Collective security:

- Aggression is the anti-thesis of sovereign equity and collective security and the doctrine of sovereign equality enjoins states to honour the sovereignty of fellow states and the concept of collective security is a promise that the sovereignty of all states will be duly respected.
- The UN Charter contains the doctrine of collective security in Article 39: "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

Oligarchy in the UN:

- The cardinal principle of democracy is equality but the UN system that represents the international community is undemocratic and oligarchic, reflected from the P5's (China, France, Russia, the U.S., and the U.K.) anachronism.
- The Ukraine crisis once again exposes the pathetic condition of the UN system and underscores the demand for democratisation of the organisation.
- The Ukraine crisis has again ushered in the 'might is right' world order, one in which all are equal but some are more equal than others.
- Thus a rules-based liberal international order has been a long-cherished aspiration of the international community as it offers a safer and fairer world order based on sovereign equality and collective security.

Conclusion:

The UN shall play a pivotal role in building a rules-based liberal international order as such an order is the only alternative to international coercion by competing great powers, spheres of influence, client states and terrorist organisations.



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