

Concluding Remarks

This volume is the result of a cross-border research collaboration among scholars who have been engaged for many years, in some cases for decades, with questions of peacekeeping, the prohibition of the use of force, and the law of neutrality, both in theory and in practice.

Already some time ago, leading experts on neutrality law in Austria and Switzerland, including *Dietrich Schindler*, *Karl Zemanek*, and *Hanspeter Neuhold*, pointed to the significantly diminished relevance of neutrality. The further consolidation of the international peace order, and its ongoing transformation into a value-based and solidarity-oriented system, can only reinforce this assessment.

Russia's invasion of Ukraine has brought these issues back to the forefront. In particular, it has raised the question of how European states, whose own security is also directly affected, should respond to such a grave violation of fundamental values and rules of international law. In such circumstances, can neutrality still be invoked as a legally permissible or politically sensible policy?

These questions prompted the contributors to undertake a fundamental analysis of the current status of neutrality under international law. Their findings confirm that the observations of the above-mentioned scholars reflected a broader trend that has continued in the meantime. The general conclusion is that neutrality has lost its relevance entirely, or at least to a very large extent, and is no longer compatible with the United Nations system of peace and security (*Markus Mohler*). There were, however, some differences of opinion as to whether neutrality law has completely exhausted its function or whether residual elements of it may still persist within United Nations law, at least insofar as the system of collective security fails to function effectively.

There was near-unanimous agreement that the principle of equal treatment of belligerents by neutral states, derived from Article 9 of the Hague Convention of 1907, no longer applies in cases of aggression which are prohibited by international law. While modern international law does not impose a direct and legally binding obligation of solidarity requiring states to support victims of aggression, provisions such as Article 41 of the ILC Draft Articles on State Responsibility clearly hint at far-reaching political

and moral obligations of solidarity in response to serious breaches of international law. Military aggression undoubtedly constitutes such a breach.

Against this background, maintaining a policy of neutrality to withhold sustained support—including military aid—from victims of aggression is no longer justifiable or excusable, assuming such a right to neutrality still exists at all. While neutrality policy remains a subject of intense debate, a clear distinction must be made between two conceptual levels. If such a policy seeks justification through international law, its validity hinges on a 'right to neutrality' that can no longer be taken for granted in its traditional sense. If, however, the policy abandons legal grounding in favor of pragmatic arguments—such as a state's role as a mediator or its historical traditions—these claims must remain subject to critical scrutiny, as they are far from universally accepted. Indeed, as this project demonstrates, Switzerland's avoidance of direct involvement in the Second World War was dictated less by its neutrality than by the strategic calculations of the belligerent powers (*Marco Jorio*).

This volume further demonstrates that Switzerland's strict export and re-export restrictions on war materiel lack a basis in international law and in fact conflict with modern international law, which requires a clear distinction between aggressor and victim states (*Thomas Cottier*).

The war in Ukraine has also highlighted the need for a stronger European defence effort. Military experts regard the European Sky Shield Initiative as a key response to the contemporary challenges of air warfare. Such measures can only be implemented in Europe through international cooperation, and this is particularly true for smaller states such as Austria. However, Austria would be unable to participate in the Sky Shield Initiative if it adhered strictly to the traditional interpretation of neutrality law (*Peter Hilpold*). Both the Austrian and Swiss governments have nonetheless decided to participate, acting consistently in pursuit of their respective national security interests, while relativising or disregarding neutrality-based objections. This again illustrates the obsolescence of neutrality law, which no longer serves, but rather undermines, the security interests of states that continue to describe themselves as neutral.

From a pragmatic perspective, this volume also shows that Austria and Switzerland, and likely other neutral states such as Malta and Ireland, will most probably not renounce their neutrality commitments in the near future (*Ralph Janik, Urs Saxer*; see also *Ulrike Haider-Quercia*). Decades of repetitive political messaging have profoundly shaped public perceptions, even though the legal implications of neutrality remain largely unclear,

not only to the general public but also within political circles and, occasionally, in academic discourse. Meanwhile, certain functions traditionally associated with neutrality, such as the provision of good offices and humanitarian engagement, may still remain meaningful. Yet the effectiveness of such policies depends on credibility. As René Rhinow has emphasised, that credibility is determined not by the neutral state itself, but by the international community as the addressee of the policy. Maintaining such credibility requires sustained effort and often entails significant limitations on sovereignty. Comparable outcomes could be achieved with less loss of sovereignty and less effort through a coherent and credible foreign policy.

A future peace settlement in the Russian-Ukrainian war will raise new and complex challenges for the international community, particularly with regard to preserving the United Nations system of peace and security (*Stefan Oeter, Markus Beham*). This is especially true if Ukraine were to be compelled to cede territory in exchange for a ceasefire. Fundamental principles of modern international law, including the Stimson Doctrine of 1932, the prohibition of the use of force under Article 2(4) of the UN Charter, and Article 41 of the ILC Draft Articles on State Responsibility, clearly oppose such outcomes. The international community must therefore consider whether it is prepared to accept a peace settlement that risks diluting these foundational norms.

For neutral states, this question arises with particular urgency if they have contributed to the erosion of these principles by remaining silent in the lead-up to the conflict and by treating aggressor and victim states as legally equivalent, contrary to international law. By failing to support the victim of aggression, such states have done nothing to prevent, and may even have facilitated, the weakening of the international legal order (*Markus Mohler, Thomas Cottier*).

