

Caught in the Crossfire: Establishing a Casus Belli for the Malaysian Airlines MH17 Tragedy

A Real Test of Malaysia's Prowess in International Diplomacy

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In classical and historical view of international law, any form of aggression that affected assets or legitimate interests of a particular nation done by external parties is tantamount to an "act of war" or *in its original Latin - casus belli*.

After the world was ravaged by two world wars in the early 20th century, the creation of the United Nations has led to the establishment of a charter of international law on *casus belli* which is binding to all of its members.

Article 51 of UN Charter recognizes only three lawful justifications for waging war: self-defense, defense of an ally required by the terms of a treaty and an approval by UN itself.

But such charter despite of its effectiveness in curbing total war between nations have failed to curtail some geopolitical actors in circumventing it by using other forms and means that still can be regarded as an "act of war".

The United States of America (US) is one such country that has continuously circumvented this law either by conducting their ["Black Ops" under the guise of classified US Special Operations](#) or [Proxy Wars, famously fought across all continents during the Cold War era](#) and still is today. Cuba, Afghanistan, Vietnam and many other nations became its battleground not only in ideological battles between liberal-democracy of US against the communism of Soviet Union, but also a real battleground fought with guns, tanks and Apache.

In fact US under the former administration of President George W Bush, this charter was disregarded by [invading Iraq without ever formally declaring war](#).

The word "war" was pretty much muted in the run up to and throughout Operation Iraqi Freedom in the mouthpieces of American mainstream media. No matter what the justifications Washington and its allies had given, the international community still regard the invasion as a real "act of war" that was forged with the lies of Weapon of Mass Destruction (WMD) and in violation of Article 51 as [Washington went against the resolutions of the UN Security Council](#).

If we were to take along the pessimistic and aggressive tones as shown by Washington and its European NATO allies towards the Kremlin, we can clearly ascertain that the downing of Malaysia Airlines Flight MH17 is definitely an "act of war" - **a war which has nothing to**

do with Malaysia and its people but nonetheless a war fought between [US through its proxy, the newly-installed Ukraine government](#) against Russia and pro-Russian Ukrainian separatist.

Sadly, many geopolitical observers have dwarfed Malaysia's position, the owner of the downed MH17 as a mere mishap war casualty that was caught in the crossfire.

Over the span of four months, Malaysian Airlines has been beset with two downed flights (including the yet-to-be found MH370) which carried and embodied Malaysia's sovereignty in the international arena. Must we regard the downing of MH17 as simply a tragic incident that can be merely relegated to the level of "collateral damage" in a proxy war between US-NATO and Russia?

In geopolitical matters, tragedies or accidents could not be left as fated or mere chance. Given the fact we have seen numerous incidents in the past that suggested almost similar kind of events that can hardly be denied as "staged" or pretext for a more sinister goal. One of the glaring examples can be seen during the Vietnam War under the administration of former US President Lyndon B. Johnson.

The *casus belli* cited by the US against Communist-backed North Vietnam was the Gulf of Tonkin incident in which the US authorities claimed that the USS *Maddox* was attacked by two Vietnamese gunboats that were sunk by the US Navy. Despite North Vietnam's denial, the US pursued its cause of declaring a war against them without proving conclusively that North Vietnam was the guilty party. [Recently declassified documents has proven that the *casus belli* was based on deception.](#)

Compare this to what is currently happening in Ukraine, the US and NATO have been drumming the war beat through their own mainstream media in trying to frame the downing of MH17 as a *casus belli* for the US and NATO to push forward and closer to the Russian border of Eastern Ukraine.

NATO Secretary General Anders Fogh Rasmussen [has been mulling since May this year on the option to invoke NATO's Article 5](#), a mutual defense clause that is tied to UN Charter 51 against the escalating unrest in Eastern Ukraine in which he blamed Kremlin for continuously stoking the fire.

Not only that: Rasmussen has dished out a strong statement with regard to the crisis of Ukraine where he viewed it to be a ["geo-political game changer" for NATO Allies](#). But NATO Council members [especially Germany gave a lukewarm and cautionary response](#) towards Rasmussen's proposal.

But the downing of MH17 indeed has really become a game-changer for US and NATO as they have been [issuing strong statements and rallying their allies in demanding greater responsibilities from Kremlin](#) to sort out the mess in its own backyard of Eastern Ukraine.

The downing of MH17 can definitely not be viewed as a mere "friendly fire" or just a "collateral damage" as purported by US and NATO that have constantly alleged the pro-Russian separatists and Russia to be the guilty parties in shooting yet-to-be proven Buk missiles towards a civilian airplane that flew far above the combat zone.

[Russian military officials have provided concrete amount of satellite data](#) as an act of

defense against accusations leveled by US and NATO. Even US senior officials who have been tasked to conduct assessment on the incident [have backtracked their allegation and downplay the role of Russia and pro-Russian separatists](#) on their capability and military means to down the MH17.

Malaysia's Prime Minister Najib Razak diplomatic coup over the Ukrainian separatist has drawn applaud from the international community but will Malaysia still be able to pursue what Najib has demanded earlier - [a "swift justice" for the downing of MH17?](#)

Such daring task will be highly dependent upon Malaysia's strong political and diplomatic maneuver on the international stage. One of the ways is to establish a valid *casus belli* against both sides of warring parties of US/NATO-backed Ukraine and Russia and pro-Russian separatists of Eastern Ukraine. Through this move, Malaysia's interest with respect to the downed MH17 shall no longer be dwarfed as a mere "collateral damage".

Malaysia's access to the crash sites is crucial in order to collect necessary evidence. Such move should not be regarded, interpreted and framed as an effort to further escalate the conflict in Ukraine but rather as a *mean* to accord proper recognition on the downed MH17, especially towards the grieving families of the innocent victims and as a mean to solicit more concrete supports and commitment from international communities to assist in this investigation so that no stones will be left unturned or being swept under the carpet of history.

Thus far only the Russian government has given a strong signal to cooperate with the investigation by providing necessary data. The US, NATO and its Ukraine ally have thus far failed to match Russia's commitment in assisting with this investigation by providing more tangible data that can be evaluated and inspected by independent commissions and international bodies like International Civil Aviation Organisation (ICAO) and UN Security Council.

Malaysia being a small nation will surely need help and support from other superpowers especially among the members of UN Security Council, notably the Five-Veto Nations.

Prime Minister Najib has signaled that [Malaysia should be regarded as a middle-power nation within ASEAN region](#) and [Malaysia's position as chairman of ASEAN coming 2015](#) will be tested sooner than expected on how best Malaysia will persistently pursue a "swift justice" for the downing of MH17.

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