



Sanctions of russian aggression against Ukraine in international law perspective

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Abstract

Russia's invasion of Ukraine is a violation of the sovereignty of territorial integrity and the United Nations Charter. This research aims to analyze sanctions on Russian aggression against Ukraine from the perspective of international law. The research used a normative juridical approach. The research specification in this research was descriptive-analytical. Data collection techniques were conducted by literature studies related to the problems in this study. Data collection is done by collecting and examining regulations, conventions, treaties, and other rules related to this research, including literature and opinions or writings of experts. Data analysis used in this research used qualitative methods. The results of this study indicated that Russia's intervention in Ukraine is considered a violation of international law and has no legality in international conflicts. Various international institutions have provided recommendations, including economic sanctions, which are legal responses by the principles of sovereignty and humanity. As a country that plays an important role in the international system, Russia is expected to comply with the principles of international law, respect other countries' sovereignty and territorial integrity, and end this invasion through diplomatic channels.

Keywords: Sanctions; Russia-Ukraine; international law; ICC; UN

Introduction

Sovereignty is the most basic concept in international law. Every nation has the right to the sovereignty of its country. In international law, state sovereignty and equality between states are recognized as basic concepts that form the basis of the international legal system. State sovereignty and equality are the charms and attributes inherent in independent states as subjects of international law. Every sovereign state has basic rights and basic duties as stated in the 1949 Draft Declaration on the Rights and Duties of States (Kelsen, 1950).

Russia's invasion of Ukraine is a violation of its sovereign territorial integrity and the Charter of the United Nations. The repetition of this action is a form of violation of international law by Russia against the sovereignty of Ukraine and the integrity of Ukraine's sovereignty and territorial integrity in 2014 (Larassati & Priyanto, 2015)^[17]. The war between Russia and Ukraine that has been going on since 2014, followed by an invasion in 2022, is a violation of international law. The beginning of these violations occurred when Russia militarily occupied the Crimea region, which was previously part of Ukraine, as well as providing support to rebels in eastern Ukraine. Under international law, every country has sovereignty over its territory, and other countries' sovereignty violations are considered to violate international law. In this case, Russia's actions in occupying the Crimea region and holding a referendum are an illegal act, a violation of international law (Kaspar *et al.*, 2016)^[16]. In addition, Russia's support for rebels in the eastern region of Ukraine is also a violation of international law.

As another country involved in the conflict, Russia should not provide military or material support to those committing violations of Ukraine's sovereignty. In addition to violations of international law, the Russian and Ukrainian wars have also had a devastating impact on civil society, including loss of life, refugees, and damage to infrastructure. Therefore,

the international community needs to take note of this situation and work together to find a peaceful solution by international law for the welfare of civil society in the region.

In the context of the conflict between Russia and Ukraine, sanctions are actions taken by a country or group of countries to exert pressure or punishment on another country that violates international law. These sanctions aim to stop aggression, restore peace and security, influence state policies that violate international law, and provide justice for victims. In this case, sanctions can take the form of economic sanctions, political sanctions and military sanctions (Student Association of International Law, 2022). The provisions of the United Nations (UN) Charter and the Rome Statute of the International Criminal Court (ICC) can be used in the context of the Russia-Ukraine conflict. The prohibition on the use of force or threat of use of force that violates the territorial integrity or political independence of a country is regulated in Article 2 Paragraph 4 of the UN Charter (Mamfaluthy, 2014)^[18]. In such a situation, Russia's military intervention in Ukraine could be considered a violation of these provisions. Additionally, the ICC is responsible for international crimes, including war crimes and crimes against humanity. The ICC can initiate investigations and prosecute persons responsible for violations of international law occurring in these conflicts if there is sufficient evidence.

The novelty of this research is to analyzes various international laws that were violated by Russia in its invasion of Ukraine. Previous research conducted by Syafruddin *et al.* (2022)^[31] analyzes the nature of Russian-Ukrainian relations, the background to increasing tensions between the two countries, and the international reaction to the situation. Meanwhile, (Nihreieva Olena, 2022)^[22] stated that the conflict between Russia and Ukraine tested the existence of international law and its constructive impact. Sudiq & Yustitianiingtyas (2022)^[30] focused on discussing

the gross violations of human rights resulting from Russia's invasion of Ukraine. Even though under international law this military movement is not considered unlawful (Nur & Soesilo, 2022) ^[24]. International law is discussed in detail (2017) but only specifically on International Humanitarian Law, which is carried out by the ICRC to direct diplomatic agreements.

The problem faced in analyzing Russian sanctions against Ukraine from an international law perspective is how to determine appropriate and effective sanctions to deal with Russian aggression against Ukraine. Apart from that, it is also necessary to pay attention to whether the sanctions are by the principles of international law and whether they can be implemented effectively by other countries worldwide. This research aims to analyze Russian military aggression sanctions against Ukraine from the perspective of International Law. In discussion, the author wants to examine international legal sanctions for implementing Russian military operations against Ukraine. Therefore, the journal title chosen by the author is Sanctions for Russian Aggression Against Ukraine in an International Law Perspective.

Research Methods

Research methods are scientific ways to obtain data with specific purposes and uses (Ramdhan, 2021) ^[26]. This research method used a normative juridical approach. The normative juridical research approach is a type of legal research methodology that bases its analysis on applicable laws and regulations that are relevant to the legal issues that are the focus of the research (Benuf Kornelius, 2020) ^[3].

The research specifications in this study were analytical descriptive, namely describing applicable laws and regulations linked to legal theories and the practice of implementing positive law by related problems (Rukajat, 2018) ^[27]. Data collection techniques were carried out by conducting literature studies related to the problems in this research. Data was collected by collecting and examining regulations, conventions, treaties, and other rules related to this research, including literature and expert opinions or writings on sanctions received by Russia. Data analysis used qualitative methods. The purpose of qualitative methods was to explore facts qualitatively and do not require verification (McConville & Chui, 2017) ^[20].

Results and Discussion

Relations between Russia and Ukraine have existed through cultural, linguistic, religious, and political influences for centuries. Differences in political culture and national identity are among the factors complicating relations between Russia and Ukraine. Ukraine has a different political history and national identity from Russia and wants to strengthen its sovereignty. Meanwhile, Russia wants to maintain its influence in Ukraine and considers Ukraine as part of its traditional influence in a book entitled "Political Culture and National Identity (Molchanov, 2016) ^[21].

From Ukraine's perspective, there is a special cause for Russia's aggression, namely the prohibition on Ukraine joining NATO (Williams, 2022) ^[34]. NATO is a military alliance founded in 1949 by the United States, Canada, France, the United Kingdom, and eight other European countries. Thirty countries have joined Macedonia as the latest members as of 2020. NATO's goal is to guarantee the freedom and security of its members through political and military means (De Wijk, 2000).

From Russia's point of view, Putin first argued that a special military operation was carried out to defend Russia. He sees a threat in the fact that NATO is expanding eastward and is accelerating efforts to bring its military infrastructure closer to Russia's borders, even though neither NATO nor Ukraine carried out any attacks. Second, collective self-defense and humanitarian intervention. Donbas (a pro-Russian militia region in eastern Ukraine) asked Russia for help. In this case, by Article 51, section 7 of the UN Charter, Vladimir Putin decided to carry out a special military operation (Gavendová, 2022) ^[9].

State sovereignty is the main principle in the UN Charter, as stated in Article 2 paragraph (1) which reads, "The organization is based on the principle of the sovereign equality of all its members" (United Nations, 1945). The principles contained in the UN Charter are reaffirmed in General Assembly Resolution no. 2625 of 1970 (General Assembly Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States by the Charter of the United Nations), which states that every State enjoys sovereign equality and every State has the same rights and obligations as members of society without distinguish between economic, social and political systems (United Nation, 1970) ^[32].

International Law regulates the issue of military aggression between states. The definition of military aggression is regulated by the United Nations Charter, which states that military aggression is the use of force by a state against the sovereignty, territorial integrity, or political independence of another state (Wilmschurst, 2008) ^[35]. According to international law, the use of military force between states is only justified in very limited circumstances. One of the conditions that justifies the use of military force is a state of self-defense from an armed attack carried out by another country. This is by Article 51 of the United Nations (UN) Charter, which recognizes the right of states to defend themselves. However, military force must meet certain conditions, such as proportionality and urgent necessity. Additionally, military action taken by one state against another must be based on legitimate authority, such as a decision by the UN Security Council. The use of military force that does not meet these conditions may be considered military aggression in violation of international law.

Countries that carry out military aggression can be subject to sanctions by the international community. These sanctions can take the form of retaliatory measures by the attacked country, economic sanctions, and other measures determined by the United Nations. Countermeasures by an attacked state may include military action in self-defense or other measures to stop the aggression. Economic sanctions can include trade restrictions, asset freezes, and investment bans. In addition, the United Nations may also impose other measures such as an arms embargo, diplomatic isolation, or cessation of political cooperation. The aim of imposing sanctions is to apply pressure and punishment to countries that carry out military aggression, as well as to restore international peace and security.

It was recorded that from 1951-2000 there were 37 territorial wars, including the Turkey-Cyprus invasion and three wars between Yugoslavia and three countries in 1991 (Zacher, 2014) ^[36]. Territorial wars between two countries or groups competing for control of the same territory have occurred frequently in the last century. However, each territorial conflict has unique and complex factors that can

influence the escalation of the conflict. There were many trigger factors, including Ambition for power, which triggered the German invasion of Poland (Hargreaves, 2010; Radzilowski, 2006) ^[10, 25]. Potential natural resources (energy), historical and cultural factors, ideological disputes, identity conflicts, political instability, and dissatisfaction with the status quo regarding territorial division. The American invasion of Iraq in 2003, which indicated that it wanted to control oil resources, shows that energy is a strategic force for developed countries (Hinnebusch, 2007) ^[11]. The Iraq-Iran intervention in the 80s was caused by cultural factors (Adib-Moghaddam, 2007) ^[11] which is strong even though it is still related to the struggle for energy resources, while the war in Bosnia was caused by ethnic conflict factors (Burg & Shoup, 1999) ^[6]. Ideological friction between neighboring or supporting countries is one of the main factors in the occurrence of aggression. For example, the difference between communist ideology and democracy triggered the Korean War (Armstrong, 2018) ^[2] namely when North Korea, supported by the Soviet Union and China, attacked South Korea, supported by the United States and its allies. The Vietnam War, Afghanistan, and the Spanish Civil War extend the list of conflicts caused by these factors.

In general, there are three international laws that were violated by Russia in its aggression against Ukraine, namely as follows:

United Nations Charter

Russia's move to invade Ukraine violates international law, namely (1) Article 2, paragraph 4 of the UN Charter concerning the use of force. Article 2 Paragraph 4 of the UN Charter states that "All Members shall refrain from using threats or force in international relations against the territorial integrity or political independence of any state or any other means incompatible with the Objectives of the United Nations." This article prioritizes the orientation of maintaining world peace and security by prohibiting the use of threats or violence in international relations. In this context, "territorial integrity" refers to a country's right to own and control its territory. In contrast "political independence" refers to a country's right to determine its government without interference from other countries. This article is important because it forms the legal basis for basic principles in international relations, namely respecting each country's sovereignty and territorial integrity and avoiding violence to resolve conflicts. The use of Article 2 Paragraph 4 of the UN Charter was when the UN opposed Russia's invasion of Ukrainian territory in 2014, which was considered to have violated Ukraine's territorial integrity and political independence. In another case, when the United States carried out airstrikes against Syria in 2018 after being accused of using chemical weapons by the Bashar al-Assad regime, several countries and organizations criticized the US action as a violation of Article 2 Paragraph 4 of the UN Charter, for the use of force without Security Council approval UN and by ignoring fair legal processes. Article 2 Paragraph 4 of the UN Charter can be considered an important principle of international law to encourage international cooperation and maintain world peace and security. (2) UN General Assembly Resolution No. 2625 of 1970 concerning The Declaration On Principles Of International Law Concerning Friendly Relations And Cooperation Among States. This resolution establishes the

basic principles of peaceful and mutually beneficial international relations between states. Article 4 of the resolution states that states cannot use force or the threat of force to violate a state's territorial integrity or political independence.

Russia's aggression in Ukraine has violated the basic principles described in the resolution by carrying out military intervention on Ukrainian territory and violating Ukraine's territorial integrity. (3) UN General Assembly Resolution No. 2131 of 1965 concerning Declaration On Inadmissibility Of Intervention In The Domestic Affairs Of States And The Protection Of Their Independence And Sovereignty in Article 1 and Article 2. Its contents stipulate that intervention in the domestic affairs of a country or interference in the foreign affairs of a country constitutes a violation of the basic principles of international law.

The military actions carried out by Russia in Ukraine constitute interference in Ukraine's internal affairs and constitute a violation of the basic principles of international law. This is supported by UN General Assembly Resolution No. 3314, issued on December 14, 1974, concerning aggression. The resolution defines actions that can be categorized as acts of aggression, including military intervention in a country without the consent of that country. The resolution also emphasized that aggression is a violation of international law. In the case of Russian aggression in Ukraine, Russian military actions on Ukrainian territory without the consent of the Ukrainian government and interference in Ukraine's internal affairs are acts of aggression that violate international law.

However, there are problems in resolving this conflict from an international law perspective. In this case, one of the problems faced is Russia's denial of material jurisdiction. Although Russia does not dispute the jurisdiction of the International Court of Justice (ICJ), it disputes the jurisdiction of the material subject of negotiations regarding disagreement between Russia and Ukraine. This could hinder achieving a just and sustainable resolution to this conflict. In addition, there is a need to further examine the impact of sanctions imposed by the European Union on Russia in the context of the Ukraine crisis. The sanctions imposed by the European Union on Russia have a far-reaching impact on Russia and other countries and international geopolitical stability. In this analysis, more in-depth research needs to be carried out to understand the impact of these sanctions and their effectiveness in achieving the desired goals

International Court Criminal (ICC)

Regarding Russia's invasion of Ukraine in 2022, previously, in 2014, the attack in Crimea received support from the International Criminal Court (ICC). Although Ukraine is not a State acceding to the Rome Statute, it has twice exercised its prerogative to accept the Court's jurisdiction over alleged crimes under the Rome Statute that occurred on its territory under article 12(3) of the Rome Statute. The first was filed by the Government of Ukraine accepting the jurisdiction of the ICC in connection with alleged crimes committed on the territory of Ukraine from 21 November 2013 to 22 February 2014 (International Criminal Court, 2014). For the second jurisdiction, it is used to openly extend this period to cover alleged ongoing crimes committed throughout the territory of Ukraine from February 20, 2014, onwards (International Criminal Court, 2015). The International Criminal Court

(ICC), known as the International Criminal Court, has the authority to investigate and, if necessary, try people accused of the most serious crimes of concern to the international community: genocide, war crimes, crimes against humanity, and crimes of aggression. As a court of last resort, it seeks to complement, not replace, national courts. An international treaty regulates this called the Rome Statute (Mariniello, 2014)^[19].

Russia's invasion of Ukraine in February 2022 in the context of territorial occupation is similar to that of the invasion in Crimea in 2014 (Bureau, 2020). Crimes committed by Russia against Ukraine include deliberate murder, by article 8 (2) (a) (i). Article 8 (2) (a) (i) War crimes are intentional unlawful acts in international or non-international armed conflicts (International Criminal Court, 2011). This action occurs when someone intentionally takes the life of another person without a valid reason, according to international law. For an act to be considered a war crime, it must be committed with clear intent and intention to kill, regardless of whether the victim is military or non-military. This means that the perpetrator must intentionally and without reason plan and carry out an act intended to kill someone. In essence, intentional homicide is a war crime, one of the most serious crimes, often punishable by death or life imprisonment. These crimes may also be considered crimes against humanity and/or genocide if committed as part of an attack against a specific group or as part of a larger campaign to purge that group.

Transfer of part of the population of the occupied territory outside this territory (in connection with the transfer of detainees in criminal proceedings and custody) by Article 8 (2) (b) (viii). Article 8 (2) (b) (viii) of the Rome Statute governing the International Criminal Court states that the transfer of part of the population of an occupied territory outside this territory may be considered a war crime when the act is carried out by force or violence, without explicit consent and unlimited of the people involved (International Criminal Court, 2011). These actions can also be considered war crimes if they are carried out to replace the native population with people from another region. Ukraine accuses Russia of violating international law by placing Ukrainian children in Russian families. Russia has been trying for months to move abandoned or orphaned children from Ukraine to Russia to place them with Russian families (Bubola, 2022)^[4]. In May, President Vladimir V. Putin of Russia signed a decree to simplify the process by which Ukrainian children orphaned or left without parental care can obtain Russian citizenship (Mulyana, 2022)^[22]. The transfer of Ukrainian children from occupied territories to Russia and their adoption by Russian families is a potential war crime, and Ukraine's Foreign Ministry said that it is also a gross violation of Ukrainian law.

Russia's invasion of Ukraine had an impact on imposing sanctions in the economic sector. To date, fourteen European Union sanctions have been issued against Russia in the trade sector (Departement of Enterprise Trade and Employment, 2022). One of the last sanctions given was eight types to Russia for its attack on Ukraine from a journal entitled: Concerning Restrictive Measures Given Russia's Actions Destabilizing The Situation In Ukraine (Journal & Union, 2022). First, a ban on purchasing, importing, or transferring gold, including jewelry, if it comes from Russia. Second, the list of goods that could contribute to Russia's military and technological improvement or the development

of its defense and security sector, the export of which is prohibited, was added. Third, adding to the list of goods suitable for use in oil refining and natural gas liquefaction whose export is prohibited. Fourth, exemptions from the export ban on 'Dual use' and Advanced Technology items intended for cybersecurity and information security applications have been removed. However, the National Competent Authority (Department) may authorize deductions for such exports. Fifth, the National Competent Authority can authorize reducing the export ban on goods that can increase Russia's industrial capacity for medical, pharmaceutical, or humanitarian purposes. The ban on Russian-flagged vessels accessing EU ports also applies to EU locks. Seventh, additions to the list of military-affiliated end-user entities in Russia are subject to stricter export restrictions. Eighth, adding to the list of Russian individuals and entities subject to financial sanctions.

Conclusions and Suggestions

Russia's intervention in Ukraine has been a source of controversy in the international legal arena. This situation undermines the principles of the international rules-based order, weakening the foundations of international cooperation, and Russia's violations threaten peace and stability on the European continent. Most countries and international organizations condemned Russia's actions and considered them a violation of Ukraine's sovereignty and territorial integrity.

In international law, sovereignty and territorial integrity are the main principles governing relations between states. Any action that violates a country's sovereignty and territorial integrity is considered a violation of international law. Russia's intervention in Ukraine by occupying the Crimea region in 2014 and supporting separatism in the eastern region of Ukraine, recognizing the sovereignty of Donetsk and Luhansk, clearly violates the principles of sovereignty and territorial integrity. Putin's reasons for using the pretext of collective self-defense are not by and violate the UN Charter. This Russian action has been protested by several international organizations such as the United Nations (UN), European Union (EU), and NATO. They stated that Russia's actions in Ukraine violate international law and called on Russia to withdraw its troops from Ukrainian territory and stop supporting separatism in eastern Ukraine.

Overall, Russia's intervention in Ukraine is considered to violate international law and has no legality in an international conflict. As a country that plays a vital role in the international system, Russia is expected to comply with international law principles, respect other countries' sovereignty and territorial integrity, and deserve sanctions.

The author's advice in this research is. First, countries around the world must strengthen cooperation in dealing with the problem of Russian intervention in Ukraine and provide appropriate and effective sanctions against Russia. Second, efforts are needed to strengthen the principles of international law and the international rules-based order to overcome situations like this in the future. Third, international organizations such as the United Nations (UN), European Union (EU), and NATO must continue to monitor the situation in Ukraine and provide support to Ukraine in dealing with this problem.

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