

RESPONSIBILITY FOR EXCESSIVE INFRASTRUCTURE DAMAGE IN ATTACKS: ANALYSING RUSSIA'S ATTACK IN UKRAINE

YORDAN GUNAWAN

Faculty of Law Universitas Muhammadiyah Yogyakarta, Indonesia
Faculty of Law Universitat Pompeu Fabra, Barcelona, Spain
Email: yordangunawan@umy.ac.id

MHD. ERVIZAL RIZQY PANE

Faculty of Law Universitas Muhammadiyah Yogyakarta, Indonesia
Email: ervizalrizqy12@gmail.com

Abstract: Armed conflict between Russia and Ukraine escalated in 2022 after Russian President Putin decided to conduct a "special military operation" to strive to "demilitarise" and "denazification" Ukraine; the attacks caused various casualties, such as urban residential areas, communication, transportation, including an air strike and bombing civilian objects. In international humanitarian law, states must respect and ensure respect for the rules governing the conduct of hostilities, which include the principles of distinction, proportionality, and precaution. These principles aim to minimise the impact of armed conflicts on civilian populations and infrastructure. This study delved into the critical issue of responsibility concerning excessive infrastructure damage during armed conflicts, with a specific focus on Russia's attacks on Ukraine. The analysis highlighted the grave consequences of such attacks, emphasising the need for a comprehensive understanding of the parties involved and the applicable international laws. The research aims to understand the concept of state responsibility of the State under international law and analyse the legal responsibility for Russian attacks that caused excessive infrastructure damage from an international law perspective. The research used normative legal research with a library research approach. The results showed that Russia's attacks on Ukraine breached international law. The research also found the severe consequences of such attacks and emphasised the significance of understanding the involved parties and applicable international laws. Promoting peace and conflict prevention, aggressors must be held responsible for infrastructure damage. This research emphasises global stability and security via international collaboration and enforcement.

Keywords: Armed-conflict, international law, state responsibility, war crime

Abstrak: Konflik bersenjata antara Rusia dan Ukraina semakin memanas di tahun 2022, setelah Presiden Rusia Putin memutuskan untuk melakukan "operasi militer khusus" untuk berusaha "demiliterisasi" dan "denazifikasi" Ukraina; serangan tersebut menyebabkan berbagai korban, seperti daerah pemukiman perkotaan, komunikasi, transportasi, termasuk serangan udara dan pengeboman infrastruktur

sipil. Dalam hukum humaniter internasional, negara harus menghormati dan memastikan penghormatan terhadap aturan-aturan yang mengatur pelaksanaan permusuhan, yang meliputi prinsip-prinsip perbedaan, proporsionalitas, dan kehati-hatian. Prinsip-prinsip ini bertujuan untuk meminimalkan dampak konflik bersenjata terhadap penduduk sipil dan infrastruktur. Studi ini menggali isu kritis tentang tanggung jawab terkait kerusakan infrastruktur yang berlebihan selama konflik bersenjata, dengan fokus khusus pada serangan Rusia terhadap Ukraina. Analisis ini menyoroti konsekuensi serius dari serangan semacam itu, menekankan perlunya pemahaman yang komprehensif tentang pihak-pihak yang terlibat dan hukum internasional yang berlaku. Penelitian ini bertujuan untuk memahami konsep tanggung jawab negara di bawah hukum internasional dan menganalisis tanggung jawab hukum atas serangan Rusia yang menyebabkan kerusakan infrastruktur yang berlebihan dari perspektif hukum internasional. Penelitian ini menggunakan jenis penelitian hukum normatif dengan pendekatan penelitian kepustakaan. Hasil penelitian menunjukkan bahwa serangan Rusia ke Ukraina telah melanggar hukum internasional. Penelitian ini juga menyimpulkan akan adanya konsekuensi serius dari serangan tersebut dan menekankan pentingnya memahami pihak-pihak yang terlibat dan bagaimana aplikasi hukum internasional yang berlaku. Mempromosikan perdamaian dan mencegah konflik di masa depan perlu menjadi tanggungjawab semua pihak, termasuk negara-negara yang melakukan serangan yang mengakibatkan kehancuran infrastruktur. Penelitian ini juga menggarisbawahi pentingnya kerja sama internasional dan Langkah-langkah penegakan hukum untuk memastikan stabilitas dan keamanan dalam skala global.

Kata Kunci: konflik bersenjata, hukum internasional, tanggung jawab negara, kejahatan perang

INTRODUCTION

Tensions between Russia and Ukraine have long existed. Russia invaded Ukraine in 2014 when separatist groups backed by President Putin seized large parts of eastern Ukraine, Crimea. Russia invaded Ukraine when its pro-Russian president was overthrown in early 2014.¹ The war in the east claimed more than 14,000 lives, and Ukraine has signed the Minsk peace agreement to stop armed conflict in eastern Ukraine, including the Donbas region. Nevertheless, as the conflict continued, Russia said it would send peacekeepers to the region where the conflict occurred.² The West suspects this is Moscow's pretext to occupy sovereign territory. The situation began to get out of control again in early 2021. In January 2021, Ukrainian President Volodymyr Zelensky urged US President Joe Biden to let Ukraine join the North Atlantic Treaty Organisation (NATO). Ukraine angered Russia, and Russia responded by sending 100,000 troops near the Ukrainian border.³ Russia claimed the troop deployment was for training in April 2021 and increased it during June 2021. In December 2021, the US began increasing Russian troop deployments, and President Biden warned of severe sanctions if Russia invaded Ukraine.⁴ Russia has demanded that the West provide

1 Paul Kirby, 'Has Putin's War Failed and What Does Ukraine Want from Ukraine?' *BBC News* (2022).

2 UN News, 'Ukraine Crisis: UN Political Affairs Chief Calls for "Maximum Restraint"' *UN News* (2022).

3 Sarah Rainsford, 'Ukraine Crisis: Don't Create Panic, Zelensky Tells West' *BBC News* (2022).

4 Shane Harris and others, 'Isabelle Khurshudyan, Ashley Parker and Liz Sly, "Road to War: U.S. Struggled to Convince Allies, and Zelensky, of Risk of Invasion"' *The Washington Post* (2023).

legally binding guarantees that NATO will not conduct any military activities in Eastern Europe and Ukraine.⁵

Recent tension between Russia and Ukraine is brewing in early 2022, which is also bad for the European Union (EU). A NATO signatory has largely joined the US in announcing sanctions against Russian entities. In his speech, Russian President Vladimir Putin ordered this invasion. In the text of his speech, Putin, the Russian president, recognised the independence of the pro-Russian Donetsk and Luhansk regions in Ukraine. Vladimir Putin also signed the declaration of independence of Donetsk and Luhansk as independent states.⁶ The conflict escalated after Putin, in a speech on February 21, 2022, recognised the declaration of two regions of Eastern Ukraine, Donetsk, and Luhansk. The Russia-Ukraine conflict intensified after Putin announced a "special military operation" in the neighboring country on February 24, 2022, and called on soldiers to lay down arms. This defied Western outrage and global calls not to launch a war.⁷

The war in Ukraine has damaged the country's infrastructure by more than USD 63 billion (904 trillion), according to estimates from the Kyiv School of Economics. As of February 24, at least 4,431 residential buildings, 92 factories and warehouses, and 378 schools had been damaged, destroyed, or taken from their owners due to Russia's invasion of Ukraine. In addition, seven thermal or hydroelectric power plants and 12 airports were taken, damaged, or destroyed. Value estimates made between February and the end of April showed Russia breached international humanitarian law with intensity and extent of hostilities, destruction, and death and injury. In Mariupol, up to 90 percent of buildings have been damaged or destroyed, as well as up to 60 percent of private houses. A Russian air attack on Mariupol was characterised by the extensive use of weapons with wide area effects.⁸

The only issue the world is really worried about right now is the crisis in Ukraine. The conflict involves Crimea, a largely Military District in the southern mountains that has voted to join the Russian Federation and is on the verge of collapse.⁹ After that, the Ukrainian government began to act quickly and sent troops to end the violence. The pro-Russian majority demanded a referendum, and the Ukrainian government conflict began on February 20, 2022, because it took place in the Donbas industrial region, which includes the Ukrainian cities of Donetsk, Luhansk, and Kharkiv, the conflict is referred to as the "Donbas War."

As a result of the tense conflict between Russia and Ukraine that has been going on, it has caused massive casualties and excessive infrastructure damage. The obligation of a state to bear any wrongful act or violation of international law that harms the state or other international subjects is known as a state responsibility. It can be achieved by

5 Gabrielle Tétrault-Farber and Tom Balmforth, 'Russia Demands NATO Roll Back from East Europe and Stay out of Ukraine' *REUTERS* (2021).

6 Anna Alexandra Marhold, 'Responses of International Legal Academia to the Russian Invasion of Ukraine' [2023] *Leiden Journal of International Law* 1.

7 The White House Government, 'Joint Statement Following the Meeting Between President Biden and President Macron' *WH.GOV* (2022).

8 OHCHR, 'High Commissioner Updates the Human Rights Council on Mariupol Ukraine' *UNHR Office of The High Commissioner* (2022).

9 Robert Dalsjö, Michael Jonsson and Johan Norberg, 'A Brutal Examination: Russian Military Capability in Light of the Ukraine War' (2022) 64 *Survival* 7.

improving conditions, rehabilitating the situation, or compensating for losses or actions that violate international law or state obligations.¹⁰

The Rights and Duties of States Conference held at the Montevideo Convention in 1933 stated that the international community's support for the nation comes from individuals or groups of individuals. To compete with other countries for subordinate positions with the rules contained in international law, one must have the existence of territory, the ability, and a permanent population.¹¹ In its regulatory provisions, the 1929 Geneva Convention on *the Amelioration of the Condition of the Wounded and Sick in Armies in the Field* has specifically mentioned the regulation of command responsibility in Article 26 of the 1929 Geneva Convention. This Convention became the reference for the subsequent Geneva Conventions that would create relevant regulations in the future. So, every commander is obliged to comply with the rules of the Convention that apply in his time and can be accountable for his obligations as a leader of troops. Ukraine did not ratify the 1929 Geneva Convention. The function of this convention is to protect soldiers, medical personnel, and religious leaders who are not on the battlefield. State responsibility for international human rights and humanitarian law violations has long been a foundation of international law. State responsibility stems from the principle of *pacta sunt servanda*, which means that every treaty in force is binding upon the parties to it and must be performed by them in good faith.¹²

The state's responsibility for state sovereignty is to limit its ability to act according to the law so as not to exercise its sovereignty arbitrarily, and a sovereign state must not be subject to another sovereign state. However, this does not mean the state can act absolutely and not be sued. The responsibilities of state sovereignty are closely intertwined with those of several sovereign states. A state is obligated to safeguard individual rights and human rights, in addition to respecting the sovereignty of other nations. A state is considered sovereign if it exercises full control over its territory.

The doctrine of equality and state sovereignty are the foundations of state responsibility. The notion of state responsibility, which states that no nation can enjoy rights without mutual respect among other nations, is also based on this. The doctrine of state sovereignty or the principle of state sovereignty states that the state has the absolute authority to exercise its rights independently. Conduct activities in its interest while complying with international law and that no action is illegal. The principle of equality, also known as the doctrine of equality, emphasises that every nation has an equal position and must respect the rights and sovereignty of other nations. This global crisis presents new challenges for international relations as the war between Russia and Ukraine has shaken global politics. Russia's invasion of Ukraine became a global event with a significant impact on all nations.

As a result, the war between Russia and Ukraine has had serious repercussions for global markets, potentially affecting economies around the world in a variety of ways. In the global markets for fertiliser, oil, gas, grains, energy, food, and other commodities, Russia and Ukraine play an important role.

10 Ingrid Wuerth Brunk and Monica Hakimi, 'Russia, Ukraine, and the Future World Order' (2022) 116 *American Journal of International Law* 687.

11 Montevideo Convention 1933, art. 1.

12 Vienna Convention on the Law of Treaties, art. 26.

Based on the explanation that the author has described above, the author is interested in conducting further research and using the title: "Responsibility for Excessive Infrastructure Damage in Attacks: A Case Study of Russia's Attack on Ukraine." According to the abovementioned, the issues in this research are what Russian responsibility is for excessive damage in Ukraine under international law.

Methods

This normative legal research, also known as doctrinal legal research, included the study of the principles of law, legal history, and the law of comparative research. In addition, in the normative legal research, the author used a statutory approach and a case approach that then addressed the issues of responsibility of the state that caused excessive damage, specifically the armed conflict between Russia and Ukraine. The study aims to provide an argument and concept for resolving such issues. Through the statute approach, the author examined legal rules and regulations as the basis for conducting research related to the issues. Meanwhile, in the case approach, the author reviewed the case related to the issues.

Results and Discussion

Understanding The Concept of Responsibility of State in a War Under International Law Perspective

State responsibility in the context of the war in international law refers to states' legal responsibility in committing military acts under international law. These principles of responsibility govern the behavior of states during armed conflict and establish the legal limits that must be followed. The following concepts in state responsibility in the war in international law are as follows:¹³

1. Compliance with international humanitarian law: States are expected to comply with international humanitarian law, which includes the Geneva Conventions of 1949 and the Additional Protocols of 1977. These laws provide protection against the inhumane treatment of civilians, prisoners of war, medical personnel, and medical facilities during armed conflict.
2. Prohibition of excessive use of force: States are prohibited from using unnecessary force in armed conflict. Such actions may include attacks on unauthorised civilian targets, the use of chemical or biological weapons, or the use of force incompatible with legitimate military objectives.
3. Protection of human rights: Although war involves the use of force and armed conflict, states remain obliged to protect human rights. They must prevent human rights violations, including mass killings, torture, rape, and other inhumane treatment.
4. Responsibility for the actions of military personnel: States are legally responsible for the actions of their military personnel during the war. If military personnel commit international law violations, states are obligated to investigate, prosecute, and, if found guilty, punish them.

13 Tomer Broude, 'Behavioral International Law': (2015) 163 University of Pennsylvania Law Review 1099. See also, Emmanuel Obikwu, 'International Law And Revolution In The 21st Century' (2019) 4 PETITA: Jurnal Kajian Ilmu Hukum dan Syari'ah; Emmanuel C. Obikwu, 'UNDRIP AND HISTORIC TREATIES: The Moral Imperative To Legitimize The Human Rights Of Indigenous People To Self -Determination' (2021) 6 Petita: Jurnal Kajian Ilmu Hukum dan Syariah; Obikwu, 'The Federal Constitution, National- Ethnic Minority Groups and the Creation of States: The Post-Colonial Nigerian Experience' (2017) 2 PETITA: Jurnal Kajian Ilmu Hukum dan Syari'ah <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/56>>.

5. State responsibility for damages and compensation: States are responsible for damages caused by their actions during the war. They must provide compensation or redress to other states or individuals who suffer harm due to violations of international law.

State responsibility in war is based on principles of international law, including the Geneva Conventions, principles of humanitarian law, and principles enshrined in the United Nations Charter. Oversight and enforcement of this accountability can be conducted through international tribunals such as the International Court of Justice.

The concept of responsibility for unlawful acts is often termed in international law using the phrases responsibility and/or liability, which refer to the same or different meanings. Therefore, there is no standardised term to conceptualise liability in international law.¹⁴ Peter Malanczuk also considers that the two terms are often used interchangeably. Malanczuk states, "Sometimes the term 'responsibility' is used interchangeably with the term 'liability,' but the use of terminology in this respect in the literature is by no means uniform..."¹⁵

The phrase responsibility is defined as: "the obligation to answer for any act done, and to repair any injury it may have caused; liable, legally accountable for answerable."¹⁶ Not only does liability result in an obligation to repair the damage caused, but this definition also describes 'liability' as a synonymous term. Furthermore, liability phrases are described as: "the word is a broad legal term. It has been referred to as of the most comprehensive significance, including almost every character of hazard or responsibility, absolute, contingent or likely; condition of being responsible for a possible or actual loss, penalty, evil, expense, or burden." Although the definition concludes that the phrase "accountability" has a broad and comprehensive scope, simultaneously, the two terms describe each other. Thus, given that there is no consensus on a standardised term to describe liability, it can be conceptually concluded that the two are synonymous terms that can be used interchangeably in certain circumstances.

Responsibility refers to standards of behavior and failure to meet these standards. At the same time, liability concerns the damage or loss arising from the failure to meet these standards, including the means to recover the damage or loss. In practice, the two terms have been used in different contexts; for example, Article 139 of the United Nations Convention on the Law of the Sea simultaneously uses the terms responsibility and liability through the title of its article, "responsibility to ensure compliance and liability for damage," to refer to different meanings.¹⁷

Responsibility as a legal concept occurs when there is a violation of binding norms and principles in law, both national and international. In the concept of international law in general, responsibility is considered one of the basic principles of international law, where the norm of responsibility focuses on the causes of an act, the consequences of

14 Bérénice Boutin, 'State Responsibility in Relation to Military Applications of Artificial Intelligence' (2023) 36 *Leiden Journal of International Law* 133.

15 Peter Malanczuk and Alexander Orakhelashvili, *Akehurst's Modern Introduction to International Law* (9th Editio, Routledge 2022).

16 Jean d'Aspremont and others, 'Sharing Responsibility Between Non-State Actors and States in International Law: Introduction' (2015) 62 *Netherlands International Law Review* 49.

17 Martins Paparinskis, 'The Once and Future Law of State Responsibility' (2020) 114 *American Journal of International Law* 618.

unlawful acts, and, in particular, the provision of compensation for it. It is also in line with the opinion of the International Court of Justice, which stated that liability is a principle of international law and even a broader conception of law, that any violation of a treaty will give rise to a duty of reparation.

The author underlines two essential things: responsibility as an obligation arising from actions that have been committed and responsibility requiring legal reparation. In essence, responsibility is an effort made by the subject of the law to repair what has been damaged or restore the situation before the violation of the law occurred.

As a legal action, responsibility can only be conducted by legal subjects who are the executors of rights and obligations. Today, several entities have emerged that are recognised as subjects of international law, but in this paper, the author focuses on 2 (two) subjects of international law, namely states, and individuals.¹⁸

The Concept of State Responsibility

State responsibility is one of the legal principles underlying international law. States may be held responsible for violations of IHL committed by their armed forces, including those causing excessive damage to civilian infrastructure. Reparations may be sought by the affected state for the harm suffered, either through diplomatic channels or by bringing a case before the ICJ or other relevant international tribunals.¹⁹ The concept of state responsibility recognised in international law consists of 2 (two), namely the principle of objective responsibility and subjective responsibility. The principle of objective responsibility, also known as the "risk" theory, states that the state's legal responsibility is absolute. It means that when a tort occurs, causing harm and committed by a state instrumentality, according to international law, the state must be liable to the injured party (state), regardless of whether the action is based on good or bad faith.²⁰ In contrast, the principle of subjective responsibility, also known as the "fault" theory, asserts that there must be an element of intent (*dolus*) or negligence (*culpa*) on the part of the person concerned before the state can be held legally responsible for the harm caused.²¹ The International Court of Justice is more inclined toward the theory of fault. The state cannot necessarily be held responsible for an action if no evidence is found that is rational and logical (not presumptive) able to conclude that the state did not carry out its obligations based on elements of fault or intent. For this reason, the essential characteristics of state responsibility relate to several fundamental factors, including the following:²²

1. The existence of international legal obligations that are still in force between the two countries concerned. The international obligations referred to here are binding on the state, either through international treaties, customary law

18 Meagan S Wong, 'Aggression and State Responsibility at the International Criminal Court' (2021) 70 *International and Comparative Law Quarterly* 961. See also, Illan Barriola, Bruno Deffains and Olivier Musy, 'Law and Inequality: A Comparative Approach to the Distributive Implications of Legal Systems' (2023) 75 *International Review of Law and Economics* 106139 <<https://www.sciencedirect.com/science/article/pii/S0144818823000170>>.

19 Wong (n 18).

20 Katja Creutz, *State Responsibility in the Internatioonal Legal Order* (Cambridge University Press 2020).

21 Dawan Mohammed Jaza Abdullah, 'The Nature of International Responsibility of States in the Contemporary World Arena' (2019) 5 *Journal of University of Human Development* 50.

22 ROBERT J Currie and ELIZABETH Matheson, 'State Responsibility for International Bail Jumping' (2022) 59 *Canadian Yearbook of International Law* 104.

- generally accepted by the world community, or jurisprudence derived from international courts;
2. that there has been an act or omission that violates an obligation and holds the state responsible. It means that the actions the state takes fulfill the elements of fault or negligence regulated through a legal instrument;
 3. that the unlawful act or omission has caused loss or damage. The forms of loss or damage suffered by the state due to violations of the law committed by other states must be explicit or, in other words, must be visible.

In short, it can be concluded that although every state has a legal interest in protecting its basic rights, it also cannot escape the obligations that bind it. Denial of the obligations must be carried out by the state, resulting in the state's responsibility to take reparation action. Peter Malanczuk argues that when a state commits an act that ignores its obligations under recognised sources of law, it violates international law and is referred to as an 'internationally wrongful act.'²³

The internationally wrongful act became widely recognised in August 2001, when the International Law Commission, as a body under the United Nations (UN), adopted a Responsibility of State for Internationally Wrongful Acts.²⁴ The content of the draft has been so well received that it has even been cited several times in International Court of Justice decisions. This is because the ILC is the most competent body to provide insight into the interpretation of international law.

The Concept of Individual Criminal Responsibility

Individual Criminal Responsibility (ICR) is defined in Article 25 (2) of the Rome Statute as "a person who commits an international crime shall be individually responsible and liable for punishment by the Statute." Generally, under international criminal law, committing war crimes necessitates typically the participation of a substantial number of persons. As a result, determining the degree of individual guilt in international criminal law is even more important than the national legal systems. ICR is regulated under Article 25 of the Rome Statute.²⁵ According to Article 25 (1), the ICC has jurisdiction only over natural persons, not states or organisations. The underlying idea that each person is responsible for their criminal actions is restated in paragraph 2 of Article 25. In the third paragraph of the provision, several types of individual responsibility are differentiated from one another.

Individual criminal responsibility refers to the legal liability of individuals for their conduct that constitutes a crime under international law. In the context of war, individuals may be held criminally responsible for war crimes, crimes against

23 Malanczuk and Orakhelashvili (n 15). See also, Muhammad Siddiq et al Armia, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525; Muhammad Siddiq Armia, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 69; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah i.

24 Responsibility of States for Internationally Wrongful Acts 2001.

25 Muath Mohammed Alashqar, Asmar Abdul Rahim and Ahmad Shamsul Abd Aziz, 'War Crimes In Gaza Strip From Year 2008 2021: Individual Criminal Responsibility Under The Legal Framework Of Rome Statute Of The International Criminal Court' (2023) 19 Journal of International Studies 61.

humanity, and genocide under international criminal law.²⁶ Especially in IHL, individuals are considered to have rights and obligations to ensure respect for international humanitarian law norms. The rules contained in the 1949 Geneva Conventions, Additional Protocol I to Additional Protocol III, and the Rome Statute are not only binding on the state as a signatory but also binding on actions taken by individuals, either on behalf of the state or certain groups separate from the state. In the previous chapter, the author described individual obligations through written norms and unwritten principles that underlie a norm.

The applicability of the principle of responsibility that applies to individuals as legal subjects is the same as the state, which is also a legal subject, where every violation and neglect of obligations requires accountability. The focus on discussing individual obligations in the realm of IHL gives rise to criminal liability. The principle of individual criminal responsibility for serious violations is a long-standing customary international law recognised through the Lieber Code and the Oxford Manual. It has since been reiterated in many international treaties.²⁷

The term individual criminal responsibility is formed from two-word phrases: "individual" and "criminal responsibility." The word "individual" is used to describe the targeted subject, an individual or natural person, while "criminal responsibility" is mainly used to explain that an individual must be criminally responsible for an unlawful act. Furthermore, individual criminal responsibility can mean a form of responsibility by an individual as a result of illegal or unlawful criminal acts.²⁸ Thus, Arie Siswanto concluded that this principle was only reaffirmed by the Nuremberg Military Tribunal and followed consistently until today.

Materially, the jurisdiction of the Nuremberg Military Tribunal consists of three types of crimes: crimes against peace, war crimes, and crimes against humanity.²⁹ Through the principle of individual criminal responsibility affirmed in Article 6 of the Statute of the Nuremberg Military Tribunal and its decisions, it can be concluded that the principle of individual criminal responsibility must be applied to each individual who contributes to the commission of a crime, even if the crime is committed in a group. Arguments about an individual's formal position in the government or state so that his actions can be declared state actions and held accountable to the state are expressly rejected by the court.

Similar to the Nuremberg Military Tribunal, the International Criminal Tribunal for the Former Yugoslavia (ICTY) also emphasised the principle of individual criminal responsibility in the ICTY Statute, which is the legal basis for establishing an ad hoc international criminal court. The ICTY is considered the UN Security Council's response to the humanitarian crisis and aims to prosecute the perpetrators of international crimes in Yugoslavia. Article 7, paragraph 1 of the ICTY Statute reflects the principle of criminal law, whereby the criminal responsibility applicable to an

26 Wong (n 18).

27 See Articles 44 and 47 (listed in Vol. II Ch. 43) of the Lieber Code; Article 48 of the Oxford Manual, Article 49 of the First Geneva Convention 1949; Article 50 of the Second Geneva Convention 1949; Article 129 of the Third Geneva Convention 1949; Article 146 of the Fourth Geneva Convention 1949; Article 28 of the Hague Convention 1949.

28 Arie Siswanto, *Hukum Pidana Internasional* (Penerbit Andy 2015).

29 Tobias Lock and Julia Riem, 'Judging Nuremberg: The Laws, the Rallies, the Trials' (2005) 6 German Law Journal 1819.

individual does not require that the individual must be physically involved in the commission of a crime but that their contribution to the crime can be made in a variety of ways, such as planning, initiating, ordering, or inducing others to commit the crime.³⁰

Based on the provisions of individual criminal responsibility contained in the ICTY Statute, Arie Siswanto also suggested the relationship between superiors and subordinates in terms of criminal responsibility. He stated that:

"The fact that a subordinate committed the acts referred to in articles 2-5 does not exempt his superior from criminal responsibility if he knew or ought to have known that the subordinate was about to commit the acts in question and the superior failed to take necessary and reasonable measures to prevent or punish the offender. The fact that the accused acted under orders from his government or superior cannot be a basis for exempting him from criminal responsibility but may be taken into account to mitigate his sentence."

The principles and operational mechanisms of the ad hoc tribunals that emerged after World War II, such as the Nuremberg Trials, ICTY, and ICTR, have played an essential role in the existence of the International Criminal Court as a permanent court. The International Criminal Court includes 4 (four) types of crimes in its material jurisdiction, namely genocide, war crimes, crimes against humanity, and crimes of aggression.³¹ The principle of individual criminal responsibility is one of the basic principles in the 1998 Rome Statute, which still reflects the principles of criminal law in general. However, the formulation of norms and elements of punishment has undergone significant changes. Article 25, paragraph 3 of the 1998 Rome Statute contains a provision that a person must bear individual criminal responsibility if:³²

1. Commits a crime, either alone, jointly with another person, or through another person, for which the 'other person' is also criminally responsible;
2. Ordering, inducing, or encouraging the commission of a crime, which, in fact, has been committed or an attempted crime;
3. Aiming to facilitate the commission of a crime at the time of the crime or attempted crime by providing assistance and encouragement, including the provision of equipment to commit the crime;
4. Contributing in any other way to the commission or attempted commission of a crime by a group of persons acting with a common purpose. The contribution must be based on intent and:
 - a. Carried out to further the criminal activity or criminal objectives of the group or,
 - b. It is based on knowledge of the intention of the group to commit the crimes

Analyze the Legal Responsibility for the Russian Attack that Caused Excessive Infrastructure Damage from an International Law Perspective

30 Statute of the International Court Tribunal for the former Yugoslavia, art. 7 par. 1.

31 Dolnapa Nantawaroprai, 'Role of the International Criminal Court in War Crimes, Crimes against Humanity, and Acts of Aggression by Threats of the Usage of Nuclear Weapons under International Law "Jus Cogens"' (2022) 6 Journal of Positive School Psychology 5567.

32 Eian Katz, 'Liar's War: Protecting Civilians from Disinformation during Armed Conflict' (2020) 102 International Review of the Red Cross 659.

In international law, attacks that cause damage to infrastructure can be implicated in several aspects that may violate principles of international law. Some of the principles that may apply are as follows:³³

1. The principle of the prohibition of the excessive use of force: International law prohibits the excessive or disproportionate use of force. A disproportionate attack may occur when the civilian loss or damage resulting from the attack far exceeds the expected military benefits. If Russia's attack on infrastructure is found to go beyond these limits, it could violate this principle.
2. Protection of civilian infrastructure: International humanitarian law protects civilian infrastructure during armed conflict unless it is used for military purposes directly and is involved in combat. If Russian strikes cause excessive or unnecessary damage to civilian infrastructure not involved in combat, this could violate the principle of protection of civilian infrastructure.
3. The state's obligation to prevent violations of international law: States have an obligation to prevent violations of international law by their military personnel. If an attack carried out by Russian personnel violates international law and the state does not take adequate measures to prevent it or bring those responsible to justice, this can lead to state responsibility.

The legal responsibility of a Russian attack that causes excessive infrastructure damage must be thoroughly assessed in light of the relevant facts, evidence, and international legal context. Such assessments are usually conducted through the mechanisms of international tribunals, such as the International Court of Justice or ad hoc tribunals established to deal with specific conflicts. The decision regarding legal liability will depend on the available evidence and the interpretation of international law applied by the court with jurisdiction over the case.³⁴

During the invasion, there were alleged attacks targeting Ukrainian civilians. The UN has confirmed that as many as 4,226 civilian deaths have occurred. Thus, it can be said that the invasion carried out by Russia is categorised as a human rights violation because civilians in international humanitarian law are included in objects that must be protected in the sense that they absolutely cannot be targeted by the military, let alone attacked to cause many casualties. If there is an attack on a civilian object, then it is a violation of human rights.³⁵ Therefore, Russia can be said to have committed violations of international humanitarian law due to the large number of civilians who became victims of the conflict that occurred.

"Excessive" collateral damage refers to the unintended harm caused to civilians or civilian property during armed conflicts or military operations. Collateral damage is an unfortunate reality of war, as it is often challenging to precisely target military objectives without affecting surrounding areas or non-combatants. However, "excessive" implies that the harm inflicted on civilians or infrastructure surpasses what may be considered reasonable or proportional.³⁶

33 Tamás Hoffmann, 'War or Peace? – International Legal Issues Concerning the Use of Force in the Russia–Ukraine Conflict' (2022) 63 *Hungarian Journal of Legal Studies* 206.

34 Gaizka Ayu Satura, 'Pertanggungjawaban Rusia Atas Invasi Terhadap Ukraina' (2021) 5 *ALETHEA Jurnal Ilmu Hukum* 73.

35 Lara Hakki, Eric Stover and Rohini J Haar, 'Breaking the Silence: Advocacy and Accountability for Attacks on Hospitals in Armed Conflict' (2020) 102 *International Review of the Red Cross* 1201.

36 Paparinskis (n 17).

Until now, many countries have criticised Russia for its actions. Other countries also gave various sanctions during the war in Ukraine. One is the ban on Russian oil and gas imports by the United States, the European Union, and the United Kingdom until the freezing of Russian central bank assets and the issuance of sanctions on international money transfer networks against Russia. The number of sanctions is given so that Russia is responsible for what it has done and upholds world security and peace based on rules and as one of the veto holders at the United Nations.³⁷

Russia will make peace if Ukraine is neutral towards NATO, demilitarised, gives up the separatist enclaves of the Donetsk-Luhansk region that are at the center of the conflict, officially accepts the Crimea region claimed or controlled by Russia and protects the use of the Russian language in Ukraine.

Before this is done, Russia must take responsibility for actions violating international law. Russia's responsibility can begin by stopping all forms of invasion of Ukraine by withdrawing all military forces from the territory of Ukraine and making agreements not to do so again. Russia can also seek responsibility by paying compensation for the damage caused, conducting diplomatic negotiations accompanied by an official apology, and providing guarantees not to carry out military operations that certainly harm other countries.

The current situation in Ukraine is alarming. Russia's military offensive has led to massive displacement and the loss of hundreds of innocent Ukrainian civilian lives. Not only that, the Russia-Ukraine crisis has also brought economic and geopolitical instability and disaster to the entire region. What Russia is doing for Ukraine is not in the least bit digestible. Whereas protecting civilians and civilian objects in war is a crucial aspect of international humanitarian law, and there are distinction and proportionality principles, the distinction principle requires parties to a conflict to always distinguish between combatants and civilians. It prohibits deliberately targeting civilians or civilian objects, such as schools, hospitals, and cultural sites.³⁸ The principle of proportionality mandates that any military attack must not cause excessive harm to civilians or objects compared to the anticipated military advantage.³⁹ It has brought heartbreaking tragedy to the Ukrainian people and triggered the most severe threat to peace and security, especially in the European region. Although many countries in the world have strongly condemned and condemned Russia's actions in Ukraine, it cannot stop Russia from continuing to maneuver.

According to international law, state responsibility arises when a state harms another state. The principle of state responsibility is a development of "*maxim sic utere tuo alienum ut non laedas*" meaning that an activity or action must not harm another party. Internationally, states need to exercise self-restraint and abide by international law. As in Article 2, paragraph 4 in the UN Charter, which reads, "*All Members shall 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*

37 Satura (n 34).

38 Bassil A, 'Armed Escorts to Humanitarian Convoys: An Unexplored Framework under International Humanitarian Law' [2020] International Review of the Red Cross 559.

39 Corps Reserve and Homeland Security, 'Civilian Harm Mitigation in Urban Areas: A Wargaming Exercise (Lieber Society on the Law of Armed Conflict)' (2021) 115 Proceedings of the ASIL Annual Meeting 165.

inconsistent with the Purposes of the United Nations,” The article states that every member of the UN must refrain in international relations from using force or violence to attack another country's territorial integrity or political independence. All countries that are members of the UN are required to comply with these international laws because, with their willingness to become members of the UN, they are bound and must comply with existing international law, including the UN Charter, and the state as an international community is required to comply with international law. If the state does not comply with international law, there will be a violation of international obligations that give rise to responsibility for the violating state.

A breach of international obligations can be an act or omission. State responsibilities arising from international violations by states are:⁴⁰

1. Committing acts of human rights violations and neglecting, taking no action, or omission to commit human rights violations.
2. Committing acts that constitute a breach of international obligations.

Russia's actions have caused various losses to the state of Ukraine as a result of international law violations committed by the Russian state. The implication of this violation is the pursuit of the Russian state's responsibility for the Ukrainian state as an injured state and the imposition of various sanctions. Demand and sanctions have been given to the Russian state from various parties as a form of punishment for Russia to be willing to take responsibility.

The attacks across most of Ukraine, which have killed innocent civilians, according to the Office of the United Nations for High Commissioner for Human Rights (OHCHR), directly violate the 1949 Geneva Conventions. In particular, Geneva Convention IV which specifically regulates the protection of civilians.⁴¹ The attack was also a violation of Article 51, paragraph 5, letter (b) of Additional Protocol I of 1977, which prohibits all attacks that may cause loss of civilian life, injury to civilians, and damage to civilian objects.⁴²

Sanctions in the form of fines or economic policies are punishments for countries that violate the law. Gross human rights violations between Russia and Ukraine by conducting Russia's military intervention in Ukraine have violated several provisions of international law, namely Article 2 paragraph 4 of the UN Charter on the prohibition of the use of force. Secondly, according to UN General Assembly Resolution No. 2131 of 1965 concerning the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, then the third, UN General Assembly Resolution No. 2625 of 1970 concerning The Declaration on Principles of International Law concerning Friendly Relations and

40 Christian Enemark, 'On the Responsible Use of Armed Drones: The Prospective Moral Responsibilities of States' (2020) 24 *International Journal of Human Rights* 868.

41 Yulia Ioffe, 'Forcibly Transferring Ukrainian Children to the Russian Federation: A Genocide?' [2023] *Journal of Genocide Research* 1. See also, Creutz (n 20); Syed Enam Ahammad, 'Genocide: Causes Behind A Gravest State Crime' (2023) 8 *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* <<https://petita.ar-raniry.ac.id/index.php/petita/article/view/167>>.

42 Yordan Gunawan, Mohammad Haris Aulawi and Andi Rizal Ramadhan, 'Command Responsibility of Autonomous Weapons Systems Under International Humanitarian Law' (2019) 7 *Jurnal Cita Hukum*. Stephen Skinner, 'Inciting Military Disaffection in Interwar Britain and Fascist Italy: Security, Crime and Authoritarian Law' (2022) 42 *Oxford Journal of Legal Studies* 578 <<https://academic.oup.com/ojls/article/42/2/578/6431979>>.

Cooperation among States, and the last is UN General Assembly Resolution No. 3314 issued on December 14, 1974, concerning aggression.

Another violation that has occurred between Russia and Ukraine is the violation of bilateral agreements that were agreed upon by the previous country. These agreements are:

1. Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons, on December 5, 1994, in Budapest⁴³
2. Agreement between the Russian Federation and Ukraine on the Status and Condition of the Black Sea Fleet of the Russian Federation in the Ukrainian Territory of 1997. This bilateral agreement states that the Russian government shall respect Ukraine's sovereignty and territorial integrity and shall not use threats or force, such as military intervention, against Ukraine's territorial sovereignty.⁴⁴

While Article 51 of the UN Charter suggests that self-defense is only legitimate if an armed attack has occurred, some states and international law scholars support a broader interpretation that self-defense measures can be taken to prevent an imminent external armed attack.⁴⁵ However, the acceptance of this interpretation in international law is highly contentious, illustrated by the failure of the international community to reach a consensus on this issue during the UN reform process. The report of the High-Level Panel commissioned by Secretary-General Kofi Annan states that 'A threatened State may, under international law, take military action as long as the threat of attack is imminent, there are no other means of deflection, and the action is proportionate.'⁴⁶ The Kofi Annan report also states that Imminent threats are fully covered by Article 51, which protects the inherent right of sovereign States to defend themselves against armed attack. Lawyers have long recognised that this covers an imminent attack as well as one that has already occurred.⁴⁷ However, no reference to the concept of imminent attack was included in the final declaration. The rationale adopted by UN member states is not least because a large number of states, particularly developing states, have consistently rejected approaches that expand the potential application of the use of force, and a large number of continental legal scholars take the opposite position.

The act of military intervention due to a request is closely related to the conditions of the State requesting the intervention. The condition of the State in question is the

43 Sofia Cavandoli and Gary Wilson, 'Distorting Fundamental Norms of International Law to Resurrect the Soviet Union: The International Law Context of Russia's Invasion of Ukraine' (2022) 69 *Netherlands International Law Review* 383.

44 Wasis Susetio, Zulfikar Judge and Anatomi Muliawan, 'Pelanggaran Hukum Internasional Dalam Perang Rusia-Ukraina' (2023) 20 *Lex Jurnalica* 77; Mirza Satria Buana, 'A Realistic Perspective to Transitional Justice' (2020) 4 *Journal of Southeast Asian Human Rights* 406 <<https://jurnal.unej.ac.id/index.php/JSEHR/article/view/8395>>.

45 Nick van der Steenhoven, 'Conduct and Subsequent Practice by States in the Application of the Requirement to Report under UN Charter Article 51' (2019) 6 *Journal on the Use of Force and International Law* 242.

46 UN Secretary-General, 'High-Level Panel on Threats, Challenges and Change, "A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges and Change" UN Doc. A/59/565' (2004).

47 UN Secretary-General, "'In Larger Freedom: Towards Development, Security and Human Rights for All. Report of the Secretary-General" UN Doc. A/59/2005' (2005).

status of the government itself. Whether the requesting State has a legitimate government or not. The government's legitimacy influences whether or not military intervention is legal. This issue can be very complicated in the case of civil war. An assisted government can call for or request military assistance as a legitimate government recognised by the international community.⁴⁸

In the case of military intervention by invitation by Russia against Ukraine, there are several criteria to be said to be a legitimate government, namely: a) Who has the right to request military intervention assistance; b) De facto (effective control of territory); c) Recognition of the Yanukovych government. Of these criteria, the Yanukovych government can fulfill only one criterion, namely constitutional government.⁴⁹ The Yanukovych government is constitutional. Meanwhile, the other criteria, namely effective control of territory and recognised government, in this case, both the opposition and the Yanukovych government, can only partially fulfill these criteria.

Unreasonable invasion under the circumstances legitimised by the UN, namely, to maintain international peace and security or because of an emergency, is not allowed because it will inevitably include the use of force. Art. 2 of the United Nations Charter contains: *"All Members shall 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."*

This invasion by Russia has caused various adverse consequences for Ukraine. If we look at state responsibility in international law, a state has an obligation to be responsible for the consequences of its actions. Although state responsibility is related to sovereignty, it does not mean that a state can freely do whatever it wants by violating the rights or sovereignty of other states. However, the state is still limited in every action and subject to international law. Given that the state is one of the subjects of international law, subjects of international law have rights and obligations in international relations. If a subject of international law is harmed, the injured party can claim the loss. The injured party can also be prosecuted for its harmful actions. In other words, subjects of international law have the capacity to perform legal acts, namely being able to sue and be sued because, in every action in international relations, there may be an unlawful act because they do not comply with their international obligations to do something or not do something based on applicable international law. The act is internationally wrongful and includes two elements, namely:⁵⁰

1. May be delegated to the state under international law;
2. Including a breach of an international obligation.

The right to self-defense in cases of interstate violence is the most frequently used norm of the post-1945 international legal order. Security Council mandates can usually be quickly established, so states try to legitimise their armed actions by invoking self-defense. Article 51 of the UN Charter provides the right to self-defense as

48 Alain Zysset and Antoinette Scherz, 'Proportionality as Procedure: Strengthening the Legitimate Authority of the Un Committee on Economic, Social and Cultural Rights' [2021] *Global Constitutionalism* 524.

49 Redie Bereketab, 'State Legitimacy and Government Performance in the Horn of Africa' (2020) 79 *African Studies* 51; Oriola O Oyewole, 'Navigating The Waters: International Law, Environment and Human Rights' (2021) 6 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*.

50 Responsibility of States for International Wrongful Acts, art. 2.

follows:⁵¹ Nothing in the present Charter shall prejudice the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken the necessary measures to maintain international peace and security. Members' measures to exercise this right of self-defense shall be promptly reported to the Security Council. They shall not affect the authority and responsibility of the Security Council under the Charter to take such measures as it considers necessary to maintain or restore international peace and security at any time. It thus makes the exercise of self-defense dependent on the occurrence of an armed attack within the framework established by customary international law. It requires that acts of self-defense be immediately reported to the Security Council. In his speech announcing the attack on Ukraine, President Putin explicitly invoked the right of self-defense, and the full transcript was attached to the Russian Federation's notification of the action to the Security Council, which reported the taking of self-defense measures under Article 51 of the Charter. Similarly, the Russian Federation has also qualified armed intervention as an act of self-defense in proceedings before the International Court of Justice. It has also attached President Putin's speech to its written submission.

Russia's actions, which have caused various losses to the Ukrainian state, result from international law violations committed by the Russian state. The legal responsibility of Russia's attack that caused excessive infrastructure damage must be assessed thoroughly by considering the relevant facts, evidence, and international legal context by assessing through the mechanism of an international court, namely the International Court of Justice or an ad hoc tribunal. The Russian state must be responsible for its actions that have violated international law. The form of Russia's responsibility can be taken by stopping all forms of invasion (cessation) into the Ukrainian state by withdrawing all military forces from the territory of the Ukrainian state, and Russia can promise not to repeat the invasion (non-repetition). Russia can also pursue responsibility by compensating for losses from damage caused by its invasion (reparation). Russia conducts diplomatic negotiations with an official apology, guaranteeing it will not repeat its invasion (satisfaction).

Conclusion

Russia's violations of international law and neglect of its international obligations result in the state's responsibility to take reparation, which consists of restitution of the actual situation, if possible, compensation if this is not possible, or satisfaction (i.e., acknowledgment of and for the breach) if neither of these options is feasible. Oversight and enforcement of this accountability can be conducted through international tribunals like the International Court of Justice.

Responsibility refers to the obligation to answer for any act done and to repair any injury it may have caused. At the same time, liability concerns the damage or loss arising from failure to meet these standards. Responsibility is an obligation arising from actions committed and requires legal reparation. State responsibility can only be conducted by legal subjects who are the executors of rights and obligations. Two legal

51 Hoffmann (n 33). See also, Muhammad Siddiq Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies; Muhammad Siddiq Armia and others, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113.

principles are recognised in international law: objective responsibility, which states that the state's legal responsibility is absolute, and subjective responsibility, which asserts that there must be an element of intent or negligence on the part of the person concerned before the state can be held legally responsible for the harm caused.

References

- Abdullah DMJ, 'The Nature of International Responsibility of States in the Contemporary World Arena' (2019) 5 Journal of University of Human Development 50
- Alashqar MM, Rahim AA and Aziz ASA, 'WAR CRIMES IN GAZA STRIP FROM YEAR 2008 2021: INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER THE LEGAL FRAMEWORK OF ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT' (2023) 19 Journal of International Studies 61
- Armia MS, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse
- , 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies
- , 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113
- Armia MS et al, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525
- Barriola I, Deffains B and Musy O, 'Law and Inequality: A Comparative Approach to the Distributive Implications of Legal Systems' (2023) 75 International Review of Law and Economics 106139
<<https://www.sciencedirect.com/science/article/pii/S0144818823000170>>
- Bassil A, 'Armed Escorts to Humanitarian Convoys: An Unexplored Framework under International Humanitarian Law' [2020] International Review of the Red Cross 559
- Bereketeab R, 'State Legitimacy and Government Performance in the Horn of Africa' (2020) 79 African Studies 51
- Boutin B, 'State Responsibility in Relation to Military Applications of Artificial Intelligence' (2023) 36 Leiden Journal of International Law 133
- Broude T, 'Behavioral International Law': (2015) 163 University of Pennsylvania Law Review 1099
- Brunk IW and Hakimi M, 'Russia, Ukraine, and the Future World Order' (2022) 116 American Journal of International Law 687
- Buana MS, 'A Realistic Perspective to Transitional Justice' (2020) 4 Journal of Southeast Asian Human Rights 406

<<https://jurnal.unej.ac.id/index.php/JSEHR/article/view/8395>>

Cavandoli S and Wilson G, 'Distorting Fundamental Norms of International Law to Resurrect the Soviet Union: The International Law Context of Russia's Invasion of Ukraine' (2022) 69 Netherlands International Law Review 383

Creutz K, *State Responsibility in the International Legal Order* (Cambridge University Press 2020)

Currie RJ and Matheson E, 'State Responsibility for International Bail Jumping' (2022) 59 Canadian Yearbook of International Law 104

d'Aspremont J and others, 'Sharing Responsibility Between Non-State Actors and States in International Law: Introduction' (2015) 62 Netherlands International Law Review 49

Dalsjö R, Jonsson M and Norberg J, 'A Brutal Examination: Russian Military Capability in Light of the Ukraine Warp' (2022) 64 Survival 7

Diva Ersya O, 'Private Actor Rights Derived From The WTO TFA' (2019) 4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah

Emmanuel C. Obikwu, 'UNDRIP AND HISTORIC TREATIES: The Moral Imperative To Legitimize The Human Rights Of Indigenous People To Self -Determination' (2021) 6 Petita : Jurnal Kajian Ilmu Hukum dan Syariah

Enam Ahammad S, 'Genocide: Causes Behind A Gravest State Crime' (2023) 8 Petita: Jurnal Kajian Ilmu Hukum dan Syariah <<https://petita.ar-raniry.ac.id/index.php/petita/article/view/167>>

Enemark C, 'On the Responsible Use of Armed Drones: The Prospective Moral Responsibilities of States' (2020) 24 International Journal of Human Rights 868

Gabrielle Tétrault-Farber and Tom Balmforth, 'Russia Demands NATO Roll Back from East Europe and Stay out of Ukraine' *REUTERS* (2021)

Gunawan Y, Aulawi MH and Ramadhan AR, 'Command Responsibility of Autonomous Weapons Systems Under International Humanitarian Law' (2019) 7 Jurnal Cita Hukum

Hakki L, Stover E and Haar RJ, 'Breaking the Silence: Advocacy and Accountability for Attacks on Hospitals in Armed Conflict' (2020) 102 International Review of the Red Cross 1201

Hoffmann T, 'War or Peace? – International Legal Issues Concerning the Use of Force in the Russia–Ukraine Conflict' (2022) 63 Hungarian Journal of Legal Studies 206

Ioffe Y, 'Forcibly Transferring Ukrainian Children to the Russian Federation: A Genocide?' [2023] Journal of Genocide Research 1

Katz E, 'Liar's War: Protecting Civilians from Disinformation during Armed Conflict' (2020) 102 International Review of the Red Cross 659

- Lock T and Riem J, 'Judging Nuremberg: The Laws, the Rallies, the Trials' (2005) 6 German Law Journal 1819
- Malanczuk P and Orakhelashvili A, *Akehurst's Modern Introduction to International Law* (9th Editio, Routledge 2022)
- Marhold AA, 'Responses of International Legal Academia to the Russian Invasion of Ukraine' [2023] Leiden Journal of International Law 1
- Muhammad Siddiq Armia and Bin-Armia MS, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah i
- Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 69
- Nantawaroprai D, 'Role of the International Criminal Court in War Crimes, Crimes against Humanity, and Acts of Aggression by Threats of the Usage of Nuclear Weapons under International Law "Jus Cogens"' (2022) 6 Journal of Positive School Psychology 5567
- News U, 'Ukraine Crisis: UN Political Affairs Chief Calls for "Maximum Restraint"' *UN News* (2022)
- Obikwu, 'The Federal Constitution, National- Ethnic Minority Groups and the Creation of States: The Post-Colonial Nigerian Experience' (2017) 2 PETITA: Jurnal Kajian Ilmu Hukum dan Syari'ah <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/56>>
- Obikwu E, 'International Law And Revolution In The 21st Century' (2019) 4 PETITA: Jurnal Kajian Ilmu Hukum dan Syari'ah
- OHCHR, 'High Commissioner Updates the Human Rights Council on Mariupol Ukraine' *UNHR Office of The High Commissioner* (2022)
- Oyewole OO, 'Navigating The Waters: International Law, Environment and Human Rights' (2021) 6 Petita : Jurnal Kajian Ilmu Hukum dan Syariah
- Paparinskis M, 'The Once and Future Law of State Responsibility' (2020) 114 American Journal of International Law 618
- Paul Kirby, 'Has Putin's War Failed and What Does Ukraine Want from Ukraine?' *BBC News* (2022)
- Reserve C and Security H, 'Civilian Harm Mitigation in Urban Areas: A Wargaming Exercise (Lieber Society on the Law of Armed Conflict)' (2021) 115 Proceedings of the ASIL Annual Meeting 165
- Sarah Rainsford, 'Ukraine Crisis: Don't Create Panic, Zelensky Tells West' *BBC News* (2022)

- Satura GA, 'Pertanggungjawaban Rusia Atas Invasi Terhadap Ukraina' (2021) 5 ALETHEA Jurnal Ilmu Hukum 73
- Secretary-General U, 'High-Level Panel on Threats, Challenges and Change, "A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges and Change" UN Doc. A/59/565' (2004)
- , "In Larger Freedom: Towards Development, Security and Human Rights for All. Report of the Secretary-General" UN Doc. A/59/2005' (2005)
- Shane Harris and others, 'Isabelle Khurshudyan, Ashley Parker and Liz Sly, "Road to War: U.S: Struggled to Convince Allies, and Zelensky, of Risk of Invasion"' *The Washington Post* (2023)
- Siswanto A, *Hukum Pidana Internasional* (Penerbit Andy 2015)
- Skinner S, 'Inciting Military Disaffection in Interwar Britain and Fascist Italy: Security, Crime and Authoritarian Law' (2022) 42 Oxford Journal of Legal Studies 578 <<https://academic.oup.com/ojls/article/42/2/578/6431979>>
- Steenhoven N van der, 'Conduct and Subsequent Practice by States in the Application of the Requirement to Report under UN Charter Article 51' (2019) 6 Journal on the Use of Force and International Law 242
- Susetio W, Judge Z and Muliawan A, 'Pelanggaran Hukum Internasional Dalam Perang Rusia-Ukraina' (2023) 20 Lex Jurnalica 77
- The White House Government, 'Joint Statement Following the Meeting Between President Biden and President Macron' *WH.GOV* (2022)
- Wong MS, 'Aggression and State Responsibility at the International Criminal Court' (2021) 70 International and Comparative Law Quarterly 961
- Zysset A and Scherz A, 'Proportionality as Procedure: Strengthening the Legitimate Authority of the Un Committee on Economic, Social and Cultural Rights' [2021] Global Constitutionalism 524
- Vienna Convention on the Law of Treaties, art. 26
- Montevideo Convention 1933, art. 1
- Responsibility of States for International Wrongful Acts, art. 2
- Responsibility of States for Internationally Wrongful Acts 2001
- Statute of the International Court Tribunal for the former Yugoslavia, art. 7 par. 1