

The Role of United Nations on War Conflict Between Russia and Ukraine

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ABSTRAK

Perang Konflik antara Rusia dan Ukraina telah dimulai, hampir 10.000 korban jiwa terjadi dalam perang ini. Setiap negara mendesak Rusia untuk berhenti menyerang Ukraina dan juga meminta PBB untuk mengambil tindakan atas keputusan Rusia. Penelitian ini bertujuan untuk menganalisis peran PBB dalam menyelesaikan perang konflik antara Rusia dan Ukraina. Penelitian ini menggunakan metode normatif dengan sumber hukum yang digunakan untuk penyusunan dan pembahasan dalam suatu masalah penelitian. Hal ini dilakukan untuk menemukan jawaban dari permasalahan yang diteliti. Bahan hukum yang digunakan untuk mendukung penelitian ini terbagi menjadi Bahan Hukum Primer, Sekunder dan Tersier. Bahan hukum primer terdiri dari Konvensi Internasional sedangkan bahan hukum sekunder terdiri dari penelitian ilmiah dari penulis internasional, buku, artikel yang berkaitan dengan rumusan masalah ini. Perserikatan Bangsa-Bangsa sebagai Organisasi Internasional memiliki peran untuk menghentikan perang antara dua negara, hal itu dapat terjadi dengan bantuan beberapa organ utama seperti: Dewan Keamanan, Majelis Umum, dan Sekretaris Jenderal. Organ-organ utama itu akan membantu menyelesaikan perselisihan dengan otoritas mereka di PBB. Dalam hal itu, peran PBB untuk menjaga perdamaian dan melindungi hak asasi manusia juga telah melindungi korban perang kedua belah pihak, dan PBB dapat mendelegasikan Dewan Hak Asasi Manusia Perserikatan Bangsa-Bangsa (UNHRC) untuk melindungi dan menyelamatkan korban perang berdasarkan Konvensi Jenewa 1949.

ABSTRACT

War conflict between Russia and Ukraine has begun, almost 10,000 people died in this war. Each country urged Russia to stop attacking Ukraine and also asked the United Nations to take action on Russia's decision. This study aims to analyze the role of the United Nations in resolving the conflict war between Russia and Ukraine. This study uses a normative method with legal sources used for the preparation and discussion of a research problem. This is done to find answers to the problems studied. The legal materials used to support this research are divided into Primary, Secondary and Tertiary Legal Materials. Primary legal materials consist of International Conventions while secondary legal materials consist of scientific research from international authors, books, articles related to the formulation of this problem. The United Nations as an International Organization has a role to stop war between two countries, it can happen with the help of several main organs such as: Security Council, General Assembly, and Secretary General. The main organs will help resolve disputes with their UN authorities. In that case, the role of the United Nations to maintain peace and protect human rights has also protected victims of war on both sides, and the United Nations can delegate the United Nations Human Rights Council (UNHRC) to protect and save war victims based on the 1949 Geneva Conventions.

1. INTRODUCTION

The War conflict between Russia and Ukraine has started with the President of Russia, Vladimir Putin announced the military operation. Some explode in several cities in Ukraine were some of the military operation agenda (Khrebtan-Hörhager, 2016; Mottaleb et al., 2022; Orhan, 2022). Those conflicts started on 2015 when Ukraine made the statement that they want to join European Union (EU) and North Atlantic Treaty Organization (NATO) (Behnassi & El Haiba, 2022; Jagtap et al., 2022; Yousaf et al., 2022).

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The statement from Ukraine made Vladimir Putin angry because of the prospect of establishing NATO's base was next to Russia's borders, it can disturb the National Security of Russia (Mbah & Wasum, 2022; Uwishema et al., 2022; Wiggins, 2016). In case of that, any other East European countries like Poland, and other Balkan countries have good relationship with NATO, it makes Russia's position squeezed because the countries that in Russia's border are NATO alliances and Russia is not the member of NATO (Cross, 2015; Engle, 2014). Because of those reason finally Vladimir Putin declare war against Ukraine. According to International Humanitarian Law, Russia is allowed to declare war against Ukraine based on Geneva Convention 1949 and Den Haag Convention 1907 (Choonara, 2022; Richter, 2022). In addition, on United Nations Charter Article 2 (3) that mentioned: "*all members shall settle their International disputes by peaceful means in such manne that international peace and security, and justice are not endangered*". When we look on Article 2 (3), all of the members in United Nations have obligations to do International Peace if their security are not endangered however in this situation Russia feel that their security feel endangered (Simmons et al., 2015; Wolff, 2015).

Nevertheless, based on *Hague Regulations* that control about law and customs of war on land including the terms and condition of tools ad methods of war, Russia can only attack the combatants not civilians. According on Article I *Hague Regulations* the person whom can called as combatants have fulfil some this requirement are 1). commanded by a person responsible for his subordinate, 2.) To have a distinctive emblem recognizable at a distance 3.) To carry arms openly. 4.) To conduct their operations in accordance with laws and customs of war (Masters, 2022; Minutolo et al., 2022). The war between Ukraine and Russia took a lot of casualties around 10.000 people, some of them are civilians. Several countries are urging Russia to settle disputes peacefully to avoid more casualties. Some of countries are already give sanctions to Russia in order to dismiss Russia from attacking Ukraine (Lin et al., 2023; Stukalo & Simakhova, 2018; Umar et al., 2022). For example, the United States (US) and United Kingdom (UK) are banning Russian oil to used it in their country, European Union has pledged to end its reliance on Russian gas, Western countries have frozen the assets of Russia's central bank, etc. If Russia and Ukraine desire to resolve disputes peacefully therefore they can go through some several ways which are: Negotiations, Fact finding, Good Services, Mediation, Conciliation, Arbitration, International Court (Khudaykulova et al., 2022; Stukalo & Simakhova, 2018). However, to settle disputes peacefully Ukraine and Russia require third party. A third party can be defined as an individual or collective that either tries to help the "disputants" reach a settlement impartially (Koval et al., 2022; Núñez, 2017). In this Russian and Ukraine case, International Organizations that can be third parties. According to the role of International Organizations as a third party, the one International Organizations that can take those obligations is United Nations. Apart from that Russia and Ukraine are official members of the United Nations (Freire, M. R., & Heller, 2018; Shah et al., 2022). According on Pre-ambule of United Nations Charter that mentioned about *maintain International Peace and Security* therefore United Nations be a better solution for those conflict. From that background of problem the author interesting to conducted study related to the position of United Nations to dismiss the war between Ukraine and Russia. Moreover the authority of United Nations to assist the victim of conflict war between Russia and Ukraine is important to reveal. The main aims of this study aims to analyze the role of the United Nations in resolving the conflict war between Russia and Ukraine.

2. METHODS

This research using normative method with source of law that used for composing and discussion in a research problem. This is done to find answer to the problems studied. The legal materials used to support this research, while the legal materials used by the authors are divided into Primary, Secondary and Tertiary Legal Materials. The primary legal materials consist of International Conventions while the secondary legal materials consist of scientific research from international authors, books, articles related to the formulation of this problem.

3. RESULTS AND DISCUSSIONS

Results

Waitress United Nations and the War

From those history, the purpose of the United Nations establishment is to protect the world and keep the peace, this is proven in Article 1 (1) United Nations Charter that mentioned: "*to maintain International peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace.. and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of International disputes or situations which might*

lead to a breach of peace.” That’s what the League of Nations, the organizations before United Nations could not do so that World War I and II took place. Based on Article 1 (1) United Nations charter, there are the main organ of United Nations that help to implement the purpose and principle of United Nations and also those main organ can only dismiss the conflict between Ukraine and Russia. They are: Security Council, General Assembly and Secretary General.

General Assembly

In United Nations, beside of Security Council that have role to manage the dispute settlement, United Nations General Assembly or General Assembly also have those role. It’s different with the Security Council, United Nations General Assembly represented by all UN members. General Assembly’s basic work is accomplished by its six main committees, while they are: 1.) Committee is about the Disarmament and International Security, in this case first committee it’s not only about Disarmament but also nuclear testing, small arms and the export of land mines. 2.) Committee is concerned with sustainable development, human settlements, poverty eradication, strengthening humanitarian, etc. 3.) Committee is focuses on social, humanitarian and cultural matters that the most important things is about human rights. 4.) Committee is concerned about Special Political and Decolonization and also self-determination issues. 5.) Committee is concerned with the budget 6.) Committee is about the legal affairs with the purpose adopt a convention on the establishment of an International Criminal Court (ICC).

According to the conflict between Russia and Ukraine and the authority of General Assembly is to studied and give the recommendation with the purpose to increase the International cooperation. The recommendation from General Assembly covers a wide range issues about colonialism, human rights violations, International economic problem, etc. However, the recommendation from General Assembly for the disputing countries are not binding, therefore those recommendations can be avoided by all of dispute parties. Although, the recommendation are not binding, but according to Manila Declaration 1982 on the Peaceful Settlement of Disputes all of countries should consider the important role that what the General Assembly can do in settlement of a dispute.

Secretary General

The Secretary General is granted significant institutional and personal independence: the Secretariat he or she leads is itself a principal organ of the United Nations, and also the Secretary General is given a wide discretion to bring attention of the Security Council. Nevertheless, the important role for Secretary General in dispute settlement contained in two article of United Nations Charter, which are Article 98 and 99. Article 98 mentioned that *“The Secretary General shall act in that capacity in all meeting of the General Assembly, Security Council, Economic and Social Council (ECOSOC), and Trusteeship Council and shall perform such other functions as are entrusted to him by these organs. The Secretary General shall make an annual report to the General Assembly on the work of the Organization.”*

In other word, Article 98 said that the function of Security Council, General Assembly, ECOSOC, and Trusteeship Council delegated to Secretary General. This granting authority is common practice and Secretary General have already done it, for example on 1954, when General Assembly assign the Secretary General for release the 11 hostages and several United Nations member detained by the Chinese Government, and for his good capacity as Secretary General, the Chinese Government finally freed the hostage. Article 99 give the authority to Secretary General for conveys to Security Council, disputes that in his opinion could threaten International Peace and Security. In this war dispute, Secretary General could be “delegate” for those organ-organ in United Nations. However, it very difficult if Secretary General took the delegate from General Assembly because of those committees that General Assembly have. Nevertheless, it could be efficient if Secretary General could be delegate for those organs and solve the problem.

Authority from United Nations to Victim of War

United Nations Human Rights Council or as known as Human Right Council is the principal United Nations intergovernmental body responsible for human rights with composed of 47 members states. The Human Right Council have the important role to save the human rights especially for the war Victim of war. Everything about war is regulated by International Humanitarian Law, the purpose of establishing International Humanitarian Law because of humanitarian reasons to decrease or limiting individual suffering and to delimit the area where the savagery of armed conflict is permitted. The International Conference for the Protection of War Victims stressed the preventive effort that must be made to avert situations in which humanitarian standars are flouted. To avert the situation about flouted of humanitarian standard, therefore Human Right Council will be the body from UN that help it, in order to, protect the human rights and also the victim of war between Ukraine and Russia. In Article 3(2) Geneva

Convention 1949 mentioned that: *“The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”*

From the Article 3(2) we can conclude that the human rights for the sick and wounded very protected by Law and Human Rights Council has those job to completed the mission from Article 3(2). And also in the Article 3(1) there is the statement to protecting the human rights of the war victims which are: a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; b) taking of hostages; c) outrages upon personal dignity, in particular humiliating and degrading treatment; d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized people. According on those Geneva Convention, Human Rights Council with the purpose to protect the Human Rights in the world could have the authority to save the war victim and protected their rights.

Discussion

The formation of United Nations began when every countries in the world facing World War II. All over the world wanted peace. Finally on 25 April to 26 June 1945, representative of 50 countries assembled at the United Nations Conference on International Organization in San Francisco, California to preceded the draft and sign the United Charter and created the new organization, the United Nations. The Point of Article 24 United Nations Charter indicate that all of the United Nations members already give the main responsibilities to Council for maintain International peace and security (Chesterman, 2007; Schwebel, 1983). The Security Council consist of 15 members which are: five permanent members (the People's Republic of China, France, the Russian Federation, the United Kingdom and United States); and ten non-permanent members that elected by General Assembly for a two year (Hurd, 2008; Von Freiesleben, 2008). The special for the permanent members is they have Veto rights. A veto right is rights to cancel some resolution plan that has decided by majority vote of Security Council Members. This veto rights unregulated in United Nations Charter however according some several cases especially in non-procedural context, those permanent members will be the main role to approve it the non-procedural context. According to United Nations charter, all of the UN members, General Assembly and Secretary General could asking for attention Security Council to every problem that could endanger International peace and security (Falk, 2003; Kelsen, 1948).

After Security Council receives the attention from those subjects, they conduct investigations into disputes and determine whether a situation is likely to endanger International peace and security, based on Chapter VI. In this Russian and Ukraine case, Security Council could give the recommendation to both countries to resolve the disputes peacefully (Jonsson & Seely, 2015; Sasse & Lackner, 2018). If both countries did not heed the recommendation from Security Council then Security Council will give the sanctions to both countries which are political sanctions and military sanctions. In order to ensure the cessation of war does not break out again (Hurd, 2008; Von Freiesleben, 2008). Security Council formed observer mission and peace keeping forces, like in 1948 Security Council made *the United Nations Truce Supervision Organization* (UNSTO) in Palestine with the purpose complete the incident-incident that happen in border between Arab-Israel. Therefore to stop the war between Ukraine and Russia, Security Council could give those recommendation not only to Russia but also to Ukraine after that Security Council could made the peace keeping forces.

War is the highest condition in conflict between human and in International Relation studied, war in traditional is the organized use of violence by political units in the International Systems. War will happen if the countries in conflict situation and contradictory feel that their exclusive purpose cannot be achieved, except by violent means. The result of war is the number of fatalities which are refereed to as war victims. Usually, when countries faces the war they could not take care of its citizens that affected by the war and the citizens feel aftermath of the war that they don't even have anything to do with (Magomedkhan & Sadovoy, 2021; Orhan, 2022). Although there is a war restriction that the target of the war is enemy armed forced only, however the citizen also could hit by a stray bullet. In order to that, United Nations can help those because war is related with the human rights, and United Nations really respects human rights (Cross, 2015; Koval et al., 2022). Therefore, in this case it is a body in author opinion in United Nations that have authority to save the Victim of War while it is: United Nations Human Right Council (UNHRC).

4. CONCLUSION

Conflict between Russia and Ukraine is ends in the war of casualties. With the war between two of them, many countries condemn the war and urge the United Nations to take the action. Actually, the United Nations have role to dismiss the war, because United Nations is the International Organizations that aims to create world peace. To dismiss war, United Nations has main organs, which are: Security Council that can give the sanctions to the disputing party, the General Assembly that have lots of committees in different subject and the Secretary General. Outside the war, United Nations have also care about the war victim, which is most of them are civilian. To protect the war victim, same like protect the human rights, therefore with the help of United Nations Human Rights Council, all of the war victim could enjoy their rights and be protected from the war.

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