



Indonesia's Position As Mediating State In Handling The Conflict Russia-Ukraine Conflict Based On The Concept Of Responsibility To Protect (R2P)

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Abstract

Russia-Ukraine Conflict in the Perspective of International Law” Indonesia's current position is an active mediator so that it must strive non-formally and formally. Indonesia is the president of the G20 which has a strong role because this conflict has an impact on the economy. What Indonesia is doing is referring to the pursuit of peace, m to build international stability. The type of research used by the author is normative research. Normative research is a type of legal research derived from scientific research procedures in order to find the truth based on legal objectives from the normative side. “Responsibility to Protect” is a principle in international relations that aims to prevent genocide, war crimes, ethnic cleansing and crimes against humanity. State action in carrying out humanitarian interventions is often based on the reason that there has been an extraordinary humanitarian tragedy that can threaten international peace and security as the goal of the United Nations.

Keywords: *Indonesia Position, Russia-Ukraine, R2P*

A. Introduction

Indonesia is one of the republics in the world which historically was a member of the non-aligned during the cold war between the Soviet Union and the United States in 1990, at which time Indonesia was still under the rule of President Soeharto.¹ Then in 1991 the collapse of the Soviet Union The leader of the Soviet Union at that time, Mikhail Gorbachev resigned on December 25, 1991. His resignation also marked the collapse of the Soviet Union. Before Gorbachev's resignation, on December 1, 1991, 90% of Ukrainians approved a referendum on independence from the Soviet Union. The presidents of Ukraine, Belarus and Russia met to officially dissolve the Soviet Union, according to the rules written in the USSR Constitution.²

Before the dissolution of the Soviet Union, Ukraine was a part of it and when it was dissolved in 1991, it was included in the CIS (Commonwealth of Independent States) where Belarus was also part of the CIS. However, this did not last long as Ukraine considered that the CIS was an attempt by Russia to control the countries under the Russian Empire and the Soviet Union.³ In May 1997, Russia and Ukraine signed a friendship treaty. It was an attempt to resolve the disagreement. Russia was allowed to retain majority ownership of ships in the Black Sea fleet based in Ukraine's Crimea. Russia also had to pay Ukraine a rental fee for

¹ Laksmana, E. A. The enduring strategic trinity: explaining Indonesia's geopolitical architecture. *Journal of the Indian Ocean Region*, Vol.7, No.1 (2011), p.95–116.

² Plokhyy, Serhii. "The Return of the Empire: The Ukraine Crisis in the Historical Perspective." *South Central Review*, vol. 35 no. 1, 2018, p. 111-126

³ Thoti, K. K., & Sudheer, A. K. Global Economic Conditions are being Affected by the Conflict between Ukraine and Russia. *International Journal of Academic Research in Economics and Management and Sciences*, Vol.12, No.2 (2023): 320 – 327.

using the Port of Sevastopol. In 2014 relations between the two countries were further strained by a revolution that saw Ukraine join the European Union and NATO . This is considered by the Russian state as a threat and is a new breakthrough in the country geopolitics because from Russia's political point of view this will hamper its interests in the European Region.⁴

At this time, according to Ukraine, what Russia is thinking is something that cannot be digested by common sense because all actions taken by Russia will only bring tragedy and severe human rights violations to the Ukrainian people with Russian military attacks on public facilities including military bases. Russia's political policy to take military action into Ukrainian territory by using Article 51 of the UN Charter on the Right to Self-Defense is in no way supported by facts, arguments, or a legal basis that is valid and clear.⁵ The attack is a blatant violation of Ukraine's state sovereignty and territorial integrity, which cannot be justified in the least. This is contrary to the principles and provisions contained in the United Nations (UN) Charter Article 1 paragraph (1), Article 1 paragraph (2), Article 2 paragraph (3), and Article 2 paragraph (4), all of which explicitly recognize sovereignty as the main thing in international relations. It also calls for the maintenance of international peace and security through the restriction of the use of armed force against the territorial integrity or political independence of any state. According to the Webinar with the theme “Russian-Ukrainian Conflict in the Perspective of International Law” Indonesia's position is currently playing an active role in the conflict as well as a mandate as a mediator so that it must strive non-formally and formally. Indonesia is the president of the G20 which has a fairly strong role because this conflict has an impact on the economy, not only the perpetrator country but also the whole world. It is possible to pursue a peaceful path which is a form of a neutral role in the international community. What Indonesia is doing, which refers to the pursuit of peace, makes it possible to build good international stability.⁶

After seeing the above conditions, the researcher tried to formulate the research question “How is Indonesia's Position as a Mediating State in Handling the Russia-Ukraine Conflict Based on R2P Theory” this research aims to contribute in the academic field related to the

⁴ Athuman, J. International Journal of Education and Social Science Research. International Journal of Education and Social Science Research, Vol.6, No.1 (2023): 89–106.

⁵ Denys Azarov, Dmytro Koval, Gaiane Nuridzhanian, Volodymyr Venher, Understanding Russia's Actions in Ukraine as the Crime of Genocide, Journal of International Criminal Justice, Vol. 21, No. 2 (2023):233–264,

⁶ Dewita, J. S. Indonesia Participation In Defense Diplomacy In Indo-Pacific [Partisipasi Indonesia Di Diplomasipertahanan Indo Pasifik. Verity: Jurnal Ilmiah Hubungan Internasional, Vol.13, No.25, (2021): 35-51.

development of the Russian-Ukraine Conflict. International law and international human rights in resolving armed conflicts without disturbing the sovereignty of a country's territory

B. Research Method

This research is a normative legal research that focuses on the study of legal norms, including conventions and the UN Charter, including books, journals, research results, and research-related data. The data sources used in this research are secondary data sources. Data collection techniques are carried out by library research, namely by searching, reading, analyzing materials obtained through data in libraries and online documents (online journals).

The type of legal research conducted is normative juridical where the law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms that are a benchmark for human behavior that is considered appropriate. . This normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in laws and regulations.⁷

C. Results and Discussion

1. The Responsibility to Protect (R2P) Concept

“Responsibility to Protect” is a principle in international relations that aims to prevent genocide, war crimes, ethnic cleansing and crimes against humanity, every state has the responsibility to protect its people from these four types of crimes. This should be an important lesson for crimes against humanity that lead to genocide including ethnic rohingya so that Indonesia should play an important role in these issues.⁸ In addition, the international community also has the responsibility to assist states in fulfilling their duties. The international community in this R2P principle includes international organizations and member states and regional cooperation organizations. The background to the birth of the R2P principle is that in the 1990s, the world was shocked by the mass killings that took place in Bosnia and Rwanda.⁹ Once again, over a million men, women and children were murdered and the international community failed to prevent genocide. The R2P principle was created as a result of the international community's numerous failures to stop the mass killings in Bosnia and Rwanda.

⁷ David, T. Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum. *Nusantara : Jurnal Ilmu Pengetahuan Sosial*, Vol.8, No.8 (2021): 2463-2478.

⁸Zulkarnain, Kusumawardhana, I. Bersama Untuk Kemanusiaan: Penanganan Lintas Sektor Terhadap Masalah Pengungsi Rohingya Di Aceh 2015." *Jurnal HAM*, Vol.11, No.1 (2020): 67-83.

⁹Wuli, Rofinus, Muchlis R Luddin, & Thomas Suyatno. "Conflict Resolution Towards A Sustainable Peace: A Lesson From The Indonesian Military Ordinariate." *International Journal Of Human Resource Studies*, Vol.9, No.3 (2019): 341-352.

R2P is a principle that seeks to ensure that the international community will no longer fail to act when mass killings and other crimes against humanity occur. The idea of the Responsibility to Protect originally grew out of the work of Francis Deng - a former Sudanese diplomat who was the UN Special Representative for Internally Displaced Persons (IDPs) during the 1990s - and other experts in the field. Deng and others argued that the idea of 'state sovereignty' should be based not on the right of each state to do as it pleases without international interference, but that state sovereignty should be based on the protection of its people living in the territory.¹⁰ Simply put, state sovereignty should be built on the concept of 'sovereignty as responsibility'. Because sovereignty is from the people and for the people, it is therefore important to maintain sovereignty so that the rights of the people are fulfilled, one of which is human rights. So that the life of the nation, state and daily life of the people can be fulfilled.

Deng's idea of sovereignty as responsibility was later used to create the Responsibility to Protect principle by the International Commission on Intervention and State Sovereignty (ICISS). Over the years, many people and organizations from around the world have supported the idea of R2P. For example, a number of commitments have been made by regional organizations to protect people in their countries. The African Union's Charter of 2002, for example, includes an article on intervention into the territory of its member states when war crimes, genocide or crimes against humanity occur there.¹¹ In addition, in 2007, the African Commission on Human Rights and The African Commission on Human and Peoples' Rights adopted a resolution on strengthening the Responsibility to Protect principle in Africa .

In 2005, the UN held a World Summit that brought together leaders from around the world. One of the important achievements of the World Summit was the unanimous agreement among world leaders that all countries have the responsibility to protect their people from genocide, war crimes, crimes against humanity and ethnic cleansing. Countries attending the summit also agreed to be ready to take collective action when a State fails to protect its people from these four types of crimes.¹²

¹⁰ Sheikh, A. M., Hassan, M. M., & Rashid, S. Thomas Hobbes' Views On Philosophy, State Of Nature And International Relations. *International Journal Of Humanities And Education Development (IJHED)*, Vol.2, No.1 (2020): 37-44.

¹¹ Mwanasali, Musifiky. "The African Union, the United Nations, and the Responsibility to Protect: Towards an African Intervention Doctrine". *Global Responsibility to Protect*, Vol.2, No.4, (2010): 388-413.

¹² Parties to Offences under the Canadian Crimes against Humanity and War Crimes Act : an Analysis of Principal Liability and Complicity, *Journal: Les Cahiers de droit*, (2010): 0077-97

Several years after the 2005 World Summit agreement on R2P, some progress has been made. The then UN Secretary-General, Ban-ki Moon, has explained R2P by emphasizing the three pillars for implementing this principle. The three pillars are:

- a. The responsibility of the state to protect its own people from genocide, war crimes, ethnic cleansing and crimes against humanity, and from all acts leading to these types of crimes.
- b. The commitment of the international community to help states fulfill their responsibilities.
- c. The international community has a responsibility to use diplomatic, humanitarian, etc. approaches to protect people from these four types of crimes. In addition, the international community is also required to take collective action to protect society in accordance with the UN Charter.

Based on the report of the International Commission on Intervention and State Sovereignty (ICISS) in 2001, there are three elements in R2P namely prevent, react and rebuild . These three elements are carried out in response to human rights violations that occur in a country. Preventive action is carried out so that human rights violations do not occur more widely. Meanwhile, react is the response of states as part of the international community to intervene to help states that fail or do not want to protect their people. R2P applies in situations of mass atrocities. Mass atrocities are genocide, war crimes, ethnic cleansing and crimes against humanity. The context of mass atrocities does not only mean a wide scale and large number of victims but also systemic oppression by the government against its people. This can be categorized that the State does not want to protect or omit human rights violations. There are even cases of human rights violations where the mass movement that carries out the oppression is supported by the government.¹³

Responsibility to prevent is defined as the obligation for the state to prevent crime from occurring in an appropriate and necessary manner. The state accepts this obligation and will react accordingly. The international community should appropriately encourage states to fulfill their obligations and support UN efforts to provide early warning. The international community through the UN also has an obligation to use diplomacy, humanitarian means and other peaceful methods in implementing UN Charter chapters VI and VII. When preventive mechanisms fail and mass atrocities occur in a country then standing by and doing nothing is not an option for the international community.

¹³ Gebru, A. L. (2017). The State of Human Rights and Human Security in FDRE: A Comparative Case Study of Tigray and Afar Regional States. *Journal of Developing Societies*, Vol.33 No.3 (2017): 376-400.

Based on the 2005 World Summit, it is explained that the responsibility to react means the readiness of the international community to take decisive collective action through the UN Security Council in accordance with UN Charter chapter VII. Analysis gradually and in collaboration with regional organizations appropriately. The concept of R2P has been formulated in the 2005 World Summit document, UN Security Council Resolution S/RES/1674 . and the UN Secretary-General's Report (Implementing the Responsibility to Protect) is a concept born out of the fundamental principles that state that

- a. State sovereignty carries with it a primary responsibility to protect its citizens within the State's sovereign territory;
- b. When a population is in danger as a result of internal war, insurgency, oppression or state failure, and the state is either “unwilling” or “unable” to stop or prevent it, the principle of non-intervention justifies the international responsibility to protect.

On these grounds, the international community through the UN has a responsibility to use diplomatic, humanitarian and other appropriate peaceful means to help protect people from genocide, war crimes, ethnic cleansing and crimes against humanity. When states have failed or are unwilling to protect their societies from the aforementioned crimes.

2. The Responsibility to Protect (R2P) Concept

Currently, Indonesia is trusted as the president of the G20 international organization to play an active role because this conflict has an impact on the economy of not only the conflicting countries but also other international countries. It is possible that the peace path to build international stability is made by neutral countries including Indonesia which places itself as a mediating country. The Russia-Ukraine conflict has an impact on the involvement of foreign countries in conflict resolution. In international law, foreign intervention in resolving conflicts between countries, namely: The UN Charter in articles 2 (4) and 2 (7) clearly states that relations between states are not allowed to intervene.¹⁴ This arrangement was further strengthened by UN General Assembly Resolution No. 2625 (XXV) issued on October 24, 1970, which was later accepted as the General Assembly Declaration on Principles of International Law Concerning Friendly Relations and Cooperation between States in Relation to the UN Charter. However, in the practice of States today, these principles are often violated on humanitarian grounds. Humanitarian interventions in Iraq in

¹⁴ Mardiyanto, I., & Hidayatulloh, H. The Responsibility to Protect (R2P) Concept as an Attempt for Protection of Human Rights in International Humanitarian Law Context . *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, Vol.6, No.1 (2023): 103–118.

1991, Somalia in 1992, and Kosovo in 1999 are evidence that the doctrine has been practiced by states in their international relations.

State action in carrying out humanitarian interventions is often based on the reason that there has been an extraordinary humanitarian tragedy that can threaten international peace and security as the goal of the United Nations . On this basis, some countries interpret that the intervention carried out does not violate the provisions regulated by International Law. From the perspective of the international community, humanitarian intervention arises for two main reasons .First, it is carried out with the use of force, which is not legally justified. Second, humanitarian intervention is carried out by violating the sovereignty of the intervening State. The second reason is more sensitive than the first because in the international community, the issue of sovereignty is above all. This aspect of sovereignty is what makes a State considered dignified.¹⁵

There are several parameters used as reasons for humanitarian intervention according to Awaludin, namely:

- a. Failed State. When in a country, the government fails to function to protect its citizens due to civil war or mass killings, it is in this condition that other countries can justify humanitarian intervention.
- b. Humanitarian Awareness. If in a country there is mass murder, mass slavery and explosions that cause great death (shocking the conscious of mankind), then that condition justifies a country to intervene humanitarian.
- c. The Last Resort. If all non-military means have been taken but still fail, then intervention becomes one of the options and can be justified. .

In practice, interventions carried out by states and the international community only cause a humanitarian resident which is an international custom. The United Nations Security Council with form international cooperation. This is in accordance with chapter VII of the Charter, which talks about the exclusion of the use of armed force.

D. Conclusion

Indonesia's Position in the Russia-Ukraine Conflict: As the G20 president and a country with a tradition of non-alignment, Indonesia has the moral and political legitimacy to mediate in this conflict. Indonesia can pursue diplomacy and dialogue to reduce tensions and find a peaceful solution. Indonesia's neutral position provides trust from both parties and the

¹⁵ Anam, Muhammad. "Humanitarian Intervantion: The Principle of Responsibility to Protect (R2P)." *Jurnal Hubungan Internasional*, Vol.4, No.1, (2015): 1-11.

international community, so that mediation efforts can be more acceptable. Indonesia can support the R2P principle such as; Encouraging preventive diplomacy to prevent conflict escalation, Taking humanitarian action to help victims of the war in Ukraine and Collaborating with the UN and other international organizations to ensure that human rights violations in Ukraine are addressed seriously.

Humanitarian interventions often face challenges related to state sovereignty and the risk of unintended use of force. However, with the right approach and support from the international community, Indonesia can navigate these challenges and maximize opportunities for achieving peace.

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