

# CHAPTER I

## INTRODUCTION

### A. Background of research

Tensions between Russia and Ukraine are long-standing. Russia invaded Ukraine in 2014 when separatist groups backed by President Putin seized large parts of eastern Ukraine. Russia has annexed Crimea, Russia invaded Ukraine when its pro-Russian president was overthrown in early 2014.<sup>1</sup> 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.<sup>2</sup> The West suspects this is Moscow's pretext to occupy sovereign territory. The situation began to out-of-control again in early 2021. In January 2021, Ukrainian President Volodymyr Zelensky urged US President Joe Biden to let Ukraine join North Atlantic Treaty Organization (NATO). Ukraine angered Russia, and Russia responded by sending 100,000 troops near the Ukrainian border.<sup>3</sup> 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.<sup>4</sup> Russia has demanded that the West provide legally binding guarantees that NATO will not conduct any military activities in Eastern Europe and Ukraine.<sup>5</sup>

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<sup>1</sup> BBC, 2023, Has Putin's War Failed and What does Ukraine Want from Ukraine?, published on <https://www.bbc.com/news/world-europe-56720589>, accessed on March 4<sup>th</sup>, 2023 at 11:40 pm

<sup>2</sup> UN News, 2022, Ukraine crisis: UN political affairs chief calls for 'maximum restraint', published on <https://news.un.org/en/story/2022/02/1112202>, accessed on March 5<sup>th</sup>, 2022 at 9 am

<sup>3</sup> BBC, 2022, Ukraine crisis: Don't create panic, Zelensky tells West, published on <https://www.bbc.com/news/world-europe-60174684>, accessed on March 5<sup>th</sup>, 2023 at 10:30 am

<sup>4</sup> The Washington Post, Road to war: U.S: struggled to convince allies, and Zelensky, of risk of invasion, published on <https://www.washingtonpost.com/national-security/interactive/2022/ukraine-road-to-war/> accessed on March 5<sup>th</sup>, 2023 at 11:30 am

<sup>5</sup> REUTERS, Russia demands NATO roll back from East Europe and stay out of Ukraine, published on <https://www.reuters.com/world/russia-unveils-security-guarantees-says-western-response-not-encouraging-2021-12-17/> accessed on March 6<sup>th</sup>, 2023 at 8 am

Recent tension between Russia and Ukraine is brewing in early 2022, which is also bad for the European Union (EU). Largely a NATO signatory has 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, recognized 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.<sup>6</sup> The White House was ready to engage in diplomacy through a statement on Sunday, February 20<sup>th</sup>, 2022, after Paris suggested resolving the conflict peacefully.<sup>7</sup> However, the conflict escalated after Putin, in a speech on Monday, February 21<sup>st</sup>, 2022, recognized 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 Thursday, February 24<sup>th</sup>, 2022, and called on soldiers to lay down arms. This defied Western outrage and global calls not to launch a war.<sup>8</sup>

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<sup>th</sup>, 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 Russia breach the international humanitarian law with intensity and extent of hostilities, destruction and death

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<sup>6</sup> DW News, Russia recognizes independence of Ukraine separatist regions, published on <https://www.dw.com/en/russia-recognizes-independence-of-ukraine-separatist-regions/a-60861963> accessed on March 6<sup>th</sup>, 2023 at 1 pm

<sup>7</sup> The Guardian, Macron paves way for potential Putin-Biden summit on Ukraine crisis, published on <https://www.theguardian.com/world/2022/feb/20/putin-and-macron-agree-to-try-and-secure-ceasefire-in-eastern-ukraine> accessed on March 6<sup>th</sup>, 2023 at 3 pm

<sup>8</sup> The White House Government, Joint Statement Following the Meeting Between President Biden and President Macron, published on <https://www.whitehouse.gov/briefing-room/statements-releases/2022/12/01/joint-statement-following-the-meeting-between-president-biden-and-president-macron/> accessed on March 6<sup>th</sup>, 2023 at 5 pm

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 characterized by the extensive use of weapons with wide area effects.<sup>9</sup>

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 have voted to join the Russian Federation and is on the verge of collapse.<sup>10</sup> 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<sup>th</sup>, 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 improving conditions, rehabilitating the situation, or compensating for losses or actions that violate international law or state obligations.<sup>11</sup>

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 must have the existence of territory, the ability, and a permanent population.<sup>12</sup> In its regulatory provisions, the 1929 Geneva Convention on *the Amelioration of*

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<sup>9</sup> OHCHR, High Commissioner updates the Human Rights Council on Mariupol Ukraine, published on <https://www.ohchr.org/en/statements/2022/06/high-commissioner-updates-human-rights-council-mariupol-ukraine> accessed on March 8<sup>th</sup>, 2023 10:40 pm

<sup>10</sup> Robert Dalsjö, Michael Jonsson, and Johan Norberg, "A Brutal Examination: Russian Military Capability in Light of the Ukraine War," *Survival*, Vol. 64, No. 3 (2022) p. 7–28.

<sup>11</sup> Stuart Casey-Maslen, 2014, *The War Report: Armed Conflict in 2013*, United Kingdom: Oxford University press, p. 555.

<sup>12</sup> Montevideo Convention 1933, art. 1.

*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 violations of international human rights and humanitarian law 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.<sup>13</sup>

Russia's obligations under the Budapest Memorandum have nothing to do with the complex internal processes that led to Ukraine's loss of territorial integrity in Crimea. This is due to the fact that the Kyiv government was brought to power through an illegal coup, and its policies, particularly those concerning ethnic minorities, have fractured Ukraine's unity and threatened regions that do not align with Kyiv.<sup>14</sup>

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 that 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.

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<sup>13</sup> Vienna Convention on the Law of Treaties, art. 26.

<sup>14</sup> Kamasa Frassminggi, Krisis Ukraina dan Dampaknya terhadap Tatanan Politik Global dan Regional, *Jurnal Penelitian Politik*, Vol. 11, No. 1 (2014) p. 79-108.

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, emphasizes 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 significant impact for 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 fertilizer, oil, gas, grains, energy, food, and other commodities, Russia and Ukraine play an important role.<sup>15</sup>

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”**.

## **B. Research Problem**

What is the Russian Responsibility for excessive damage in Ukraine under International law?

## **C. Objective of Research**

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<sup>15</sup> Intan Rakhmayanti, 2022, *Rusia-Ukraina Yang Perang, Harga Pangan Dunia Beterbangan*, <https://www.cnbcindonesia.com/news/20220223205024-4-317797/rusia-ukraina-yang-perang-harga-pangan-dunia-beterbangan>, accessed on November 11<sup>th</sup>, 2022, at 2:11 pm

1. To understand the concept of responsibility of state in war under international law perspective.
2. Analyze the concept of responsibility of Russian attacks that cause excessive infrastructure damage from the perspective of international law.

#### **D. Benefits of Research**

There are some benefits of this research, as follow:

##### **1. Theoretical Aspects**

The research is expected to provide information and contribute to the development of the science of international law regarding state responsibility for infrastructure damage caused by Russia's attack on Ukraine.

##### **2. Practical Aspects**

The research provides suggestions and insight for a resolution to the disputing countries *i.e* Ukraine, Russia and other disputed countries in the future.