

## HUMAN RIGHTS VIOLATIONS AND ALLEGED CRIMES WAR IN THE RUSSIAN-UKRAINE CONFLICT

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### **Abstract**

*This research aims to examine human rights violations and alleged war crimes during Russia's invasion of Ukraine. The conflict between Russia and Ukraine occurred because they fought over the Crimea region, Eastern Ukraine. Crimea has been contested for centuries. Crimea was formerly called Tauris or Tavrida, by the Russian people this region is considered the home of various ethnic groups. This conflict between Ukraine and Russia caused many casualties and major damage to physical infrastructure in Ukraine. Russia's actions in the Crimea region have received various criticisms from the European Union and western countries. Russia has intervened in Ukraine and carried out acts of aggression into the Crimea region. The European Union and Western countries condemned Russia's actions as violating the rules of international law. The aim of this research is to determine human rights violations and alleged war crimes in the Russia-Ukraine conflict as well as forms of accountability and sanctions for human rights violations. The research method used is a normative juridical type with a statutory and conceptual approach supported by primary and secondary legal materials. The results of this research show that the United Nations demands that Russia stop its power against Ukraine. Russia, which is involved in the conflict, must comply with the rules and provisions of International Law, which is the only way to resolve Russia's dispute with Ukraine peacefully.*

**Keywords:** Russia-Ukraine; Human Rights Violations; War Crimes

### **I. INTRODUCTION**

Human rights or human rights themselves are a moral concept in social and state life and are not a concept that was born immediately and is comprehensive. Human rights emerged gradually and over time in the dynamics of human history. As a moral concept of human rights that is built and developed empirically in the lives and interests of social groups in the life of state society (Yustitianiingtyas, 2014).

It is said that according to the United Nations Human Rights Office of the High Commission, human rights are defined as: (Prakasa, 2018). *"Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible ."* If we look at the definition of human rights, the human rights message is a universal message with the aim of creating a sense of just humanity and it is hoped that it can be imbued and obeyed by all levels of humanity on earth. There are many human rights violations that occur which result in unresolved conflicts between countries.

The Universal Declaration of Human Rights is a framework of human rights objectives designed in a general form and is the main source for the formation of two human rights instruments, namely: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The rights contained in the Universal Declaration of Human Rights are the realization of the basic rights contained in the UN Charter, namely Articles 3, 5, 9, 10 and 11.

Conflict always occurs both on a small scale and on a large scale. Many things can cause conflict, but conflict often occurs due to differences in interests, and can also be caused by the desire to control or expand an area. Often a conflict related to control of a territory results in acts of aggression or annexation carried out by one party against another party (Nurullah, 2015).

The conflict between Russia and Ukraine occurred because they fought over the Crimea region, Eastern Ukraine. If you look at its history, Crimea itself has been contested for centuries. Crimea was formerly called Tauris or Tavrida, by the Russian people this region is considered the home of various ethnic groups. However, this area began to be contested after the Cimmerian tribes invaded Tauris and this action also triggered Greek colonists to enter the Tauris region in the 6th century BC (BC). When Russia carried out a large-scale invasion of Ukraine on February 24 2022 (CNBC 2022, March 6)

In connection with other factors, Russia invaded Ukraine, one of the causes of which was Ukraine's joining NATO membership, which threatened Russia's regional security.

This conflict between Ukraine and Russia caused many casualties and major damage to physical infrastructure in Ukraine. The UN Human Rights Commissioner said that Russian troops committed things that amounted to war crimes. Russia is said to have shelled and bombed populated areas, killed civilians and attacked infrastructure in Ukraine (Manik, 2022, April 23). Russia's actions in the Crimea region have received various criticisms from the European Union and western countries. Russia is considered to have intervened in Ukraine and carried out acts of aggression in the Crimea region. The European Union and Western countries also condemned Russia's actions as violating the rules of international law. Russia should be able to use peaceful means as stated firmly in article 2 paragraph (3) and article 33 of the UN Charter, and abandon armed violence as a policy to resolve disputes with Ukraine. The importance of refraining from using weapons and prioritizing mechanisms for resolving disputes peacefully. "Even if there is a dispute, please resolve it to the International Court of Justice or ICJ, including the role of the Security Council, even though there are also sanctions here because Russia is one of the five permanent members of the UN Security Council," (Wicaksana, 2022, April 25)

Several previous studies have been related to this research, including research conducted by Ni Ngh Dwi Candra Kusumagandhi (Kusumagandhi and Yasa, 2019) This research examines that Human rights violations have occurred in the international armed conflict between Ukraine and Russia, namely the torture of civilians who were detained arbitrarily and illegally by the Ukrainian Security Service. Analysis of the conflict

between Ukraine and Russia will be based on relevant International Law, especially those relating to the prohibition of torture and cruel, inhuman or degrading treatment or punishment, the right to freedom and security of a person and the prohibition of enforced disappearances which then looks at the state's responsibility for action. which violates international rules. Arbitrary arrest and detention; enforced disappearance; torture and ill-treatment violate human rights and humanitarian law because they are regulated “in all circumstances and for all parties, and in any case insults to these rights are not permitted” and states are responsible for violating these international obligations.

Research conducted by Wasis Susetio. This research examines the Russo-Ukrainian War which shows no signs of ending (Susetio, Zulfikar, Noble, 2023) The two are still involved in armed contact throughout almost all of Ukraine since the invasion began on February 24. The invasion has drawn criticism from various countries. The Russian President, Valdimir Putin, was recently called a war criminal because he was accused of violating international law. Russia claims that its action to invade Ukraine was part of its self-defense policy *as* stated in article 51 of the UN charter. Even so, this is not accompanied by valid facts and arguments, Russia has clearly violated several provisions contained in the UN charter, which clearly recognizes state sovereignty as part of international relations and must not be interfered with by other countries. This research will analyze the types of violations of international law in the Russian-Ukrainian war and the influence of the Russian-Ukrainian war on the international political and legal order in the future. This paper is a normative legal writing that uses an approach statutory regulations to analyze relevant international legal instruments and factual approaches relating to the events that occurred in the invasion.

Reflecting on the results of the presentation above, the scientific article above can be a supporting reference in this research. This writing is intended with the aim of completing the treasury of studies relating to Human Rights Violations and Alleged War Crimes in the Russian-Ukrainian Conflict. The discussion will also focus on reviewing human rights and UN regulations .

## **II. PROBLEM FORMULATION**

Based on the previous introduction, this research examines the following legal issues

1. Human rights violations in the conflict between Russia and Ukraine.
2. Accountability and Sanctions in the Russian-Ukrainian conflict
3. Efforts to resolve Russia's conflict with Ukraine

## **III. RESEARCH METHODS**

Based on the problems that will be raised in this research, the author uses normative juridical research methods. Referring to the opinions of Soerjono Soekanto and Sri Mamuji, normative research is understood as research by examining literature materials or secondary data (Soekanto and Mamudji, 2009)The approach used is a legal and conceptual approach to study and reveal human rights violations and alleged war crimes.

Data collection was carried out using literature research with primary materials, namely regulations, literature, scientific papers, statistical data and legal journals.

After collecting the legal literature, the analysis process is then carried out using legal analysis and grammatical and systematic interpretation. By definition, dramatic interpretation is used to understand the provisions of legal rules through studying grammar, word order or sound. Meanwhile, systematic interpretation is an interpretation system that links legal regulations, with the aim of obtaining a comprehensive understanding. Next, it is described in accordance with the problems raised in this research in order to reach conclusions . (Marzuki, 2008)

#### **IV. RESULTS AND DISCUSSIONS**

##### **1. Human rights violations in the conflict between Russia and Ukraine**

Conflict always occurs both on a small scale and on a large scale. Often a conflict related to control of a territory results in acts of aggression or annexation carried out by one party against another party (Nurullah,2015) The armed conflict or war that occurred between Russia and Ukraine occurred because of differences in ideology, interests and goals between the two countries.

Armed conflict or war has its own legal rules and regulations. Several conventions relating to the legal protection of children in countries at war include:

1. Geneva Convention IV for the Protection of the Civilian Population 1949 and Additional Protocol I

The Geneva Conventions are part of International Law which is also known as Humanitarian Law in Armed Conflict. The aim of creating this convention is to make it a benchmark in protecting civilians who are victims of war.

This conflict between Ukraine and Russia caused many casualties and major damage to physical infrastructure in Ukraine . The conflict between Russia and Ukraine not only caused many casualties but also damage to physical infrastructure in Ukraine. Based on existing reports, Russia carried out shelling, bombing populated areas, damaging Ukrainian infrastructure, and killing civilians including children. Children who are the next generation of the nation in the future are victims who are very vulnerable to armed and non-armed conflicts, especially war (Christina, 2023)

According to a report by the UN Human Rights Commissioner, Russia has committed things that constitute war crimes which, based on the Rome Statute, constitute serious international human rights violations and violate international humanitarian law, which emphasizes an obligation for all participating countries in conflict. not to involve children under 15 (fifteen) years of age to take part in a conflict, especially in war (Christina, 2023).

Not a few civilians who were children became victims. According to BBC News, debris and fragments from a bomb explosion during an attack carried out by Russia injured the stomach of a child who was not even 3 (three) years old, namely Artem. Not only Artem, a 15 (fifteen) year old girl was also a victim of this bomb attack, this girl had to give up her leg to be amputated due to being hit by the bomb blast.

Based on reports from Human Rights organizations (HAM), these children will undergo military training and then afterward will be sent to join the war. Some of these children have even been sent to war and lost their lives (Christina, 2023).

This clearly violates the rights of children in the Children's Convention, because it is regulated in Article 38 concerning Legal Protection for Children who are recruited as Soldiers. Article 38 states that States Parties must restrain themselves from accepting anyone who has not reached fifteen years of age into their armed forces. Based on this article, it is clear that Russia violates children's rights and violates child protection.

Human rights violations committed by Russia against Ukrainian citizens, according to the principles of *the Restatement of the Foreign Relations Law of the United States 3rd*, namely that the Ukrainian state can file a lawsuit using human rights norms as a basis for it which originate from *general principles of law recognized by civilized nations*. It is known that the Ukrainian state has sued Russia at *the International Court of Justice* (International Court) for the Russian invasion which shows alleged acts of genocide

(<https://www.medcom.id/internasional/eropaamerika/MkMDPoEb-sidang-ukraina-rusia-di-pengadilan-internasional-akan-digelarhari-ini>, Access 2023). The act of genocide is a violation of the right to life because it causes death. The right to life is one of the rights regulated in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Arbitrary arrest and detention; enforced disappearance; torture and other ill-treatment as acts degrading human dignity that deviate from the fundamental agreement as stated in the preamble to the United Nations (UN) charter " *whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*" and it is reaffirmed in Article 1 that " *all human beings are born free and equal in dignity and rights* ". According to international law, the relationship between human dignity and human rights where rights derive from human dignity, human dignity is not a kind of super right, or a collective term to refer to things, but rather is the primary source of all rights (Sudiq, & Yustitiantingtyas, 2022)

Freedom from acts of torture and cruel and degrading treatment or punishment is a non-derogable right based on international law, international human rights law and international humanitarian law. These rights must be respected and protected in all circumstances, including during internal or international armed conflicts or other public emergencies. The prohibition on acts of torture is an international legal norm without any territorial limitations and in its application in international, regional and domestic courts the prohibition on cruel and inhumane treatment or punishment has also been recognized as customary international law.

Based on the available evidence, it can be seen that Russia has violated several international obligations and international conventions. Russia is alleged to have committed violations of Human Rights (HAM) and insulted the sovereignty of the Ukrainian state by the Russian state. The conventions violated by Russia include the 1949

Geneva Convention IV and the Convention on the Rights of the Child which discuss the protection of civilians, especially children in war, minors who participate in war, and children's rights which should be fulfilled and protected.

## 2. Accountability and Sanctions in the Russian-Ukrainian conflict

State responsibility in international law relates to how a state fulfills its obligations to be responsible for matters arising from state actions. In general, the responsibility of a State is defined as the obligation of a State to recover losses ( *duty to make reparation* ), which arise from the consequences of actions ( *acts or omissions* ) which can be blamed ( *wrongful acts* ) for violating international obligations (Yustitianiingtyas, 2016)

Regarding responsibility in international law, there are two types of rules, namely (Marzuki, 2005):

1. Primary rules are rules that give rise to positive obligations in the sense of an obligation to do something . The definition of primary rules which only contain rights and obligations in general does not fully explain the meaning of the rules themselves, which ones are law and which ones are not and also violations of these rules.
2. Secondary rules are rules that cannot be separated from primary rules. Its function is as a tool or method to confirm, convey, eliminate primary rules, and also determine whether there are violations of these primary rules. The principle of state responsibility is the development of " *masim sic utere tuo alienum ut non laedas* " which means that an activity or action must not harm other parties (Kurniawan,2017)

In international terms, countries need to *self-restrain* or restrain themselves and submit to international law. As in Article 2 paragraph 4 of 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 inconsistent with the Purposes of the United Nations* ", in this article it is stated that every member of the UN is required to exercise restraint in international relations so as not to use force or violence to attack the territorial integrity or political independence of other countries. All countries that are members of the UN are required to comply with international law because by their willingness to become members of the UN they are bound and must comply with existing international law including the UN Charter, and countries as an international community are required to comply with international law (Satura,2022)

If a state does not comply with international law, there will be a violation of international obligations which will result in liability for the violating state. A breach of an international obligation can take the form of an act or omission. State responsibilities arising from international violations by states are:

- a. Committing acts of human rights violations, and neglecting, not taking any action, or making omissions regarding human rights violations.
- b. Committing acts that constitute violations of international obligations.

According to Sharon Williams, there are several criteria that can be used to determine state responsibility, namely (Williams, 1984):

1. *Subjective fault criteria* determine the significance of the perpetrator's fault which is useful for determining whether there is state responsibility or not.
2. *Objective fault criteria*, determine state responsibility arising from a violation of an international obligation. However, the state can be free from not being responsible if the state can provide evidence or show that there is force majeure, in other words, it was done because of forced circumstances.
3. *Strict liability*, the state is burdened with responsibility for actions or inaction or omissions that occur which result in losses for other countries, in this concept force majeure can be used for excuse reasons (exculpate) which can free the state from responsibility.
4. *Absolute liability*, there are no forgiving reasons that can be used as in strict liability, so the state is obliged to take full responsibility even though it has met the standards for using forgiving reasons.

The responsibility of the state is closely related to the sovereignty of each state, but it is not the case that the state can act absolutely freely and cannot be sued and the state, which means being sovereign, can subdue or be subordinated to another sovereign state, but the existence of state responsibility for the sovereignty of the state is within the framework of restricting states from acting in accordance with the law so as not to use their sovereignty arbitrarily and sovereign states are not permitted to subjugate or be subordinated to other sovereign states. States have an obligation to protect human rights or individual rights and states also have an obligation to respect the sovereignty of other countries. A sovereign country means that the country has full sovereignty over everything in its territory (Satura,2022).

This also underlies the emergence of the concept of state responsibility, namely that no state can enjoy its rights without respecting the rights of other states. The principle of state sovereignty or *doctrine of state's sovereignty* is the principle which states that the highest power belongs to the state to freely carry out activities in order to fulfill its interests but must still comply with international law and every action does not conflict with international law (Rachman & Hastri, 2021). The principle of equality or *doctrine of equality* is a principle that emphasizes that each country has the same position and each country must respect the sovereignty and rights of other countries.

The act of stopping accompanied by not repeating the action is contained in Article 30 of the *Draft Article on Responsibility of States, International Law Commission 2001* which reads "*The state responsible for the internationally wrongful act is under an obligation: a) to cease that act, if it is continuing; b) to offer appropriate assurances and guarantees of non-repetition, if circumstances so require.*" In this article it is stated that responsibility can be carried out by the state which commits a violation against the injured state by providing a guarantee that such a violation will not be committed again or occur again between the two. Reparation or repair is contained in Article 31 and *Forms of Reparation* is contained in article 34 which reads "*Full reparation for the injury caused*

*by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination, in accordance with the provisions of this chapter.”* In this article, full reparation is repair that includes *restitution, compensation and satisfaction*. The form of responsibility follows the losses experienced. Meanwhile, satisfaction is contained in Article 37 “1) *The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act so far as it cannot be made good by restitution or compensation. 2) Satisfaction may consist in an acknowledgment of the breach, an expression of regret, a formal apology or another appropriate modality. 3) Satisfaction shall not be out to the injury and may not take a form of humiliating to the responsible State.*” In article 37, *satisfaction* is carried out by admitting that a violation has been committed, showing an expression of regret for the detrimental action, accompanied by an official or formal apology.

Russia's actions have caused various losses to the Ukrainian state, due to violations of international law committed by the Russian state. The implication of this violation is that the Russian state is seeking responsibility for the Ukrainian state as *an injury state* and the imposition of various sanctions. There have been demands and sanctions given to the Russian state from various parties as a form of punishment for Russia to be willing to take responsibility. Imposing sanctions in the form of fines or economic policies is a punishment for countries that violate the law.

In the responsibility of states that commit acts against international law, there are state exceptions that can free states from not being responsible if they commit acts that violate international law in certain situations which are legitimized by the UN in Article 51 of the *United Nations Charter*, namely in the context of maintaining international peace and security and /or self-defense, namely the only action that is a way to save an essential state interest from a danger that is very large and very imminent and this action does not cause serious interference with the essential interests of the state to which an obligation is attached.

According to Daniel S. Papp, quoted by Budyanto Putro Sudarsono, national interests contain several vital aspects such as economics, ideology, military strength and security, morality and legality (Sudarsono,2018)

Russia has received various sanctions from parties in the form of economic policy, such as sanctions from the United States announced by President Joe Biden, namely Washington imposed sanctions on two Russian-owned banks, namely the state development bank *Vnesheconombank (VEB)* and the **Promsvyaz** Public Joint Stock Company. bank (PSB), sanctions from Japan announced by Prime Minister Fumio Kishida in the form of a ban on the issuance of Russian bonds in Japan and freezing the assets of certain Russian individuals, the European Union limits Moscow's access to the capital and financial markets of European Union countries, the UK will limit the Russian state and Russian companies to raise funds in the British market to ban various high-tech exports and isolate Russian banks, German Chancellor .

### **3. Efforts to resolve Russia's conflict with Ukraine**



In relations between countries, conflict is a natural thing that occurs. This is because each actor, in this case the state, has different interests and goals from one another. Thus the opportunity for conflict will continue to exist. Scannell stated that conflict is a natural thing in life which arises due to differences in perceptions, goals and values within a group of individuals. (Suhardono,2015). However, some conflicts have negative impacts and cause material losses and casualties. War is a form of conflict which brings destruction to many areas of life such as the economic, political, social and cultural fields which cannot function and even tend to be "damaged" because of war.

In this regard, conflict resolution is an important thing to understand. Fisher explains conflict resolution as an effort to overcome the roots of the conflict and try to form a new relationship that can last a long time between the conflicting parties (Suhardono,2015). Understanding the root causes of conflict is the main thing in conflict resolution where these roots are the key to the conflict being resolved.

Galtung explained that conflict resolution is divided into three stages, namely peacemaking, peacekeeping and peacebuilding. Peacemaking itself is an effort to deal with the causes of conflict by establishing a communication and negotiation relationship between the conflicting parties. Then peacekeeping is the process of maintaining peace that has been formed through commitment from the parties involved. Then peace building is the implementation of social, political and economic constructions that are formed and agreed to maintain peace. Through these stages, it is hoped that a negative peace situation (absence of violence and war) can be created (Jemadu,2008). The conflict between Ukraine and Russia is a conflict that occurred due to several factors, one of which is past events in the form of the annexation of Crimea and Russia's support for Donbass separatists, causing relations between the two to become unharmonious. In this case, based on Galtung's theory regarding conflict resolution approaches through peacemaking, peacekeeping and peace building, peacemaking efforts through mediation should remain the main alternative in resolving conflicts.

However, there are several things that need to be worked on by the relevant parties to expand and fulfill the basic requirements so that the mediation process can run optimally. First, Russia and Ukraine must continue to make trade-offs in any form, and make as many agreements on less crucial matters as possible. From the mediation carried out by Turkey, we can see that there are several crucial things that are very difficult to negotiate, for example related to the ceasefire. However, if these crucial matters cannot be negotiated through mediation at this time, it would be better if the two countries continued to negotiate by diverting to other topics. This needs to be done in an effort to increase the trade-off space for the two countries so that it is hoped that in the future, discussions on more crucial matters will proceed more easily.

The second effort is to equalize Ukraine's bargaining position towards Russia. One effort that needs to be increased in this regard is by implementing economic sanctions against Russia. The sanctions against the economy are expected to shake the Russian economy so that Russia's bargaining position will decline. The economic sanctions imposed on Russia will sooner or later affect their domestic conditions. Domestic

conditions that are full of pressure will allow a crisis to occur that will change the direction of Russia's foreign policy. Economic sanctions are one of the considerations because Russia's economic condition was shaken after sanctions from the West were imposed.

This condition is proven by Russia starting to cut their oil production by 9 percent. Apart from that, inflation in Russia rose sharply, where in March alone the consumer price index rose by 7.6 percent compared to the previous month. Based on analysis from the Russian Central Bank, it is estimated that inflation will reach 20 percent by the end of 2022 (Gonthamaker, 2022). In the short term, these economic sanctions will not appear effective in encouraging Russia to change their policy towards Ukraine. This is shown by the actions of Russia who are still continuing their invasion so that the war continues. In fact, sanctions from the West then gave rise to new problems where relations between Russia and the West worsened, thereby reducing Russia's sense of trust in the West. This is certainly a challenge for efforts to resolve the conflict between Russia and Ukraine because Russia's trust is declining. However, in the long term, these sanctions will have an impact on reducing the country's foreign exchange so that Russia will experience difficulties in fulfilling their economic obligations, which will result in people's living standards decreasing. This condition will lead to ceasefire efforts so that a mutually beneficial peace agreement between the two parties can be formulated.

However, conflict resolution efforts must be pursued by prioritizing the principles of peace (Bernard, 1946). namely by asking all parties to exercise restraint and then providing, bridging and encouraging dialogue between the parties involved in the form of Russia, Ukraine, NATO, Donbass separatists and the European Union. . This is aimed at finding the root of the conflict which is the core of why the conflict occurred. Once the root of the problem is known, it can then be formulated together to find the right and appropriate solution to handle the existing conflict. In this case, the use of litigation and non-litigation methods must be prioritized over the use of coercive methods (Fisher, 2000). This is intended to avoid worsening the situation and increasing tension. After finding an appropriate resolution and being approved by all parties, the next stage in the form of peacekeeping must be carried out in collaboration with related parties to maintain the resolution that was formed and agreed upon. Then the final stage of peace building is implementing the construction formed in the agreement and returning the relationship to a harmonious and non-conflicting relationship.

## V. CONCLUSION

There are several factors that influenced the conflict between Russia and Ukraine, including the collapse of the Soviet Union in 1991, the crisis in 2013, the Crimean crisis in 2014, and the failure of the Minsk Agreement in 2015, and Ukraine's joining the NATO organization. The conflict between Russia and Ukraine not only caused many casualties

but also damage to physical infrastructure in Ukraine. Based on existing reports, Russia carried out shelling, bombing populated areas, damaging Ukrainian infrastructure, and killing civilians including children. Children who are the next generation of the nation in the future are victims who are very vulnerable to armed and non-armed conflicts, especially war. Based on the available evidence, it can be seen that Russia has violated several international obligations and international conventions. Russia is alleged to have committed violations of Human Rights (HAM) and insulted the sovereignty of the Ukrainian state by the Russian state. The conventions violated by Russia include the 1949 Geneva Convention IV and the Convention on the Rights of the Child. The actions carried out by Russia caused various losses for the Ukrainian state, due to violations of international law committed by the Russian state. The implication of this violation is that the Russian state is seeking responsibility for the Ukrainian state as an injury state and the imposition of various sanctions. Currently, there have been demands and sanctions imposed on the Russian state from various parties as a form of punishment for Russia so that it is willing to take responsibility. Imposing sanctions in the form of fines or economic policies is a punishment for countries that violate the law.

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