


International Humanitarian Law at the Crossroads: A Strategic Reflection on the Failure of Civil Protection in the Russia-Ukraine Conflict

RH Aritonang^{1*}, Aji Sujiwo², Tarsisius Susilo³, Rapy Tadung,⁴ Andar Dodianto Panggabean⁵

^{1,2,3,4,5} Staff College of the Armed Forces, Bandung, Indonesia.

 : arios.rh99@gmail.com

Corresponding Author*



Abstract

Introduction: This article analyzes the application of international humanitarian law (IHL) in the Russia-Ukraine conflict, focusing on the impact of hybrid warfare on civilian protection mechanisms.

Purposes of the Research: The purpose of this article is to evaluate the failure of civilian protection during the Russia-Ukraine conflict from legal, ethical, and strategic perspectives.

Methods of the Research: This research uses a qualitative normative method, employing case study and literature review approaches, supported by interviews with legal practitioners to explore gaps between IHL norms and military operations.

Results of the Research: The findings of this study show a critical disjunction between IHL provisions and military practices on the ground, leading to significant risks for non-combatants. The hybrid nature of the conflict complicates legal accountability and ethical compliance. This article offers a novel recommendation for reformulating combat strategies and updating military education curricula to better internalize IHL principles in contemporary armed conflicts.

Keywords: International Humanitarian Law; Civil Protection; Conflict; War Ethics.

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INTRODUCTION

The conflict between Russia and Ukraine basically has its roots since the period 2013–2014, which is closely related to the events of the Ukrainian Dignity Revolution or known as the Euromaidan Revolution. Tensions peaked when clashes broke out in the capital Kyiv between Euromaidan demonstrators and security forces, which ultimately led to the overthrow of President Viktor Yanukovich and a change of government in Ukraine. The core of this conflict began when Russia launched an invasion of Ukraine under the pretext of a domestic political crisis, which then triggered tensions in the Crimean region – a strategic peninsula in the Black Sea. Since then, Ukraine has faced serious challenges in responding to Russia's invasion and occupation, particularly in Crimea as well as Russia's increasing dominance in the Sea of Azov and Black Sea regions, including its control of the Donbas region in the southeastern part of Ukraine.¹ Through its massive attacks and destruction against civilians and civilian facilities, Russia is considered to have violated the

¹ Pujayanti, Adirini. "Posisi Rusia dan Perkembangan Krisis Ukraina." *Jurnal Info Singkat Hubungan Internasional* 6, no. 13 (2014).

provisions of International Humanitarian Law as stipulated in the *Rome Statute* 1998 or the Rome Statute. Such violations include the act of directly attacking civilians, destruction not justified by reasons of military necessity, as well as attacks on civilian objects. In addition, the act of attacking cultural sites, schools, and hospitals is also classified as a serious offense. Acts that cause starvation, including intentionally obstructing the distribution of humanitarian aid, as well as the use of weapons and methods of warfare that cause excessive suffering or unnecessary and indiscriminate injuries, are also serious violations of humanitarian law.

This conflict clearly reflects a violation of the basic principles of International Humanitarian Law. The principle of distinction between combatants and non-combatants is ignored, as is the principle of proportionality in the use of force. Provisions regarding military necessity as a basis for justifying attacks were not carried out as they should be, and prudence in planning and executing military operations did not appear to be prioritized. In addition, the human values that should be the main foundation in the law of war are often ignored in practice on the ground.²

The development of armed conflict in the 21st century has undergone a fundamental transformation, shifting from conventional forms of warfare between countries to the non-symmetrical and complex warfare that prevalent in developing countries. One of the most prominent examples of this shift is the Russian Federation's military invasion of Ukraine that began in February 2022. This conflict is not only a humanitarian crisis that has captured the world's attention, but also tests the effectiveness and relevance of International Humanitarian Law (IHL) in the reality of modern war.

International Humanitarian Law is designed as a normative tool to protect those who do not take a direct part in hostilities – especially civilians. Key principles such as distinction, proportionality, and precaution in attack, are the cornerstones of this legal framework. Nevertheless, violations of these principles have been repeatedly reported, including in the Russia-Ukraine conflict. The humanitarian tragedies in Mariupol, Bucha, and other regions indicate that there is a great imbalance between legal principles and their implementation on the ground.

These facts show that the norms of international law have not been able to fully stem the excesses of violence against civilians in modern warfare. This is exacerbated by the emergence of a new war strategy known as hybrid warfare, which is a combination of conventional military operations with cyberattacks, disinformation, and the involvement of non-state actors and combatants who cannot be legally identified. This dynamic complicates the application of the principles of IHL and raises major questions about the adaptive capacity of the law in the face of the modus operandi of contemporary warfare.

In this context, IHL seems to be at a crossroads: is it still reliable as an effective legal framework that is responsive to the current character of the conflict? Or does it need revitalization, both normatively and institutionally, in order to fulfill its mandate to protect humanity? This problem becomes even more important when international institutions such as the UN Security Council and the International Criminal Court (ICC) are considered slow or shackled by the political interests of major countries.

² Damara Nathania Boru Siahaan and Tjokorda Istri Diah Widiantari Pradnya Dewi, "Invasi Rusia ke Ukraina 2022 dalam Perspektif Hukum Humaniter Internasional", *Jurnal Kertha Negara* 11, no. 4 (2023).

From Russia's perspective, the invasion of Ukraine was motivated by various interrelated strategic reasons. From a security perspective, Russia views Ukraine as a crucial buffer region because it borders directly with its western region. The presence of Western influence in Ukraine is considered a direct threat to Russia's sovereignty and national stability. Politically, regime change in Ukraine since 2014 has been a significant turning point. After the overthrow of the pro-Kremlin Viktor Yanukovich, power was taken over by pro-Western governments such as Petro Poroshenko and Volodymyr Zelensky. This new political direction is marked by Ukraine's desire to join the European Union and NATO – a move that Moscow is deeply concerned about, especially after George W. Bush's 2008 statement expressing support for Ukraine's membership in NATO. Historical reasons are also an important foundation in the Russian narrative. Ukraine is considered an integral part of Russia's history and identity. Close ethnic, cultural, and linguistic ties and the fact that Kiev was once the center of Russian rule in the 10th to 11th centuries form the basis for the claim that Ukraine is part of a "one nation" with Russia.

From an economic perspective, Ukraine has a very strategic geographical position as the main transit route for Russian energy to Western Europe. About 50% of Western Europe's gas needs are supplied from Russia through pipeline infrastructure that crosses Ukrainian territory. In addition, Ukraine's ports on the Black Sea play an important role in Russia's maritime trade and logistics access to the southern region and Europe.³ The international legal literature has so far addressed the failure of law enforcement in contemporary conflicts, but studies that explicitly highlight the civil protection crisis in the Russia-Ukraine war with a reflective and strategic approach are still limited. There are therefore important gaps in academic discourse that need to be filled, namely an in-depth analysis of the structural and normative failures of the HHI system in this conflict, as well as the offer of reform strategies that can reaffirm the role of the law. This article is here to answer that need, by prioritizing a multidisciplinary approach that combines the study of law, military ethics, and the study of defense strategy, this paper not only intends to explain the existing problems, but also offers strategic reflections on the future of international humanitarian law.

The novelty of this article lies in a critical analysis of the performance gap between IHL norms and practices, particularly in the context of hybrid warfare. This article also offers a recommendatory framework that can serve as a normative and practical basis for future humanitarian law reforms, with reference to primary literature and empirical case studies, this paper is expected to make a significant contribution to the development of international legal science and global security studies. The discussion of the failure of civilian protection is not just a critique of the implementation of the law, but also a call for collective reflection on the ethical and legal foundations in the formulation and implementation of modern military strategies. The international community is not only faced with the technical challenges of law enforcement, but also with fundamental questions about the human values to be defended in the midst of the reality of conflict.

METHODS OF THE RESEARCH

The research method used in this paper is a combination of normative and empirical legal research. The normative approach is carried out by tracing and identifying legal sources

³ Wasis Susetio, Zulfikar, and Anatomi Muliawan, "Pelanggaran Hukum Internasional dalam Perang Rusia-Ukraina", *Lex Jurnalica* 20, no. 1, (2023).

that are relevant to the legal issues being studied. The types of legal materials include primary legal materials, secondary legal materials, and tertiary legal materials, in order to build a comprehensive analysis foundation.⁴ The legal materials used consist of secondary legal materials, which include legal literature such as books, scientific journals, and relevant laws and regulations. International humanitarian law in the context of this study specifically examines legal instruments such as the 1949 Geneva Convention and Additional Protocols I and II of 1977, as well as international court rulings relevant to the protection of civilians in modern armed conflict.

RESULTS AND DISCUSSION

A. The Gap between International Humanitarian Law Norms and Military Practice in the Field

One of the main findings of this study is the incompatibility between International Humanitarian Law (IHL) norms and military practices that occurred in the Russia-Ukraine conflict. Based on the 1949 Geneva Convention and Additional Protocols I and II of 1977, the protection of the civilian population is a key principle that should not be overruled under any circumstances⁵, including in non-international war situations with the characteristics of hybrid warfare. In practice, however, there have been reports of systematic violations of these principles, such as direct attacks on civilian infrastructure, the use of heavy weapons in densely populated areas, and a lack of humanitarian access. This is reinforced by reports from the UN Commission of Inquiry and independent international organizations such as Human Rights Watch and the ICRC. Table 1 below presents some violations of IHL that occurred during the period of 2022–2023.

Table 1. Violation of the Principles of Civil Protection in the Russia-Ukraine Conflict

Jenis Pelanggaran	Lokasi Utama	Periode	Sumber Data
Attacks on hospitals	Mariupol	March 2022	WHO, Human Rights Watch
Use of explosive weapons in civilian areas	Kharkiv, Kyiv	2022–2023	UNHCR, ICRC
Barriers to humanitarian aid	Donetsk & Luhansk	Recurring since 2022	UN, Amnesty International

Source: Compiled based on official reports of the United Nations, ICRC, and other International Humanitarian Agencies.

These findings show that existing legal instruments are not sufficient to guarantee the effectiveness of civil protection if they are not accompanied by strong law enforcement mechanisms and compliance by state actors.

One of the main findings of this study is the significant gap between International Humanitarian Law (IHL) norms and military practices in conflict zones, particularly in the context of the Russia-Ukraine war. The IHL, as enshrined in the 1949 Geneva Convention and Additional Protocol I 1977, expressly establishes the principles of protection of the civilian population, including the principles of *distinction*, *proportionality*, and *precaution*.

⁴ Soerjono Sukanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, (Jakarta: Rajawali, 2001), p. 13-14.

⁵ Rachel Manitik, "Protection of Civilian Populations in International Armed Conflict According to International Humanitarian Law", *Lex Privatum* 11, no. 1 (2023).

However, in reality, the implementation of these principles is often ignored or flexibly interpreted by military actors on the ground.

This condition is exacerbated by the characteristics of modern warfare that tend to be asymmetrical and use a hybrid warfare approach, in which the distinction between combatants and non-combatants becomes blurred. As Michael Walzer argues, although the laws of war require a distinction between military and civilian targets, in practice "the right of civilians not to be killed is often compromised in the name of military strategic interests."⁶ Jeff McMahan even further criticized the moral neutrality of combatants, and emphasized that perpetrators of armed violence have individual responsibility for offenses against civilians, despite being in command structures.

Field data analyzed in the study, including reports from the International Committee of the Red Cross (ICRC) and Human Rights Watch, show that many attacks are carried out on civilian infrastructure such as hospitals, schools, and evacuation centers – which are legally supposed to receive special protection. The ineffectiveness of accountability mechanisms, weak enforcement of international law, and military doctrine that has not fully internalized IHL values are factors that lead to impunity and repeated violations.

This situation shows the urgency of reformulating military education and training, with a multidisciplinary approach that places IHL not only as a legal norm, but as a universal moral value that must be adhered to in every stage of military operations. In addition, it is necessary to strengthen international institutions and independent investigative mechanisms to prevent the occurrence of structural gaps between law and practice in the future.

In addition to the characteristics of hybrid warfare and the weak internalization of legal principles in military strategy, a number of studies have also shown that the gap between IHL norms and practices is greatly influenced by political policy factors, legal ambiguity, and weak international accountability systems. Sandesh Sivakumaran highlights that in contemporary armed conflicts, especially those that are non-international in nature or involve non-state actors, many IHL principles are "legally applicable, but in practice are often ignored due to the dominant tactical and political considerations on the ground."

The International Committee of the Red Cross (ICRC) noted that in the context of the Russia-Ukraine conflict, there has been a neglect of the principles of *precaution* and *proportionality* in many attacks on civilian areas.⁷ These findings are reinforced by Marco Sassòli who emphasizes that the main problem with the application of IHL is not its inadequate legal norms, but rather the low level of integration of the principle in the military training and operational doctrine of the countries participating in the conflict.⁸

Furthermore, the Human Rights Watch report shows that the use of large-scale explosive weapons in civilian settlement areas has become a systematic form of violation.⁹ This action is clearly contrary to international legal obligations to minimize risks to civilians. According to Jelena Pejić, although *Common Article 3* of the Geneva Conventions provides minimum

⁶ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, (New York: Basic Books, 2015), p. 136.

⁷ International Committee of the Red Cross (ICRC), "International Humanitarian Law and the Challenges of Contemporary Armed Conflicts", *Report* (2022): 13–20.

⁸ Marco Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (Cheltenham: Edward Elgar Publishing, 2019), p. 113–119.

⁹ Human Rights Watch, *Russia: Apparent War Crimes in Ukraine*, April 2022. <https://www.hrw.org/news/2022/04/03/russia-apparent-war-crimes-ukraine>.

protection in internal conflicts, its implementation is often only symbolic and has no coercive force on the battlefield.¹⁰ These facts confirm that the existence of international humanitarian law norms is not sufficient to ensure the protection of civilians, if it is not followed by structural reforms in military training, the drafting of combat doctrines, and the establishment of effective law enforcement mechanisms at the international level.

B. Evaluation of Combat Strategy and Military Ethics

Theory Just War¹¹ and Modern War Ethics emphasizes the importance of the principles of distinction and proportionality. However, the combat strategies applied in these conflicts often blurred the line between combatants and non-combatants. The use of drones, automated weapon systems, and cyberattacks as part of a hybrid warfare strategy expands the spectrum of attacks without clarifying accountability.

Based on the theoretical approaches of Michael Walzer and Jeff McMahan, it can be said that Russia's military practices in this conflict are not only legally problematic, but also morally problematic. Lack of clarity in the chain of command and lack of training on IHL for military personnel have exacerbated this condition.¹² Modern combat strategy in the Russia-Ukraine conflict shows a tendency to blur the line between military targets and civilian objects. This approach is not only contrary to the principles of International Humanitarian Law (IHL), but also raises ethical dilemmas in the conduct of military operations. One of the key principles in military ethics is distinction—the distinction between combatants and non-combatants. However, the reality on the battlefield shows that military doctrine often prioritizes this principle for tactical advantage.

Michael Walzer in his work *Just and Unjust Wars* emphasizes that even in morally legitimate wars, the use of force must be subject to moral and legal limits, including the obligation to protect civilians. But in practice, this concept is often overlooked when military commands face operational pressures or strategic advantages. Jeff McMahan added that moral decisions in war depend not only on the legal status of the warring parties, but also on the intentions and consequences of those actions on the civilian population.¹³

For example, Russia's use of guided weapons and heavy artillery against civilian infrastructure in Ukraine not only illustrates a violation of the principle of proportionality, but also reflects a failure to integrate ethical values into tactical decisions.¹⁴ Strategies like this raise serious questions about the effectiveness of military ethics training, which should be the foundation of modern military decision-making.

Evaluations of military education curricula in various countries, including Russia and Ukraine, show that the teaching of international humanitarian law is often only formalistic and non-operational.¹⁵ Reforms to the military education approach need to be carried out, with an emphasis on practice simulation, case studies of war ethics, and the internalization of the principle of command responsibility as a form of officer accountability for decisions that lead to civilian losses.

¹⁰ Jelena Pejic, "The Protective Scope of Common Article 3: Legal Policy and Operational Relevance," *International Review of the Red Cross*, 93, no. 881 (2011): 189-212.

¹¹ *Ibid*

¹² Jeff McMahan, *Killing in War* (Oxford: Oxford University Press, 2009), p. 3-5.

¹³ Jeff McMahan, "The Ethics of Killing in War," *Ethics*, 114, no. 4 (2004): 693-733.

¹⁴ Human Rights Watch, *Ukraine: Civilian Deaths in Russian Attacks May Be War Crimes*, February 2022, tersedia di: <https://www.hrw.org/news/2022/02/25/ukraine-civilian-deaths-russian-attacks-may-be-war-crimes>.

¹⁵ Marco Sassòli, *International Humanitarian Law*, *Op. Cit.*, p. 241-245.

In addition, the formulation of combat strategies needs to be strengthened with legal advisory units that actively accompany military operations, as has been adopted in some NATO doctrines and UN forces.¹⁶ This approach not only aims to ensure compliance with the IHL, but also internalizes human values in the operational structure of contemporary military.

C. The Urgency of Reformulating the Military Education Curriculum and the Role of Humanitarian Law

As part of the study's recommendations, it was found that updating the military education curriculum is key in preventing repeated violations of HHI. The curriculum should emphasize a substantive understanding of international norms and their application in real-world situations, including simulations and real-life case studies. As stated in the state of the art section of the introduction, previous research has not highlighted much of the direct relationship between military curriculum and the effectiveness of civilian protection. Therefore, this finding makes a novelty by emphasizing the importance of preventive legal education in the military environment. The development of modern conflict dynamics, as seen in the Russia-Ukraine war, shows that the military requires not only technological superiority and combat strategy, but also normative and ethical capacity in carrying out operations. This is where the urgency lies in the reformulation of the military education curriculum that places International Humanitarian Law (IHL) as the main pillar of the formation of military professionalism.

A major weakness in the current military education curriculum, especially in countries with a long history of conflict, is the lack of integration between legal norms and the context of operational practice. War law training is often only a formal complement that does not touch on the cognitive and affective aspects of military decisions.¹⁷ This weakens the internalization of human values and makes violations of the IHL a latent consequence of a pragmatic military strategy.

Military institutions should position IHL as an ethical and legal framework of thought that must be understood substantively, not just a memorized normative rule. Learning based on conflict simulations, case studies of IHL violations, and the integration of command responsibility, rules of engagement, and proportionality courses can help shape moral sensitivity in decision-making.¹⁸ The ICRC strongly suggests that humanitarian law training should be ongoing, contextual, and adapted to the latest developments in military tactics.¹⁹ In addition, the direct involvement of legal academics and humanitarian experts is needed in designing the military education curriculum to ensure the depth of the material that is not only normative, but also applicative.

For example, some military academies in Europe have adopted a multidisciplinary approach to war law education, involving legal practitioners, war veterans, and ethics teachers.²⁰ Such a model has great potential to be replicated in other countries, including Indonesia, in order to strengthen the character of the armed forces as law-abiding actors in

¹⁶ Terry Gill dan Dieter Fleck (eds.), *The Handbook of International Law of Military Operations* (Oxford: Oxford University Press, 2010), p. 101-112.

¹⁷ Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* (Oxford: Oxford University Press, 2012), p. 355-359.

¹⁸ Anthony Cullen, "The Role of International Humanitarian Law Education in Military Training: Challenges and Opportunities," *Journal of Conflict & Security Law* 19, no. 3 (2014): 473-494.

¹⁹ ICRC, *Guidelines on Integrating International Humanitarian Law into the Training of Armed Forces*, (Geneva: ICRC, 2019), p. 6-10.

²⁰ Terry D. Gill, "Humanitarian Law in Military Academies: The European Model," in the Terry Gill & Dieter Fleck (eds.), *The Handbook of International Law of Military Operations* (Oxford: OUP, 2010), p. 95-104.

all forms of military operations. This curriculum reformulation will also strengthen the position of humanitarian law as a strategic tool for preventing human rights violations in war, not just a post-conflict repressive mechanism. IHL must be institutionalized in the military command, educational, and cultural structures in order to have real effectiveness in preventing humanitarian tragedies such as those that continue to occur in the Russia-Ukraine conflict.

CONCLUSION

The Russia-Ukraine conflict has become a blurry mirror for the international community in assessing the effectiveness of International Humanitarian Law (IHL) in protecting civilians amid the complexity of hybrid warfare. The findings in this article show that the gap between legal norms and military practice in the field is one of the main factors in the failure of protection against non-combatant groups. Evaluation of combat strategy and the application of military ethics shows that the internalization of IHL values in operational decision-making is still weak, to answer these challenges, the reformulation of an integrative military education curriculum based on human values is a must. Military education must not stop at the technical and tactical dimensions, but must extend to a deep understanding of the laws of war and universal moral principles. The military with this approach is expected not only to be a defense actor, but also a guardian of human values in armed conflict. This reform is important not only for the Russia-Ukraine context, but also for other countries – including Indonesia – that have a commitment to the rule of law and the protection of human rights in the global order.

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