

THE RESPONSIBILITY OF MILITARY COMMAND IN THE ENFORCEMENT OF HUMANITARIAN LAW: A CASE STUDY OF THE RUSSIA–UKRAINE CONFLICT

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Article History

Received: 2 May 2025

Accepted: 16 May 2025

Published: 8 August 2025

Abstract

International humanitarian law (IHL) imposes a strict obligation on military leaders to protect civilians and prevent their troops from committing violations through the principle of command responsibility. However, field practices often deviate, especially during the Russia-Ukraine conflict that escalated since February 2022. This research aims to (1) describe the normative framework of command responsibility, (2) analyze the implementation of command accountability in the conflict, and (3) provide strategic recommendations to enhance the enforcement of IHL. The research design uses a normative-qualitative approach with case studies, where international legal instruments (Geneva Conventions, Additional Protocol I, Rome Statute) and International Criminal Court rulings are used as primary sources. Secondary data in the form of reports from leading NGOs (Human Rights Watch, Amnesty International, ICRC) and peer-reviewed academic literature were analyzed through content analysis to examine the elements of knowledge, prevention, and enforcement by military commanders. Source triangulation and peer debriefing ensure the validity and reliability of the findings. The research findings reveal patterns of serious violations, including indiscriminate attacks, forced displacement of civilians, and destruction of humanitarian facilities, occurring without adequate prevention or enforcement efforts by the military command. Political obstacles, destruction of evidence, denial of jurisdiction, and limited institutional capacity hinder accountability. In conclusion, although the HHI framework has matured, its implementation requires strengthening scenario-based training, revising standard operating procedures for rapid investigations, and access protocols for international investigators. Further studies are recommended to involve field interviews and internal document analysis to enrich the understanding of command responsibility practices.

Keywords: Command accountability, Command responsibility, Enforcement of law, International humanitarian law, Russia–Ukraine conflict.

A. INTRODUCTION

In any international armed conflict, the application of the principles of international humanitarian law (IHL), also known as the laws of war, is the main foundation for limiting human suffering and preserving the dignity of victims of conflict. The long history of the development of IHL began with efforts to regulate behavior in war through documents such as the 1949 Geneva Conventions and Additional Protocol I (1977), which expressly stipulate the obligation of state parties to respect the principles of distinction, proportionality, and precaution in military operations. (ICRC, 2024b). Although this normative framework has been repeatedly reinforced by international jurisprudence and customary practice, its

implementation on the ground often faces serious challenges, especially in contemporary conflicts involving state and non-state actors (Pejic, 2023).

Various studies have shown that violations of IHL can occur on a large scale when military commands fail to ensure the compliance of the troops they command. The principle of command responsibility states that a military leader is not only responsible for direct knowledge of the actions of his members, but also for his failure to prevent or respond to violations that occur (Quénivet, 2022). In modern conflicts, the phenomena of torture of detainees, extrajudicial executions, and indiscriminate attacks on military and civilian targets are indications that IHL norms are still easily ignored (Fellmeth & Crawford, 2022).

Since Russia's invasion of Ukraine in 2014, which peaked again in February 2022, the conflict has displayed a complex pattern of IHL violations. Reports by Human Rights Watch (2023) and Amnesty International (2025) have documented a number of war crimes, including shelling of civilians, destruction of civilian infrastructure, and forced displacement of local populations (Hassan, 2023)(Amnesty International, 2024). This situation is exacerbated by the use of siege tactics and air strikes that have resulted in mass civilian casualties, while raising fundamental questions about the effectiveness of existing legal accountability mechanisms (OSCE, 2024).

In this context, the role and responsibility of military leaders become crucial. Although the legal framework has established sanctions for grave breaches, the implementation of law enforcement against military leaders through both national jurisdictions and international courts such as the International Criminal Court still faces various political and procedural obstacles (Nizinski, 2024). Normative studies that focus on the case study of the Russia–Ukraine conflict are essential to explore the interaction between the theory of command responsibility and accountability practices on the battlefield, as well as to assess the main obstacles in the process of enforcing humanitarian law.

Based on the description above, this article aims to examine in depth the responsibility of military leaders within the framework of international humanitarian law, focusing on the Russia–Ukraine conflict. The objectives of this study are (1) To describe the principle of command responsibility and the normative basis of IHL related to command responsibility. (2) To analyze the implementation of accountability for military leaders in the Russia–Ukraine conflict, including the challenges and opportunities for law enforcement. (3) To provide strategic recommendations for improving the mechanism of command accountability in the future. Thus, this study is expected to provide empirical and normative contributions to the discourse on IHL enforcement in contemporary conflicts.

B. LITERATURE REVIEW

The Concept of Command Responsibility in Humanitarian Law

Command responsibility is a principle of humanitarian law that states that military commanders can be held accountable for the actions of forces under their control, whether due to direct orders or due to negligence in preventing, stopping, or punishing violations of the law. This principle aims to emphasize the role of military leadership in ensuring that military operations comply with international legal standards, especially those protecting civilians and combatants who are no longer participating in hostilities (Anindita et al., 2025).

Principles of Humanitarian Law Binding on Military Command

In international humanitarian law, there are key principles that military command must adhere to, including the principle of distinguishing between combatants and non-combatants, the principle of proportionality, and the principle of precaution in attacks. Commanders are responsible for ensuring that military decisions take into account the risks to civilians and civilian infrastructure and that their troops understand and comply with these rules in carrying out their duties (Fitriani, 2024).

Dynamics of the Russia–Ukraine Conflict in the Perspective of Humanitarian Law

The armed conflict between Russia and Ukraine has exposed many dynamics of humanitarian law, ranging from alleged attacks on civilian infrastructure, the use of prohibited weapons, to the treatment of prisoners of war (Suliandi & Wagiman, 2025). In this context, questions arise about the accountability of commanders for the actions of their troops. This case study provides a space to evaluate whether the principle of command responsibility is actually implemented and to what extent international institutions can take action against such violations.

The Role of International Institutions in Exploring Command Responsibility

International organizations such as the UN Commission of Inquiry, the International Criminal Court (ICC), and independent monitoring groups have attempted to document violations of humanitarian law in the Russia–Ukraine conflict. These institutions trace the involvement of military commands in violations of the law, and examine the extent to which commanders made real efforts to prevent or punish violations that occurred on the ground (Subandri & Widyarsono, 2021).

The Challenge of Enforcing Command Responsibility in Modern Conflict

In modern conflicts, establishing command responsibility faces serious challenges, such as limited direct evidence, access to conflict areas, and political and diplomatic obstacles (Salsabila et al., 2025). In the case of Russia–Ukraine, these obstacles are compounded by the highly political nature of the conflict and the involvement of major powers. However, the development of information technology and social media also opens up new opportunities for documenting violations, which can be an important tool in proving command responsibility legally.

C. RESEARCH METHODOLOGY

This study uses a normative legal research method combined with a case study approach to analyze the responsibility of the military command in the Russia–Ukraine conflict. The normative method was chosen because the focus of the study lies in researching the norms, principles, and provisions of international humanitarian law, while the case study allows for an in-depth study of the context of war crimes that occurred in the field.

Types and Research Approaches

This study adopts two main frameworks: normative legal research and case study approach. In the normative legal section, the focus is placed on *dogmatische rechtswetenschap*, namely the study of written legal provisions (statutory law) and international jurisprudence related to the concept of command responsibility and violations of IHL, as explained (Marzuki, 2005). Next, a case study approach is applied to examine the incidents of IHL violations in Ukraine, using the conceptual framework of command responsibility developed in the legal literature and reports of international institutions, and the methodology detailed by (Yin, 2018).

Data Sources and Collection Techniques

Primary data collection focused on international legal instruments that serve as normative bases, namely the Geneva Conventions I–IV (1949) and Additional Protocol I (1977), as well as the Rome Statute (1998) and decisions of the International Criminal Court related to war crimes. These documents were downloaded from the official websites of the UN, ICRC, and ICC, then analyzed in depth to extract relevant norms and provisions. Secondary sources of the research include academic literature published in books and peer-reviewed journal articles without publication year restrictions, for example the work of Marzuki (2018) and (Soekanto & Mamdji, 2009), and official publications of organizations such as the ICRC, Human Rights Watch, and Amnesty International. In addition, reports from credible international institutions such as the OSCE and the UN are used as references to complement theoretical perspectives with current empirical data.

Collection Techniques

Data collection techniques were carried out through library research and document analysis, where legal texts and electronic articles were downloaded and reviewed from academic databases such as JSTOR, HeinOnline, and Google Scholar. Furthermore, content analysis was applied to examine the contents of legal documents and NGO reports, with the aim of identifying and extracting information about command responsibility elements, such as knowledge, prevention, and punishment.

Data Analysis Procedures

Data analysis begins with concept identification, namely reformulating the normative elements of command responsibility based on the theoretical framework of Marzuki (2018) and Fellmeth & Crawford (2022). The next stage includes classifying violations by compiling a matrix that records various IHL violations in the Russia-Ukraine conflict (2014–2025), referring to reports from Human Rights Watch (2023) and Amnesty International (2025). Then a comparative analysis is carried out between the legal obligations of military command according to the Geneva Convention, the Rome Statute, and the ICC ruling. Finally, contextual interpretation links normative findings with practices in the field, such as the siege of Mariupol, to assess the extent to which the elements of command responsibility are actually applied or ignored.

Validity and Reliability Strategy

To ensure validity and reliability, this study applies source triangulation by matching data from legal documents, NGO reports, and academic literature, as recommended (Soekanto & Mamdji, 2009). All stages of data collection and analysis are documented in a detailed audit trail, so that each step can be traced back by the reader. In addition, peer-debriefing was carried out through internal discussions with at least two humanitarian law experts, to review the interpretation of the data and refine the draft conclusions before finalization.

D. RESULT AND DISCUSSION

Violation Patterns and Empirical Evidence

Analysis of NGO reports and international court decisions shows several consistent patterns of IHL violations in the Russia–Ukraine conflict since February 2022. First, indiscriminate attacks on civilian residential areas including Bilogorodka Hill and Bucha, resulting in thousands of casualties and damage to residential infrastructure. Human Rights Watch recorded more than 1,200 civilians killed by artillery and missile attacks on area munitions that did not distinguish between military and civilian targets (Hassan, 2023). Second, the confiscation and forced resettlement of the population in the occupied territories (for example Kherson and Zaporizhzhia), which triggered the exodus of more than 700,000 citizens to Russia or other occupied territories (Amnesty International, 2025). Amnesty International reports that these displacements are often accompanied by violence, family separation, and administrative detention without due process. Third, attacks on humanitarian facilities such as hospitals, schools, and water infrastructure have been documented at least 56 times by the ICRC, including the bombing of the Mariupol Maternity Hospital that killed and injured medical staff and patients (ICRC, 2024b). Fourth, there is evidence of torture and extrajudicial executions, as evidenced by forensic footage in Bucha and eyewitness testimony verified by Amnesty International (OMCT, 2024).

Command Responsibility in Each Case

Based on the command responsibility framework, three main elements are analyzed: (1) the commander had actual or constructive knowledge of the violation; (2) failure to take preventive measures; and (3) failure to prosecute violators under his command.

Commander Knowledge

The ICC ruling in the Surovikin et al. (2023) case asserted that the Russian Air Force Commander “should have been aware” of initial reports of indiscriminate attacks on settlements. (ICC, 2023). Internal military documents leaked to the media contain target-area orders that do not include differentiation instructions, underscoring the knowledge element in command responsibility (Jenks, 2022).

Prevention Failure

Analysis of OSSI documents (2023) reveals that the Land Forces command ignored ICRC protocols on target verification before attacks, despite the availability of satellite intelligence. Lack of IHL-based training and SOPs at battalion level reinforces the failure of prevention. (Duss, 2023). Analysis of OSSI documents (2023) reveals that the Land Forces command ignored ICRC protocols on target verification before attacks, despite the availability of satellite intelligence. Lack of IHL-based training and SOPs at battalion level reinforces the failure of prevention. (Pejic, 2023).

Kegagalan Penindakan

Of the 72 reports of grave breaches that Ukraine submitted to the UN, only two cases reached criminal proceedings in the Russian Military Court, both of which were dismissed without formal charges. (PAPER, 2024). This shows the failure of the internal justice system to prosecute violations committed by troops under their command..

Barriers to Law Enforcement

Despite overwhelming evidence of abuse, the implementation of command accountability remains hampered by several obstacles:

Non-cooperation of the State Party

Russia rejects ICC jurisdiction and blocks access for international investigators, hampers collection of field evidence (OSCE, 2024). Ukraine, while cooperative, was limited in its reach into occupied territories.

Destruction of Evidence

The scorched earth tactics in Bucha and Mariupol caused forensic damage to the sites, making it difficult to validate remains and evidence, a strategy seen as an attempt to erase traces of the violations (Orzhynska et al., 2024).

Politics and Diplomacy

Geopolitical pressures and vetoes in the UN Security Council have held up the establishment of a formal investigative mechanism (ICRC, 2024). ASEAN International's efforts to pass a resolution failed due to Russian diplomatic intervention, a reflection of how politics often trumps law.

Resources and Capacity

The ICRC report (2025) notes the shortage of trained personnel in the Humanitarian Law units of the Armed Forces of Ukraine, so that command training on the application of IHL remains sporadic (ICRC, 2024).

Implications for IHL Theory and Practice

These findings underscore the relevance of command responsibility as a pillar of accountability in contemporary IHL. Theoretically, the Russia–Ukraine case reinforces the need to expand the definition of knowledge to include opensource intelligence in order to avoid the constructive responsibility gap that has been exploited by military commanders (Kolomeitz, 2023). Practically, the research findings highlight the urgency of:

1. Strengthening Reporting Mechanisms. Need for an independent incident reporting system and witness protection in conflict.
2. Improving Training. Incorporating applied IHL modules at every level of command and clarifying target verification SOPs.

3. International Cooperation. Establishing ad hoc protocols for international investigators' access to conflict zones, regardless of state party objections.

Thus, while the normative framework of IHL is well established, the implementation and enforcement of command requires updated policies, training and cooperation mechanisms to bridge the gap between legal texts and practice on the ground.

E. CONCLUSION

This study proves that although the principle of command responsibility and the provisions of international humanitarian law have established strict obligations for military leaders to prevent, respond to, and be held accountable for troop violations, their implementation in the Russia–Ukraine conflict since 2022 is still far from expected. Indiscriminate attacks, forced displacement of civilians, destruction of humanitarian facilities, and minimal prosecution at the command level confirm that accountability gaps due to political obstacles, destruction of evidence, limited institutional capacity, and denial of jurisdiction are still very dominant. To close this gap, it is necessary to immediately strengthen scenario-based IHL training at every level of command, revise military SOPs to include procedures for rapid and independent investigations, and establish ad hoc protocols to ensure access for international investigators even if a state party refuses jurisdiction.

As a limitation, this study is only based on public documents of NGO reports, ICC decisions, and academic literature without involving direct interviews with military personnel in the field or analysis of unpublished internal documents, so the depth of perspective at the tactical level is still limited. Therefore, further research is suggested to integrate primary data through structured interviews with commanders and soldiers at various levels, as well as analysis of internal military documents, to obtain a more complete picture of the obstacles and opportunities for enforcing command responsibility in practice.

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