FORGOTTEN GENOCIDE? RUSSIA AND UKRAINE WAR

WEI, I. C. H.[1] – COORAY, M. A. E.[1*]

[1] *Faculty of Law, Multimedia University, Melaka, Malaysia.*

**Corresponding author*
e-mail: manique.cooray[at]mmu.edu.my

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Abstract. Recently, it has been reported there was a significant decline in media coverage of Russia and Ukraine war. The public interest towards this international conflict seems to be brief, especially due to the escalation of violence between Israel and Palestine. Despite the emerging evidence of genocidal acts by Russian forces in occupied Ukrainian region, the international organizations seem to be silent in condemning Russia which raised concerns of double standards in condemning war crimes. The reluctance of international organization in prosecuting Russian forces who are responsible for the atrocities not only overlooks the genocidal acts committed by Russian forces but also undermining the principle of universal justice in international law. This article firstly aims to discuss the legal framework of genocide and the Russia and Ukraine's legal stance in international law by examining the relevant treaties and conventions. While addressing the declining rate of media coverage on the Russia and Ukraine war, the author also highlights the attitude of international organization towards similar precedent cases, followed by assessing whether Russia's action constitutes as genocide, before comparing it with past conflicts where recognition of genocide was overlooked or delayed and then finally answering whether Ukraine's fate will follow its historical predecessors.
Keywords: *genocide, Russia, Ukraine, international law*

Introduction

The war between Ukraine and Russia initially dominated major news headlines such as BBC, CNN and The New York Times. But with recent conflict escalation between Israel and Palestine, CNN reported media coverage about Ukraine significantly plummeted (Darcy, 2023). Notably, the public interest in the conflict seems to be brief. For instance, the advocacy for Ukrainians in major social media platforms has been short lived and only trending in 3 percent of the countries (Lehne and Berlin, 2024). It has also been reported that Central Asian state largely being silent about the Russia Ukraine War with minimal coverage of Russia's attack on Ukraine territory (Rickleton and Alimova, 2024). Discussion about Russia and Ukraine war were often focused on political dispute, effectively overshadowing Ukrainian's persistent fight in self-determination and independence. This discussion aims to explore genocide under international law, followed by examining the international law responses towards precedent genocidal cases, and finally determine whether it is a repetition of history for Ukraine.

Establishing genocide and relevant jurisdictions

United Nations and its conventions

The Genocide Convention in essence sought to ensure international peace and security by removing or preventing threats to the peace as provided under Article 1. Article II of the convention encapsulates Lemkin's theory, defining genocide as any of the acts committed with intent to destroy, in whole or in part, a national, ethical, racial

or religious group as such: (1) Killing members of the group; (2) Causing serious bodily or mental harm to the members of the group; (3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (4) Imposing measures intended to prevent births within the group; and (5) Forcibly transferring children of the group to another group. This article contains 2 elements to be satisfied that is actus reus and mens rea. To hold a state accountable for this crime, the acts committed are only confined within what is stated in Article II, which implies that this convention goes for a narrow approach in establishing actus reus. As for intent, however, it is hard to prove due to the extremely high standard that the international courts have set. The interpretation of 'intent to destroy' can be illustrated in case laws, for instance, in The Prosecutor v Radovan Karadzic (IT-95-5/18-T) the accused served as a President in Republic of Montenegro and acted as the President of the National Security Council. According to the indictment, the accused participated in permanently removing Bosnian Muslim and Bosnian Croats from Bosnian Serb claimed territory. The accused also participated in spreading terror among the civilians and took part in eliminating Bosnian Muslims in Srebrenica. The Chamber stated when assessing evidence for genocidal intent, it must be assessed as a whole, before inquiring whether all of the evidence taken together demonstrates a genocidal intention instead of considering it separately. If the genocidal intent is absent, it can still be inferred from facts and circumstances itself. There are several relevant factors that may support inference of specific intent in genocide: (1) The scale of atrocities; (2) The systematic target of victims due to their membership of a group; (3) Repetitive and destructive and discriminatory acts; (4) The existence of plan or policy itself; and (5) Public speeches that show genocidal intent.

This interpretation is further adopted in The Prosecutor, Jean-Paul Akayesu (ICTR-96-4-T). The accused Akayesu, a bourgmestre was charged for genocide under the Article 2 of the Statute of the Tribunal for committing genocide along with Article 6(1) for planning, instigating, orders, commits or aiding in planning, preparing, or execution any of the crimes listed under Article 2 to 4 of the said Statute. It was reported that at least 2000 Tutsi's were executed openly in the bureau communal that Akayesu controls. Many women were also subjected to sexual violences, accompanied with death threats and bodily harm from many assailants. Akayesu also knew that these murders and sexual violence acts were being done and was at times present during such commission. Not only he failed to prevent these violent acts from happening, but he also encouraged it against the Tutsi people. The Chamber interpreted genocide intent enshrined in the Convention as being differentiated from other crimes as it embodies special intent or dolus specialis. This would mean to prove Akayesu have the intention to commit genocide, it must be shown that he clearly seeks to produce the act charged. The Chamber further addresses the difficulty and even the impossibility in ascertaining genocidal intent, but it is still possible to establish intention, such as considering the scale of atrocities committed, the deliberate and systematic targeting victims based on their membership of a group. However, the lack of cultural genocide inclusion attracted many criticisms. Rosenberg (2012) writes that genocide is a complex social phenomenon, and it cannot be tucked into the definition provided by the Convention. The writer further states that it should be treated as an unfolding process and consider factors such as political, historical and social aspects. Stanton (1998) stated that the Convention in some circumstances interpret as requiring the intent to destroy a national, ethical, racial or religious group, which is not quite right. Because groups like political

and social ones are not included in the definition which could leave a gap for exploitation. He further noted that some fit into that description such as the Holocaust and Rwanda genocide, but most do not since most cases only involve destruction a part of a group, which he later provided the 8 stages of genocide: classification, symbolization, dehumanization, organization, polarization, preparation, extermination, and lastly, denial.

Rome statute

International Criminal Court (ICC) situated at the Hague, Netherlands also have jurisdiction over the matters listed under Article 5 of the Rome Statute, including genocide. Adopted in 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, the Court seeks to prosecute perpetrators, prevent crimes and to ensure territorial integrity or political independence of any State. It is noteworthy that the Rome Statute do not override the municipal law of the state because according to Article 1, the Court is an permanent institution that have jurisdiction over persons who committed serious crimes in international realm and it shall be complementary to the national criminal jurisdiction. Unfortunately, according to Amnesty International, Russia signed the Rome Statute in 2000 but has yet to ratify, which shows that Russia did not intend to join the Rome Statute. However, even if the State is not part of the State Party to the statute, the Court may still exercise its jurisdiction through a special agreement on the territory of the State. Therefore, ICC still have the power to bring Russia into accountability. In 2014, Ukraine declared that it recognizes the jurisdiction of ICC for identifying, prosecuting, judging and accomplices of acts done in Ukraine territory during 21 November 2013 to 22 February 2014. In the second declaration dated in 2015, the Parliament of Ukraine adopted a resolution to recognize the jurisdiction of ICC over crimes against humanity and war crimes done by Russian Federation, including the leaders of terrorist organizations namely “DNR” and “LNR”, and also giving full cooperation to the Court in accordance to Chapter IX of the Rome Statute. In response, the Prosecutor announced an investigation in Ukraine territory and subsequently issued warrants of arrest since the Pre-Trial Chamber II found that there are reasonable grounds to believe these suspects, namely Mr Vladimir Vladimirovich Putin, Ms Maria Alekseyevna Lvova-Belova, Mr Sergei Ivanovich Kobylash, Mr Viktor Nikolayevich Sokolov, Mr Sergei Kuzhugetovich Shoigu and Mr Valery Vasilyevich Gerasimov have violated the international law.

Council of Europe

Ukraine also maintained its membership with Council of Europe, particularly European Court of Human Rights (hereby referring it as “ECHR”) since 1995. This was followed with signing the European Convention on Human Rights in 1997. Russia however, entered membership of Council of Europe in 1996 but ceased to be a member of the Council as from 16 March 2022. Although Russia have withdrawn from the Council, Russia is still bound by obligation under the Convention inter alia implementing ECHR decisions, accompanied with the supervision of Committee of Ministers pursuant to Article 58 of the Convention. Therefore, it can be said that ECHR remains competent to deal with the 17,450 applications filed against the Russia Federation up until 16 September 2022 (European Court of Human Right, 2022). For

instance, in Ukraine v Russia (Re Crimea), the ECHR unanimously held that in the time of February 2014 and August 2015 where the annexation of Crimea happened, Russia was found to have violated many articles of European Convention for the Protection of Human Rights and Fundamental Freedoms. The court stated that Russia was found guilty of unlawful freedom deprivation from Ukrainians, inhumane treatment of prisoners, forcing Crimean people into Russian citizenship, including forced displacement of Ukrainians, and other numerous violations. This was considered significant decision and a major victory for Ukraine since the judgement only further confirmed that Russia has been discriminating Ukraine all along and nullifying the argument where Crimean people voluntarily decided to join the Russian Federation due to the alleged human rights violations from Ukraine (Jędrysiak, 2025).

It is worth noting that the Convention do not have a specific article that lays down what constitutes as genocide. However, ECHR acts in accordance with Article 7 of the Convention where no one shall be convicted guilty for any criminal offence if the act or omission done does not constitute as criminal offence under national or international law at the time when it was committed. If it is a criminal offence, the punishment cannot be heavier than what was applicable at that time. The European Court of Human Rights, 2024, writes that the Court have 2 duties to fulfil under Article 7 of the Convention: one, is to examine whether there was enough clear legal basis considering the state of the law at the time of the commission of the act, second, the court must examine whether there was enough accessibility and foreseeability of the law defined for the international crime that the applicant have committed so that the applicant could have known at that time such acts and omissions will make him or her liable. This was further illustrated in Kononov v Latvia (No.36376/04) where the applicant, Vasiliy Kononov and his Red Partisans unit armed and wore Wehrmacht, a former Germany army uniform to avoid suspicion and entered village of Mazie Bati. The unit then split up into small groups which they later attacked a house according to orders from applicant. Red Partisans members killed several farmers in the village and even killed a pregnant woman who tried to escape. The applicant argued that they were collaborators and traitors who worked for German. The ECHR considered the relevant laws and practice in domestic and international field. For domestic law, ECHR cited statutes such as Latvian SSR's 1926 Criminal Code, the 1961 Criminal Code that replaced the 1926 Criminal Code, and the 1998 Criminal Code that replaced 1961 Criminal Code. Similarly, for international law, ECHR considered Geneva law (1864-1949), the law and customs of war before World War II namely the Lieber Code 1863, the St Petersburg Declaration 1868, the Draft Brussels Declaration 1874 and other numerous laws. It was found that it was clearly, substantially foreseeable in 1944 for the applicant that the acts he committed are criminal and it was immaterial to show that if he was aware of the elements in qualifying his acts. In the alternative facts that the applicant gave where he argued that he was seeking to arrest the villages in accordance with the Partisan tribunal conviction clearly showed that he was indeed aware that the impugned conduct was criminal.

Although the applicant argued that he was merely a young soldier during 1944 and was not aware from the international law developments and that it was politically unforeseeable, The Latvia Courts relied on Article 16 of the Fourth Geneva Convention 1949, where burning a pregnant woman to death is a war crime and it was shown that special protection towards woman, especially pregnant woman was already in laws and war customs as early as the Lieber Code 1863, particularly Article 19 and 37. This was

enough for the courts to consider as sufficiently accessible and foreseeable for the applicant in 1944. Although it is true that the 1926 Criminal Code do not contain any references to the international laws and war customs but during and after the World War II, there was already prosecution of soldiers for war crimes committed during World War II by the international and national tribunals. Moreover, the Court were in view that he could have reasonably expected to take great care in assessing risks during the Mazie Bati operation and therefore, the applicant is liable for war crimes.

Past genocide cases and international responses

This paragraph examines the responses of international law towards these past genocidal events. It will then be compared to the ongoing war between Russia and Ukraine, highlighting whether the emerging genocide committed by Russia will be treated the same way as the precedential cases.

Armenian genocide

As the World War I came to an end, the Istanbul Trials was established to convict the Turkish nationals who were involved in the Armenian massacres. While on the surface, the Istanbul trial showed that Turkey was willing to hold these suspects accountable for the massacre. However, there is also great amount of criticism. For instance, it was criticised that only the insignificant ones were convicted and executed while the rest escaped, or some allowed to escape and become fugitives (Minassian, 2009). Also, the rise of Mustafa Kemal in Turkey and the following war pushed the Allied powers to renegotiate a peace treaty to punish genocide perpetrators. However, there are no indication of holding the perpetrators of Armenian genocide accountable in that treaty. This caused the domestic militarily tribunals to end prematurely and many verdicts became void. Thus, Turkey was able to escape international law responsibilities. (Koopmans, 2022). While the Armenia genocide received little recognition, it was at least recognised under international level. The Whitaker report was considered as a significant stepping stone and beacon of hope for Armenians to achieve their goal. Benjamin Whitaker, a UN special rapporteur submitted a 1985 report about genocide which was a phenomenon of attempting to improve the Genocide Convention. Whitaker used irrefutable sources that clearly showed the nature of massacre and the clear genocidal intent of the Ottoman Empire to erase Armenians by citing official Turkish sources from First World War, including the documents from German and Austrian officials (Kuyumjian, 2011). For instance, on 7 July 1915 the German Ambassador, Wangenheim stated that the Ottoman Empire was pursuing the goal to eliminate all Armenian race (Laurin, 1985). Thus, it was deemed as the most significant element for Armenian community. This report was then adopted by a 15-4 majority of panel experts in the United Nations Sub Commission on Prevention of Discrimination and Protection of Minorities and therefore recognising the Armenian massacres as genocide (Laurin, 1985). Furthermore, other international organizations such as the Parliamentary Assembly of Council of Europe declared the recognition of Armenian genocide on April 24, 2001, with signatories like United Kingdom, Russia, Portugal, Switzerland and many more (Written Declaration No,320 for Recognition of the Armenian Genocide, 2001). Other bodies like International Commission for the Human Rights and Religious Freedom Statement on the Recognition of Armenian Genocide (ICHRRF) have also

released a statement on 1st February 2022 to showcase its support towards the remembrance of the Armenian Genocide.

However, speaking about Armenian genocide may be prosecuted under the Turkey law due to the existence of denial policy. For instance, in Güçlü v. Turkey (No.1702/10), the applicant, a lawyer and politician stated that Turkey must engage into an open debate about the 1915 Armenian genocide in a press conference. Turkey government then convicted him for spreading propaganda against Turkey's territorial integrity and sentenced him for imprisonment. The European Court of Human Rights found that the debate topic is of public interest and held that expressing such opinion even if it does not match public authorities or even offend others, he is entitled to have free expression under European Convention on Human Rights. The severe penalty imposed on him was held to be in violation of Article 10 of the Convention. The undermining advocacy for Armenian Genocide continues even in international level. Anyone who outright denies the genocide can use Article 10 of the Convention to secure his or her freedom of expression. Perinçek v. Switzerland (No.27510/08), the applicant took part of 3 public events in Switzerland in 2005 to give speeches about the Armenian genocide. He stated that Armenian genocide is nothing but an international lie and blamed the Great Powers for inciting the Armenians to violence. He further stated that the international lie was invented in 1915 by the England imperialists, France and Tsarist Russia who sought to divide the Ottoman Empire during the World War I. The applicant also denied the existence of Armenian massacre during the conference event and further stated that the Turks only wanted to defend their homeland from the Armenians who favoured the imperialists. On 15 July 2005, Switzerland-Armenia Association then lodged a complaint against the applicant under the grounds of racial discrimination pursuant to Article 261 if the Swiss Criminal Code. The Police Court found guilty of violating the Article and ordered to pay fine. The applicant argued that the conviction is in violation of his freedom of expression. The Chamber took consideration of Armenian's interest and the applicants right vested under Article 10 of the Convention, and held that the applicant's statement is historical, legal and political in nature.

This invited rebuttals from the Swiss Government and other third parties, stating that the applicant's statement was not scholarly and there were no open mindedness characteristics to be considered this as proper academic debate. This argument was however, rejected by the Chamber. The Swiss Court found that the applicant spoke in a racist motive, on the grounds that the applicant labelled the Armenians as the aggressor to the Turks. But this was again rejected by the Chamber since the applicant did not use abusive terms or try to stereotype the Armenians. The Chamber went to the extend of theorizing that the Turks and Armenians were victim of imperialist, further undermining the existence of Armenian genocide. While the Chamber highlighted that indeed the applicant have denied the genocide, but it does not amount to justifying it. The third-party interveners contended that Switzerland have the international law obligation to criminalise genocide denial, citing Article III (c) of the Genocide Convention, which requires the States Parties to punish "direct and public incitement to commit genocide." In response, the Chamber stated that there is a significant difference between direct genocide incitement and hate speech and it should not be confused together. Under Article I of the Genocide Convention does not impose obligation for States Parties to criminalise "hate speech" and it was already established that the applicant's statement does not amount to hate and discriminatory speech. Moreover, Article 20(2) of the

International Covenant on Civil and Political Rights that prohibits national, racial or religious hatred that incites discrimination, hostility or violence clearly does not call for criminalising genocide denial and it does not prohibit expressions that consist of false opinion or incorrect interpretation of past historical events. Nor does it show that there is any existing customary international law that legally require Switzerland to criminalise genocide denial. The only applicable to genocide denial is the Article 6(1) of the Additional Protocol to the Convention on Cybercrime (European Treaty Series No. 189) but this was not ratified by Switzerland. In accordance to these grounds, the Chamber gave final judgement that the interference with applicant's right of expression by Switzerland is not justified, in the name of democratic society.

In page 166 of dissenting judgement from Judge Nussberger, she highlighted those historical debates and discussion is essential for upholding freedom of expression, especially in the modern democratic society. But limits may be necessary, particularly when the debate degenerates into incitement of hatred against a certain group and used it to attack other's dignity. An example for this is the Holocaust denial and it has been criminalised under state legislations like Germany, Austria and Belgium. She went on disagreeing about the substantive violation of freedom of expression like what the applicant have claimed, but rather, there is a procedural violation. Judge Nussberger was in the opinion that there is a lack of legal certainty and lack of balancing the rights involved and stated that it could have been resolved in a foreseeable way under the Article 261(4) of the Swiss Criminal Code, which the Swiss Court failed to do so. Although the Chamber emphasised that it was not the courts duty to evaluate historical events in 1915, but the reasoning given seems to rely on degree of certainty about the events happened in Turkey in 1915. Judge Nussberger states that this can be misunderstood as assessing validity of historical knowledge. All in all, this seems like salt rubbing upon wounds that Armenians endured for centuries, especially when Turkey continues to deny the existence of Armenian genocide till this day when Israeli Foreign Minister Israel Katz criticised Turkey for denying genocide, despite the passed resolution from European Parliament to encourage Turkey to recognise the atrocities committed.

Uyghur persecution in XinJiang, China

Despite China's welcoming hands towards the Genocide Convention in 1948, it has not recognised the International Court of Justice's jurisdiction over internal state disputes which significantly obstructed justice (Waller and Albornoz, 2021). If China individuals were to hold accountable for crimes against humanity and genocide, it would be difficult since China is not a party of the Rome Statute, therefore International Criminal Court do not have jurisdiction over such matter (Waller and Albornoz, 2021). This would mean that the only way to bring China accountable is through United Nation Security Council's referral as China is a permanent member of that council (Waller and Albornoz, 2021). This is further illustrated in Article 25 of the United Nations Charter, where all decisions made by the United Nations Security Council (UNSC) shall be binding to all UN members, therefore UN members are obliged to act accordingly (Zhu and Zhang, 2010). Today, there are no states bringing case against China for the human rights violations and the fact that International Court of Justice lacks independent enforce mechanism, further hindered justice enforcement. The obstruction of justice is obvious even in the legal framework in China territory. Although according to Article 9 of the Chinese Criminal Code that which offers possible prosecution of genocide, but

there are many shortcomings. One of them is that there is no specific and separated law for the crime genocide in China. This meant the perpetrator can only be charged for other lesser crimes like murder which does not possess the similar legal weight as genocide (Zhu and Zhang, 2010). Even if the claims are successful under Article 9 of Chinese Criminal Code, the court will still face practical issues like establishing elements of crime and determining appropriate sanctions (Zhu and Zhang, 2010). Despite the disappointing outcome, their journey to seek justice does not end here. A legal team representing two Uyghur activist groups decided to call for an investigation of Chinese authorities before International Criminal Court, despite China's status in Rome Statute (Waller and Albornoz, 2021). The legal group relied on the precedent cases that shares similar situation, however, it was contended that since most crimes occurred internally and the deportations failed to fill essential elements, the claim did not proceed (Waller and Albornoz, 2021). In September and November 2021, an independent Uyghur Tribunal was conducted, where eyewitness reported that crime against humanity such as forced sterilization, sexual violence, forced labour occurred within the walls of China's internment camps (Kanat, 2023). With credible evidence and countless witness testimonies, it was held that the treatment of Uyghur by China constitutes genocide, and it was further recognised by United States, Netherlands, Lithuania, Cada, United Kingdom and Czech Republic later (Kanat, 2021).

Furthermore, there is a possibility to hold China accountable for forced labour under the International Labor Organization's (ILO) Forced Labor Convention. The ratification of Forced Labour Convention, 1930, the Abolition of Forced Labour Convention, 1957, Discrimination (Employment and Occupation) Convention, 1958 and the Employment Policy Convention, 1964 making China bear the obligation to comply these conventions by providing equal employment opportunity without any forms of discrimination and most importantly, the autonomy in choosing employment. Not only that, China is also the signatory for the International Covenant on Economic, Social and Cultural Rights on 1997 and it was ratified in 2001. Although China has made its clear stance in international law pertaining to labour rights, many reports about Uyghurs being subjected to forced labour arises. For instance, the detainees in the vocational facilities had to work for "graduation process" and they cannot refuse due to the fear of being kept longer. Therefore, this clearly fits the definition of forced labour provided under Article 2(1) of the International Labor Organization Forced Labor Convention, 1930 where it states forced labour is where worker do not offer himself voluntarily to any work or services due to any threats faced. According to an annual report issued on 9 February 2022, the ILO Committee of Expert expressed their deep concern pertaining to the coercive measures in numerous national and regional policy and regulatory documents. Apparently, the policies in China suggest direct or indirect discriminatory effect on employment opportunities and treatment towards minorities in China. The Australian Strategic Policy Institute, known as ASPI also noted that the Uyghur's working condition fits the definition provided under ILO for forced labour (Lim, 2020). Overall, there is lack of initiatives from the international body. The OHCHR assessment report released by United Nation garnered many mixed reactions. Some expressed sense of relief, while some awaiting for this report to be translated to real action (Maishman and Mao, 2022). Notably, Rayhan Asat, a human rights lawyer from the United States whose brother has been detained since 2016, stated that this report is the bare minimum from United Nations since the violence against Uyghur has been ongoing for seven years (Maishman & Mao, 2022). Ms Asat also stated that there should be an

independent commission of inquiry to monitor China in executing the recommendations given in the report, including releasing innocent people in the camps (Maishman and Mao, 2022).

Some Uyghur activists were disappointed that the report that the OHCHR assessment did not label the atrocities committed by China as genocide. Nicholas Bequelin, who worked on early Human Rights Watch report on Xinjiang in 2005 stated that it is hard to label a situation as genocide due to the extremely high standard set by the international law. The special intent is what makes genocide so hard to prove (Chotiner, 2022). Even in the Rohingya case in Myanmar, there are still debates as to whether it constitutes as genocide, and similarly in China, there is not enough evidence to show that genocide has been committed (Chotiner, 2022). She also noted that regrettably the definition of genocide in the Genocide Convention was narrowed down and cultural genocide is not included, which is the exact thing that China has been committing towards the Uyghur people (Chotiner, 2022).

Russian and Ukraine war-History repeats itself?

In the first three days of 2025, Russia launched attack drones and missiles at Ukrainians, leading to more destruction onto the residential area near northern Ukrainian city. As of today, the international body like ICC is expected to hold Russia accountable for kidnapping Ukrainian children for re-education and forcing Russian citizenship on them as well as destroying civilian infrastructures. But experts stated that it may be hard to meet the high bar given for the crime genocide even when Russia is clearly committing one (Law, 2023). This discussion firstly establish whether Russia's invasion falls within the Genocide Convention.

Ukrainian as a protected national group

Before going into Article II of the Genocide Convention, it is important to establish if Ukrainians are a Protected National Group. The understanding towards the word "nation" may vary. Some referred to it as large body of people united due to factors like history, common ethnic, culture or language and they inhabit at a particular region (Azarov et al., 2023). Referring to Akayesu case again, the ICTR defined it as a group of people sharing legal bond based on their common citizenship with rights and duties. However, courts in some cases took a more liberal approach. In Prosecutor v Radoslav Brđanin (IT-99-36-T), the protected national group may be referred to how the perpetrator perceive the group as. In some cases, the victim may perceive themselves as part of the said protected national group. The modern Ukraine is diverse and the Ukrainian Constitution's preamble includes Ukrainians of all nationalities, referring to ethnic origin. Therefore, Ukrainians with different ethnic origin still perceive themselves as part of the protected national group (Azarov et al., 2023). In the perpetrator's eyes, Ukrainians are often perceived as a distinct group which explains why Russia has persistently refuse to recognise Ukraine as an independent state. This is further proven where Putin often insisting that Ukrainians are Russians, and even former Russian President Dmitry Medvedev stated that Ukraine was established through "accident in the twentieth century" even though Ukraine has its own rich historical roots (Sapuppo, 2023). Putin's persistently stated that Ukrainian statehood is nothing, but a fiction created by the Bolshevik revolutionary leader Vladimir Lenin, who have

accidentally granted autonomy and statehood for the new Soviet state (Schwirtz et al., 2022).

Actus reus of genocide

To recap, genocide under the Genocide Convention has 2 elements to fulfil that is the actus reus and mens rea. Actus reus can be referred to actions such as killing members of the group, causing serious bodily or mental harm, deliberate inflicting on group life conditions, imposing measure to prevent births, and lastly, forcibly transferring children of a group to another. Firstly, we will discuss the actus reus of genocide. On 2022, OHCHR has documented 28 cases of summary executions and 31 killings through attacking individual citizens. Particularly, Russia forces opened fire on a family of five in a vehicle at a checkpoint. Another instance, a in the same month, Russia instantly killed a 10-year-old girl and injured her grandparents by shooting their car in the Bazaliivka, Kharkiv region. On 31st December 2024, Russia has launched another attack on Ukraine region namely Donetsk, Kharkiv and Kherson as a "New Years Gift". On that fateful day, Russia's attack has led to 574 civilians being killed and injured 3082 of them. This includes essential helpers like humanitarian workers, healthcare staff and emergency service workers, which may obstruct healthcare access for the Ukrainians. Russia has targeted civilian infrastructure by launching aerial bombs against populated city like Kharkiv and Zaporizhzhia which subsequently leading to increased risk of death and injury. According to a report, Ukrainian children are not spared from Russia's violence even when they are in areas with zero military targets. It is obvious that nowhere in Ukraine is safe if Russia's aggression continues. All this could fall under the limb "killing of protected members" or perhaps causing "serious bodily or mental harm" under the Article II of Genocide Convention.

It is worth noting that the Resolution 1998 adopted by the Security Council in 2011 highlighted Article 28 of the Convention on the Rights of the Child and condemned all violations including the destruction of essential infrastructure such as schools and hospitals. Hence this means that the deliberate destruction of medical infrastructure is unlawful under the international humanitarian laws. However, Russia clearly disregarded this and attacked Kyiv's largest children hospital and bombed maternity hospital in Mariupol that enjoys special protection from international laws. By destructing necessary healthcare institutions, this puts newborn babies and mothers under grave danger, including those with disabilities (Kismödi and Pitchforth, 2022). Women who seek refuge in their neighbouring country also faces difficulties when it comes to sexual and reproductive health rights. For instance, in Poland, abortion is illegal in Poland's restrictive law which prohibits Ukrainians from pursuing that option. Thus, this puts their health, safety and lives in danger in legal and practical aspects (Kismödi and Pitchforth, 2022). It has been reported that most shelters in Kiev are inaccessible which forces the disabilities to stay at home while being deprived from their communities and necessary healthcare during war times (Kismödi and Pitchforth, 2022). They have also deployed an airstrike on schools as well. Particularly, it was reported that from February to October 2023, 3428 education facilities have been damaged and 365 of them were destroyed which led to a devastating impact on Ukrainian children's access to education during war. Moreover, sexual violence under international law is obviously prohibited (*Table 1*).

Table 1. *International law related to sexual violence.*

Law	Provisions	Content
Rome Statute	Article 7(g)	Rape, enforced prostitution, forced pregnancy, enforced sterilization, or any other sexual violence form falls under crimes against humanity
Rome Statute	a. Article 8(2)(b)(xxi) and (xxii) b. Article 8(2)(c)(ii) c. Article 8(2)(e)(vi)	Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any forms of sexual violence that attacks ones personal dignity , including degrading treatment are considered as war crimes in international ad non international armed conflict
4th Geneva Convention	Article 27	women are protected against any attack to their honour, including rape, prostitution or any form of assault
Additional Protocol I to the Geneva Conventions	Article 75(2)(a)(b)	violence to the life, health or physical or mental wellbeing, including attack on their personal dignity is prohibited
Additional Protocol I to the Geneva Conventions	Article 76	stresses that women must be respected and protected from rape, forced prostitution or any other indecent assault

Sexual violence is often used during armed conflict to terrorise civilians and gaining control over land, like what happened in the Democratic Republic of Congo (Mannell, 2022). In this context, there have been reports of sexual violences committed by the Russia forces. Mannell (2023) argues that Russian soldier committed sexual violence against Ukrainians because they knew they would die in war and they are able to blame the Ukrainians for the conflict, therefore not facing any consequences. In Mannell (2023) thesis, she interviewed a Ukrainian named Natalya, a victim of sexual violence by Russia soldiers. In her interview she expressed her lost of dignity and her struggles in living with the horrible traumatic memory that will stick to her for eternity. Another interviewee, Svetlana, a 55-year-old woman also had to deal with rape by Russia soldiers after robbing her money and food. According to previous report, Russian armed forces, including law enforcement officials committed sexual violence against Ukrainian men and women, including prisoners of war (POW). It has been reported that a man surrendered to Russian forces in Donetsk region was subjected to not only detention but threat of rape. There is also women POW suffered rape, forced nudity, sexual touching, including request of sexual acts under coercive situation. LGBT persons are also not excluded from such inhumane treatment. For instance, OHCHR reported that members of Russian armed forces detained a gay man at a checkpoint and threw him into detention facility. He was later subjected to degrading treatment and oral rape by the Russia soldiers.

Among these rape cases, young girls are also not spared from Russia's aggression. For instance, the Commission of Inquiry reported that rape victims can be as young as a pregnant 16-year-old and elderly woman (Carpenter, 2023). The Commission further directly cite the report where three Russian soldiers came to a married couple house and gang raped the 50-year-old woman and when the victim reported the rape, they went back and killed them (Carpenter, 2023). The sexual violence continued to be prevalent in the conflict. According to the report, it was reported 22 men, including 10 men were being subjected to sexual violence including rape, beatings to genitals, and women of POW being raped nearly every day for two and a half months by Russia law enforcement officers. Reason being is to force information out of her. In international law, sexual violences are considered as genocidal act like in Akayesu case, where sexual violences including rape can fall under genocide crime since it can inflict serious bodily and mental harm. Furthermore, the Prosecutor v Duško Tadić (IT-94-1) case was considered as groundbreaking case since it is the first international war crimes that involves sexual violence charges. The trial chamber held that Tadić is guilty of cruel treatment, where he and his men forced one of the detainees to bite off testicle of another detainee. Additionally, he was charged for grave violation of the 1949 Geneva

Convention, for inhumane treatment and deliberately causing suffer and injury, as well as actively encouraging his men to take part of the assault. He was later sentenced for 20 years of imprisonment.

Most importantly, in Prosecutor v Anto Furundžija (IT-95-17/1-T) case, he was charged for sexual violences and multiple rapes of Bosnian Muslim woman that was committed during interrogations led by him. Furundžija's subordinates were the ones who raped the woman in front of other soldiers, but Furundžija is still liable for abetting the crime. The Trial Chamber made extremely important remarks. Not only it was held that rape crime can constitute crimes against humanity, but the Tribunal judges also confirmed that rape can be used as genocide tool. Therefore, it can be said that the sexual violences and rape committed by Russia soldiers can be prosecuted under genocide crime and not just crimes against humanity. Moreover, there are signs where Russia has been forcibly transferring children from one group to another group. The United Nations International Children's Emergency Fund, UNICEF emphasized that intercountry adoptions should never occur during or immediately after the emergency (Muelrath, 2024). This is because children are separated from their guardians or parents may be wrongfully seen as an orphan. Secondly, when rule of law is weakened there is a higher risk of illegal adoption which could lead to trafficking (Muelrath, 2024). Therefore, there must be efforts in tracing and reunite children with their actual families and only consider adoption as the last resort. According to UN, Russia have taken at least 19,546 Ukrainian children to Russia from Ukraine since 18 February 2022 (UN, 2023). The alleged reasons behind this, one of which is to attend "recreational camps", for ostensible evacuation, apparent medical evacuation or adoption by or placement with foster Russia families (Humanitarian Research Lab, 2023).

Ukrainian children in temporarily occupied areas like Zaporizhzhia were sent to free recreation camps where it is fully funded by the Russia Government, hence this seems like a good offer especially when children's life is at great risk. Often, the parents are pressured to send their children to Russia, and these camps seem to target on many households with low income where parents sent their children to recreation camps in hopes to protect them from the ongoing conflict (Humanitarian Research Lab, 2023). Children attending these camps where communications are highly limited, are exposed to Pro-Russia re-education programme, including military training and they are often not returned in the agreed upon timeframe (Humanitarian Research Lab, 2023). Humanitarian Research Lab (2023) also reported that about 300 children from Ukraine were prohibited from returning to their motherland due to many reasons such as "pro-Ukrainian" views. Parents were not directly informed about the delays and often their time in the camp would be extended for reasons such as "safety" (Humanitarian Research Lab, 2023). The parents only found out through virtual conversations with their children, word of mouth and local news outlet, which evidently showing that it is more than just Russia concerning for Ukrainian children's safety (Humanitarian Research Lab, 2023). Also, these children are often forced to have Russia citizenship, and they are not allowed to speak and learn Ukrainian language or preserve their identity (UN, 2023).

In the 940th meeting with UN Security Council, Mykola Kuleba, Chief Executive Officer of Save Ukraine expressed her grave concern about Russia's genocide plan since 2014 where more than 1 million Ukrainian children ended up in occupied territories like Crimea and Donbas (UN, 2023). These children were further deported to Moscow to make them fight against their own motherland (UN, 2023). As for orphans

or children that are living under uncertain custody, they would be evacuated to Russia for again, "safety concerns", but they were given Russia citizenship during the process. These children would be cut off from any communication and later get fostered by Russia families, while leaving location and guardianship on limbo (Humanitarian Research Lab, 2023). This situation is very similar to the Uyghur re-education camps in Xinjiang China.

Culturally speaking, Ukrainian language became a target for Russia. It was reported that there was a steep decline of students receiving education in Ukrainian language in Crimea region that was annexed by Russia, where every public school system in Crimea was controlled fully by the Federation. OHCHR reported that there was a significant drop where 12,694 students educated in Ukrainian language dropped to 2,154 in 2014-2015, followed by 949 in 2015-2016 and 371 in 2016-2017. Main reasons being the dominant Russian cultural environment and pressure from teaching staff and school administrations to stop teaching in Ukrainian language. It has also been reported that Ukrainian as a instruction language has been removed in university level in Crimea. According to reports, any activism against the Russia Federation may result them in dangerous situations, such as putting your career to an end, which therefore forcing Ukrainians under the Russia's regime to keep their political views as a secret (Vorobyov, 2022). This therefore undermines Ukrainian's identity, as they cannot freely express their view or culture without being afraid of being persecuted by Russia regime.

Mens Rea of genocide

This paragraph explores on the genocidal intent from Russia by discussing the way how Russia dehumanizes Ukrainians. To recap, mens rea of genocide crime is a special intent, or dolus specialis which possess a high bar to achieve in the international realm. Factors such as the scale of atrocities, the systematic target of victims, the repetitive and destructive and discriminatory acts, the existence of plan or policy, and public speeches that demonstrates genocidal intent can be considered when determining the intention, pursuant to Radovan Karadzic and Akayesu case. The dehumanization of Ukrainians is often demonstrated by how Russia labels them. For instance, Russia labelled Ukrainian as "Nazis" which often reminded people of the atrocities committed during the fascist regime. This misuse of term did not start in the 21st century, but during the USSR era, there was an attempt to insert condemnation of Nazism into Article 19 and 20 of Universal Declaration of Human Rights. From there, Russia often puts themselves on a better light, vowing to "demilitarise" and "denazify" Ukraine (Faulconbridge and Soldatkin, 2023). According to BBC Web Portal (2023), Putin constantly made baseless claims about Ukraine being a "neo-Nazi regime" to justify its invasion. Particularly, when President Zelensky gave an honorary title, Edelweiss to the 10th Separate Mountain Assault Brigade, the Russian Ministry of Foreign Affairs immediately used this as "evidence" to prove that they are Nazis. However, the Edelweiss flower signifies the other European mountain military divisions like the Swiss Army generals (BBC Web Portal, 2023). There is a reason why Putin clings onto the neo-Nazi narrative, one of which is because Ukraine's historical entanglement with Nazi Germany to fight off the Soviets to achieve independence. From there, Russia took advantage to rebuild that history by falsifying further. For instance, the Azov Battalion which is a regiment of Ukrainian Army were used by Russian media to illustrate the far-right support in Ukraine and often exaggerates it to the extend of painting its members as neo-Nazi (Schwirtz et al., 2022). Notably, Anti-Defamation League, the U.S. Holocaust Memorial

Museum and Nazism scholars like Dr Veidlinger have also criticized Russia's falsification of history to justify its attempt to "denazify" Ukraine (Smart, 2022). This dehumanizing process is what makes the Russia propaganda so effective, because Ukrainians are being portrayed as something that needs to be wiped off from surface of the earth.

Moreover, Russia's genocidal intent can be again referred to Putin's 2021 article titled, "On the Historical Unity of Russians and Ukrainians". Here are the direct quotes where it merits particular attention: (1) "I said that Russians and Ukrainians were one people-a single whole"; (2) "First of all, I would like to emphasize that the wall that has emerged in recent years between Russia and Ukraine, between the parts of what is essentially the same historical and spiritual space, to my mind is our great common misfortune and tragedy." During November 3rd, 2023, Putin also gave a speech about Ukraine as a state, which he said: "All the southern Russian lands were transferred during the formation of Soviet Ukraine, during the creation of the USSR. There was no Ukraine within the empire: there were oblasts…." (Roshchina, 2023). Moreover, Putin stated that Ukraine was an artificial country made in the Soviet era and argued that the occupied territory like Crimea is "historically Russian's" (Wickham et al., 2022). These statements given by Putin himself evidently demonstrated his denial of Ukraine's existence. It is worth mentioning again that the genocidal intent from Russia did not newly emerge in the 21st century. Rather, it has been there historically. Particularly during the Soviet era where many Ukrainian intelligentsia are targeted, Yevhen Pluzhnyk, Ukrainian poets who contributed to several Soviet Ukrainian journals and translated Russian literature to Ukrainian. He was also a member of the organization called Lanka or MARS-Workshop of the Revolutionary Word. The group was constantly under the eyes of Soviet regime due to their reluctance in giving cooperation to the regime and had to halt its activity in 1928 due to the active repression against the artists. On December 1934, Yevhen was arrested and accused for being a member of "nationalist terrorist organization", which resulted in the Military Board of the Supreme Court sentencing him to be executed. His sentence later charged to 10 years of imprisonment where he spent his life in Solovetsky Islands and died due to tuberculosis in 1936.

Going back to Putin's speech, it clearly shows one thing: Ukraine never existed in the first place. Another question arises, can these hate speeches constitute as genocidal intent? In Akayesu case, Tutsi's were referred as Inyenzi, which means cockroaches and it brought negative and dehumanizing connotations. The ICTR held that any degrading term can be used for dehumanization (Azarov et al., 2023). In Prosecutor v Mikaeli Muhimana (ICTR-95-1B-T), the accused was guilty of genocide due to his participation in the attacks and his words and action showed his intent to destroy the Tutsi group. The Chamber then sentenced him for life imprisonment for committing genocide and crimes against humanity. Furthermore, in Prosecutor v Zdravko Tolimir (IT-05-88/2-T), the prosecution argued that the accused showed genocidal intent by cultivating ethnic hatred towards the Bosnian Muslims. For instance, the accused and subordinates constantly used dehumanizing words such as "Turks" and "Balijas" and in an intercepted conversation, his subordinate stated that all "Balijas" should be killed. The Trial Chamber referred to the accused's behaviour and words, subsequently held that there is an genocidal intent from the accused. Therefore, it can be said that Putin's dehumanizing words can be inferred as his genocidal intent to destroy Ukrainians. However, it's worth mentioning that as per Perinçek v. Switzerland case discussed

above, denying genocide is not a crime under international law. The court may regard it as mere political or historical debate and not hate speech in the name of free expression. Hence it may be hard for the prosecutor to establish mens rea of genocide.

A foreshadow of precedent?

Unlike other predecessor cases, it is clear that Ukraine remains international community's interest, however it seems that as of 2024, the invasion has yet to be considered as genocide under international law despite the glaring evidence. Revisiting Ukraine v Russia (re Crimea) again, one of the complaints filed by Ukraine is the alleged ill treatment and unlawful detention of Ukrainians, which gravely breached Article 3 and Article 5 of the Convention. The ECHR unanimously held that Russia violated the article since they have found Russia forces subjecting sexual violences, threaten of rape, beatings upon the Ukrainians. Moreover, the court also found Russia violated Article 9 of the Convention which guarantees freedom of religion, thought and conscience. The court was satisfied with the fact that there are harassment and intimidation of religious leaders for not following the Russian Orthodox faith, as well as unlawful closure of churches belonging to Ukrainian Orthodox Church which caused them to loss their control over the religion institutions. Hence, it is a clear violation of right to religion, which uplifted the existence of Ukrainian culture and heritage.

However, there are times where the outcome did not achieve expectations, or when court judgements disregarding Russia's discriminatory actions. In Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (International Court of Justice, 2025), Ukraine alleged that Russia has violated the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in the Crimea region. Ukraine argued that the definition of racial discrimination in Article 1, paragraph 1 of CERD can also include discrimination based on political reasons. But Russia contended that such liberal approach should be rejected and if the measure taken is reasonably justified, it should not be considered as discriminatory act. Furthermore, to include this "indirect discriminatory" which is argued by Ukraine, it would diminish the concept of "ethnic origin" and the effectiveness of the Convention because it was supposed to be a "nonpolitical and universal Convention" like what the drafters envisioned. The court took note of Ukraine's arguments pertaining to the racial discrimination motivated by political reasons by Russia, where Ukraine cited the 13 alleged incidents of physical violence were Crimean Tatar and ethnic Ukrainian activists, along with citing reports that showed individuals affected were disproportionately Crimean Tatar and ethnic Ukrainian groups.

This was confirmed with OHCHR reports where several targeted persons were pro-Ukrainian activists. But despite all that, the court recalled that political identity or political stance of a person cannot be a factor to consider for "ethnic group" definition under Article 1 of CERD and dismissed Ukraine's argument. Therefore, it has not been established that Russia violated CERD for the physical violence claimed by Ukraine. Ukraine also contended that Russia violated Article 2, paragraph 1(a), 5(d)(ix) and 5(e)(vi) of CERD, particularly suppressing cultural events that are important for Crimean Tatar and ethnic Ukrainians. This was done through imposing more restrictive Russian laws with arbitrary powers. Especially the persecution of Sergei Dub for celebrating Ukrainian flag day in 2014 and interfering celebration of Shevchenko's

birthday, a well-known Ukrainian poet and writer in 2015. Russia on the other hand argued that it was for the sake of complying Russian law for holding public gatherings and it applies uniformly throughout the entire Russia land without any discrimination. It was argued that these public events in Crimea depends on prior notification system by the organizers to the relevant authorities. Russia further argued that freedom of expression and assembly cannot be absolute, which means measures like this should not be considered as discriminatory and it is reasonable. Thus, this does not violate CERD. Disappointingly, the court finds that there was no evidence to suggest that Russia's domestic law has a link to racial discrimination. Moreover, the domestic legal framework showed no likelihood that it would produce disparate adverse effect on Crimean Tatar or ethnic Ukrainian's rights and deemed Russia's justification for this restriction as "reasonable". The court also argued that public gatherings in Russia territory is generally restrictive in nature, and there were precedents where events held by ethnic Russians were denied by the authority.

Ultimately, it was held that Russia did not violate Article 7 of CERD. At the end, the Court declared Russia had only violated obligation under Article 2, paragraph 1(a), Article 5(e)(v) of CERD and Russia remains to have the duty to ensure the system of instruction in Ukrainian language. There were mixed reactions towards the case outcome. Stefania Kulaeva, Head of the Anti-Discrimination Centre Memorial stated that the issues of education rights in Crimea were not fully addressed by court and expectations were not met (International Federation for Human Rights, 2024). Critics stated that one of the most problematic aspects of the ICJ ruling on this case is that the Ukrainian community in Crimea may be viewed as "ethnic minority", which contributes to Russia propaganda or Russification (Vorobiova, 2025). Vorobiova (2025), further argued that this oversimplifies Ukraine's language which can lead to more historical inaccuracies promoted by Russia since Ukraine's independence in 1991. Before the occupation in Crimea, students had the opportunity to learn in Ukrainian language even when the main language instruction was Russian, which fosters bilingualism system in the Russia government. But after the occupation, the system turned into Russia monolingualism, leading to further undermining effect on Ukrainian language (Vorobiova, 2025). Notably, critics argued that political concerns have close link with ethnic identity, contrary to what the court have contended (Atrey, 2024). President Donoghue in her separate opinion stated that ethnic identity can be forged by many other forces other than physical characteristics, including how the group is being treated by governmental authorities (Atrey, 2024). Therefore, to say that political views cannot be considered in ethnic identity is also implying that ethnicity is objective and strictly fixed at birth (Atrey, 2024).

In Allegations of Genocide Under the Convention on the Prevention and Punishment of the Crime of Genocide (International Court of Justice, 2025), it particularly deals with false allegation of genocide made by Russia. Ukraine lodged a complaint in 2022 with ICJ to settle dispute after Russia attacked on its territory, requesting the court to order Russia to cease its military operation on its territory and declare that the genocide allegation made by Russia as false. Russia however, stated it was necessary to protect people who have been subjected to "abuse and genocide" in Kiev regime, therefore pursuing "special military operation" to "demilitarize" and "denazify" Ukraine. Ukraine argued that it is unlawful for Russia to make false allegation of genocide and take any action against Ukraine based on that said false allegation, as it has been clearly refuted by number of statements made by official representatives. It was further argued that

Russia have violated Article I and Article IV of the Genocide Convention, where it prohibits a contracting party from harming another under the basis of preventing and punishing a genocide that has been alleged without any grounds. Ukraine also submitted that Russia did not act in good faith when preventing and punishing the alleged genocide which goes beyond the borders of international law, therefore committing abuse of the Convention. Article I of the Convention reads that "the contracting parties confirm that genocide, whether committed during peace or at war times, is a crime under international law which they undertake to prevent and to punish." Article IV however reads, "persons committing genocide or other acts listed under Article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals."

The court gave its judgement on 2 February 2024 and went for literal interpretation of these articles mentioned and held that there was no violation to Article I and Article IV, since Ukraine did not claim that Russia refrained from taking any actions to prevent the genocide as per the Articles concerned but only claimed that the genocide invoked by Russia did not happen and the allegation was made in bad faith, which its purpose is to request the Court to declare that the genocide alleged by Russia did not happen. Therefore, the court held that Russia's false allegation does not constitute as a violation. While it is true that every treaty in force must be carried out in good faith, pursuant to Article 26 of Vienna Convention on the Law of Treaties, but in the present case even if Russia had bad faith and taken measures against the alleged genocide which Russia had argued, it would not be a violation of obligation detailed under Article I and Article IV of the Convention. The outcome of this case faced criticisms. The International Federation for Human Rights (FIDH) expressed their disappointment that ICJ did not consider Russia's false allegation of genocide to justify the invasion and overlooked broader connections of the Federation's actions since the very beginning of the war (International Federation for Human Rights, 2024). In essence, as of 2024, the relevant courts seemed to have yet declare Russia's invasion in Ukraine as genocide, despite the rising evidence that fits within the genocide definition given by the Convention.

Conclusion

To conclude, this discussion covered the origin of the word "genocide" followed by the international law definition given for that term, while highlighting the need to satisfy the elements of genocide, as well as the challenges to prove it. By observing the precedent cases, the systematic oppression accompanied with slaughter and violence bears great historic lesson, that these dark histories must continue to be acknowledged to honour the victims and survivors. While international law has marked its progress in prosecuting genocide, however the application seems inconsistent due to political interests and various limitations, which hindered Ukraine to seek full justice against its perpetrator. This scenario is also foreshadowed by precedent cases such as the Armenian genocide case and Uyghurs in Xinjiang China. However, what matters the most is collective action from society to continue advocacy especially during the fading media coverage of Russia and Ukraine war, leaving perpetrators the opportunity to continue violate international laws. To move forward, global accountability and recognition is important to break the cycle of denial in genocide with education initiatives and awareness programmes, to empower marginalized voices so that atrocities will not be repeated nor forgotten. This discussion serves as call of action and

reflection. Only through education, awareness and reformation can break the cycle of violence and ensure such atrocities will not fade into history's shadow.

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Conflict of interest

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REFERENCES

[1] Atrey, S. (2024): Ukraine v Russian Federation – ICJ Continues to Struggle with the Grounds of Racial Discrimination. – Oxford Human Rights Hub Web Portal 7p.
[2] Azarov, D., Koval, D., Nuridzhanian, G., Venher, V. (2023): Understanding Russia's actions in Ukraine as the crime of genocide. – Journal of International Criminal Justice 21(2): 233-264.
[3] BBC Web Portal (2023): Ukraine war: President Putin speech fact-checked. – BBC Web Portal 4p.
[4] Carpenter, M. (2023): The Russian Federation's Ongoing Aggression Against Ukraine. – Organization for Security and Co-operation in Europe 2p.
[5] Chotiner, I. (2022): Why hasn't the U.N. accused China of genocide in Xinjiang? – The New Yorker Web Portal 14p.
[6] Darcy, O. (2023): Putin's brutal war on Ukraine vanishes from news coverage amid raging conflict in Gaza. – CNN Business Web Portal 11p.
[7] European Court of Human Right (2022): European convention on human rights. – Council of Europe 34p.
[8] Faulconbridge, G., Soldatkin, V. (2023): Putin vows to fight on in Ukraine until Russia achieves its goals. – Reuters Web Portal 12p.
[9] Humanitarian Research Lab (2023): Russia's Systematic Program for the re-education & Adoption of Ukraine's children. – Yale School of Public Health, New Haven 34p.
[10] International Court of Justice (2025): Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation). – International Court of Justice 3p.
[11] International Federation for Human Rights (2024): Mixed decisions by the International Court of Justice on Russia's responsibility in crimes committed in Ukraine. – International Federation for Human Rights Web Portal 5p.
[12] Jędrysiak, M. (2025): The European Court of Human Rights: Russia is guilty of violations in occupied Crimea. – OSW Centre for Eastern Studies 3p.
[13] Kanat, O. (2023): Remember the Uyghur genocide on the 75th anniversary of the 1948 genocide convention. – The Diplomat Web Portal 6p.
[14] Kanat, O. (2021): Independent Uyghur tribunal concludes the PRC is committing genocide and crimes against humanity against Uyghurs. – Uyghur Human Rights Project Web Portal 5p.
[15] Kismödi, E., Pitchforth, E. (2022): Sexual and reproductive health, rights and justice in the war against Ukraine 2022. – Sexual and Reproductive Health Matters 30(1): 5p.
[16] Koopmans, J. (2022): The Armenian Genocide, Customary International Law, and US Recognition. – Intercultural Human Rights Law Review 17: 89-152.

[17] Kuyumjian, A. (2011): The Armenian Genocide: International legal and political avenues for Turkey's responsibility. – Revue De Droit De l'Université De Sherbrooke 41(2): 247-305.
[18] Laurin, P. (1985): The UN report on genocide 1985. – United Nations Human Rights Commission 3p.
[19] Law, T. (2023): Is Russia Committing Genocide in Ukraine? Here's What Experts Say. – Time Web Portal 14p.
[20] Lehne, J., Berlin, M.P. (2024): Trending? Social media attention on Russia's war in Ukraine. – Free Network: Policy Brief Series 10p.
[21] Lim, P.J. (2020): Applying International Law Solutions to the Xinjiang Crisis. – Asian-Pacific Law & Policy 22(1): 67p.
[22] Maishman, E., Mao, F. (2022): Uyghurs UN report: International community must take action or be "wilfully complicit." – BBC Web Portal 7p.
[23] Mannell, J. (2022): Sexual violence in Ukraine. – BMJ 2p.
[24] Mannell, T. (2023): "Hide the girls": Sexual Violence in the Russia-Ukraine War. – The University of North Carolina 95p.
[25] Minassian, N. (2009): The Armenian Genocide: International Law and the Road to Recovery. – King's Student Law Review 1: 30p.
[26] Muelrath, L. (2024): "Never Again" Yet Another Genocide: Russia's Unlawful Forced Transfer and Adoption of Ukrainian Children. – Wisconsin International Law Journal 41(2): 219-256.
[27] Rickleton, C., Alimova, Y. (2024): Central Asian state media largely silent about Russia's war in Ukraine. – RadioFreeEurope, RadioLiberty Web Portal 4p.
[28] Rosenberg, S.P. (2012): Genocide is a process, not an event. – Genocide Studies and Prevention 7(1): 16-23.
[29] Roshchina, O. (2023): Putin reiterates that Ukraine never existed and he was forced to start war. – Ukrainska Pravda Web Portal 4p.
[30] Sapuppo, M. (2023): Putin's Russia is trapped in genocidal denial over Ukrainian independence. – Atlantic Council Web Portal 9p.
[31] Schwirtz, M., Varenikova, M., Gladstone, R. (2022): Putin Calls Ukrainian Statehood a Fiction. History Suggests Otherwise. – The New York Times Web Portal 7p.
[32] Smart, C. (2022): How the Russian media spread false claims about Ukrainian nazis. – The New York Times 2: 4p.
[33] Stanton, G.H. (1998): The 8 stages of genocide. – Genocide Watch 7p.
[34] United Nations (UN) (2023): Deportation, treatment of Ukraine's children by Russian Federation take centre stage by many delegates at Security Council briefing. – UN Web Portal 15p.
[35] Vorobiova, A. (2025): Missing Histories in the ICJ's Ukraine v. Russia Case. – Lawfare Web Portal 4p.
[36] Vorobyov, N. (2022): How do Ukrainians in Russia feel about the crisis. – Al Jazeera 10p.
[37] Waller, J., Albornoz, M.S. (2021): Crime and no punishment? China's abuses against the Uyghurs. – Georgetown Journal of International Affairs 22(1): 100-111.
[38] Wickham, A., Krasnolutska, D., Drozdiak, N. (2022): Russia Is Trying to 'Erase' Ukrainian Identity in Captured Territories, European Officials Allege. – Time Web Portal 7p.
[39] Zhu, W., Zhang, B. (2010): Expectation of prosecuting the crimes of genocide in China. – In Confronting Genocide, Dordrecht: Springer Netherlands 18p.