

## **Russia's Genocidal War in Ukraine: Radicalization and Social Destruction**

Martin Shaw

*Institut Barcelona d'Estudis Internacionals, Spain, and University of Sussex, UK*

### **Work address and email**

Martin Shaw

Institut Barcelona d'Estudis Internacionals

Campus de la Ciutadella (UPF)

Ramon Trias Fargas 25-27

08005 Barcelona

Spain

Email: [mshaw@ibe.org](mailto:mshaw@ibe.org)

### **Bio**

Martin Shaw is research professor at the Institut Barcelona d'Estudis Internacionals and emeritus professor of international relations and politics at the University of Sussex. His research interests lie in the social theory and historical sociology of war, genocide, and global politics.

### **KEYWORDS**

genocidal war; genocide; Russia; Ukraine

After a full year of the new Russian war in Ukraine, launched in February 2022, all the major types of violent international criminality had been alleged against the invaders. First, a wide range of war crimes and crimes against humanity by Russian forces were being investigated by Ukrainian and international actors.<sup>1</sup> Second, it had been argued that since Russia's invasion was an act of aggression, President Vladimir Putin and other senior leaders should be charged before a special international tribunal.<sup>2</sup> Third, it was also argued by Ukrainians and their international supporters that Russia's campaign amounted to genocide. While President Volodymyr Zelensky called the bombings of a children's hospital and maternity ward in Mariupol "proof the genocide of Ukrainians is taking place" as early as March 9, 2022, the debate broadened after the atrocities at Bucha were revealed in early April 2022.<sup>3</sup> Zelensky now referred to Russia's new campaign in general as "genocide" involving "the elimination of a whole nation of people"; in May he alleged that it was carrying out "a genocide" through deportations and mass killings in the Donbas.<sup>4</sup> His terminology was echoed by US President Joe Biden, and investigations into Russian atrocities led an adviser to the Atrocity Crimes Advisory Group for Ukraine (established by the USA, EU and UK) to say that there were "very compelling indications that we are seeing a genocide."<sup>5</sup> These allegations had deep historical resonance: Ukraine's foreign ministry linked Russia's policies to historic Stalinist genocide in the country: "On the 90th anniversary of the ... Holodomor in Ukraine, Russia's genocidal war of aggression pursues the same goal as during the 1932-1933

---

<sup>1</sup> Allegations of war crimes have been under investigation by the International Criminal Court since March 2022; see Catherine Gegout, "The ICC is Investigating War Crimes in Ukraine – Could Putin be Indicted?," *The Conversation*, 7 March 2022; United Nations, *A/77/533: Independent International Commission of Inquiry on Ukraine - Note by the Secretary-General*, 18 October 2022; Office of the Prosecutor General, Ukraine, <https://warcrimes.gov.ua/en/> (accessed January 4, 2022); Iryna Marchuk, "Domestic Accountability Efforts in Response to the Russia-Ukraine War: An Appraisal of the First War Crimes Trials in Ukraine," *Journal of International Criminal Justice* 20, no. 4 (2022): 787–803.

<sup>2</sup> Sam Woolfson, "It's a Slam Dunk': Philippe Sands on the Case Against Putin for the Crime of Aggression," *The Guardian*, 31 March 2022; James A. Green et al., "Russia's Attack on Ukraine and the *Jus ad Bellum*," *Journal on the Use of Force and International Law* 9, no. 1 (2022): 4-30; Claus Kreß, *The Ukraine War and the Prohibition of the Use of Force in International Law* (Brussels: Torkel Opsahl Academic EPublisher, 2022); Kevin Jon Heller, "Options for Prosecuting Russian Aggression Against Ukraine: A Critical Analysis," *Journal of Genocide Research* (6 July 2022): DOI: 10.1080/14623528.2022.2095094.

<sup>3</sup> Shpend Kursani, "Beyond Putin's Analogies: The Genocide Debate on Ukraine and the Balkan Analogy Worth Noting," *Journal of Genocide Research* (11 July 2022): 4-5 DOI: 10.1080/14623528.2022.2099633.

<sup>4</sup> Derek Saul, "Zelensky Accuses Russia of Genocide as Allegations of Civilian Killings Mount," *Forbes*, <https://www.forbes.com/sites/dereksaul/2022/04/03/zelensky-accuses-russia-of-genocide-as-allegations-of-civilian-killings-mount/?sh=bb5e71038cd7>; "Ukraine's Zelensky accuses Russia of 'genocide' in Donbas Onslaught," *France 24*, <https://www.france24.com/en/live-news/20220527-ukraine-s-zelensky-accuses-russia-of-genocide-in-donbas-onslaught> (both accessed 12 December 2022). For the international reaction, see Kursani, "Beyond Putin's Analogies," 5-7.

<sup>5</sup> Clint Williamson quoted by Ashish Kumar Sen, "Is Russia Committing Genocide in Ukraine?," *United States Institute of Peace*, 21 September 2022.

genocide: the elimination of the Ukrainian nation and its statehood.”<sup>6</sup> At the time of writing, Ukraine had not brought a case alleging Russian genocide to an international court, although it had successfully challenged Russia’s own use of genocide as a pretext for its invasion, but these claims generally referenced the crime as it was understood in international law.<sup>7</sup> They widely called in evidence President Vladimir Putin’s denials of the existence and the right to exist of a Ukrainian nation and state, most notably in a lengthy essay published on his website in 2021, denials which were widely elaborated by Russian propagandists and on social media.<sup>8</sup> The historian Timothy Snyder argued that Putin’s language was “openly” and “clearly” genocidal, concluding from a survey based on multiple criteria that “the evidence for intent here is very clear by historical standards. It’s very clear, unusually clear. The danger is that because there’s so much evidence of intent, we start expecting even more, even clearer proof.”<sup>9</sup>

Some legal authorities broadly agreed with these arguments. The Ukrainian scholars Denis Azarov, Dmytro Koval, Gaiane Nuridzhanian, and Volodymyr Venher argued that Putin’s language demonstrated genocidal intentions and was reflected in Russia’s aims of destroying the country’s cultural heritage, the forcible transfer and Russification of Ukrainian children and the deliberate infliction of “conditions of life aimed at the physical destruction of the Ukrainian nation,” which together contravened several clauses of the Convention on the Prevention and Punishment of the

---

<sup>6</sup> “Ukraine War: Kyiv Likens Russian ‘Genocidal’ Tactics to Soviet-Era ‘Holodomor’ Famine,” *Ukrainska Pravda*, 26 November 2022, <https://news.yahoo.com/russias-genocidal-war-against-ukraine-074704897.html?> (accessed 12 December 2022).

<sup>7</sup> International Court of Justice, *Allegations of Genocide Under the Convention on the Prevention and Punishment of the Crime of Genocide (Order)*, 16 March 2022; Iryna Marchuk and Aloka Wanigasuriya, “Beyond the False Claim of Genocide: Preliminary Reflections on Ukraine’s Prospects in Its Pursuit of Justice at the ICJ,” *Journal of Genocide Research* (9 November 2022) DOI: 10.1080/14623528.2022.2143528. As Kursani, “Beyond Putin’s Analogies,” shows, in February-March 2022 this issue was the original focus of debate about “genocide” in the war, which was then superseded by debate about Russia’s actions. The exclusion of a detailed consideration of Ukraine’s campaign from the present article is based on the assumption that there is no serious case that it has committed genocide against Russians or Russian-speakers. This does not imply, of course, that questions about war crimes in the Ukrainian campaign are excluded.

<sup>8</sup> Vladimir Putin, “On the Historical Unity of Russians and Ukrainians,” 12 July 2021, <http://en.kremlin.ru/events/president/news/66181> (accessed 12 December 2022); Luke Harding, *Invasion: Russia’s Bloody War and Ukraine’s Fight for Survival* (London: Guardian Faber, 2022), 23-29; Ian Garner, “We’ve Got to Kill Them’: Responses to Bucha on Russian Social Media Groups,” *Journal of Genocide Research* (9 May 2022): DOI: 10.1080/14623528.2022.2074020, provides evidence of how social media actors amplify this genocidal mentality within Russian culture.

<sup>9</sup> Timothy Snyder, “Russia Intends to Commit Genocide in Ukraine, Six Ways to Prove It,” *European Pravda*, 23 October 2022, <https://www.eurointegration.com.ua/eng/articles/2022/10/23/7149219/index.amp> (accessed 19 December 2022).

Crime of Genocide.<sup>10</sup> Irwin Cotler, a former attorney general of Canada, argued that Russia's "direct and public incitement to genocide" was a standing breach of the Convention, "whether or not acts of genocide follow"; that genocidal intent could be "inferred from Russia's planning and execution of mass atrocity crimes"; and that "the crime of aggression, the direct and public incitement to genocide, and the condition of mass atrocity crimes" had created "a risk of genocide," which state parties were under an obligation to prevent without waiting for the commission of genocide itself.<sup>11</sup> Yet the case against Russia also met with reasoned objections from legal scholars who believed that its actions failed to meet the formal threshold for genocide, and even that the allegations were of primarily political significance.<sup>12</sup> Thus Noëlle Quénivet's careful survey concluded that "[i]t seems difficult to argue that a genocide is being committed as, so far, no *dolus specialis*, i.e., the intent to destroy Ukrainians as a national or ethnical group as such, can be identified."<sup>13</sup> William Schabas, author of a text on genocide in international law, argued that "neither side makes out a compelling case for genocide committed by its opponent"; while his equation of Ukraine's allegations with the propaganda of the aggressor was clearly inappropriate, his substantive argument echoed Quénivet's.<sup>14</sup> Schabas added that those who "use the term 'genocide' without precise reference to a legal provision" were adopting a "Humpty Dumpty" approach - because without this reference "there can be no certainty as to what they mean" - he seemed blind to both the powerful common understanding of genocide and the possibility of intellectually coherent alternatives to dominant legal conceptions.<sup>15</sup>

Even in Spring 2022, there was dissatisfaction with these terms of debate. The international lawyer Philippe Sands remarked that the inventor of the term genocide, Raphael Lemkin, "would be horrified ... by the parsing of words, the distracting fights over the labelling of such abject cruelty and the placing of his term on a perch so high that the legal meaning of 'genocide' is held apart

---

<sup>10</sup> Denis Azarov, Dmytro Koval, Gaiane Nuridzhanian, and Volodymyr Venher, "Genocide Committed by the Russian Federation in Ukraine: Legal Reasoning and Historical Context," SSN Papers (15 September 2022). DOI: 10.2139/ssrn.4217444.

<sup>11</sup> Irwin Cotler, "Russia is in Standing Breach of the Genocide Convention," interview, 31 January 2023, <https://www.swissinfo.ch/eng/politics/irwin-cotler---russia-is-in-standing-breach-of-the-genocide-convention-/48228836> (accessed 13 February 2023).

<sup>12</sup> Noëlle Quénivet, "The Conflict in Ukraine and Genocide," *Journal of International Peacekeeping* 25, no. 2 (2022): 141-154; William A. Schabas, "Genocide and Ukraine: Do Words Mean What We Choose them to Mean?," *Journal of International Criminal Justice* 20, no. 4 (2022): 843-857.

<sup>13</sup> Quénivet, "The Conflict in Ukraine," 153.

<sup>14</sup> Schabas, "Genocide and Ukraine," 15.

<sup>15</sup> Schabas, "Genocide and Ukraine," 14, 15.

from its ordinary conception.”<sup>16</sup> The historian Dirk Moses – noting that Lemkin’s definition, which included the “crippling” as well as the extermination of nations, “reflects the lived experience of mixed population of Ukrainians, Poles and Jews living serially under Russian, Polish, German and Soviet rule on the territory of modern Ukraine during the 20th century, enduring multiple phases of genocide and ethnic cleansing” – concluded that “Russia’s campaign against Ukraine is precisely what Lemkin was trying to capture with his new word.”<sup>17</sup> However, Moses also underlined that states had not followed Lemkin’s definition in agreeing the Convention; he argued that the uncertainty about whether Russia’s violence counted as “genocide” revealed not only the limits of international law, but also the problematic role of the genocide concept itself: “It is time to rethink the obsession with linking that reaction solely to genocide, and to reimagine a threshold of shocking criminality that does not require analogies with Nazi Germany and the Holocaust.”<sup>18</sup>

The aim of this article is to develop this critical approach to the debate on Russian “genocide” in Ukraine and to advance it in three respects. First, the article critiques the misplaced precision contained in the dominant legal understandings of genocidal “intent” invoked by the skeptical writers, through an examination of the crucial Bosnian case in the International Court of Justice which is central to their arguments. Second, the article argues that we should treat Putin’s genocidal mentality not as a definitive framework for establishing the character of Russia’s campaign, but only as a starting point for analysis; in order to analyse its genocidal elements, the relationship between this ideology and its concrete plans, beginning with the original scheme for the invasion, are examined. Third, the article emphasizes the significance of Ukrainian resistance to the invasion, which turned the conflict into a major war, for the question of genocide; it is proposed that the genocidal character of Russia’s war has grown as it has escalated, with violence radicalizing into a more comprehensive assault on the foundations of social life across much of Ukraine. The article therefore addresses the genocidal elements of the conflict as dynamic and closely related to its military logic, rather than in an abstract manner which treats Russia’s intentions as fixed and assumes that genocidal and military intentions are distinct, when in reality they are intertwined. It argues that the genocidal elements of Russia’s campaign have changed, from the elite destruction

---

<sup>16</sup> Philippe Sands, “What the Inventor of the Word ‘Genocide’ Might Have Said About Putin’s War,” *New York Times*, 28 April 2022.

<sup>17</sup> A. Dirk Moses, “The Ukraine Genocide Debate Reveals the Limits of International Law,” *Lawfare*, 16 May 2022. <https://www.lawfareblog.com/ukraine-genocide-debate-reveals-limits-international-law> (accessed 1 January 2023).

<sup>18</sup> Moses, “The Ukraine Genocide Debate.” Moses has developed his argument about “rethinking the obsession” with genocide in *The Problems of Genocide: Permanent Security and the Language of Transgression* (Cambridge: Cambridge University Press, 2021). I address his arguments on this point in a forthcoming article.

and brutal Russification envisaged in the original plans towards the more comprehensive social destruction pursued as the war developed during its first year. The article therefore proposes that the relevant analytical framework is that of a “genocidal war” rather than the freestanding campaign of destruction implied by talking of “a genocide.”

The article attempts to take account of Maria Mälksoo’s justified complaint about International Relations scholars’ “relative ignorance of Eastern European insights,”<sup>19</sup> but its argument is based on the author’s general expertise in genocide rather than specialist knowledge of Ukrainian or Russian affairs; it uses sources on the war that are available in English without drawing on untranslated Ukrainian or Russian materials; and is obviously a preliminary attempt to capture issues in the war when its full course and outcomes are unknown.

### **Genocidal Intent and the Lessons of Bosnia**

Pushback against the idea that Russia was committing genocide was predictable in the light of how legal authorities had understood the intention required to prove the crime. Defined as committed when certain “acts” (not only killing but also other types of violence and coercion) are carried out with the intent to destroy a protected population group (“as such” and “in whole or in part”), the crime, as originally specified by the Genocide Convention, has been incorporated in the statutes of international courts and elaborated in case law in recent decades. There is little dispute that many of the acts that Russia has committed in Ukraine correspond to those that may constitute genocide in international law, and at the time of writing differences as to the extent of potentially genocidal acts had not been central to the debate, although they could become so if cases come to international courts. Therefore, those commentators who argued that genocide charges probably could not be brought successfully did not generally dispute the factual bases of the genocide case, or that Ukrainians could be legally protected as a “national group”, but contended that the atrocities committed in 2022 did not demonstrate the intention to destroy Ukrainians “as such” and to the exclusion of other possible interpretations.

This argument rested heavily on the 2007 judgment of the International Court of Justice (ICJ) in the case brought by Bosnia-Herzegovina against Yugoslavia and eventually defended by

---

<sup>19</sup> Mälksoo argues that the war “is a moment revealing the distinctly Eurocentric character of theorizing in International Relations (IR) when it comes to the discipline’s relative ignorance of Eastern European insights and the validity of their experiences throughout IR’s formal existence since the aftermath of the First World War” (“The Postcolonial Moment in Russia’s War Against Ukraine,” *Journal of Genocide Research* (11 May 2022): 1, DOI: 10.1080/14623528.2022.2074947). I would locate this issue in the context of the general condescension and racism of West European attitudes towards Eastern Europeans, recent British versions of which I have analyzed in *Political Racism: Brexit and Its Aftermath* (Newcastle upon Tyne: Agenda, 2022).

Serbia as the successor state, although this drew heavily on earlier jurisprudence, especially from the International Criminal Tribunal for Former Yugoslavia (ICTY).<sup>20</sup> “The problem,” Quénivet summarized, was that in this case the ICJ “offered not only a very narrow interpretation of the level and type of evidence necessary to demonstrate genocidal intent but also explained that ‘[i]t is not enough that the members of the group are targeted because they belong to that group, that is because the perpetrator has a discriminatory intent. Something more is required. The acts listed in Article ii must be done with intent to destroy the group as such in whole or in part.’”<sup>21</sup> The majority<sup>22</sup> of judges in the ICJ

only accepted that the later part of the siege of Srebrenica and especially the ensuing events [the 1995 massacre] qualified as genocide as the aim was to eliminate the Bosnian Muslim communities living there and the Bosnian Serb forces ‘not only knew that the combination of the killings of the men with the forcible transfer of the women, children and elderly, would inevitably result in the physical disappearance of the Bosnian Muslim population of Srebrenica, but clearly intended through these acts to physically destroy this group’. The application of such standards to, for example, the siege of Mariupol is unlikely to conclude that a genocide has been carried out.<sup>23</sup>

This appears a plausible interpretation of the possible legal implications of the judgement, but the understanding of Bosnia by the ICJ majority was not just “narrow”; from a historical point of view, their key conclusion bordered on the perverse, explaining away as non-genocidal the extensive pattern in which Serbian nationalists deliberately destroyed Bosnian Muslim and Croat communities and eliminated the non-Serb section of the population during the three years before the 1995 massacre. The Serbian campaign in Bosnia had begun in 1992, following a similar campaign in Croatia from 1991, and was the basis on which Bosnia-Herzegovina originally brought the case

---

<sup>20</sup> International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment (2007). Although Bosnia-Herzegovina originally brought its case against the Federal Republic of Yugoslavia, by the time it was adjudicated the latter had ceased to exist; the successor union-state of Serbia and Montenegro then became the respondent in the case, but Montenegro seceded from the union in 2006 and Serbia was the only respondent in 2007.

<sup>21</sup> Quénivet, “The Conflict in Ukraine,” 151.

<sup>22</sup> The Court’s judgement was not unanimous. In particular its Vice-President, Judge Awn Shawkat Al-Khasawneh, entered a dissenting judgement contending that the majority, in refusing to infer genocide from the Serbians’ “consistent pattern of conduct” was “disregarding in this respect a rich and relevant jurisprudence of other courts” (International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* – Judgment: Dissenting Opinion of Vice-President Al-Khasawneh, 2007.)

<sup>23</sup> Quénivet, “The Conflict in Ukraine,” 151-52.

to the ICJ in 1993, when the Srebrenica massacre had not yet occurred. From the beginning, Serbian forces had demonstrated their intention of destroying the non-Serb element of the population.<sup>24</sup> When they assembled for their first Bosnian campaign in 1992, “their task was to militarily seize territory proclaimed as Serb land and systematically round up non-Serbs for execution, internment, and expulsion;” from the start, “Muslim and Croat residents were murdered, imprisoned, or expelled”; and most of the non-Serb population was quickly removed from Serbian-controlled territory.<sup>25</sup>

The Court argued that “deportation or displacement of the members of a group, even if effected by force, is not necessarily equivalent to destruction of that group,”<sup>26</sup> but the Serbians’ wholesale removal of non-Serb population groups resulted from a deliberate policy of ethnically homogenizing Serbian territory. Although they were not fully victorious in the war, this policy was largely successful: the 1996 Dayton agreement confirmed their control of Republika Srpska, the Bosnian entity they had established through their “ethnic cleansing,” and non-Serb survivors were mostly unable to return despite complex international policies promoting this.<sup>27</sup> Lemkin had argued that “genocide is a new technique of occupation aimed at winning the peace even though the war itself is lost,” and the permanence of ethnic removal in Bosnia which confirmed this insight was largely evident by 2007.<sup>28</sup>

The Court’s was not the only possible conclusion in the light of the Genocide Convention, but it was constructed around a critical incoherence in that document, where the “destruction” of a group appears to be defined in “physical” terms although this requirement is not clearly explained. The crucial preamble to Article II refers to “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.” It does not say that “destroying” a group means the “physical” destruction of the members of the group, and the lists of acts which

---

<sup>24</sup> The Serbian nationalist forces in Bosnia-Herzegovina initially comprised elements of the Yugoslav National Army together with paramilitary groups under the control of Belgrade, as well as local Bosnians, but these mutated over the four years of the war as the Bosnian-Serbian statelet and army became more autonomous.

<sup>25</sup> Gerard Toal and Carl T. Dahlman, *Bosnia Remade: Ethnic Cleansing and Its Reversal* (Oxford: Oxford University Press, 2011), 113.

<sup>26</sup> International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment (2007), 123.

<sup>27</sup> Toal and Dahlman, *Bosnia Remade*, 293-320, show indeed that displaced people were generally unable to return to areas in which “their” ethnic group was a minority in the local postwar administration, including in Bosniak – and Croatian – as well as Serbian-controlled municipalities.

<sup>28</sup> Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (New York: Carnegie Endowment for International Peace, 1944), 81.



complete the article include non-physical means of group destruction as well as killing and other physical harm, but paragraph II(c) – ironically that which gives the broadest indication of the role of these non-physical means and is referenced by Azarov *et al.* in their argument about Ukraine quoted above – refers to “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.” This clause therefore confusingly allows the role of non-physical means in producing group destruction, but specifies that destruction itself in physical terms. In this logic, destroying the social, economic, cultural and political life of a collectivity is not genocidal in itself, but only when it is intended to lead to “physical destruction,” which is understood to include not only direct killing but also death which is produced indirectly (e.g. by starvation) and the “biological” elimination of groups (e.g. through the transfer of children to another group).

It is important to emphasize that this understanding, now deeply embedded in international law, is sociologically unsound. As social collectivities, national, ethnic and similar groups are not biologically constituted and are more than the sum of their individual members; they are, as Benedict Anderson famously described nations, “imagined communities.”<sup>29</sup> Collectivities of this type *cannot* be destroyed through the physical destruction of their members’ bodies; the idea of destroying them in this way is actually a genocidal fantasy, since while killing group members may undoubtedly assist group destruction, full destruction is ultimately unrealizable through this means alone. Even in the limiting case where most putative members of a target group are exterminated, a collectivity is likely to survive, since mass killing generally serves to strengthen the determination of survivors and others to maintain its culture and traditions, as Jews showed after the Holocaust. In a more sociologically coherent view, the destruction of a group’s culture, institutions, social networks, ways of life and territorial presence is considered genocidal in itself, rather than simply as means to physical destruction.<sup>30</sup> The dominant legal understanding inverts the typical historical relationship: as Benjamin Valentino argues, perpetrators “seldom view killing as an end in itself”; it “is most accurately viewed as an instrumental policy” in a strategic perspective which usually involves a range of methods.<sup>31</sup> Indeed, Lemkin had originally elaborated no fewer than eight main

---

<sup>29</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origins and the Spread of Nationalism* (London: Verso, 1983).

<sup>30</sup> Martin Shaw, *What is Genocide?*, 2<sup>nd</sup> ed. (Cambridge: Polity, 2015), 19-22, 50-52.

<sup>31</sup> Benjamin A. Valentino, *Final Solutions: Mass Killing and Genocide in the Twentieth Century* (Ithaca: Cornell University Press, 2005), 3.

techniques of the Nazi genocide, of which “physical” destruction was only one.<sup>32</sup> Therefore mass killing represents one means, alongside other forms of physical violence (torture, rape, starvation), coercion (dispossession, expulsion, terrorization) and political, social and cultural control, through which genocidists pursue the end of destroying the social power of their target groups. It is this wider destructive aim, rather than a special animus towards the bodies of the group members, that defines genocide. Although stereotyped hatred often plays a part, the overriding motive of many perpetrators is to achieve what Moses calls “permanent security,” i.e. to future-proof their control by eliminating groups they imagine as threatening.<sup>33</sup>

In principle, the ICJ in the Bosnia case upheld the dual understanding expressed in the Convention’s paragraph II(c), since it allowed in principle that the wider pattern of violence across the country before the 1995 massacre (in its words, both “massive killings” and “massive mistreatment, beatings, rape and torture,” especially in internment camps, as well as population removal), could have been held to constitute genocide, if proved to be driven by the intention to “physically” destroy the group.<sup>34</sup> However, the Court compounded the incoherence at the heart of the Convention by deciding to rule out such a finding, through a claim that the required intent could not be proved in any other specific instances or the wider pattern as a whole, as it could in the case of Srebrenica. The device which enabled this argument was a further exaggeration of the significance of “physical” destruction, in which it was not only the defining feature of genocide, as implied by paragraph II(c), but also the prime criterion of the “special” intent required to prove the crime.<sup>35</sup> So far as Bosnia was concerned, this translated the quantitative difference between Srebrenica and previous mass killings into a qualitative difference. Schabas regards this circular move as a legal norm, arguing that “[a]lthough ‘killing members of the group’ is only one of the five punishable acts of genocide, it has a particular importance in proving genocidal intent given that international case law has insisted that the intended destruction be physical in nature.”<sup>36</sup> Moreover, he argues that “[t]he greatest challenge in establishing whether genocide has been

---

<sup>32</sup> Lemkin described these techniques as political, social, cultural, economic, biological, physical, religious, and moral (*Axis Rule*, xi-xii).

<sup>33</sup> Moses, *The Problems of Genocide*, 34-43.

<sup>34</sup> International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment (2007), 5.

<sup>35</sup> The idea of “special” intent, long criticized by social-scientific writers, is now increasingly controversial among legal scholars too: see the discussion in Kai Ambos, “What Does ‘Intent to Destroy’ in Genocide Mean?,” *International Review of the Red Cross* 91, no. 876 (2010) : 833-858. DOI:10.1017/S1816383110000056.

<sup>36</sup> Schabas, “Genocide and Ukraine,” 8.

committed by Russian forces during the attack on Ukraine . . . . This is not a question of demonstrating the plausibility or even the likelihood of genocidal intent but rather of eliminating other explanations. Given what is known of the facts, it would seem difficult to conclude that the intent to destroy physically the people of Ukraine is the only reasonable explanation for Russia's military activities."<sup>37</sup> This also reflects the approach of the ICTY in criminal cases concerning Bosnia, including most recently against the Serbian leader Radovan Karadzic, in which inferences of genocidal intention were required to be the "only reasonable inference,"<sup>38</sup> a standard that Sands argues is "impossibly high."<sup>39</sup>

It is important to emphasize that the ICJ was not mistaken in principle to believe that perpetrators' intentions may change. The expectation that, in a lengthy historical episode, a singular intention must lie behind all the actions of a collective actor like a state or an army is ahistorical. It is normal for the intentions of such actors (and of individuals within them) to be complex, varied and conflicting, and if genocidal intentions exist in the context of a war, it is inevitable that they are combined with more conventional military intentions. Genocidal plans often also develop in more radical and murderous directions over time: Valentino argues that mass killing is often a "final solution" because "it is usually the last of a series of efforts to solve [the perpetrators'] problems by other means," while Michael Mann argues that intentions tend to radicalize as situations become more extreme, so that the most murderous violence is "is rarely the initial intent of perpetrators" but "typically emerges as a kind of 'Plan C'" only after other plans fail.<sup>40</sup> In Bosnia-Herzegovina, the Srebrenica massacre, involving larger-scale murder than previous atrocities, exemplified this pattern, but the Court was mistaken to conclude that the possibility of non-genocidal inferences for earlier Serbian actions meant that genocidal intentions could not be proved; indeed even for the Srebrenica massacre, other inferences - for example the military advantage of eliminating potential anti-Serbian fighters - were also possible, but they did not invalidate the assumption that genocide was intended.

On these bases, the Court arrived at an interpretation of genocide in Bosnia which was implausible in the light of the historical record, since the 1995 massacre was clearly an escalation of

---

<sup>37</sup> Schabas, "Genocide and Ukraine," 8.

<sup>38</sup> Kai Ambos, "Karadzic's Genocidal Intent as the 'Only Reasonable Inference'?", *EJIL: Talk! Blog of the European Journal of International Law*, 1 April 2016.

<sup>39</sup> Sands, "What the Inventor".

<sup>40</sup> Valentino, *Final Solutions*, 3; Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (Cambridge: Cambridge University Press, 2005), 7.

the previous pattern rather than a departure from it. Yet what the judgment lacked in intellectual coherence it compensated for in political relevance, and it is difficult to resist the conclusion that it was at least partly for political reasons that the Court found it necessary to deny a tight connection between Srebrenica and the earlier pattern. The judgement gave something to both sides: Bosnia-Herzegovina could welcome the recognition that genocide had been committed at Srebrenica, while the Serbian state escaped with an attribution of merely indirect responsibility (for its failure to prevent the Bosnian-Serbian army from committing the massacre), which could not have been argued of earlier massacres that were committed by forces more closely controlled by Belgrade. A broader genocide finding would have necessarily recognized deeper complicity on the part of Serbia, which in 2007 under a post-Milošević government was being drawn into the Western orbit, and so would have been unwelcome to the Western powers whose support was essential to international courts as well as to Russia which had backed Serbia in the war.

### **Russia's Initial Intentions**

The lesson from this discussion is not that Ukraine should abjure legal routes to establishing Russian genocide, but that they need to be aware that jurisprudence has provided judges with means to avoid, possibly for political reasons, genocide determinations that might be justified in a coherent understanding of the crime. It is therefore necessary to step back from questions of the applicability of the law and address the question of Russian intentions unconstrained by legal technicality. Although Alexander Etkind argues that the genocidal aspects of Russia's war "were preplanned and intentional" since 2014,<sup>41</sup> its specific aims in 2022 represented a radical shift; indeed they cannot even be read off directly from the colonial, genocidal mentality that Putin expressed in his 2021 article. Russia's intentions towards Ukraine had demonstrably changed during the long period of Putin's rule, and "uncertainty about Russian objectives and military designs" had been, Dominique Arel and Jesse Driscoll argue, a defining feature in the conflict from 2014 to 2022.<sup>42</sup> For example, Russia's move to send troops into Crimea in February 2014, hours after the sudden removal of Ukraine's pro-Russian president, Viktor Yanukovich, "suggests a decision that was not fully premeditated," while its intervention in the Donbas developed after its Crimean annexation

---

<sup>41</sup> Alexander Etkind, "Ukraine, Russia, and Genocide of Minor Differences," *Journal of Genocide Research* (7 June 2022): 1, DOI: 10.1080/14623528.2022.2082911. Etkind explains that "Russian actions in Ukrainian cities and villages included mass murders and deportations combined with intentional destruction of their cultural sites (monuments, museums, theatres, and so on), educational facilities, and history textbooks."

<sup>42</sup> Dominique Arel and Jesse Driscoll, *Ukraine's Unnamed War: Before the Invasion of 2022* (Cambridge: Cambridge University Press, 2022), 38.

provoked a coalition of local elites to challenge Ukrainian rule. “Contra Crimea,” Arel and Driscoll claim, “no evidence has emerged indicating a coherent plan for military intervention” at this stage, although Russian deployment of personnel and heavy weapons then helped escalate the conflict with heavy costs to civilians.<sup>43</sup>

After six further years of stalemated war, Russia’s 2022 invasion manifested new intentions towards Ukraine, but these too were shrouded in deliberate ambiguity. Despite Putin’s genocidal mentality, his declared aims, which included “denazification,” “demilitarization,” ending the “genocide” in the Donbas and protecting Russia from NATO “aggression,” were characterized by what Luke Harding calls “fuzziness.”<sup>44</sup> To understand the question of genocide in Ukraine, we therefore need to examine how these general ideas were expressed in concrete strategic plans and decisions, both at the beginning of the campaign and in the subsequent year of war. Although Nataliya Bugayova claims that “the Kremlin’s intent regarding Ukraine is maximalist, inflexible, and will not change in the foreseeable future,”<sup>45</sup> we need to address an apparent radicalization of Russia’s policies towards Ukrainian society during this year. In his survey of genocidal radicalization, Mann argues that “we must analyze the unintended consequences of a series of interactions yielding escalation”;<sup>46</sup> in the Russian case, this implies examining the consequences of the unexpectedly strong Ukrainian resistance, which led them to escalate their intended rapid invasion into a large-scale destructive war. As in Bosnia, while genocide issues were clearly relevant from the beginning of the invasion, Russian actions have radicalized beyond their initial plans in a way which has transformed the scope of these issues in the war.

Although Russia’s tangible goals in February 2022 were not explicit, analysis by Mykhaylo Zabrotskyi, Jack Watling, Oleksandr V. Danylyuk and Nick Reynolds, based partly on captured Russian papers, shows that much can be established. Russia aimed to swiftly establish full control over most of Ukraine, with the installation of a puppet regime in Kyiv together with “the coerced cooperation of regional governors and local authorities” in the occupied areas.<sup>47</sup> In the light of

---

<sup>43</sup> Arel and Driscoll, *Ukraine’s Unnamed War*, 100, 150.

<sup>44</sup> Harding, *Invasion*, 307.

<sup>45</sup> Nataliya Bugayova, “Target Russia’s Capability, Not Its Intent,” 2022, <https://www.understandingwar.org/backgrounder/target-russia%E2%80%99s-capability-not-its-intent> (accessed 30 December 2022).

<sup>46</sup> Mann, *The Dark Side of Democracy*, 7.

<sup>47</sup> Mykhaylo Zabrotskyi, Jack Watling, Oleksandr V. Danylyuk and Nick Reynolds, *Preliminary Lessons in Conventional Warfighting from Russia’s Invasion of Ukraine: February–July 2022* (London: Royal United Services Institute, 2022), 10.

Russia's expectation that it would quickly conquer much of the country, the aims of the violence that was envisaged were to destroy the Ukrainian elite and to coerce the bulk of the population into submission. To support the first aim, the FSB, Russia's federal security service, was tasked with "kill-or-capture missions" against national and local officials, who were categorized as (1) those to be physically liquidated; (2) those in need of suppression and intimidation; (3) "neutrals" who could be induced to collaborate; and (4) those already prepared to collaborate. The capture of individuals in the first category included, the plans indicated, both "the murder of Ukraine's executive branch" and putting "on trial to be executed" many of those involved in the 2014 Revolution of Dignity (Euromaidan) which had specially offended Putin.<sup>48</sup> The second category would be broadened from the occupiers' initial lists through registration operations and "filtration" camps, "to intimidate people, to determine whether they needed to be displaced into Russia, and to lay the groundwork for records to monitor and disrupt resistance networks."<sup>49</sup> Of course even in this original scenario, the euphemistically described "special military operation" would never have been conducted with respect for civilian life, since the drive to capture Kyiv quickly included both missile attacks on civilian residential areas and the atrocities at Bucha and elsewhere, both of which must have been within the scope of the formal or informal guidelines for the operation. But since Russia "hoped to capture the Ukrainian state largely intact," it initially "eschewed," Dara Massicot notes, direct attacks on the general conditions of life of Ukrainian society, like the mass strikes against Ukraine's critical infrastructure that became a major feature of its campaign later in 2022.<sup>50</sup>

Therefore, Putin's genocidal mentality was reflected in specific ways in Russia's attempted "blitzkrieg." Key elements of the Ukrainian national elite were targeted for physical elimination, some civilians would be victims of invasion atrocities, and the general population would have been affected mainly by brutal coercion and the suppression of national institutions, language, and culture. In this approach, Russia would have followed well-established methods of conquest, colonization and imperial rule which had been practiced in Ukraine and elsewhere – together with more extreme violence – by the Soviet regime in the 1920s and 1930s,<sup>51</sup> as well as by Nazi

---

<sup>48</sup> The former Israeli prime minister Naftali Bennett claims that Putin told him in October 2022: "I won't kill Zelensky." This denial, at a stage when a killing during the capture of Kyiv was no longer an option, actually testifies to how seriously the plan to murder Ukrainian leaders was taken internationally. Bethan McKernan, "Putin Promised Me He Would Not Kill Zelenskiy, Says Former Israeli PM," *The Guardian*, 5 February 2023.

<sup>49</sup> Zabrodskyi, Watling, Danylyuk and Reynolds, *Preliminary Lessons*, 10-11.

<sup>50</sup> Dara Massicot, "What Russian Got Wrong: Can Moscow Learn From Its Failures in Ukraine?," *Foreign Affairs*, February-March 2023.

<sup>51</sup> Anne Applebaum, *Red Famine, Stalin's War on Ukraine* (London: Penguin, 2017).

Germany during the Second World War. Lemkin, who analyzed the latter case, regarded both elite elimination and cultural suppression as techniques of genocide, since they were designed to destroy national groups, but as we have seen the Genocide Convention departed from this understanding by identifying genocide more with “physical” destruction (it also excluded “cultural genocide” as a specific dimension). Some scholars, taking this tendency further, have identified genocide exclusively with the total mass murder of the target group, which would exclude its application to Ukraine as well as other widely recognized cases.<sup>52</sup> Following this narrow understanding, some have therefore proposed the distinct category of “politicide” to describe the elimination of political elites.<sup>53</sup> However, this category would fragment our understanding of what Russia aimed to achieve in February 2022: it targeted the political class not as a group in itself, but as the elite of the Ukrainian state and nation, the structural elimination of which was its overriding goal. This approach also dictated its attitude to the population. As Arel and Driscoll argue, “the identity markers distinguishing Ukrainians from Russians” were now “more political than cultural”, having been reconfigured in the conflict of the previous decade.<sup>54</sup> Therefore Russia did not attack Ukrainians based on an ethnic classification; indeed it denied there was a distinct Ukrainian ethnicity, although it aimed to suppress the language. Rather it attacked all those, including self-identified ethnic Russians and Russian speakers, who subscribed to the “Ukrainian political identity” which had “come into its own” as a new “supermajority” after the first phase of war in 2014-15.<sup>55</sup> Just as Russian strategy towards local elites was based on their political loyalties and their degree of acquiescence in the occupation, so its policy towards the population was based on political and security criteria. How far actual violence would go was not fully specified in the invasion plans but would depend on how the Russification of Ukraine progressed. The Ukrainian people needed to be de-Ukrainianized, since Ukrainianness was, in the regime’s eyes, a militaristic, Nazi ideology; if they did not submit it was a question, as prominent television propagandist Pavel

---

<sup>52</sup> Genocide is “a form of one-sided mass killing,” according to Frank Chalk and Kurt Jonassohn, *The History and Sociology of Genocide: Analyses and Case Studies* (New Haven: Yale University Press, 1990), 23, and “the mass killing of substantial numbers of human beings” according to Israel W. Charny, “Toward a Generic Definition of Genocide,” in *Genocide: Conceptual and Historical Dimensions*, George A. Andreopoulos (Philadelphia: University of Pennsylvania Press, 1994), 75.

<sup>53</sup> Barbara Harff and Ted Robert Gurr, “Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases Since 1945,” *International Studies Quarterly* 32, no. 3 (1988): 359-71.

<sup>54</sup> Arel and Driscoll, *Ukraine’s Unnamed War*, 37.

<sup>55</sup> Arel and Driscoll, *Ukraine’s Unnamed War*, 19.

Gubarev put it, of “exterminating as many Ukrainians as had to be exterminated.”<sup>56</sup> “This is the logic,” Snyder comments: “We” exterminate all the ones who think they’re Ukrainians until we get to the point where the remaining people understand: they are Russians.”<sup>57</sup> It is the type of logic which Moses describes as the pursuit of “permanent security,” seeking to eliminate all possible resistance.<sup>58</sup>

### **Genocidal Radicalization in the Escalating War**

If Russia’s original plan was genocidal in this sense, it was not successful; it had grossly underestimated the determination and capacity of Ukraine’s elites, military and population to resist the conquest, as well as of Western states to support Ukraine. Any discussion of Russia’s genocide must therefore recognize that its actual violence in the first year after the invasion did not simply reflect its original plans, but resulted from how its campaign evolved in response to resistance. If the original scenario for the invasion had been realized, the character and extent of Russian violence would have probably have been much more limited than they actually became during a whole year of fighting. This quickly produced the largest war in Europe since 1945, with fundamentals that were “much the same,” the military historian Lawrence Freedman argued, as those of the Second World War.<sup>59</sup> Indeed the industrial killing of soldiers, with each side claiming to have killed tens of thousands of the other’s in a matter of months, echoed the First World War as much as the Second. While independent figures are lacking, there seems little doubt that a very high rate of military deaths occurred, with the Russian campaign “waged regardless of losses” and the Kremlin appearing “entirely indifferent to the deaths of its servicemen”; casualties were reported to have been buried in mass graves and even rubbish tips.<sup>60</sup> Although civilians were targeted from the start, the Russian campaign also radicalized its violence against them. Analysis must certainly address how far civilians were “collateral damage” from the pursuit of military objectives and recognize

---

<sup>56</sup> See also Maria Domańska, “Medvedev Escalates Anti-Ukrainian Rhetoric,” 5 April 2022, <https://www.osw.waw.pl/en/publikacje/analyses/2022-04-05/medvedev-escalates-anti-ukrainian-rhetoric> (accessed 3 February 2023). Gubarev’s remarks are quoted by Snyder, “Russia Intends to Commit Genocide”.

<sup>57</sup> Snyder, “Russia Intends to Commit Genocide”.

<sup>58</sup> Moses, *The Problems of Genocide*.

<sup>59</sup> Lawrence Freedman, “Putin’s massive mistake: Lawrence Freedman on Ukraine and the lessons of history,” (interview) *Salon*, 21 November 2022.

<sup>60</sup> Harding, *Invasion*: 217; Samantha Lock, “US Estimates 200,000 Military Casualties on All Sides in Ukraine war,” *The Guardian*, 10 November 2022; Julian Borger, “‘It Has Been Machine Guns Lately’: Fighting Intensifies in Southern Kherson,” *The Guardian*, 9 December 2022.



that some civilians may have died from military indifference, the use of inaccurate weapons and how “the circumstances of war made life dangerous”<sup>61</sup>; even the destruction of Mariupol, the most egregious case, was an exercise in conquest, military in purpose despite its large-scale brutality and murderousness. Yet even from a military standpoint, Freedman makes a case for the intentionality of anti-civilian violence: what was different from the Second World War, he argues, was “the precision of modern weapons”; and while “the Russians had a number of precision-guided weapons,” instead of using them against military targets, they often “used them against civilian targets. . . . we are seeing a coercive Russian strategy against Ukrainian society,” even the “terrorizing” of the population, as means of winning the war.<sup>62</sup>

For some who adopt narrow concepts of genocide, the partially military purposes of Russia’s attacks may constitute a reason to deny genocidal intent. Yet Second World War comparisons underline the inappropriateness of seeing one kind of intention as exclusive of others, and of separating war from genocide. Nazi Germany not only eradicated the independent nationhood of the countries it occupied, as Lemkin showed in his analysis of its occupation laws, but also fought genocidal wars to gain control of many of them, including Ukraine and the rest of the western USSR. The Nazis targeted the population *both* militarily as putative supporters of the Soviet state *and* genocidally as Slavs, supposed racial inferiors to the Aryan conquerors. Even the Western Allies, who did not initiate their wars against Germany and Japan in order to destroy these nations, extended their fight against these enemy states into broad assaults on their populations. In Britain’s campaign of “strategic bombing,” attacks on economic targets escalated to far more extensive attacks on urban areas, in which the prime target became the “morale” of the civilian population; the USA eliminated most of the populations of Hiroshima and Nagasaki with atomic bombs.<sup>63</sup> Although the victorious Allies drafted the Genocide Convention so as to exclude these undoubted mass crimes from its scope, this does not mean that their policies and those of the Axis powers were, in reality, completely different in kind. As Moses argues, “liberal” and “illiberal” ideologies generated different rationales for violence against civilians; these led to significant differences in how harm was inflicted, but there were many similarities, and not only in the huge

---

<sup>61</sup> Harding, *Invasion*, 294, 223.

<sup>62</sup> Freedman, “Putin's massive mistake.”

<sup>63</sup> Eric Markusen and David Kopf, *The Holocaust and Strategic Bombing: Genocide and Total War in the Twentieth Century* (Boulder, CO: Westview, 1995).

scale of the killing.<sup>64</sup> Racial and ethnic hostilities were more deeply woven into the strategic military conceptions of the Axis powers, but the Allies' assaults on their enemies also accommodated racial discrimination, as evidenced by the brutal internment of Japanese-Americans and how the Allied bombing of Germany targeted its cultural fabric. A plan to deindustrialize and "pastoralize" the country – developed at the end of WWII by Henry Morgenthau Jr., US Secretary to the Treasury, and briefly accepted by Roosevelt and Churchill – was based on a racial conception of the Germans, with its people compelled to perform forced labour as part of reparations, while even more extreme calls for the complete elimination of Germany and the systematic sterilization of Germans found audiences in the USA and Britain.<sup>65</sup> Even if Hiroshima and Dresden were different kinds of atrocity from Auschwitz, they were still huge, targeted civilian-destroying excrescences of "degenerate" war, which like acts more commonly labelled genocide, departed fundamentally from the legitimate ideal of war as a conflict between states and armies.<sup>66</sup> In this context the ideas that genocide is frequently a product of modern war, which generally has deep genocidal tendencies (even if these are not inevitable), and that war and genocide should therefore be considered hybrid, mutually constitutive phenomena, are fundamental for any discussion of how anti-civilian violence has developed in Ukraine in 2022-23.<sup>67</sup>

As Russia escalated the war, its genocidal dimensions deepened and expanded; the aggressors transitioned from their initial project of decapitating and brutally subordinating Ukrainian society towards a partial attempt to destroy that society, so as to control its territory – if necessary as an almost empty shell, "Ukraine without Ukrainians" as Kyiv mayor Vitali Klitschko put it, within which a thin layer of imported officials would manage a diminished and cowed population.<sup>68</sup> Some features of this process were escalations of elements envisaged in Russia's original plans, but others were more clearly novel:

---

<sup>64</sup> Moses, *The Problems of Genocide*, 37-42, 243-394.

<sup>65</sup> Anthony Grayling, *Among the Dead Cities: Is the Targeting of Civilians in War Ever Justified?* (London: Bloomsbury, 2006), 158-63. Even half a century later, Grayling reminds us, this group conception was echoed in Daniel Goldhagen's influential ideas of the 'flawed national character' and 'collective guilt' of Germans (166).

<sup>66</sup> Martin Shaw, *War and Genocide* (Cambridge: Polity, 2003), 23-26, 34-53.

<sup>67</sup> Martin Shaw, "The General Hybridity of War and Genocide," *Journal of Genocide Research*, 9, no. 3 (2006): 461-73.

<sup>68</sup> Jamie Dettmer, "Klitschko's Big Fight: Keeping 3 Million People in Kyiv Over Winter," 21 November 2022, <https://www.politico.eu/article/ukraine-russia-war-vitali-klitschko-is-ready-for-the-bout-of-his-life/> (accessed 4 January 2023).

1. The original physical brutality of the occupation increased, including many instances of torture, rape and execution of civilians in the occupied areas.<sup>69</sup>
2. Detention and “filtration” of people deemed potentially hostile to the occupation included the forcible transfer of civilians to the Russian Federation, “amounting to a war crime and a potential crime against humanity” as Human Rights Watch described it. In particular, Russia deported thousands of children to its territory, many of whom were held in a network of facilities where they were often subject to “re-education” as Russians. (This raises issues under paragraph II€ of the Convention which lists “forcibly transferring children of the group to another group” as an act of genocide.)<sup>70</sup>
3. The planned suppression of the national culture was often expressed as violent cultural destruction, as Russian forces extensively “targeted Ukrainian museums, historical monuments, and places of worship that are of special significance for the self-image of the Ukrainian nation.”<sup>71</sup> Schooling and public administration were Russified in the occupied areas.
4. The invasion rapidly led to a massive partial depopulation of the conquered and threatened eastern and southern areas, and to a lesser extent of other regions, draining normal life out of many communities of all sizes. Huge numbers especially of women and children (under martial law, Ukraine prohibited most men aged 18-60 from leaving the country) fled to safer western areas (6.5 million were estimated to be internally displaced in late October 2022, an increase of over five million from the pre-February level) and more to neighbouring states and elsewhere in Europe (where almost 8 million, around a fifth of the population, had registered as refugees by the end of 2022) and the world. If Putin’s initial plan had succeeded, part of this depopulation might have proved temporary, as some would doubtless have traded national freedom for the resumption of their lives, work and familial relationships under Russian occupati–n - if, of course, the Russians had permitted them to return, which can by no means be considered certain. However, the brutal escalation of the war increased the probability that much of this

---

<sup>69</sup> Human Rights Watch, *Ukraine: Russian Forces Tortured Iziium Detainees*, 19 October 2022, <https://www.hrw.org/news/2022/10/19/ukraine-russian-forces-tortured-izium-detainees> (accessed 19 December 2022).

<sup>70</sup> Human Rights Watch, “*We Had No Choice*”: “*Filtration*” and the Crime of Forcibly Transferring Ukrainian Civilians to Russia, Human Rights Watch, 1 September 2022, <https://www.hrw.org/report/2022/09/01/we-had-no-choice/filtration-and-crime-forcibly-transferring-ukrainian-civilians> (accessed 19 December 2022); Conflict Observatory, *Russia’s Systematic Program for the Re-education and Adoption of Ukraine’s Children*, 14 February 2023, <https://hub.conflictobservatory.org/portal/apps/sites/#/home/pages/children-camps-1> (accessed 20 February 2023).

<sup>71</sup> Azarov, Koval, Nuridzhanian, and Venher, “Genocide Committed,” 30; for a survey, Liesl Gertholtz, *Ukrainian Culture Under Attack: Erasure of Ukrainian Culture in Russia’s War Against Ukraine* (New York: PEN America, 2022).

displacement would prove permanent, at least to the extent that Russia prevailed, as happened in Bosnia, Palestine and elsewhere.<sup>72</sup>

5. The Russian conquest of large parts of the east and south involved an extensive destruction of social as well as physical infrastructure. When Russia razed Mariupol, it extensively destroyed housing, workplaces, and health and social facilities while killing a significant minority; drove out the majority of its 300,000 population; detained, “filtered” and “transferred” to Russia many of the remaining inhabitants; suppressed Ukrainian culture and institutions; and rendered much of the city uninhabitable. This largely complete destruction of local society was repeated to a greater or lesser extent in other conquered cities and towns, hollowing out many centres much more completely than the initial depopulation prompted by fear. These experiences also demonstrated to Ukrainians in the rest of the country and the diaspora the near-impossibility of living under Russian occupation, so that the escalation converted a conflict, which at the outset appeared still partly about how and under whose rule people would live in Ukraine, into an existential struggle over whether most Ukrainians could live in their country at all.
6. These stakes were confirmed when, in the wake of Ukraine's military successes in late 2022, including its reconquest of almost all of Kharkiv *oblast* and of the city of Kherson, Russia launched many successive waves of missile and drone attacks in order to disable or destroy the electricity, water and heating systems of Ukraine's cities just as winter became more extreme. Many victims were the remaining older people, who were more affected by disability and poverty, less able or willing to flee, had attempted to stay behind in damaged homes, and had already suffered disproportionate deaths and injuries.<sup>73</sup> These attacks were strategic measures designed to destroy individual Ukrainians' and communities' physical capacities to survive the winter of 2022-23, as well as to undermine their state's military capacity. Taken together with the other policies, they also amounted to an attempted large-scale destruction of the economic basis of Ukrainian society, much of which was likely to become permanent in the case of Russian victory.

Lemkin had argued that “genocide has two phases: one, destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor,” and that this

---

<sup>72</sup> In Bosnia-Herzegovina, as we have seen, despite the promotion of return by the international authorities after the war, relatively few “minority” returns occurred. In Palestine in 1948, most of the Arab population fled in the face of fighting and Zionist terror; after the war Israel refused to let the majority return, turning temporary plight into permanent displacement and the erasure of most of the existing Palestinian society.

<sup>73</sup> Amnesty International, “*I Used to Have a Home*”: *Older People's Experience of War, Displacement, and Access to Housing in Ukraine*, 6 December 2022, <https://www.amnesty.org/en/documents/eur50/6250/2022/en/> (accessed 19 December 2022).

imposition “may be made upon the oppressed population which is allowed to remain or upon the territory alone, after removal of the population and the colonization by the oppressor’s own nationals.”<sup>74</sup> In February 2022, Russian leaders appear to have envisaged Lemkin’s first option, but as their war escalated, they were partially embracing the second, even if their politically-defined policy of removal was more limited than in many ethnically-targeted cases (like the Serbian campaign in Bosnia) and large-scale colonization (which Russia had achieved in the more limited context of Crimea after 2014) was barely an option in the cities and towns it had destroyed in southern and eastern Ukraine. As we have seen, Azarov *et al.* argue that these policies demonstrate Russia’s “deliberately inflicting conditions of life aimed at the physical destruction of the Ukrainian nation.”<sup>75</sup> Certainly they caused large numbers of deaths: the UN, acknowledging that its information was incomplete, had recorded nearly 20,000 deaths and injuries by late 2022, while Ukrainian officials claimed that more than that number had died in Mariupol alone, an estimate supported by independent analysis; it therefore seems possible that overall civilian casualties after a year were in the multiple tens of thousands.<sup>76</sup> Yet as we have seen, Russia was killing civilians in pursuit of its goal of destroying a distinct Ukrainian society, rather to physically exterminate Ukrainians *en masse*. So interpreting the situation in terms of the Convention’s paragraph II(c) only returns us to the legal dilemmas discussed above. A more coherent account will leave aside any attempt to prove that the Kremlin’s prime aim was the physical destruction of the Ukrainian nation, and will recognize instead the centrality to its policies of social destruction, which should be considered as genocidal in itself.

It is important to emphasize that this discussion concerns the direction of Russian policy rather than fully realized genocide. None of the main facets of Russia’s deliberate social destruction was anywhere near complete in early 2023 except in the worst-affected occupied urban centres. Although the population had shrunk together with non-military economic and social activity,

---

<sup>74</sup> Lemkin, *Axis Rule*, xi.

<sup>75</sup> Azarov, Koval, Nuridzhanian, and Venher, “Genocide committed,” 38-42.

<sup>76</sup> Office of the United Nations High Commissioner for Human Rights, “Ukraine: civilian casualty update 5 December 2022,” 5 December 2022; “Mariupol: Civilian Death Toll In Region May Be Higher Than Estimated 22K, Says Official,” <https://www.republicworld.com/world-news/russia-ukraine-crisis/mariupol-civilian-death-toll-in-region-may-be-higher-than-estimated-22k-says-official-articleshow.html> (accessed 9 December 2022). A detailed assessment of Mariupol by Associated Press journalists suggests that the death toll could even have been substantially higher: Lori Hinnant, Vsilisa Stepanenko, Sarha El Deeb, and Elizaveta Tilna, “Russian Scrubs Mariupol’s Ukraine Identity, Builds on Death,” *AP News*, 23 December 2022, <https://apnews.com/article/russia-ukraine-war-erasing-mariupol-499dceae43ed77f2ebfe750ea99b9ad9> (accessed 11 February 2023). Caution is needed in dealing with casualty figures, which are easily inflated due to uncertain information; in the Bosnian war, early claims of over 200,000 deaths were eventually replaced by estimates of overall deaths, civilian and military, of around the 100,000 level. Yet even if some figures are inflated, it seems highly probable that the Bosnian total has been exceeded in Ukraine in just one year.

observers attested to the resilience of society in the country's unconquered regions, as a result of increased solidarity engendered by the war and the determination of the majority of the remaining population to continue their resistance.<sup>77</sup> Yet in the escalating struggle, Ukrainian society faced the threat of more complete destruction should Russia's armies prove victorious, with the probability of violent revenge and deeper repression because of the resistance. In this case, the impoverished state of society and economy in the "republics" that the Russians had supported in the conquered parts of the Donetsk and Luhansk *oblasts* indicated a possible end-point. The forcible displacement of the 2014-15 phase of the war "emptied cities, towns and villages of Donbas," with 1.4 million out of the 1.8 million who originally left remaining displaced in 2019; "rapid and severe deindustrialization" occurred, with tens of thousands of enterprises closed, looted or dismantled to Russia for scrap; countless homes and other buildings were permanently destroyed; coalmines were flooded; farmland was littered with unexploded ordinance and landmines; as a result, GDP was more than 60 per cent lower after four years.<sup>78</sup>

## Conclusions

Considering this pattern, it is almost as though the Russian campaign had been transformed into a horrific experiment designed to clarify the meaning of "destruction," the key term used in almost all genocide definitions, and therefore of genocide itself as well as of its relationship to war. The actions of the Russian state and military as collective actors and of Putin, his commanders and troops as individuals had doubtless involved different types of intention, which may be distinguished analytically as political, military, and genocidal, but these had often been combined both in individual actions and in the overall development of its war. Even if Russia did not aim to physically destroy a large part of the Ukrainian population, it was engaged in a deliberate large-scale, violent destruction of Ukrainian society, at least in large areas of the country.<sup>79</sup> This assault simultaneously expressed Putin's original twin aims of militarily defeating the Ukrainian state and of eliminating Ukrainians, whether by killing them, displacing them or converting them into Russians. However, this article has emphasized that this strategy had undergone radicalization

---

<sup>77</sup> Veronika Melkozerova, "Ukraine Unplugged: How Ukrainian Citizens Persevere in the Darkness," *The Atlantic*, 25 December 2022.

<sup>78</sup> Vlad Mykhnenko, "Causes and Consequences of the War in Eastern Ukraine: An Economic Geography Perspective," *Europe-Asia Studies*, 72, no. 3 (2020), 528-560.

<sup>79</sup> Ukraine is not exceptional in this respect; in most genocide situations, the perpetrators aim to destroy social infrastructure and/or expel the population, with sufficient killing to achieve these aims, rather than to physically exterminate the majority or all of the enemy group.

during the new phase of war, exacerbating its social destructiveness. If the war escalates further, we may envisage further radicalizations; new Russian offensives could undoubtedly see new forms of anti-civilian violence as well as a recombination of the types already practised. If fully applied to a city like Kyiv or Kharkiv, let alone further west, these could involve serious multiplications of the destruction already inflicted. The ongoing nuclear blackmail around the Zaporizhzhia nuclear plant and Putin's broaching of nuclear weapons use indicate other possible qualitative escalations with genocidal potential. While we should not exclude the possibility of de-escalation, even if Ukrainian resistance and Western sanctions sufficiently weaken Russia militarily, economically, and geopolitically to undermine the regime politically, this too could lead to further radicalization.

This article has argued that social destruction has become increasingly central to the meaning of genocide in Russia's war, transcending the legal understanding that "physical" destruction is the principal meaning of the phenomenon. Both physical violence and cultural damage are core means of genocide, but collective life is constituted through social relations and structures and it is their destruction which has deepened the genocidal character of the war, compared to the original Russian plans. While this article has emphasized particular types of violence, each of which may involve war crimes or crimes against humanity, it has been argued that these legal categories, like partial social-scientific categories like politicide, are insufficient to capture the overall character of Russia's assault. Just as Sands argues that the idea of "aggression" encapsulates the general criminality of Russia's attack on the Ukrainian state, so "genocide" captures the general character of its attempted and partially realized destruction of Ukrainian society. It is necessary for individual war crimes to be investigated, but the comprehensive pattern of multiple and varied individual crimes supports the need for the general category of genocide, understood in the broad sense proposed here. Indeed, the Ukraine genocide debate, like that around Bosnia, has shown the problems which arise from the ways that legal discourse on genocide has departed from socio-historical understanding; it is a divergence which weakens the law and in the long term will prove untenable.

This article has also departed from most discussion of genocide in Ukraine in seeing it as largely conditioned by the developing war; indeed, it has discussed the problem as one of a "genocidal war" rather than "a genocide," terminology which implies a largely self-contained genocidal project. In this context, the article has also departed from most accounts of genocide in the conflict by ascribing analytical weight to Ukrainian resistance. Because genocide is often understood as inherently "one-sided," i.e. involving the qualitatively asymmetrical destruction of a group or society by armed power, too little attention is given to its conflictual aspect; yet genocide

is relational and resistance has effects on the perpetrators' policies.<sup>80</sup> Even populations which essentially lack their own armed protection have generated forms of resistance which have impacted perpetrator power. During the Second World War, Jewish groups tied down German troops in the same Ukrainian forests where some of Russia's worst atrocities were committed in 2022.

Commonly, victims have local protectors, as Bosnia's Muslims had the Bosnian state and army, so that genocide is carried out as part of a war between states. In the case of Ukraine, the existence of a strong independent, democratic state was from the beginning an even greater provocation to Russian leaders than the Ukrainian language or ethnicity, even though their ideology denigrates both.

This article has not addressed Ukraine in a broad comparative perspective on genocide. Some commentators believe that applying "genocide" to Ukraine implies that the case is being treated as exceptional. Schabas asks, "If the shelling and bombing of Mariupol is an act of genocide, should we say the same about attacks on Gaza City, Hanoi, Guernica, Belgrade, Dresden, Hiroshima, and the towns and cities of Yemen?"<sup>81</sup> Moses draws attention to how other military assaults on civilian populations, "whether in the Tigray region of Ethiopia, in South Sudan ... or in Yemen, continue without 'shocking the conscience of humanity' quite as much as Russia's war on Ukraine and Ukrainians."<sup>82</sup> Certainly, questions of genocide are a recurring feature of late modern international relations and armed conflicts, Ukraine bears considerable resemblances to some of the other cases, and it would be entirely relevant to investigate their genocidal dimensions.<sup>83</sup> Yet like all of them the Ukraine war is a historic event with many distinctive features: its character as a major interstate war, its geopolitical location, its implicit threat of a wider war between major states, and the large threat to worldwide peace that it poses, all underline the importance of the case. The problem is not the attention to genocide in Ukraine, but the relative absence of attention elsewhere. The Ukraine debate can and should help to broaden the worldwide focus on the persistent, indeed, more or less endemic, role of genocide in war, and its link to international as well as civil aggression.

---

<sup>80</sup> "One-sidedness" is seen as a defining feature of genocide by writers Chalk and Jonassohn (*The History and Sociology of Genocide*), and Charny ("Toward a Generic Definition"). For a further explanation of the perspective presented here, see Shaw, *What is Genocide?*, 146-68.

<sup>81</sup> Schabas, "Genocide and Ukraine," 14-15.

<sup>82</sup> Moses, "The Ukraine Genocide Debate".

<sup>83</sup> For an analytical survey, Martin Shaw, *Genocide and International Relations: Changing Patterns in the Transitions of the Late Modern World* (Cambridge: Cambridge University Press, 2013).



**Funding**

The author reported there is no funding associated with the work featured in this article.

**Disclosure statement:**

The author reported there are no competing interests to declare.