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The Russian Federation's Escalating Commission of Genocide in Ukraine: A Legal Analysis

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Foreword

In an era marked by a continued erosion of global peace and security norms, the need for rigorous, evidence-based inquiries into serious allegations of international crimes has become more crucial than ever.

Our initial report in May 2022 found reasonable grounds to believe that Russia had engaged in direct and public incitement to commit genocide. This was done through the use of language including “de-nazification,” “de-Satanization,” and the construction of Ukrainians as an existential threat in attempts to warrant their destruction as a recognized, national group.

Combined with corresponding actions inescapably attributable to the Russian Federation, there was already a “serious risk of genocide” – the threshold established by the International Court of Justice for the duty to prevent stipulated in Article I of the Genocide Convention. Accordingly, States party to the Genocide Convention should then have been acting preventively – if genocide was not already being committed. Indeed, under customary international law, the international community as a whole should have been acting.

This report – an updated independent inquiry into the Russian Federation's involvement in Ukraine – extends beyond incitement to the question of actual commission of genocide, separate crimes under Art. III (c) of the Genocide Convention. The evidence presented compels us to conclude that the Russian Federation has not only continued but escalated its efforts to commit genocide. Beyond a serious risk of genocide, we conclude there are violations of the Genocide Convention beyond a reasonable doubt.

The consequences of this finding are far-reaching and clear. The U.N. Convention on the Prevention and Punishment of the Crime of Genocide is a binding agreement; it requires states to prevent genocide once they become aware of the risk of it or should have become aware of the risk of it. All the more so, logically, states should stop the commission of genocide.

In what follows, we demonstrate and underline the legal obligation of states to act with urgency and sufficiency. We hope our findings will provide the necessary impetus to galvanize actions toward upholding this foundational norm of contemporary international law.

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Executive Summary

This report is an update of the New Lines Institute and Raoul Wallenberg Centre for Human Rights independent inquiry, *An Independent Legal Analysis of the Russian Federation's Breaches of the Genocide Convention in Ukraine and the Duty to Prevent*, released in May 2022.¹ This report upholds and expands the previous findings that the Russia Federation² bears State responsibility for breaches of the Convention on the Prevention and Punishment of the Crime of Genocide³ in its full-scale invasion of Ukraine,⁴ namely, that there exist:

- (1) Reasonable grounds to believe that Russia is responsible for direct and public incitement to commit genocide,
- (2) Reasonable grounds to believe that Russia is responsible for the commission of genocide against the Ukrainian national group, a position supported by (i) a pattern of atrocities from which an inference of intent to destroy the Ukrainian national group in part can be drawn and (ii) documented evidence of one or more of the prohibited acts in violation of the Genocide Convention, and
- (3) Signs of serious, escalating genocide and genocidal incitement in Ukraine:
 - a. The legal obligation of all States to prevent genocide was triggered by the spring of 2022.
 - b. Increasing signs of systematic, coordinated efforts by Russian State actors to incite and to commit genocide have appeared.
 - c. Russian State actors have further escalated their willful, systematic breaches of the Genocide Convention.

The report concludes that State Parties to the Genocide Convention must redouble their efforts to meet their corresponding legal obligations. They must recognize that as Russia's genocidal tactics evolve, international efforts to prevent further genocidal acts and protect the Ukrainian national group must meet these changing challenges.

I. The Protected Group. The Ukrainian national group is recognized domestically, internationally, and expressly by Russia in formal interstate relations, and is thus protected under the Genocide Convention. A pattern of persecution and repressions by Moscow authorities against Ukrainians has long been noted by genocide experts, including Raphael Lemkin — the originator of the genocide concept — in 1953. This report also traces important ideological transformations promoted during Russia's violence against Ukraine, particularly the renewal and resurgence of the slogan "We Can Do It Again." This phrase evolved from a slogan of remembrance dedicated to the suffering during World War II into a jingoistic declaration that historical violence and patterns of atrocities can and should be carried out against Ukrainians,

¹Diamond, Y., & Packer, J. (2022). *An Independent Legal Analysis of the Russian Federation's Breaches of the Genocide Convention in Ukraine and the Duty to Prevent*. In *New Lines Institute*. The New Lines Institute for Strategy and Policy. <https://newlinesinstitute.org/wp-content/uploads/English-Report-1.pdf>.

² Hereafter, Russia.

³ Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277; hereafter, Genocide a.

⁴ Previous findings concluded that (1) reasonable grounds to believe Russia is responsible for (i) direct and public incitement to commit genocide, and (ii) a pattern of atrocities from which an inference of intent to destroy the Ukrainian national group in part can be drawn; and (2) the existence of a serious risk of genocide in Ukraine, triggering the legal obligation of all States to prevent genocide.

who are falsely portrayed as in need of “denazification.” More than the politicization of historical memory, the meaning behind the Russian phrase “We Can Do It Again” is central to understanding the Russian ideology that motivates genocidal violence against Ukrainians.

a) **“We Can Do It Again”: The Significance of Russia’s Aggression against Ukrainians.** As this report will detail, Russia’s violence against Ukraine has willfully invoked some of the darkest periods of Ukraine’s twentieth-century history: the targeting of influential Ukrainians evokes routine purges of Ukraine’s cultural, religious, and political leaders under Joseph Stalin and other leaders; the willingness to weaponize food, as seen through Russia’s Black Sea blockade, evokes the 1930s Holodomor artificial famine; modern nuclear threats evoke the 1980s Chernobyl nuclear disaster, and many other historical illusions. As Russia combines modern genocidal tactics with the weaponization of historical memory for terror, Russian State actors appear to believe that past atrocities “can be repeated,” as the international community watches, but so far has not stopped Russia’s genocidal behavior against Ukrainians.

II. Incitement to Genocide. Under Article III (c) of the Genocide Convention, direct and public incitement to commit genocide is a distinct crime, whether genocide follows or not.

III. Russia’s State-Orchestrated Incitement to Genocide.

- (a) **Continuing Direct and Public Incitement.** The May 2022 report identified five key incitement narratives and dynamics: (1) denial of the Ukrainian identity, (2) accusation in a mirror, whereby perpetrators accuse the targeted group of similar atrocities that the speakers envision against them, (3) use of dehumanizing rhetoric about Ukrainians, including that Ukrainians must be “denazified,” (4) construction of Ukrainians as an existential threat, and (5) conditioning the Russian audience to commit or condone atrocities. None of these incitement risks have lessened since that time.
- (b) **New Dehumanization Tropes Indicate Escalation.** Direct and public incitement of genocide by Russian State or State-affiliated actors has escalated, with no indication that the quantity of incitement messages or tone of dehumanizing language against Ukrainians has decreased. Rather, new dehumanization tropes (e.g., Ukraine must be “de-Satanized”) and narratives have been introduced. Systematic incitement to genocide has continued from the highest levels of Russian State authority, from President Vladimir Putin, Deputy Chairman of the Security Council of Russia Dmitry Medvedev, State Duma deputies (i.e., parliamentarians), and Russian State occupation authorities with direct physical control over Ukrainians in occupied territories.

IV. Genocidal Intent. What distinguishes genocide from other international crimes is the “intent to destroy, in whole or in part, [a protected group], as such.” This intent can be attributed to a State through evidence of a general plan (derived from official statements, documents, or policy) or can be inferred from a systematic pattern of atrocities targeting the protected group. The five genocidal acts—killing, causing serious harm, deliberately inflicting physically destructive

conditions of life, imposing birth prevention measures, and forcibly transferring children to another group—can also point to genocidal intent when viewed in their totality.

- a) A **Genocidal Plan**. A “general plan” to destroy the Ukrainian national group in part may be demonstrated by the incitement to genocide driving the current invasion or by the striking patterns or methods of atrocities suggesting systematic State and military policy.

V. Genocidal Patterns of Violence Targeting Ukrainians. The commission of genocide is characterized by five, often overlapping, prohibited acts in the Genocide Convention (Article II). This report assesses potential breaches by Russia since the issuance of the May 2022 report for each of these categories, finding new and continuing evidence of willful, systematic violations of all five prohibited acts aimed at destroying the Ukrainian national group in part.

- a) **Killing Members of the Group.** Russian State forces have directly participated in killing Ukrainian men, women, and children in a variety of ways, including summary executions, missile strikes, shelling, torture-induced deaths, targeting evacuation caravans and civilian shelters, and killing by omission. Military units active in the killings have been awarded State honors by Russian President Vladimir Putin, and Russian State platforms have released celebratory messages after mass targetings of Ukrainian civilians.
- b) **Causing Serious Bodily or Mental Harm to Members of the Group.** Russian State actors have willfully caused serious bodily and mental harm to Ukrainians using multiple, systematic tactics that have escalated over time and in ways explicitly linked to targeting the Ukrainian identity. Consistent patterns of grievous physical and psychological harm inflicted by Russian forces and authorities against Ukrainian men, women, and children have been documented in geographically diverse areas of Ukraine and in Russia. These tactics have included extensive, industrialized torture, as well as rape and other forms of conflict-related sexual violence with extreme brutality, that have targeted Ukrainians across gender and vast age differences. Forms of torture that have been well documented within Russia for nearly twenty years are being systematically exported to Ukraine to target Ukrainians on the basis of their group identity. Russia’s regular nuclear threats — there have been at least 34 since February 2022 — also inflict acute mental harm on Ukrainians, many of whom are survivors of Chernobyl, the world’s worst civil nuclear incident. Millions of Ukrainians continue to experience physical and psychological harm from Chernobyl, exacerbated by the 1980s Kremlin’s negligence and cover-up. Nuclear threats from the present-day Kremlin against the affected Ukrainian nation inflict particular mental harm in this context, with Russia’s knowledge of this history being a reasonable inference. Together, these and other acts illustrate a widespread, systematic pattern of inhumane treatment by Russian State actors that is intended to cause bodily and mental harm to the Ukrainian national group.
- c) **Deliberately Inflicting on the Group Conditions of Life That Are Calculated to Bring About Its Physical Destruction in Whole or in Part.** Russian State actors have deliberately inflicted such conditions through a systematic, coordinated campaign that

has increasingly escalated and targeted a widening group of Ukrainians. Russia has increased its unrelenting attacks on Ukrainian population centers, including the wholesale destruction of numerous cities. Russia has carried out the systematic expulsion of millions of Ukrainians from their homes and Ukraine's national borders, including through "filtration" processes designed to erase or eradicate Ukrainian expressions of identity. The Russian military has been documented as bombing cities' sources of electricity, water, natural gas, and communication in close succession. One significant escalation has been mass missile strikes targeting critical civilian infrastructure across Ukraine's expansive territory, including regions that are far away from the war's front lines. These attacks were timed for Ukraine's harsh winter — the most vulnerable season for the physical survival of Ukrainians — and were understood by humanitarian experts to pose a significant threat to the survival of millions of Ukrainians. More than 1,000 attacks on Ukraine's health care system have been recorded. In one clear indication of this prohibited act, premature births have doubled due to excessive stress and rapidly declining standards of living in eastern parts of Ukraine.

- d) **Imposing Measures Intended to Prevent Births Within the Group.** Numerous instances of sexual and gender-based violence committed by Russian forces and authorities in all areas of Russian control have been well documented. Similarities of testimonies regarding the overlap of sexual violence and the targeting of group identity have also been recorded. Rape- and conflict-related sexual violence has been flagged in other genocide assessments as fulfilling criteria of preventing births, affecting women's and girls' desires to marry, have children, or contemplate future relationships. Castration of male Ukrainians in Russian custody has been documented, and emerging reporting may indicate that this practice is widespread and systematic.
- e) **Forcibly Transferring Children of the Group to Another Group.** Russian State actors have pursued policies and directives aimed at the systematic, coordinated, and large-scale transfer of Ukrainian children to Russia or Russian-controlled territories. These actions have escalated significantly over the course of Russia's full-scale invasion, with Ukrainian authorities verifying the identities of 19,393 Ukrainian children who have been taken. The scale of children forcibly deported requires extensive Russian State management and coordination, with evidence documented that Ukrainian children were pursued and taken against the will of their communities and guardians. Russian legislation has also been adapted to "legalize" these forcible transfers without the child's or guardian's permission. Available evidence indicates that the Russian State enacts procedures designed to strip Ukrainian children of their Ukrainian identity, citizenship, and sense of national group belonging. Russian authorities have also taken steps to conceal Ukrainian children's identities and make it otherwise challenging for children to be returned home.

VI. Intent to Destroy the Ukrainian National Group in Part. The intent to destroy a group “in part” has been understood to require the targeting of a substantial or prominent part of the group. To assess this threshold, however, the scale of atrocities targeting Ukrainians must be viewed relative to Russia’s area of activity or control. Russian forces have left a trail of concentrated physical destruction upon retreat from occupied areas, including mass close-range executions, torture, destruction of vital infrastructure, and rape and sexual violence. The selective targeting of Ukrainian leaders or activists for enforced disappearance or murder is further evidence of Russia’s intent to destroy the Ukrainian national group in part, as those figures are emblematic of the group or essential to the group’s survival. Evidence of systematic, coordinated forcible deportations of large numbers of Ukrainian children to Russia with signs of eradicating their Ukrainian identity and obstructing their return home is one clear indication that Russia’s breaches of the Genocide Convention are escalating.

VII. The Duty to Prevent Genocide. States have a legal obligation to prevent genocide beyond their borders once they become aware of the serious risk of genocide — a threshold that was found to have been exceeded in the May 2022 report and that remains today. The Genocide Convention imposes a minimum legal obligation on States to take reasonable action to contribute to preventing genocide and to protect vulnerable Ukrainians from genocide. This report notes concerted efforts by many State Parties to the Genocide Convention to fulfill these requirements, through steps ranging from travel bans, to associated sanctions, and to a variety of humanitarian and defensive support to the Ukrainian people. Yet State obligations to prevent and punish genocide do not end when signs of genocide escalate; rather, they continue. Over the past year, increasing evidence indicates that Russia’s attempts to commit and incite genocide against Ukrainians have intensified, while their coordinated, systematic campaign to do so has evolved with new tactics targeting an increasingly wide number of Ukrainians far from the battlefield. As these perpetrators’ methods shift, State Parties must match and respond to these new genocidal tactics aimed at the Ukrainian people. To fulfill their obligations, State Parties must carefully consider the advancing escalation dynamics clear in Russia’s genocide against Ukrainians and take proactive steps that are sufficient for these evolving challenges.

Introduction

This report is an update to the New Lines Institute and Raoul Wallenberg Centre for Human Rights independent inquiry, *An Independent Legal Analysis of the Russian Federation's Breaches of the Genocide Convention in Ukraine and the Duty to Prevent*, released May 2022.⁵ This report upholds and expands the previous findings that the Russia Federation⁶ bears State responsibility for breaches of the Convention on the Prevention and Punishment of the Crime of Genocide⁷ in its full-scale invasion of Ukraine.⁸

Since the May 2022 report, Russia has made no obvious attempts to cease their illegal invasion of Ukraine, their pattern of State-sponsored atrocities against Ukrainians, or their direct and public incitement for further atrocities. On the contrary, this report finds an escalated pattern of systematic atrocities of such nature to reasonably conclude that Russia is committing an ongoing genocide against the Ukrainian national group, in violation of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.⁹ This report also assesses that Russia's State-orchestrated role in direct and public incitement of genocide has not only continued unabated but has in fact intensified, with new tropes of dehumanization (e.g., "de-Satanizing" Ukrainians) introduced.

This report examines relevant developments across Ukraine's internationally recognized territory beginning Russia's full-scale invasion on February 24, 2022, through June 15, 2023. The initial May 2022 report was written at a time when Russia's full-scale invasion of Ukraine took the form of an open attempt to quickly capture and occupy large swaths of Ukrainian territory while forcibly removing Ukraine's government in Kyiv. Since then, the military campaign has transformed into a grinding war of aggression and total destruction of frontline cities, as the invading Russian army has been pushed back into the eastern and southern regions of Ukraine after Ukrainian forces launched a series of successful counteroffensives in the later months of 2022. In September 2022, most of the Kharkiv region was liberated. By mid-November, Kherson had been liberated. As Russia lost its military initiative, it began to escalate its use of missile strikes against infrastructure across the country, very frequently targeting cities and regions far from the frontlines of fighting. This report is being compiled as Ukraine embarks on another counteroffensive, and as Russia continues its unrestrained assault on Ukrainian infrastructure and population centers.

This report focuses on analyzing breaches of the Genocide Convention during the totality of Russia's full-scale invasion into Ukraine. Some incidents noted in the May 2022 report are again included when they illuminate key patterns of violence. However, the majority of incidents

⁵ Diamond, Y., & Packer, J. (2022). *An Independent Legal Analysis of the Russian Federation's Breaches of the Genocide Convention in Ukraine and the Duty to Prevent*. In *New Lines Institute*. The New Lines Institute for Strategy and Policy. <https://newlinesinstitute.org/wp-content/uploads/English-Report-1.pdf>

⁶ Hereafter, Russia.

⁷ Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277; hereafter, Genocide Convention.

⁸ Previous findings concluded that (1) reasonable grounds to believe Russia is responsible for (i) direct and public incitement to commit genocide, and (ii) a pattern of atrocities from which an inference of intent to destroy the Ukrainian national group in part can be drawn; and (2) the existence of a serious risk of genocide in Ukraine, triggering the legal obligation of all States to prevent genocide.

⁹ Hereafter, the Genocide Convention.

surveyed in this report occurred after the publication of last year's report, underscoring Russia's overall repetition and escalation of acts prohibited by the Genocide Convention against Ukrainians.

The Genocide Convention imposes legal obligation on all State Parties, which include Russia, to take necessary action to prevent genocide as soon as serious risk arises or to stop it immediately as it unfolds. This report underscores that these State responsibilities were activated last year, noting that the May 2022 report “definitively conclude[d] that there exists a serious risk of genocide, triggering the duty to protect.”¹⁰

This report confirms that evidence has substantially accumulated regarding ongoing breaches by Russia of the Genocide Convention in Ukraine. The Nuremberg Tribunal reaffirms principles of individual accountability, and this report is meant to complement parallel international criminal processes to hold individual perpetrators accountable for all core crimes, including genocide, crimes against humanity, war crimes, and aggression. Last May, States — the primary actors in interstate relations — were formally put on notice regarding their current and binding legal obligations under the Genocide Convention regarding the prevention of genocide in Ukraine to ensure they were in full compliance.

With evidence of Russia's incitement and commission of genocide mounting over the past twelve months, this report notifies State Parties that they must redouble their efforts to halt Russia's breaches of the Genocide Convention and prevent further atrocities, in fulfillment of their international legal obligations. While many State Parties have taken important steps, no binding limitations have yet been enforced on the acts of genocidal violence and incitement that Russia continues to carry out daily. As Russia's genocidal tactics evolve, State Parties must meet and take actions that correspond to these intensifying challenges. As will be discussed, signs of escalating Russian genocide against Ukrainians are linked to the regime's ideology that past atrocities “can be repeated,” in full sight of the international community. International responses to these flagrant breaches — and overall success in preventing and punishing Russia's genocide in Ukraine — will set a significant historical precedent for the future of atrocity prevention efforts globally.

Methodology

Applying an approach consistent with the May 2022 report,¹¹ this update is largely based on verified open-source material and should be read in the context of the still-evolving situation on the ground. When the only source of an allegation is an official one, the body of the text will explicitly say so. As so noted previously, this report applies the Genocide Convention as the primary source of law, applicable to the instant case and as interpreted by the Vienna Convention on the Law of Treaties (to which Russia is also bound), i.e., “in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose,”¹² and in light of the relevant international jurisprudence, customary

¹⁰ May 2022 report, 7.

¹¹ May 2022 report, 7.

¹² Vienna Convention on the Law of Treaties (VCLT), (1969).

international law, State practice, and scholarly work. This report is organized in three main sections: an update on incitement to commit genocide, evidence of genocidal intent, and the duty to prevent genocide.

As noted in the May 2022 report, the International Court of Justice (ICJ) has applied a higher standard of proof in genocide cases than a balance of probabilities, given the exceptional gravity of the charges.¹³ This report, however, applies a “reasonable grounds to believe” standard to the questions of State breaches of the Genocide Convention due to the nonjudicial nature of the inquiry amid the ongoing war and with overall investigative processes still ongoing.¹⁴ The report applies a second “conclusive” or “fully convincing” standard to demonstrate that the threshold for the existence of a serious risk of genocide has been met, triggering the duty of all States to prevent it.

Legal Framework for State Responsibility

1. The Genocide Convention

The crime of genocide is codified under international law in the Genocide Convention, a treaty that the Soviet Union (now Russian Federation; hereafter, Russia) ratified in 1954.¹⁵ Russia’s obligations under the Genocide Convention are *erga omnes*, or owed to the international community as a whole, which stems from the *jus cogens* status of the prohibition of genocide.¹⁶ The Genocide Convention provides for criminal liability of individuals for genocide and related acts, while States can be held responsible for such acts under a distinct, though at times overlapping, legal framework.¹⁷ Importantly, the standard of proof for breaches of a treaty under

¹³ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, ICJ Reports 2007, para. 209 (Bosnia v. Serbia). The court held that it must be “fully convinced” that the crime or Article III acts have been committed.

¹⁴ The Independent International Fact-Finding Mission on Myanmar described this standard as being, with respect to findings of fact, “met when a sufficient and reliable body of primary information, consistent with other information, would allow an ordinarily prudent person to reasonably conclude that an incident or pattern of conduct occurred.” Report of the independent international fact-finding mission on Myanmar, Human Rights Council, Thirty-ninth session, 10–28 September 2018, Agenda item 4, A/HRC/39/64, para. 6.

¹⁵ The Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) was adopted by unanimous vote, U.N. General Assembly resolution 260 (III) of 9 December 1948, https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf. There are currently 152 States parties, “Status of Treaties: Convention on the Prevention and Punishment of the Crime of Genocide,” United Nations Treaty Collection, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV1&chapter=4&clang=en#33.

¹⁶ Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Preliminary Objections, Judgment, I.C.J. Reports 1996, p. 595, at para. 31; see also Report of the International Law Commission on the work of its 53rd session (2001) at 112–113, Report of the International Law Commission on the work of its fifty-third session (23 April–1 June and 2 July–10 August 2001) (n.d.), at 112–113, https://legal.un.org/ilc/documentation/english/reports/a_56_10.pdf.

¹⁷ 8 Bosnia v. Serbia, at paras. 167–169, 174. The ICJ bases its conclusion that States may be found to be responsible for genocide and related Article III acts from the explicit wording of Article IX of the Genocide Convention, which provides for the distinct “responsibility of a State for genocide or for any of the other acts enumerated in article III.” See also P. Gaeta, “On What Conditions Can a State Be Held Responsible for Genocide?” European Journal of International Law, 2007, at 643 (“For the international responsibility of the State to arise, however, there would be no need to demonstrate that the State as such — or one or more of its officials — harboured a genocidal intent in the criminal sense. This is a requirement that only pertains to the criminal liability of individuals.”)

international law is lower than that required for criminal proceedings.¹⁸ State responsibility for breaches of international law follows from international wrongful acts attributed to the State or, in the case of genocide, wrongful conduct of exceptional gravity that is attributable to the State. This report does not contemplate individual criminal liability but, instead, the question of whether Russia bears *State* responsibility for breaches of the Genocide Convention, a legally binding agreement on all 152 State parties.

Article I of the Genocide Convention imposes duties on State parties regarding genocide, which, “whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”¹⁹

Article II defines genocide as follows:

Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group.

There are three constituent elements under Article II of the Genocide Convention: (1) the commission of any of the genocidal acts committed against (2) a protected group (3) with the intent to destroy the group in whole or in part. Article III lists the punishable acts, including “(a) genocide; conspiracy to commit genocide; direct and public incitement to commit genocide, attempts to commit genocide, and complicity in genocide.”²⁰

2. Prevention: The Genocide Convention’s Central Purpose

Prevention is the primary purpose of the Genocide Convention, as implied by the operative term in its title — the Convention on the Prevention and Punishment of the Crime of Genocide — and the same express legal duty under Article I. The ICJ has clearly established when the duty to prevent is triggered:

A State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.²¹

¹⁸ On the standard of proof in respect of the Genocide Convention, see, amongst others: Stephen Wilkinson, “Standards of Proof in International Humanitarian and Human Rights Fact-Finding and Inquiry Missions”, the Geneva Academy of International Humanitarian Law and Human Rights, at p. 20, <https://www.geneva-academy.ch/joomlatools-files/docmanfiles/Standards%20of%20Proof%20in%20Fact-Finding.pdf>.

¹⁹ Genocide Convention Article I.

²⁰ Genocide Convention, Article IX; *Bosnia v. Serbia*, at paras. 167-169.

²¹ *Bosnia v. Serbia*, para. 431.

The obligation to prevent genocide is not limited to a State's own territory but extends to wherever it "may be able to act in ways appropriate."²² The Vienna Convention on the Law of Treaties (VCLT), or the "treaty on treaties," to which Russia is also a party, sets the parameters for treaty interpretation. Its Article 31 provides:

A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.²³

Treaties are interpreted with reference to their preambles and related agreements.²⁴ The Genocide Convention's preamble references the U.N. General Assembly Resolution, which mandated its drafting and affirmed the crime of genocide under international law as:

A denial of the *right of existence* of entire human groups ... [which] results in great losses to humanity in the form of cultural and other contributions represented by these human groups and is contrary to moral law and to the spirit and aims of the United Nations.²⁵

The object and purpose of the Genocide Convention are expressly stated in both the Convention's title and in Article I: to bind the Contracting Parties to prevent and punish genocide. According to the ICJ, the object of the Convention "is to safeguard the very existence of certain human groups."²⁶ This ideal provides "the foundation and measure of all its provisions."²⁷ This report should be read in light of this primary purposes of preventing genocide before destruction occurs in whole or in part and of safeguarding the protected group.²⁸

3. Attributing State Responsibility

The International Law Commission's (ILC) 2001 *Articles on Responsibility of States for Internationally Wrongful Acts* reflect the rules of customary international law, as per the ICJ, for

²² Id., para. 183.

²³ VCLT, Article 31 (1).

²⁴ VCLT, at Article 31 (2)(a). In terms of "context," see also Raphael Lemkin's Axis Rule in Occupied Europe, for the origin of the term "genocide" and precursor to the Genocide Convention. Lemkin defined genocide to "not necessarily mean the immediate destruction of a nation ... rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objective of such a plan would be disintegration of the political and social institutions of culture, language, national feelings, religion, and the economic existence of national groups and the destruction of the personal security, liberty, health, dignity and even the lives of the individuals belonging to such groups." Raphael Lemkin, *Axis Rule in Occupied Europe* (Washington, D.C., 1944), at 79.

²⁵ U.N. General Assembly, The Crime of Genocide, 11 December 1946, A/RES/96, <https://www.refworld.org/docid/3b00f09753.html>.

²⁶ Advisory Opinion on the Genocide Convention, Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, ICJ Reports 1951, at 12.

²⁷ Ibid.

²⁸ Under Article 31(3) of the VCLT, treaty terms are to be further interpreted in light of subsequent (a) agreements and (b) practice regarding interpretation and application of the treaty and "(c) any relevant rules of international law applicable in the relations between the parties. VCLT, at Article 31(2-3). Moreover, Article 31(4) provides: "[A] special meaning shall be given to a term if it is established that the parties so intended." Under Article 32, supplementary means of interpretation, including the "preparatory work of the treaty," may be used to confirm the meaning of treaty terms or "to determine the meaning when the interpretation according to article 31 [either]: (a) leaves the meaning ambiguous or obscure or (b) leads to a result which is manifestly absurd or unreasonable."

attributing wrongful conduct to a State.²⁹ Pursuant to the Articles on State Responsibility, wrongful acts will be attributed to the State when they are perpetrated by a person or entity who is (1) a State organ under State law (*de jure*) or that acts in “complete dependence” on the State (*de facto*);³⁰ (2) empowered by State law to exercise elements of governmental authority;³¹ or (3) acting on the instructions, or under direction or “effective control” of State organs, as per settled jurisprudence.³² The acts of persons or entities exercising governmental authority are even attributable to the State when they exceed their authority or instructions.³³ The conduct of the Russian armed forces and officials, as State organs,³⁴ and persons or entities acting under their effective control, including State-owned media operators and officials or entities controlled by the Russian government within the self-proclaimed “republics,” are attributable to Russia.³⁵ This report considers whether the persons or entities that perpetrate incitement to commit genocide under Article III(c) or genocide under Article II are attributable to Russia.³⁶

The Protected Group

This section provides important context to Russia-Ukraine relations in the immediate context of the near-decade of armed conflict waged by Russia against Ukraine, as well as in a broader historical perspective. A pattern of persecution and repressions by Moscow authorities against Ukrainians has long been noted by genocide experts, including Raphael Lemkin — originator of the genocide concept — in 1953. This report also traces important ideological transformations promoted during Russia’s violence against Ukraine, particularly the renewal and resurgence of the slogan “We Can Do It Again.” This phrase evolved from a quiet slogan of remembrance dedicated to the suffering during World War II into a jingoistic declaration that historical violence and patterns of atrocities can and should be carried out against Ukrainians, who are

²⁹ The ILC was established by the United Nations General Assembly (UNGA) in 1947 to undertake its mandate under Article 13(1)(a) of the Charter of the United Nations to “initiate studies and make recommendations for the purpose of ... encouraging the progressive development of international law and its codification”; accordingly, its views, as adopted by the UNGA, are authoritative. See also *Bosnia v. Serbia*, at paras. 149, 401.

³⁰ Responsibility of States for Internationally Wrongful Acts, 2001, Article 4, Conduct of Organs of a State, provides: “1. The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State. 2. An organ includes any person or entity which has that status in accordance with the internal law of the State.”

https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf; see ICJ *Bosnia*, para. 392, and *Nicaragua*, para. 109.

³¹ Ibid. Article 5, Conduct of persons or entities exercising elements of governmental authority, provides: “The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.”

³² Ibid. Article 8: “The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of that State in carrying out the conduct.” See *Bosnia v. Serbia*, paras. 396-407.

³³ Ibid. Article 7 provides: “The conduct of an organ of a State or of a person or entity empowered to exercise elements of the governmental authority shall be considered an act of the State under international law if the organ, person, or entity acts in that capacity, even if it exceeds its authority or contravenes instructions.”

³⁴ See Rule 149, International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, 2005, Volume I: Rules, at paras. 530-531.

³⁵ The OSCE noted that Russia is responsible for the conduct of “officials instated and/or controlled by the government of the Russian Federation within the self-proclaimed ‘republics’ of Luhansk and Donetsk.” Benede, W., Bílková, V., and Sassòli, M. (2022). Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes against Humanity. Organization for Security and Co-operation in Europe (OSCE), at p. 89; hereafter, OSCE Report.

³⁶ For a similar analysis, see *Bosnia v. Serbia*, at paras. 384-415.

falsely portrayed as in need of “denazification.” Finally, this report underscores that the Ukrainian national group is recognized domestically, internationally, and expressly by Russia in formal interstate relations and is thus protected under the Genocide Convention.

Historical Context

Russia’s full-scale invasion of Ukraine on February 24, 2022, was preceded by eight years of armed conflict following Russia’s illegal annexation of Ukraine’s Crimean Peninsula and its State role in sparking armed conflict in eastern Ukraine. In January 2023, the European Court on Human Rights ruled that Russian military forces were active in Ukraine starting in at least April 2014; that held territory in Ukraine’s eastern Donbas region was under Russian jurisdiction since at least May 11, 2014; and that there has been a large-scale deployment of Russian troops in Ukraine since at least August 2014.³⁷

These contemporary events occurred within the context of a longer history of repressions and persecution against Ukrainians by Moscow authorities under the Russian Empire and Soviet Union. Such events include but are not limited to numerous Ukrainian language bans; an artificially induced famine that killed at least 4 million Ukrainians in the 1930s (referred to as the Holodomor, meaning “killing by hunger”); and a State pattern of targeting influential Ukrainian figures, including intellectuals, religious leaders, artists, and others through death, torture, and imprisonment.³⁸

In a 1953 speech, Raphael Lemkin — originator of the genocide concept — referred to Ukrainian treatment as “the classic example of Soviet genocide, its longest and broadest experiment in Russification — the destruction of the Ukrainian nation. As long as Ukraine retains its national unity, as long as its people continue to think of themselves as Ukrainians and to seek independence, so long [that] Ukraine poses a serious threat to the very heart of Sovietism ... For the Ukrainian is not and has never been, a Russian. His culture, his temperament, his language, his religion — all are different.”³⁹

While these historical events occurred prior to the creation and ratification of the Genocide Convention, they provide important context for Russia-Ukraine relations and Russian patterns of violence today. Remarks like those of Lemkin also indicate a long-noted pattern of persecution and repressions by Moscow authorities against Ukrainians by earlier genocide experts.

³⁷ European Court of Human Rights. (2023). http://static.coe.int/webtv/video_echr.html#20230125-arret. European Court of Human Rights Grand Chamber Decision, “Case of Ukraine and the Netherlands v. Russia, *Applications nos. 8019/16, 43800/14 and 28525/20*. Full decision is at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-222889%22%5D%7D>.”

³⁸ Plokhy, S. (2015). *The Gates of Europe: A History of Ukraine*. New York: Basic Books. Klid, Bohdan, and Alexander Motyl, eds. 2012. *The Holodomor Reader: A Sourcebook on the Famine of 1932-1933 in Ukraine*. Toronto: Canadian Institute of Ukrainian Studies.

³⁹ Lemkin, R. (2008). “Appendix A, Speech: ‘Soviet Genocide in the Ukraine.’” In Luciuk, Lubomyr Y.; Grekul, Lisa (eds.). *Holodomor: Reflections on the Great Famine of 1932-1933 in Soviet Ukraine*, 235–242.

“We Can Do It Again”:

The Significance of Russia’s Aggressive Threats against Ukrainians

More than the politicization of historical memory, the meaning behind the Russian phrase “We Can Do It Again” is central to understanding the Russian ideology that motivates genocidal violence against Ukrainians. As this report will detail, Russia’s violence against Ukraine has willfully invoked some of the darkest periods of Ukraine’s twentieth-century history: the targeting of influential Ukrainians evokes routine purges of Ukraine’s cultural, religious, and political leaders under Joseph Stalin and other leaders; the willingness to weaponize food, as seen in Russia’s Black Sea blockade, evokes the 1930s Holodomor artificial famine; and modern nuclear threats evoke the 1980s Chernobyl nuclear disaster, and many other historical illusions. As Russia combines modern genocidal tactics with the weaponization of historical memory for terror, Russian State actors appear to believe that past atrocities “can be repeated,” as the international community watches, but so far has not stopped Russia’s genocidal behavior against Ukrainians.

The ideological underpinnings of the Russian State’s targeting of Ukrainians are exemplified by modern usages of the Russian phrase “We Can Do It Again.”⁴⁰ The origins of this phrase likely trace to a 1945 graffiti phrase left on the wall of the Reichstag by an unknown Soviet soldier: “For the raids in Moscow. For shelling Leningrad. For Tikhvin and Stalingrad. Remember, and don’t forget. We can do it all again.”⁴¹ The phrase appeared again in a 1955 poem by veteran Mikhail Dudin, before disappearing from the approved Soviet memory culture surrounding World War II.⁴² While it was originally associated with memorialization, the historical origins of this phrase occurred during a time of atrocities by the Red Army, including the infamous degree of sexual violence against German women and girls.⁴³

There is debate about whether this phrase was remembered again or repurposed, but its modern origins trace to a lewd bumper sticker that appeared on cars around the May 9 World War II Victory Day celebrations in 2012.⁴⁴ The graphic depicts a figure with a hammer-and-sickle emblem raping a figure with a swastika superimposed over its head. Importantly, this bumper sticker is associated with the beginning of Russia’s invasion of Ukraine, as it surged in popularity after Russia’s annexation of Crimea in 2014.⁴⁵

⁴⁰ «Можем повторить».

⁴¹ Baranovsky, K. (2021, May 9). “We Can Do It Again!”: who actually came up with this phrase. Russkaya semerka. <https://russian7.ru/post/mozhem-povtorit-kto-na-samom-dele-pr/>; Efimov, A. (2022, May 9). Who and why came up with the slogan “We Can Do It Again”? Special edition of Signal, Meduza’s new daily mailing list. Meduza. <https://meduza.io/feature/2022/05/09/kto-i-zachem-pridumal-lozung-mozhem-povtorit>.

⁴² Efimov, A. (2022, May 9). Who and why came up with the slogan “We Can Do It Again”? Special edition of Signal, Meduza’s new daily mailing list. Meduza. <https://meduza.io/feature/2022/05/09/kto-i-zachem-pridumal-lozung-mozhem-povtorit>.

⁴³ Beevor, A. (2002, May 1). “They raped every German female from eight to 80.” The Guardian. <https://www.theguardian.com/books/2002/may/01/news.features11>; Messerschmidt, J. W. (2006). Review Symposium: The Forgotten Victims of World War II: Masculinities and Rape in Berlin, 1945. *Violence against Women*, 12(7), 706–712. Sage Journals. <https://doi.org/10.1177/1077801206290691>

⁴⁴ Sticker “We can do it again” Online store “Green Elephant.” Retrieved July 21, 2023, from <https://auto-dvc.ru/product/000008952/>.

⁴⁵ Efimov, A. (2022, May 9). Who and why came up with the slogan “We Can Do It Again”? Special edition of Signal, Meduza’s new daily mailing list. Meduza. <https://meduza.io/feature/2022/05/09/kto-i-zachem-pridumal-lozung-mozhem-povtorit>.

This slogan was not publicly embraced by Putin or the wider Russian government as late as 2020.⁴⁶ Yet as Russia's aggressive rhetoric escalated against Ukrainians starting in 2014,⁴⁷ the phrase ultimately grew in popularity and acceptance by State actors. The slogan now encapsulates the growing historical reputation rehabilitation movement of violent figures like Joseph Stalin in Russian memory culture and the escalation of aggressive Russian nationalism, especially after February 2022.⁴⁸ Putin's own speeches reflect the most acute forms of violent resentment reflected in this phrase, displaying a "vengeful animosity for Ukraine and the entire world for 'ingratitude,' 'misunderstanding,' and 'infringement' of Russia," as characterized by Russian independent media Meduza.⁴⁹

As the slogan "We Can Do It Again" and the jingoistic nationalism animating it have grown in popularity, such resentment has shaped the treatment of Russian forces against Ukrainian victims. Days after Russia's full-scale invasion began on February 28, 2022, Russian State television host Dmitry Kiselyov threatened, "Why do we need a world if Russia is not in it?," referencing the possibility of a Russian nuclear attack.⁵⁰ In Ukraine, the resentful message "How dare you live like this" was emblazoned in graffiti by Russian soldiers in Bucha.⁵¹ In the eastern village of Velyka Komyshevukha, another piece of Russian graffiti read "It doesn't count as a war crime if you had fun. With a happy smile, I will burn foreign villages."⁵²

These ideological developments provide context for what precisely Russia intends to "do again." The emergence of this phrase in pop culture, linked to the depiction of rape and violence — rather than raising victory banners — implies, even to Russian analysts, that this phrase is "an assertion of unconditional superiority and possession."⁵³

⁴⁶ "This is our holiday." The President of the Russian Federation on the memory of the Great Patriotic War - in an exclusive interview with TASS. (2020). TASS. <https://putin.tass.ru/ru/o-75-letii-pobedy/>

⁴⁷ Apt, C. (2023, June 29). *Russia's Eliminationist Rhetoric Against Ukraine: A Collection*. Just Security. <https://www.justsecurity.org/81789/russias-eliminationist-rhetoric-against-ukraine-a-collection/>.

⁴⁸ Dreyer, N. (2018). Genocide, Holodomor and Holocaust Discourse as Echo of Historical Injury and as Rhetorical Radicalization in the Russian-Ukrainian Conflict of 2013–18. *Journal of Genocide Research*, 20(4), 545–564. <https://doi.org/10.1080/14623528.2018.1528740>.

⁴⁹ Laskin, E. (2023, January 14). "We can do it again" The invention and reinvention of an "antifascist-fascist" slogan. Meduza. <https://meduza.io/en/feature/2023/01/15/we-can-do-it-again>.

⁵⁰ "Why Do We Need a World if Russia Is Not In It?": State TV Presenter Opens Show With Ominous Address. (2022, February 28). The Moscow Times. <https://www.themoscowtimes.com/2022/02/28/why-do-we-need-a-world-if-russia-is-not-in-it-state-tv-presenter-opens-show-with-ominous-address-a76653>.

⁵¹ Pomerantsev, P. (2023, June 11). What lies behind Russia's acts of extreme violence? Freudian analysis offers an answer. *The Observer*. <https://www.theguardian.com/commentisfree/2023/jun/11/ecocide-russia-ukraine-war-kakhovka-dam-destroyed>.

⁵² Gibbons-Neff, T. (2023, June 14). "It Doesn't Count as a War Crime if You Had Fun": Inside the Minds of Some Russian Soldiers. *The New York Times*. <https://www.nytimes.com/2023/06/14/world/europe/ukraine-russia-war-occupied-village.html?smid=tw-share>.

⁵³ Laskin, E. (2023, January 14). "We can do it again" The invention and reinvention of an "antifascist-fascist" slogan. Meduza. <https://meduza.io/en/feature/2023/01/15/we-can-do-it-again>.

Legal Protection and Recognition

As noted in the May 2022 report,⁵⁴ jurisprudence has defined a protected group by its positive characteristics, i.e., the group “as such.”⁵⁵ ⁵⁶The Ukrainian people share an internationally recognized nationality and a common identity. In fact, according to recent studies, the vast majority of Ukrainians self-identify as Ukrainian, including those who speak Russian and live in predominantly Russian-speaking areas.⁵⁷ Russia itself has consistently recognized the distinct Ukrainian national identity in international and bilateral relations. In fact, in an agreement with Ukraine, Russia explicitly recognizes the existence of the Ukrainian national minority in Russia and the Russian national minority in Ukraine, and therefore the Ukrainian majority, as follows:

“Parties guarantee free and equal-rights development of the Russian [Russian] national minority in Ukraine and [the] Ukrainian national minority in the Russian Federation.

The Parties will create favorable conditions with the view of preserving their national originality, culture, language, realization of spiritual and religious needs.”⁵⁸

Ukrainians are defined as a national group domestically and internationally, and thus constitute a protected group under the Genocide Convention. Furthermore, Ukrainians have repeatedly been acknowledged as such by Russia itself in formal State relations with Ukraine.

I. Update: Continuing Direct and Public Incitement to Commit Genocide

The May 2022 report found reasonable grounds to believe that Russia is responsible for direct and public incitement of genocide.⁵⁹ This report affirms and expands this finding, noting the clear escalation of direct and public incitement of genocide against the Ukrainian national group.

By May 2022, forms of incitement — including the construction of a Ukrainian existential threat, specious claims of “denazification,” and “accusation in a mirror” (whereby perpetrators accuse the targeted group of committing the acts they themselves commit or conspire to commit) — were found, along with other forms of dehumanizing rhetoric. Durable trends of incitement to genocide against Ukrainians are present across all levels of State authority. As a significant red flag, new incitement narratives have also been introduced, including the “need for the ‘de-Satanization’ of Ukraine.”⁶⁰ This report finds conclusively that Russia’s breaches of the Genocide Convention’s Article III (c) against Ukrainians have not halted but have instead intensified.

⁵⁴ May 2022 report, 11.

⁵⁵ *Bosnia v. Serbia*, paras. 193-195 (“The intent must also relate to the group ‘as such’. That means that the crime requires an intent to destroy a collection of people who have a particular group identity. It is a matter of who those people are, not who they are not.”) For an interpretation by the ICTR, see also *The Prosecutor v. Akayesu*, Case No. ICTR-96-4-T. Judgment (2 September 1998), para. 512.

⁵⁶ ICTR, *The Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment (2 September 1998), para. 512.

⁵⁷ Bilewicz M. (2022, March 7). Even Russian-speaking Ukrainians don’t want to be evacuated to Russia or Belarus, <https://www.washingtonpost.com/politics/2022/03/07/ukraine-russian-speakers/>.

⁵⁸ Bilateral agreement between the Government of the Russian Federation and the Government of Ukraine on Collaboration in the Fields of Culture, Science and Education, <https://docs.cntd.ru/document/902056509>; Russia has further recognized a “Ukrainian society” before the Human Rights Council. See Thematic list of UPR recommendations to Ukraine (2nd cycle).

⁵⁹ May 2022 report, 12.

⁶⁰ Sirikupt, C. (2022, November 17). Analysis | Russia now says it must “de-Satanize” Ukraine. What?. *Washington Post*. <https://www.washingtonpost.com/politics/2022/11/17/russia-ukraine-war-satan-nazis/>.

This section will (1) recall the legal and empirical elements for “direct and public incitement to commit genocide”; and (2) analyze such breaches in Russian State or State-controlled propaganda since the May 2022 report.

Applicable Law

The Genocide Convention provides for the distinct punishable or internationally wrongful act of “direct and public incitement to commit genocide” under Article III (c). Although the ICJ has yet to consider the issue of State responsibility for a breach of Article III (c), international criminal law and scholarly works on well-documented historical trajectories of genocide provide guidance for determining State responsibility. According to international criminal jurisprudence, direct and public incitement to commit genocide is a crime in and of itself under the Genocide Convention, irrespective of whether or not genocide or genocidal acts follow (as opposed to instigation).⁶¹ A finding of incitement, rather, depends on “the potential of the communication to cause genocide.”⁶² In the individual criminal context, the four elements of the crime include (1) public, (2) direct, (3) incitement (encouragement or provocation to commit genocide), and (4) the intent to destroy, in whole or in part, the protected group, as such.⁶³ This section will apply the first three elements, and the following section will examine the question of attributing genocidal intent to the State based on either an official statement of a general plan or an inference of intent from a pattern of atrocities.

The public element considers whether the incitement is directed at the general public, including through the media.⁶⁴ The direct element considers whether the audience immediately understood the implication of the message, which is principally determined by its meaning in context, including the environment at the time and cultural nuances.⁶⁵ The incitement need not be explicit to be direct, particularly during heightened unrest, war, or an already “explosive situation.”⁶⁶ Common hallmarks of incitement to commit genocide include dehumanization, accusing the targeted victims of plotting or committing atrocities (“accusation in a mirror”), and condoning or congratulating violence, among others.⁶⁷ Other factors to consider include the speaker’s

⁶¹ *Akayesu*, para. 562; *Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze* (Appeal Judgment), Case No. ICTR-99-52-A, International Criminal Tribunal for Rwanda (ICTR), 28 November 2007, para. 678; *Mugesera v. Canada* (Minister of Citizenship and Immigration), [2005] 2 S.C.R. 100, 2005 SCC 40, para. 85.

⁶² *Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze* (Media Case), Judgement and Sentence, Case No. ICTR-99-52-T (3 December 2003), para. 1015.

⁶³ *Akayesu*, paras. 556-560. See also Gregory Gordon, *Atrocity, Speech Law: Foundation, Fragmentation, Fruition*, Oxford University Press, Oxford, 2017, at p. 185, describing the content of the elements: “(1) ‘direct’ (whether the persons for whom the message was intended immediately grasped the implication thereof — from this one can deduce that the message can be implicit); (2) ‘public’ (a call for criminal action to a number of individuals in a public place or to members of the general public via mass media); (3) incitement (illegal urging to commit genocide parsed by reference to purpose and context); and (4) *mens rea* (the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such)”.

⁶⁴ *Akayesu*, para. 556. The International Law Commission defined the public incitement element as “communicating the call for criminal action to a number of individuals in a public place or to members of the general public at large. Thus, an individual may communicate the call for criminal action in person in a public place or by technical means of mass communication, such as by radio or television.” Draft Code of Crimes Against the Peace and Security of Mankind, Article 2(3)(f); Report of the International Law Commission to the General Assembly, 51 U.N. ORGA Supp. (No. 10), at 26, U.N. Doc. A/51/10 (1996).

⁶⁵ *Nahimana* (Media Case) Appeal Judgment at paras. 698-701; ICTR Bikindi TC Judgment, para. 387.

⁶⁶ *Nahimana*, para. 1004; *Prosecutor v. Bikindi*, Case No. ICTR-01-72-A. Judgment (18 March 2010), para. 387.

⁶⁷ Susan Benesch, “Vile Crime or Inalienable Right: Defining Incitement to Genocide” (2008), 48:3 *Virginia Journal of International Law*, at 503-506. See also Gordon, *Atrocity, Speech Law*, at p. 284 (adding “euphemisms and metaphors; justification during contemporaneous violence ... and victim-sympathizer conflation”).

influence, the audience's susceptibility to commit genocide, the historical and social context of the messages, whether the targeted group suffered recent violence, the availability of alternative sources of information, and whether the audience was conditioned by the repetition of incitement.⁶⁸

Durable Incitement Across Levels of Russian Authority

Below, this report surveys new examples meeting these criteria of direct and public incitement, although many more examples exist. For readability, these examples are organized by the often-overlapping 5 "Ds of incitement" suggested by scholars: (1) *disinformation* (i.e., willfully promoting false evidence to malign), (2) *denial* (i.e., repudiating past or current atrocities), (3) *dehumanization*, (4) *delegitimization*, and (5) *demonization*, as well as threats and glorification of violence.⁶⁹ Direct and public examples of incitement to genocide against Ukrainians include but are not limited to these. It should be noted that the stated motives behind genocidal crimes are legally irrelevant, and Russia's attempts to justify its actions against the protected group for any number of motives do not absolve it of State responsibility.

Disinformation: "Accusation in a Mirror" and Existential Threat Perceptions

As noted in the May 2022 report, Russia has frequently propagated incitement known as "accusation in a mirror," a powerful, historically common form of incitement to genocide.⁷⁰ A perpetrator accuses the targeted victims of committing or plotting atrocities, framing violence against the victims as defensive and necessary.⁷¹ Russia's role in promoting this form of disinformation (i.e., willfully false information with the intent to malign⁷²) in order to justify violence has continued.

As Russia has escalated its nuclear threats against Ukraine while itself controlling the Zaporizhzhia Nuclear Power Plant — the largest nuclear power plant in Europe — in Ukraine, Russian State actors have made numerous specious accusations that Ukrainians were planning to use biological, chemical, or even nuclear weapons themselves. Russia's ambassador to the United Nations, Vasily Nebenzya, has routinely used his platform to make unfounded accusations that Ukraine created chemical or biological weapons with the support of the West.⁷³ Some of these accusations have stated that Ukrainians prepared biological weapons to use against Russians or Russian-speaking Ukrainians, despite the evident fact that such a weapon could not distinguish between language preferences, nationality, or ethnic heritage.

⁶⁸ See Id., at 498; See also "Dangerous Speech: A Practical Guide," Dangerous Speech Project, 2021, at 10-24; U.N. Rabat Plan of Action, addendum to the Annual Report of the United Nations High Commissioner for Human Rights, A/HRC/22/17/Add.4, 11 January 2013, para. 29.

⁶⁹ Richter, E. D., Markus, D. K., & C., T. (2018). Incitement, genocide, genocidal terror, and the upstream role of indoctrination: can epidemiologic models predict and prevent? *Public Health Reviews*, 39. <https://doi.org/10.1186/s40985-018-0106-7>.

⁷⁰ Dangerous Speech: A Practical Guide. (2021). Dangerous Speech Project, at 15-16.

⁷¹ Ibid., 16.

⁷² Richter, E. D., Markus, D. K., & C., T. (2018). Incitement, genocide, genocidal terror, and the upstream role of indoctrination: can epidemiologic models predict and prevent? *Public Health Reviews*, 39, 3. <https://doi.org/10.1186/s40985-018-0106-7>

⁷³ *What are Russia's biological weapons claims and what's actually happening?* (2022, March 22). The Guardian. <https://www.theguardian.com/world/2022/mar/11/russia-biological-weapon-claim-us-un-ukraine-bio-labs-explainer>.

Russia's president, Vladimir Putin, routinely justifies Russia's invasion of Ukraine through baseless claims of Ukraine attacking its own citizens or seeking to wage war against Russia. In a speech on February 21, 2023, Putin intimated that Ukraine was attempting to gain nuclear weapons to attack Russia.⁷⁴ Putin himself is the ultimate decision-maker regarding continual Russian threats to use nuclear weapons against Ukraine (the mental harm of which is discussed further in this report), and his speech painting victimized Ukrainian as the "real" killers served to remove moral obstacles against killing them. These framings also conveniently ignore Ukraine's voluntary surrender of its nuclear arsenal under the 1994 Budapest Memorandum in exchange for security guarantees from Russia, the United States, and the United Kingdom.⁷⁵

These "accusation in a mirror" framings have translated from Russia's international diplomacy and Putin's own domestic speeches down through Russian State television propaganda. Margarita Simonyan (editor-in-chief of the RT news network and head of the media group managing RIA Novosti and Sputnik), for example, accused Ukrainians — themselves targeted on the basis of their national group identity — with killing children because of their national origins. On April 4, 2022, she stated, "What makes you [Ukrainians] a Nazi is your bestial nature, your bestial hatred, and your bestial willingness to tear out the eyes of children on the basis of nationality."⁷⁶ Her own escalation of genocidal incitement through religious justifications and glamorization of terror tactics will be discussed further in this report.

Denial: Denying the Existence of the Ukrainian National Group

Since Russia's full-scale invasion, dehumanizing characterizations of Ukrainians have proved remarkably consistent across levels of State authority and influence. This direct and public incitement begins with President Vladimir Putin, the unchallenged and highest authority in Russia. As documented in his public remarks on October 27, 2022, at the Valdai international discussion forum, Putin continues to openly insist that Ukrainians are "fundamentally one people" with Russia, as a matter of "historical fact."⁷⁷ This framing of Ukrainians as inherently identical to Russians and only separated by artificial, arbitrary circumstances propagates the forcible erasure of the Ukrainian national group.

The U.N. Framework of Analysis for Atrocity Crimes has identified denying the existence of a protected group or other aspects of its identity as an indicator specific to genocide.⁷⁸ This narrative framing has been repeated consistently across multiple levels of Russian political authority, down to Moscow City Duma Deputy Andrey Medvedev, who stated in November

⁷⁴ *Presidential Address to Federal Assembly*. (2023, February 21). President of Russia.

<http://en.kremlin.ru/events/president/news/70565>; see, Kelly, M. L., & Lonsdorf, K. (2022, February 21). Why Ukraine gave up its nuclear weapons — and what that means in an invasion by Russia. *NPR.org*. <https://www.npr.org/2022/02/21/1082124528/ukraine-russia-putin-invasion>.

⁷⁵ See Kelly, M. L., & Lonsdorf, K. (2022, February 21). Why Ukraine gave up its nuclear weapons — and what that means in an invasion by Russia. *NPR.org*. <https://www.npr.org/2022/02/21/1082124528/ukraine-russia-putin-invasion>.

⁷⁶ Dixon, R. (2022, April 13). Ominous rhetoric gains ground in Russia as its forces founder in Ukraine. *Washington Post*. <https://www.washingtonpost.com/world/2022/04/13/russias-war-ukraine-founders-ominous-rhetoric-gains-ground/>.

⁷⁷ *Putin called Russians and Ukrainians one people who ended up in different states*. (2022, October 27). Interfax.ru. <https://www.interfax.ru/amp/869872>.

⁷⁸ United Nations. (2014). Framework of Analysis for Atrocity Crimes: A Tool for Prevention. United Nations Office on Genocide Prevention and the Responsibility to Protect, Indicator 9.2.

2022 that that “the Ukrainian nation does not exist. It is a political orientation ...” [requiring the] “liquidation of the Ukrainian statehood in its current form.”⁷⁹

Dehumanization: “Liquidating” and “Curing” the Ukrainian National Group

Such statements of erasing and “liquidating” Ukraine occur in a media context, with explicit calls for violence against millions of Ukrainians. On May 30, 2022, State Duma Deputy Aleksey Zhuravlyov appeared on Russia’s *60 Minutes* television program, hosted by fellow State Duma Deputy Yevgeny Popov, where he delineated his plan for the number of Ukrainians who could be forcibly reeducated by “reinstalling their brains” and the number who would refuse to abandon their identity: “A maximum of 5 percent are incurable. Simply put, 2 million people ... These two million people should have left Ukraine, or must be ‘denazified,’ which means to be destroyed.”⁸⁰

Similar rhetoric has been echoed by other figures associated with Russia’s political and military war effort, including Pavel Gubarev, a Russian political figure who declared himself “people’s governor” of the Donetsk region in 2014 and leader of the Donbas People’s Militia before infighting downgraded his role. Gubarev joined the Russian armed forces in 2022 and filmed himself announcing that Ukrainians were “Russian people, possessed by the devil ... but if you [Ukrainians] don’t want us to change your minds, then we will kill you. We will kill as many of you as we have to. We will kill 1 million or 5 million. We can exterminate all of you until you understand that you are possessed and have to be cured.”⁸¹

Delegitimization: Erasing and Disappearing the Ukrainian National Group

Dmitry Medvedev — Deputy Chairman of the Security Council of Russia, former Russian president (2008-2012), and former prime minister (2012-2020) — routinely broadcasts eliminationist and dehumanizing language in regular public messages on his Telegram channel, which has more than 1 million followers.⁸² Adding particular context to the following quote, Medvedev created his Telegram account on March 14, 2022 — just 2.5 weeks following Russia’s full-scale invasion of Ukraine — and uses the platform almost exclusively to comment on the matters of Russia’s war against Ukraine. On June 7, 2022, he wrote, “I am often asked why my Telegram posts are so harsh. The answer is I hate them. They are bastards and geeks. They want death for us, Russia. And while I’m alive, I will do everything to make them disappear.”

On June 15, 2022, he similarly questioned whether “in two years, Ukraine will even exist on the world map?”⁸³ Later, on November 20, 2022, he referred to Ukrainians resisting occupation as “various cockroaches that have bred in the Kiev [sic] insectarium.”⁸⁴ Indicating that Russian State actors continue to escalate this incitement, State Duma member Alexei Zhuravlyov also

⁷⁹ Medvedev, A. (2022). Telegram. <https://t.me/MedvedevVesti/12173>.

⁸⁰ Davis, J. (2022). In *Twitter*. <https://twitter.com/JuliaDavisNews/status/1531301883628986368?s=20>.

⁸¹ Davis, J. (2022). In *Twitter*. <https://twitter.com/juliadavisnews/status/1579820810751324160>.

⁸² Medvedev, A. (2022). Telegram. https://t.me/s/medvedev_telegram.

⁸³ Haltiwanger, J. (2022, June 15). *Russia’s former president says Ukraine might not “even exist on the world map” in 2 years in latest genocidal message*. Business Insider. <https://www.businessinsider.com/russias-ex-president-ukraine-might-not-even-exist-on-the-world-map-in-2-years-2022-6>.

⁸⁴ Medvedev, A. (2022). Telegram. https://t.me/medvedev_telegram/216

compared Ukrainians to “roaches” that need to be “squashed” on June 6, 2023, in the immediate aftermath of the massive humanitarian and environmental disaster caused by the Nova Kakhovka dam flooding.⁸⁵

The destruction and disappearing of Ukraine is a theme that has continued to be promulgated on Russian television. On June 4, 2023, Olga Skabeyeva, host of a Russian television show dedicated to spreading anti-Ukrainian propaganda and wife of Russian State Duma member Yevgeny Popov, suggested a Russian attack causing large-scale biological destruction, saying, “What comes to mind right now, I will say it again, is to destroy every living thing in the Kharkiv region as a punishment and as a deterrent.”⁸⁶

Dehumanization: “De-Satanizing” the Ukrainian National Group

Assistant Secretary of the Security Council of Russia Alexey Pavlov has also promoted a new dehumanizing trope against Ukrainians, referring to Ukraine as a “witch’s caldron” that requires “de-Satanization.” On October 26, 2022, he stated, “I believe that with the continuation of the special military operation, it becomes more and more urgent to carry out the de-Satanization of Ukraine, or as the head of the Chechen Republic Ramzan Kadyrov aptly put it, its ‘complete de-Satanization.’”⁸⁷

It is significant that State media personalities and regional authorities, including those with security forces and warfighters active in Ukraine, have echoed this message of Ukrainians as evil and demonic. Ramzan Kadyrov, head of the Chechen Republic and colonel general in the Russian military, stated on November 26, 2022, that the “result of the special operation for us is the complete destruction of the manifestations of Satanism: *shaitans* [devils or evil spirits], Bandera, Nazis. There are many definitions for them, but the essence is always the same. Their essence is the lack of humanity, moral principles, the spread of evil spirits. Therefore, for us, they are Satanists.”⁸⁸

Sergey Aksyonov, the Russian-installed head of the occupation authority since October 9, 2014, has employed similar depictions of Ukrainians in his public Telegram channel⁸⁹ — which is of particular significance, given his position of authority over occupied Ukrainian territory and citizens. Aksyonov has frequently spoken of Ukraine’s erasure, stating on October 21, 2022, that “it is not the Russian language that will disappear, but Ukraine.” On July 27, 2022, he wrote, “the terrorist Kiev [*sic*] regime ... is not just Nazi and anti-Russian, it is anti-human. Ukrainian statehood is Moloch [a biblical pagan deity], to whom children are sacrificed. This filthy idol must be destroyed, it has no place in history.”

Even after numerous war crimes by Russian forces were documented in other places of Russian occupation authority, Aksyonov continued direct and public incitement, stating on October 28, 2022, “Now it’s our turn to burn out the Nazi plague with a red-hot iron. And the best guarantee

⁸⁵ Davis, J. (2022). Twitter. <https://twitter.com/JuliaDavisNews/status/1666277668994547712>

⁸⁶ Davis, J. (2022). Twitter. <https://twitter.com/JuliaDavisNews/status/1665234355977875456>

⁸⁷ Pavlov A. (2022, October 25). *What is cooked in the "witch's cauldron". Neo-pagan cults gain strength in Ukraine*. AiF.RU https://aif.ru/society/religion/cto_varyat_v_vedminom_kotle_na_ukraine_nabrali_silu_neoyazycheskie_kulty.

⁸⁸ Kadyrov, R. (2022, June 3). *Kadyrov_95*. Telegram. https://t.me/s/RKadyrov_95/2251.

⁸⁹ *Aksyonov Z 82*. Telegram. Retrieved July 22, 2023, from <https://t.me/Aksenov82>.

that it will never again crawl out of its rotten catches and will not again strike minds and souls is the liquidation of Ukrainian statehood, which gave birth to Nazism.”

Threats and Glorification of Terror: Religious Appeals to Justify Violence

Direct and public incitement to genocide against Ukrainians has continued throughout Russia’s full-scale invasion, with state-controlled media routinely broadcasting language that normalizes, rationalizes, and encourages violence against Ukrainians. As noted in the May 2022 report, key figures engaging in direct and public incitement of genocide include Margarita Simonyan (editor-in-chief of the RT news network and head of the media group managing RIA Novosti and Sputnik) and Vladimir Solovyov (host of Rossiya-1’s flagship show). In one July 19, 2022, exchange,⁹⁰ Simonyan stated, “Ukraine as it was can’t continue to exist. There’ll be no Ukraine we’ve known for many years. It won’t be a Ukraine any longer.” Solovyov responded, “When a doctor is deworming a cat, for the doctor, it’s a special operation. For the worms, it’s a war, and for the cat, it’s a cleansing.”

Simonyan and Solovyov have both employed frequent spiritual allusions in their inflammatory language, invoking religious authority to justify and rationalize calls for violence against Ukrainians. On December 17, 2022, Solovyov stated on his television show: “A holy war is underway ... Those [Ukrainian] fools who are trying to fight — they aren’t fighting against us, they’re at war with God ... How can humanity that fights against God continue to exist ... if you think about what’s happening, it’s Satanism. They’re purely demonic, you can’t put it any other way ... we’re dealing with servants of the Prince of Darkness [Satan], since we’re dealing with a diabolical origin ... what kind of negotiations could you have with Satan ... the new Sodom and Gomorrah await the Lord’s judgement.”⁹¹

In calling for cities that span Ukraine’s large territory — naming Kyiv, Kharkiv, Odesa, Mykolaiv, Ivano-Frankivsk, and Lviv — Solovyov also told his audience on April 4, 2023, “you can fight the unclean only with holy fire falling from the skies, fire and brimstone, like Sodom and Gomorrah ... The Lord has chosen us as the weapon of his judgement.”

Similarly, Simonyan justified widespread missile attacks against Ukraine’s civilian infrastructure on April 2, 2023, likening these events in Ukraine to the biblical account of “10 Egyptian plagues,” which included destruction, hail, darkness, and the death of firstborn sons: “The first plague was the rivers of blood. Don’t we see the rivers of blood? ... A Grad [multiple rocket launcher, meaning “hail” in the Russian language] will destroy all the people and animals and the fields with their crops ... Whenever our missiles are flying, whenever we are practicing our strikes of vengeance, Ukraine is immersed in darkness. And one of the scariest Egyptian plagues is the death of the firstborn, the second, the third, all of their males ... What is left of their [Ukraine’s] male population?”⁹²

The statements surveyed in this section and others illustrate that direct and public incitement to genocide has continued since last year’s May 2022 report, which put Russia, a State Party to the

⁹⁰ Davis, J. (2022). Twitter. <https://twitter.com/JuliaDavisNews/status/1549381189336711169>.

⁹¹ Davis, J. (2022). Twitter. <https://twitter.com/JuliaDavisNews/status/1604286515563175936>.

⁹² Davis, J. (2022). Twitter. <https://twitter.com/JuliaDavisNews/status/1642612317337649154>.

Genocide Convention, on notice regarding breaches. This assessment found no evidence that such incitement has lessened in quantity or moderated in tone, but rather has intensified with new dehumanizing tropes, such as “de-Satanizing” Ukraine, having been introduced. This direct and public incitement to genocide has continued from President Vladimir Putin and top figures in the Russian government down through lower levels of authority, including prominent media and occupational authorities who have direct physical control over occupied Ukrainian territories and Ukrainians themselves.

II. Article II: Acts of Genocide

The Genocide Convention prohibits conspiracy to commit genocide, direct and public incitement to commit genocide, attempts to commit genocide, complicity to commit genocide, and commission of genocide (Article III). This report reaffirms that Russia’s breaches of the Genocide Convention began last year. Now, continuing patterns of atrocities by Russia against Ukrainians require a new evaluation of the underlying acts indicating the commission of genocide. As specified in Article II of the Genocide Convention, the crime of genocide occurs when one or more of the enumerated prohibited acts is “committed with intent to destroy, in whole or in part, a national, a national, ethnical, racial, or religious group, as such.”

The Genocide Convention makes no difference regarding the various conditions under which genocides occur, nor in the duties imposed upon State Parties, stating that genocide “whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and punish.”⁹³ As clearly defined under Article I of the Genocide Convention, conditions of large-scale warfare also do not absolve any State Parties of their legal obligation to prevent or punish the crime of genocide.⁹⁴

This report surveys evidence of broad trends with evidence of systematic, coordinated State involvement, finding a generalizable pattern of Russian escalation targeting an increasing number of Ukrainians. Where individual incidents are included, they serve as representative examples of the broad patterns discussed alongside them.

Article II (a): Killing Members of the Group

Summary: Russian State forces have directly participated in killing Ukrainian men, women, and children in a variety of ways, including summary executions, missile strikes, shelling, torture-induced deaths, targeting evacuation caravans, and killing by omission. Russian forces have explicitly and willfully targeted

⁹³ Genocide Convention, Article I.

⁹⁴ Conditions of warfare do not excuse or even automatically lead to genocides. In fact, the International Peace Institute’s research shows that not all armed conflict lead to genocides or even mass atrocities of any kind. Research by genocide scholars also indicates that the majority of armed groups do not commit mass atrocities against civilians, even under circumstances in which they have the opportunity and capacity to do so. Thus, Russia’s overall pattern of warfare with high rates of civilian violence constitutes a global outlier, warranting further scrutiny in Ukraine and in many other cases where violence by State forces or State-affiliated forces are well documented. See International Peace Institute. (2009). *Conflict Prevention and the Responsibility to Protect*. IPI Blue Papers. No. 7; and Report of the Secretary-General on Early Warning, Assessment and the Responsibility to Protect. (2010, 14 July). A/64/864; also see Chirot D. and McCauley C. (2006). *Why Not Kill Them All? The Logic and Prevention of Mass Political Murder*. Princeton, NJ: Princeton University Press; and Bellamy A. *Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent*. <https://stanleycenter.org/publications/pab/BellamyPAB22011.pdf>.

known areas of civilian shelter for bombings. Military units that have participated in the killing of civilians have been awarded Russian State honors by President Vladimir Putin himself, and Russian State sources often release messages that celebrate attacks against Ukrainian residential centers or other civilian population centers.

Beginning this assessment on February 24, 2022, we found abundant documentation of Russian forces engaging in unlawful killing across Ukraine's geographically and culturally diverse areas.⁹⁵ These killings have occurred in areas of vastly different control by Russian forces, ranging from consistent and simultaneous mass graves and executions discovered in areas of their physical occupation to mass missile attacks across Ukraine.

From February 24, 2022, to June 23, 2023, the Office of the United Nations High Commissioner for Human Rights (OHCHR) recorded 9,083 civilians killed.⁹⁶ Experts widely believe these numbers to be significantly higher, and victim tolls will rise. The U.S. Holocaust Memorial Museum defines a "mass killing" as 1,000 noncombatant deaths in a year, targeted along group lines.⁹⁷ The preliminary death toll within the Ukrainian national group already significantly exceeds this standard.

Russian State forces have directly participated in the systematic, regular killing of Ukrainians, including men, women, and children, using a variety of lethal methods. Russian forces have executed Ukrainian civilians in all areas of their control, including (but not limited to) documented cases in Bucha,⁹⁸ Izium,⁹⁹ and Stryi Bykiv,¹⁰⁰ as well as smaller villages across the Kyiv, Chernihiv, and Sumy regions.¹⁰¹ In one example documented by Human Rights Watch in Vorzel, Kyiv region, on March 6, 2022, Russian forces threw smoke grenades into a basement,

⁹⁵ In surveying the patterns of killing of members of the protected group, attacks occurred in vastly different areas, characterized by variances in cultural heritage, historical heritage, language, religion, and geographic terrain.

⁹⁶ Dicarolo, R. A. (2023, June 23). *Under-Secretary-General Rosemary A. Dicarolo's Remarks to the Security Council on Maintenance of Peace and Security of Ukraine*. [https://dppa.un.org/en/msg-usg-dicarolo-sc-9357-ukraine-23-jun-23#:~:text=Russian%20missile%20barrages%20and%20drone,15%2C779%20injured%2C%20including%201%2C086%20children; See also, Ukraine: civilian casualty update 5 June 2023. \(2023, June 5\). OHCHR. https://www.ohchr.org/en/news/2023/06/ukraine-civilian-casualty-update-5-june-2023](https://dppa.un.org/en/msg-usg-dicarolo-sc-9357-ukraine-23-jun-23#:~:text=Russian%20missile%20barrages%20and%20drone,15%2C779%20injured%2C%20including%201%2C086%20children; See also, Ukraine: civilian casualty update 5 June 2023. (2023, June 5). OHCHR. https://www.ohchr.org/en/news/2023/06/ukraine-civilian-casualty-update-5-june-2023).

⁹⁷ *Ongoing Mass Killing - Early Warning Project*. (n.d.). Earlywarningproject.ushmm.org. <https://earlywarningproject.ushmm.org/ongoing-mass-killing>.

⁹⁸ Kinetz, E., Stashevskyi, O., & Stepanenko, V. (2022, November 3). *How Russian Soldiers Ran a "Cleansing" Operation in Bucha, Ukraine*. FRONTLINE. <https://www.pbs.org/wgbh/frontline/article/russian-soldiers-cleansing-operation-bucha-ukraine/>.

⁹⁹ *Watch: Video shows what Ukrainians are calling a war crime by Russia* | CNN. (2023, March 21). Edition.cnn.com. [https://edition.cnn.com/videos/world/2023/03/21/izium-ukraine-war-crimes-investigation-russia-watson-ac360-vpx.cnn; Al-Hlou, Y., Froliak, M., Hill, E., Browne, M., & Botti, D. \(2022, May 19\). New Evidence Shows How Russian Soldiers Executed Men in Bucha. The New York Times. https://www.nytimes.com/2022/05/19/world/europe/russia-bucha-ukraine-executions.html](https://edition.cnn.com/videos/world/2023/03/21/izium-ukraine-war-crimes-investigation-russia-watson-ac360-vpx.cnn; Al-Hlou, Y., Froliak, M., Hill, E., Browne, M., & Botti, D. (2022, May 19). New Evidence Shows How Russian Soldiers Executed Men in Bucha. The New York Times. https://www.nytimes.com/2022/05/19/world/europe/russia-bucha-ukraine-executions.html).

¹⁰⁰ *Ukraine: Apparent War Crimes in Russia-Controlled Areas*. (2022, April 3). Human Rights Watch; Human Rights Watch. <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>.

¹⁰¹ *UN report details summary executions of civilians by Russian troops in northern Ukraine*. (2022, December 7). OHCHR. [https://www.ohchr.org/en/press-releases/2022/12/un-report-details-summary-executions-civilians-russian-troops-northern; See also, Detention of civilians in the context of the armed attack by the Russian Federation against Ukraine. \(2023\). In OHCHR. The Office of the United Nations High Commissioner for Human Rights. https://www.ohchr.org/sites/default/files/2023-06/2023-06-27-Ukraine-thematic-report-detention-ENG.pdf](https://www.ohchr.org/en/press-releases/2022/12/un-report-details-summary-executions-civilians-russian-troops-northern; See also, Detention of civilians in the context of the armed attack by the Russian Federation against Ukraine. (2023). In OHCHR. The Office of the United Nations High Commissioner for Human Rights. https://www.ohchr.org/sites/default/files/2023-06/2023-06-27-Ukraine-thematic-report-detention-ENG.pdf).

then shot a woman and a fourteen-year-old child as they emerged from where they had been sheltering.¹⁰² The child died immediately, and the woman died two days later from her injuries.

Russian tanks have also directly fired on civilian homes, as documented in Bucha.¹⁰³ According to the Bucha City Council, 1,100 civilians were killed by the Russian military in Bucha and its surrounding areas during the occupation in February and March 2022.¹⁰⁴ An Associated Press investigation suggested the killing of approximately 600 civilians in the bombing of the Donetsk Regional Academic Drama Theater in Mariupol on March 16, 2022, although these numbers are not possible to confirm as the site remains under Russian occupational authorities, which have denied independent investigators access to it.¹⁰⁵ Notably, this building was known to serve as a shelter for civilians, with Amnesty International stating that “the theatre was clearly recognizable as a civilian object, perhaps more so than any other location in the city.”¹⁰⁶ The word “Children” in the Russian language was visible from the sky when it was bombed from the air.¹⁰⁷ These factors that did not deter the Russian military from carrying out the deadly strike.

Mass graves have also been consistently discovered in multiple areas that Russian forces controlled prior to liberation by Ukrainian armed forces. These grave sites occurred in geographically distant areas of Ukraine, providing reasonable grounds to believe that elements of systematic policy choices influenced these killings. As noted in the May 2022 report, rapid retreats of Russian forces in northern Ukraine allowed international and national investigators to document widespread killings and summary executions of residents killed at close range with hands bound and marked by torture.¹⁰⁸

The well-documented Bucha massacres may indicate the type of systematic tactics used by Russian forces to kill civilians across the full range of occupied areas that are presently inaccessible to investigators. This possibility was noted in the May 2022 report and further strengthened by the discovery of additional mass graves in liberated areas of Kharkiv oblast and Kherson oblast in the fall of 2022. In September 2022, with the liberation of Izium in Kharkiv

¹⁰² *Ukraine: Apparent War Crimes in Russia-Controlled Areas*. (2022, April 3). Human Rights Watch; Human Rights Watch. <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>.

¹⁰³ Gorbunova, Y. (2022, March 30). *Devastation and Loss in Bucha, Ukraine: Life for Civilians in a Town Encircled by Russian Forces*. Human Rights Watch. <https://www.hrw.org/news/2022/03/30/devastation-and-loss-bucha-ukraine>.

¹⁰⁴ Huyvan, O. (2022, September 2). *13 people were buried near Bucha, who died during the occupation, the bodies of which were not taken away*. Suspilne News. <https://suspilne.media/277864-u-buci-pohovali-13-ludej-pomerlih-pid-cas-okupacii-tila-akih-nihto-ne-zabrav/>.

¹⁰⁵ Hinnant, L., Chernov, M., & Stepanenko, V. (2022, May 4). *AP evidence points to 600 dead in Mariupol theater airstrike*. AP NEWS. <https://apnews.com/article/Russia-ukraine-war-mariupol-theater-c321a196fd568899841b506afcac7a1>.

¹⁰⁶ Ukraine: “Children”: The attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine. (2022). In *Amnesty International* (p. 2). <https://www.amnesty.org/en/documents/eur50/5713/2022/en/>.

¹⁰⁷ *Ibid.*, 4.

¹⁰⁸ Oleksandr Stashevskiy and Nebi Qena. (2022, April 4). Ukraine accuses Russia of massacre, city strewn with bodies. AP News. <https://apnews.com/article/russia-ukraine-zelenskyy-kyiv-europe-evacuations-665fd06b92852547d7b27627b99509a6>; Carlotta Gall. (2022, April 11). “They shot my son. I was next to him. It would be better if it had been me”: Bucha’s Month of Terror. *New York Times*. <https://www.nytimes.com/interactive/2022/04/11/world/europe/buchaterror.html?searchResultPosition=1>; Malachy Browne, David Botti, and Haley Willis. (2022, April 4). Satellite images show bodies lay in Bucha for weeks, despite Russian claims. *New York Times*. <https://www.nytimes.com/2022/04/04/world/europe/bucha-ukraine-bodies.html>; Reality Check & BBC Monitoring. (2022, April 11) BBC News. <https://www.bbc.com/news/60981238>. See also Amnesty, “He’s Not Coming Back.”

oblast, mass graves containing at least 447 people were found, along with ten torture centers.¹⁰⁹ The head of Ukraine's national police stated that of the found, 22 appeared to be servicemen, along with 215 women, 194 men, 5 children, and other remains whose gender could not be determined. The head of the Kharkiv Regional Military administration stated that most of the bodies had signs of violent death, and 30 had traces of torture, including ropes around necks, bound hands, gunshot wounds, broken limbs, and amputation of genitalia.¹¹⁰

Russia's prolonged, large-scale missile attacks across Ukraine also pertain to the prohibited acts described in Article II (a). As of March 22, 2023, the Ukrainian military estimated that Russia has fired more than 5,000 cruise missiles into Ukrainian cities and towns, along with countless artillery rockets.¹¹¹ On April 28, 2023, a nine-story apartment building in Uman was subjected to a cruise missile attack. The attack took place in the middle of the night, a time most likely to lead to civilian casualties.¹¹² The Cherkasy regional governor announced the attack publicly on Telegram, stating "We have two hits of cruise missiles in Uman: a residential building and warehouse buildings."¹¹³ Three hours and 1 minute later, the Russian Ministry of Defense posted a photo of the weapon used to its public Telegram channel, with the Russian phrase, "Right on Target."¹¹⁴

A similar pattern occurred in the major city Dnipro, home to nearly 1 million Ukrainians and approximately 420 kilometers far from the war's active front line at the time of incident. On January 14, 2023, a Kh-22 long-range missile (i.e., an antiship missile converted for use against land targets) devastated an apartment block in the city, killing at least 46 civilians (including 8 children) and wounding at least 80 others.¹¹⁵ On January 15, 2023 — hours after the attack and after months of additional documented atrocity crimes — Russian President Vladimir Putin characterized the Russian military situation in a broadcast interview, stating, "There is a positive dynamic. Everything is developing according to plans. I hope that our fighters will please us more than once again."¹¹⁶

The Kremlin has also celebrated soldiers from the early months of Russia's full-scale invasion, including the 64th Separate Guard Motor Rifle Brigade suspected of the Bucha massacres. On April 18, Putin awarded the brigade an honorary title for "protecting Russia's sovereignty,"

¹⁰⁹ Grynszpan, E., & Vincent, F. (2022, September 17). Outrage over mass grave discovered near Izium following Russian withdrawal. *Le Monde.fr*. https://www.lemonde.fr/en/international/article/2022/09/17/outrage-over-mass-grave-discovered-near-izium-following-russian-withdrawal_5997320_4.html; Balachuk, I. (2022, September 23). *In Izum, they completed the exhumation - they found 447 bodies, among them there are a lot of women, and children*. Ukrainska Pravda. <https://www.pravda.com.ua/news/2022/09/23/7368817/>.

¹¹⁰ Balachuk, I. (2022, September 23). *In Izum, they completed the exhumation - they found 447 bodies, among them there are a lot of women, and children*. Українська правда. <https://www.pravda.com.ua/news/2022/09/23/7368817/>.

¹¹¹ Tondo, L. (2023, March 22). "It's half of what was shot at us": Kharkiv's Russian missile cemetery. *The Guardian*. <https://www.theguardian.com/world/2023/mar/22/its-half-of-what-was-shot-at-us-kharkivs-russian-missile-cemetery>.

¹¹² *The Russian Federation's Ongoing Aggression Against Ukraine*. (2023, May 3). Osce.usmission.gov. <https://osce.usmission.gov/the-russian-federations-ongoing-aggression-against-ukraine-51/>.

¹¹³ Taburets, I. (2023, April 27). *Telegram*. <https://t.me/cherkaskaODA/4594>.

¹¹⁴ Ministry of Defense of Russia. (2023, April 28). *Telegram*. https://t.me/mod_russia/26000.

¹¹⁵ Pohorilov, S. (2023, January 19). *Russian attack on Dnipro: death toll rises to 46 people*. Ukrainska Pravda. <https://www.pravda.com.ua/eng/news/2023/01/19/7385596/>.

¹¹⁶ AFP. (2023, January 15). *Putin Hails a "Positive Dynamic" for His Troops in Ukraine*. The Moscow Times. <https://www.themoscowtimes.com/2023/01/15/putin-hails-a-positive-dynamic-for-his-troops-in-ukraine-a79950>.

praising the unit's "great heroism and courage ... a role model in fulfilling its military duty, valor, dedication and professionalism."¹¹⁷

Upon seizing full control of atrocity sites, Russian forces and occupation authorities have disposed of bodies in ways that have hindered investigations. In a pattern reminiscent of Russia's role in the shooting down of a Malaysian Airlines passenger flight (MH-17), Russian forces have categorically covered up and obfuscated regarding evidence of their crimes in Ukraine. The full extent of killing will not be determined until investigators can access sites presently controlled by Russia, although concerns about Russian occupational authorities concealing or destroying evidence persist.

There are records of Ukrainian deaths due to omission by Russian forces.¹¹⁸ In Yahidne, 300 civilians were forced into a basement in squalid starvation conditions.¹¹⁹ At least 18 subsequently died.¹²⁰ In addition, emerging reports of forcible mobilization of Ukrainian residents in occupied areas may constitute a war crime and may have Article II (a) implications.¹²¹

Finally, efforts to control the movement of civilians — whether pursuing or corralling them — is of particular salience for genocide assessments, as these actions require greater inconvenience, effort, and risk by perpetrators in comparison to allowing civilian to flee unhindered.¹²² For example, this dynamic has been flagged in genocide assessments of ISIS' (Daesh) targeting of the Yazidis.¹²³ Russian State forces have regularly targeted evacuation caravans, including in the Kyiv and Chernihiv regions, before they were pushed back.¹²⁴ Several targeted civilian evacuation caravans had signs posted in their window reading "Children" in the Russian and Ukrainian languages.¹²⁵ Russian State actors also reportedly blocked humanitarian corridors in Mariupol, Luhansk, and Zaporizhzhia,¹²⁶ forcing Ukrainians to remain in these conditions of extreme military violence.

¹¹⁷ To the command and personnel of the 64th Separate Guards Motor Rifle Brigade • President of Russia (n.d.). Retrieved May 20, 2022, from <http://www.kremlin.ru/events/president/letters/68234>.

¹¹⁸ *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgement, para. 589 (September 2, 1998).

¹¹⁹ Stashevskiy, O. (2022, April 13). *Forced into a basement in Ukraine, residents began to die*. AP News. <https://apnews.com/article/russia-ukraine-kyiv-europe-8fc19b96f035bd21fe14a0ec71982aa9>.

¹²⁰ Stashevskiy, O. (2022, April 13). *Forced into a basement in Ukraine, residents began to die*. AP News. <https://apnews.com/article/russia-ukraine-kyiv-europe-8fc19b96f035bd21fe14a0ec71982aa9>.

¹²¹ The Kyiv Independent news desk. (2023, May 8). *City Council: Russian forces begin forced mobilization in occupied Mariupol*. The Kyiv Independent. <https://kyivindependent.com/mayor-russian-occupying-forces-begin-mobilization-in-mariupol/>.

¹²² Straus, S. (2012). "Destroy Them to Save Us": Theories of Genocide and the Logics of Political Violence. *Terrorism and Political Violence*, 24:4, 544–560. <https://doi.org/10.1080/09546553.2012.700611>.

¹²³ Human Rights Council. (2016). "They came to destroy": *ISIS Crimes Against the Yazidis*. https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A_HRC_32_CRP.2_en.pdf.

¹²⁴ Human Rights Watch. (2022, May 2). *Ukraine: Russian Forces Fired On Civilian Vehicles*. Human Rights Watch. <https://www.hrw.org/news/2022/05/02/ukraine-russian-forces-fired-civilian-vehicles>.

¹²⁵ *Ibid.*

¹²⁶ *Russia accused of shelling Mariupol humanitarian corridor*. (2022, April 26). The Guardian. <https://www.theguardian.com/world/2022/apr/26/russia-accused-of-shelling-mariupol-humanitarian-corridor>; Luxmoore, M. (2022, April 13). *Ukraine Says Russia Obstructing Humanitarian Corridors for Residents Fleeing War*. WSJ. <https://www.wsj.com/livecoverage/russia-ukraine-latest-news-2022-04-13/card/ukraine-says-russia-obstructing-humanitarian-corridors-for-residents-fleeing-war-yHpwAoUJqrRsOf2GEj8X>.

Article II (b): Causing Serious Bodily or Mental Harm to Members of the Group

Summary: Russian State actors have willfully caused serious bodily and mental harm to Ukrainians through multiple, systematic tactics that have escalated over time. Physical and mental harm has been utilized by Russian State forces and occupational authorities to explicitly expunge expressions of Ukrainian identity during what perpetrators call “denazification sessions.” Consistent patterns of grievous physical and psychological harm inflicted by Russian forces and authorities against Ukrainian men, women, and children has been documented in geographically diverse areas of Ukraine and in Russia. These tactics include extensive, industrialized torture, including in camps and detention centers created and funded by the Russian State for this purpose. Forms of torture that have been well documented within Russia for nearly twenty years are being systematically exported to Ukraine to target Ukrainians on the basis of their group identity. Widespread rape with extreme brutality and other forms of conflict-related sexual violence by Russian forces has been documented in all territories that Russia has controlled, occurring against Ukrainians across gender and vast age differences, from small children to the elderly. Intensive mining — including in private homes, food facilities, and on corpses — has also been implemented by Russian forces across Ukraine, with demonstrated intent to worsen Ukrainians’ mental and physical health. Russia’s regular nuclear threats — there have been at least 34 since February 2022 — also inflict acute mental harm for Ukrainians, many of whom are survivors of Chernobyl, called the “world’s worst-ever civil nuclear incident” by the World Health Organization. Millions of Ukrainians continue to experience physical and psychological harm from Chernobyl, exacerbated by the 1980s Kremlin’s negligence and cover-up. Nuclear threats from the present-day Kremlin against the affected Ukrainian nation inflict particular mental harm in this context, with Russia’s knowledge of this being a reasonable inference. Together, these and other acts illustrate a widespread, systematic pattern of inhuman treatment intended to cause bodily and mental harm to the Ukrainian national group by Russian State actors.

Russian State forces and occupational authorities have embarked upon a systematic, willful, and escalating campaign to cause severe physical and psychological harm to Ukrainians, which constitutes a prohibited act under Article II (b) of the Genocide Convention when committed with specific intent. Documented cases of widespread and systematic torture, unlawful detentions, rape, and sexual violence, enforced disappearances, and unlawful transfers of the protected group in all areas of Russian control constitute acts of serious bodily and mental harm within the meaning of this prohibited act.¹²⁷

¹²⁷ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) – Ukraine*. ReliefWeb. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

Russian forces have beaten, raped, injured, and tortured Ukrainian men, women, and children in diverse areas of their control, with a widespread, systematic pattern of inhuman treatment and torture found in the Kyiv, Chernihiv, Sumy, Kharkiv, Donetsk, Zaporizhzhia, and Kherson regions, in other areas of Ukraine, and in Russia.¹²⁸ United Nations investigators have noted that varied but similar patterns of torture were used systemically across diverse regions of Ukraine as Russian State forces consolidated control,¹²⁹ indicating a coordinated State policy against the protected group. In May 2023, the Office of the Ukrainian Prosecutor General stated that 88,500 war crime cases have been recorded, with additional lines of inquiry ongoing.¹³⁰ The full number of cases will remain unknown as long as Russian State forces remain in physical control of Ukrainians living under occupation or taken to Russia. Indicating the substantial nature of Russia's violent invasion, 37% of Ukrainians self-identified as having relatives or close contacts who have been killed or injured in the first thirteen months of Russia's full-scale war against Ukraine.¹³¹

Russian State forces and occupational authorities have used willful physical and mental harm explicitly as a method of expunging the Ukrainian national identity in an escalating pattern that indicates a widening scope of destruction against an increasing number of members. When Kherson was liberated by the Ukrainian armed forces in November 2022, more than 1,000 survivors of mass torture chambers submitted evidence, while 400 people remain missing.¹³² Male and female prisoners were subjected to waterboarding, electric shock torture, and physical beatings, as well as forced to memorize pro-Russian songs, poems, and slogans.¹³³ Crucially, torture (and murder) victims included ordinary citizen dissenters, as well as persons with ties to the Ukrainian state and civil society, including teachers, civil servants, activists, and journalists.¹³⁴ Some of the detained stated that they were taken prisoner simply due to the pro-Ukrainian content on their phone.¹³⁵ Investigators from the Mobile Justice Team have stated that these mass torture chambers were directly financed by the Russian State and were run by Russian security services, Russian prison services, and local collaborators, in a "carefully

¹²⁸ Ibid.; Malviya, A. (2023, March 2). *New Torture Chamber evidence uncovered from liberated Kherson*. Global Rights Compliance. <https://globalrightscpliance.com/2023/03/02/new-torture-chamber-evidence-uncovered-from-liberated-kherson/>; Hinnant, L., Maloletka, E., & Stepanenko, V. (2022, October 2). *10 torture sites in 1 town: Russia sowed pain, fear in Izium*. AP NEWS. <https://apnews.com/article/russia-ukraine-business-treatment-of-prisoners-government-and-politics-aec9afe8d6631795ae9f9478a4ede4cc>.

¹²⁹ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) – Ukraine*. ReliefWeb. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹³⁰ The Kyiv Independent news desk. (2023, May 22). *Prosecutor General's Office records over 88,500 Russian war crimes, crimes of aggression in Ukraine*. The Kyiv Independent. <https://kyivindependent.com/prosecutor-generals-office-records-over-88-500-russian-war-crimes-crimes-of-aggression-in-ukraine/>.

¹³¹ Glushko, D. (2023, March 24). *One-Third of Ukrainians Have Relatives Killed or Wounded Due to the War: Poll*. Gwara Media. <https://gwaramedia.com/en/around-a-third-of-ukrainians-have-relatives-killed-or-wounded-due-to-the-war/>.

¹³² Malviya, A. (2023, March 2). *New Torture Chamber evidence uncovered from liberated Kherson*. Global Rights Compliance. <https://globalrightscpliance.com/2023/03/02/new-torture-chamber-evidence-uncovered-from-liberated-kherson/>.

¹³³ Ibid.

¹³⁴ Beaubien, J. (2022, November 18). *Screams from Russia's alleged torture basements still haunt Ukraine's Kherson*. NPR. <https://www.npr.org/2022/11/18/1137473863/ukraine-kherson-alleged-torture-russia>; Malviya, A. (2023, March 2). *New Torture Chamber evidence uncovered from liberated Kherson*. Global Rights Compliance. <https://globalrightscpliance.com/2023/03/02/new-torture-chamber-evidence-uncovered-from-liberated-kherson/>.

¹³⁵ Malviya, A. (2023, March 2). *New Torture Chamber evidence uncovered from liberated Kherson*. Global Rights Compliance. <https://globalrightscpliance.com/2023/03/02/new-torture-chamber-evidence-uncovered-from-liberated-kherson/>.

thought-out and financed blueprint with a clear objective to eliminate Ukrainian national and cultural identity.”¹³⁶ The U.N. Independent Inquiry also recorded survivor testimony from a Ukrainian survivor who was beaten for “not remembering the lyrics of the anthem of the Russian Federation” and as “punishment for speaking Ukrainian.”¹³⁷ This targeting of representatives of Ukrainian culture and intellectual thought is consistent with reports that Russian intelligence maintains lists of Ukrainians to target government officials, journalists, activists, veterans, religious leaders, and lawyers.¹³⁸ A November 2022 report by the Royal United Services Institute found that Russia’s lists are divided into those who should be liquidated and those who should be suppressed, with the second list to be compiled during door-to-door sweeps of occupied areas.¹³⁹ These lists represent a planned effort to eliminate or entirely suppress a part of Ukrainian society necessary for its continued existence.

Detained torture victims often had their legs tied, arms tied or handcuffed, and eyes blindfolded or had hoods or bags placed over their heads.¹⁴⁰ Other forms of torture included mock executions, burnings via hot irons, and beatings severe enough to cause heart attacks.¹⁴¹ One survivor recounted being forced to lie in the blood of a murdered co-detainee for six hours and to clean up the execution site with bare hands, including handling the murder victim’s skull fragments and pieces of his brain.¹⁴² Survivors recounted severe beating sessions referred to by their captors as “denazification sessions,” with Russian authorities calling them “fascists,” “Nazis,” or “terrorists.”¹⁴³ Torture sessions involved severe physical and mental harm, with victims recounting baton or rifle butt beatings, electric shock and taser torture, rape, and forced exposure to cold.

Referred to by perpetrators as a “call to Putin” or “call to Lenin,” one form of electrocution torture attached a military phone (“Tapik”) to an electricity cable clipped to fingers, feet, or men’s genitals.¹⁴⁴ This form of torture and its name have been well documented in the Russian State penal system, appearing in the Russian media as early as 2004.¹⁴⁵ In a 2006 case (*Alexey*

¹³⁶ Koshiw, I. (2023, March 2). Kherson torture centres were planned by Russian state, say lawyers. *The Guardian*.

<https://www.theguardian.com/world/2023/mar/02/kherson-torture-centres-were-planned-by-russian-state-say-lawyers>.

¹³⁷ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) – Ukraine*. ReliefWeb. (11). <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹³⁸ Kinetz, E. (2022, December 21). “We will find you:” Russians hunt down Ukrainians on lists. AP News.

<https://apnews.com/article/russia-ukraine-europe-3ae1bcbfb0ef34dbe363f7c289ce7934>.

¹³⁹ Zabrodskyi, M., Watling, J., & Reynolds, N. (2022). *Preliminary Lessons in Conventional Warfighting from Russia’s Invasion of Ukraine: February-July 2022 Special Report*. <https://static.rusi.org/359-SR-Ukraine-Preliminary-Lessons-Feb-July-2022-web-final.pdf>.

¹⁴⁰ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) – Ukraine*. ReliefWeb. (11). <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹⁴¹ Chovgan, V., Romanov, M., & Melnychuk, V. (2022). “Nine circles of hell”: Places of Detention in Ukraine under Russian Occupation. In *Dignity publication*. <https://www.dignity.dk/wp-content/uploads/42-Nine-circles-of-hell.pdf>.

¹⁴² Ibid.

¹⁴³ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) – Ukraine*. ReliefWeb. (11). <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹⁴⁴ Ibid.

¹⁴⁵ Latynina, Y. (2004, August 10). “CALL PUTIN”, This is the name of the new torture, which the cops love. In a war against your own people, any means are good. Democracy.ru. <https://www.democracy.ru/article.php?id=651>; Nemtsova, A. (2006, March

Mikheyev v. the Russian Federation), the European Court of Human Rights recognized this form of torture as a violation of the European Convention on Human Rights and Basic Freedom and a violation in the lack of effective remedies.¹⁴⁶ Thus, the Russian State has previously been held responsible for this form of torture, which has been documented within Russia for nearly twenty years. This form of torture is now being systematically exported to Ukraine as a means of expunging the core identity features of the Ukrainian national group, to target Ukrainians on the basis of their identity, and to cause serious bodily and mental harm.

Other torture techniques employed by Russian State forces against Ukrainians include hanging victims from the ceiling with bound hands (“parrot position”), waterboarding, shootings, suffocating with sealed gas masks or plastic bags, rape and sexual violence, forced nudity in front of others, and strangling with cables.¹⁴⁷ Some torture sessions ended in executions,¹⁴⁸ and other survivors faced additional mental harm from witnessing fellow detainees die following severe torture.¹⁴⁹ One female survivor recounted fainting multiple times due to beating and being awoken by perpetrators to continue torturing her.¹⁵⁰ U.N. Special Rapporteur Alice Jill Edwards has stated that the methods and the consistency of torture methods indicate “a level of coordination, planning and organization, as well as the direct authorization, deliberate policy or official tolerance from superior authorities.”¹⁵¹

Of critical importance to questions of genocide, multiple verified reports portray escalating modes of fatal or near-fatal torture against a widening circle of the Ukrainian national group over the course of Russia’s full-scale invasion. The Danish NGO Dignity has traced how Russian State forces initially seized control of 100 police stations, 11 jails, and dozens of psychiatric hospitals across Ukraine.¹⁵² They recount inmate testimony of Russian expectations to conquer the entire Ukrainian nation within hours, and when this did not occur due to resistance by the vast majority of Ukrainians, food and medicine supplies ran low. After a series of military setbacks in the Kyiv region and the failure to control Ukraine by eradicating key influential

12). *Russia: A Phone Call to Putin*. Newsweek. <https://www.newsweek.com/russia-phone-call-putin-105997>; Bigg, C. (2012, February 2). “My Only Thought Was To Escape The Torture.” *Radio Free Europe/Radio Liberty*. <https://www.rferl.org/a/1079012.html>.

¹⁴⁶ Case of Mikheyev v. Russia, (European Court of Human Rights April 26, 2006). <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-72166%22%7D>.

¹⁴⁷ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) - Ukraine* | ReliefWeb. (11). Reliefweb.int. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>; *Ukraine: Russian Torture Center in Kherson*. (2023, April 13). Human Rights Watch. <https://www.hrw.org/news/2023/04/13/ukraine-russian-torture-center-kherson>; *Ukraine: Russian Forces Tortured Izium Detainees*. (2022, October 19). Human Rights Watch. <https://www.hrw.org/news/2022/10/19/ukraine-russian-forces-tortured-izium-detainees>; Rosenberg, S. (2023, February 2). Russian army officer admits: “Our troops tortured Ukrainians.” *BBC News*. <https://www.bbc.com/news/world-europe-64470092>.

¹⁴⁸ Malviya, A. (2023, March 2). *New Torture Chamber evidence uncovered from liberated Kherson*. Global Rights Compliance. <https://globalrightscpliance.com/2023/03/02/new-torture-chamber-evidence-uncovered-from-liberated-kherson/>.

¹⁴⁹ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) - Ukraine* | ReliefWeb. (11). Reliefweb.int. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹⁵⁰ Ibid.

¹⁵¹ UN Human Rights. (2023, June 15). *Widespread use of torture by Russian military in Ukraine appears deliberate: UN expert*. OHCHR. <https://www.ohchr.org/en/press-releases/2023/06/widespread-use-torture-russian-military-ukraine-appears-deliberate-un-expert>.

¹⁵² Chovgan, V., Romanov, M., & Melnychuk, V. (2022). “Nine circles of hell”: Places of Detention in Ukraine under Russian Occupation. In *Dignity publication*. <https://www.dignity.dk/wp-content/uploads/42-Nine-circles-of-hell.pdf>.

figures, additional Russians arrived by late April and May to occupied Ukrainian territories, escalating the violence in these institutions and widening the circle of Ukrainians targeted. Russian forces directly killed, detained, and tortured Ukrainians, with “the primary targets [being] Ukrainian civil servants, including teachers and community leaders, former and retired Ukrainian soldiers or policemen, and ordinary civilians, including children, known for patriotic sentiments.”¹⁵³ Both veterans and ordinary civilians in Ukrainian regions occupied by Russian State forces report concerted, painful efforts to conceal their Ukrainian national identity, for example, cutting out patches of skin with revealing tattoos or dissolving their skin with acid.¹⁵⁴ Crucially, these tattoos did not just include military connotations but also simple expressions of Ukrainian national identity, including wheat sheaves or a map of Ukraine with the inscription “home.”¹⁵⁵ These citizens in occupied Ukraine reported their fears of death, rape, detention, and other mistreatment without concealing this signifier of their Ukrainian identity.¹⁵⁶

Numerous instances of sexual and gender-based violence committed by Russian State authorities have been documented in all the territories that Russia has controlled, including the Kyiv, Chernihiv, Kherson, Kharkiv, Donetsk, and Luhansk regions, in other areas of Ukraine, and in Russia.¹⁵⁷ Documented cases involve women, men, and children age 4 to 82 years old across nine regions of Ukraine and in Russia.¹⁵⁸ This violence has often occurred against the unlawfully detained and during house-to-house searches. The United Nations Independent Inquiry has noted that rapes occurred at gunpoint, with “extreme brutality and acts of torture.”¹⁵⁹ Adding to mental harm, rape victims have received threats that their families would be killed.¹⁶⁰ Russian forces have engaged in a variety of threats directed at increasing mental harm, including threats to rape “every Nazi whore.”¹⁶¹ The pattern of rape and sexual violence across Ukrainian

¹⁵³ Chovgan, V., Romanov, M., & Melnychuk, V. (2022). “Nine circles of hell”: Places of Detention in Ukraine under Russian Occupation. In *Dignity publication* (p. 7). <https://www.dignity.dk/wp-content/uploads/42-Nine-circles-of-hell.pdf>.

¹⁵⁴ Chovgan, V., Romanov, M., & Melnychuk, V. (2022). “Nine circles of hell”: Places of Detention in Ukraine under Russian Occupation. In *Dignity publication*. <https://www.dignity.dk/wp-content/uploads/42-Nine-circles-of-hell.pdf>.

¹⁵⁵ Ostrovskyi, S., & Sagalyn, D. (2022, August 10). *Patriotic tattoos become a liability for Ukrainians amid reports of Russian torture*. PBS NewsHour. <https://www.pbs.org/newshour/show/patriotic-tattoos-become-a-liability-for-ukrainians-amid-reports-of-russian-torture>.

¹⁵⁶ Ibid.

¹⁵⁷ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) - Ukraine* | ReliefWeb. (11). Reliefweb.int. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>; Human Rights Watch. (2022, April 3). *Ukraine: Apparent War Crimes in Russia-Controlled Areas*. Human Rights Watch; Human Rights Watch. <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>; *Reports of sexual violence in Ukraine rising fast, Security Council hears*. (2022, June 6). UN News. <https://news.un.org/en/story/2022/06/1119832>; Gall, C., & Boushnak, L. (2023, January 5). “Fear Still Remains”: Ukraine Finds Sexual Crimes Where Russian Troops Ruled. *The New York Times*. <https://www.nytimes.com/2023/01/05/world/europe/ukraine-sexual-violence-russia.html>; John, T., Ochman, O., & Sidhu, S. (2022, April 22). *Russian troops use rape as “an instrument of war” in Ukraine, rights groups allege*. CNN. <https://www.cnn.com/2022/04/22/europe/ukraine-sexual-violence-allegations-russia-cmdintl/index.html>.

¹⁵⁸ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) - Ukraine* | ReliefWeb. (11). Reliefweb.int. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>, para. 42.

¹⁵⁹ OHCHR. (2022). *Independent International Commission of Inquiry on Ukraine*. OHCHR. <https://www.ohchr.org/en/hr-bodies/hrc/iicir-ukraine/index>.

¹⁶⁰ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) - Ukraine* | ReliefWeb. (11). Reliefweb.int. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹⁶¹ John T., Ochman O., and Sidhu S. (2022, April 22). *Russian troops use rape as “an instrument of war” in Ukraine, rights groups allege*. CNN. <https://www.cnn.com/2022/04/22/europe/ukraine-sexual-violence-allegations-russia-cmdintl/index.html>.

territory strongly indicates a widespread, systematic nature, including forced nudity; gang rape; rape in detention centers, homes, and shelters; and rape of parents in front of children or vice versa.¹⁶² In one example of the multiple violations of prohibited acts, a Ukrainian detainee testified of being forced to listen to one female Ukrainian soldier being raped for three consecutive days, after which she was dragged away and never seen again.¹⁶³ These crimes have implications for other prohibited acts under the Genocide Convention, including Article II (c) and (d), as well as Article II (a) when the victim was killed. The role of rape and sexual violence as a measure to prevent births within the targeted group is discussed later in this report.

Forced nudity has also been used against Ukrainians by Russian State forces, as documented at checkpoints, filtration centers, and detention points.¹⁶⁴ In the Kyiv, Donetsk, and Kharkiv regions, as well as in Russia, victims were forced to undress for prolonged periods, a form of sexual violence. In one case, a priest was fully undressed by Russian forces, beaten, and ordered to parade in his naked condition for an hour down the streets of his village.¹⁶⁵ At the Olenivka penal colony in the Donetsk region and in Russian detention centers, cases of forced nudity for hours, in circumstances of extreme humiliation, were documented.¹⁶⁶ Known victims have included men, women, and youths, including a 17-year-old boy.¹⁶⁷ A pattern of evidence has been established by the U.N. Independent Inquiry that “sexual violence amounting to torture, and the threat of such, have been important aspects of the torture exercised by Russian authorities, with methods including rape, electric shocks on genitals, traction on the penis using a rope, and emasculation.”¹⁶⁸

Other patterns of humiliation, degrading treatment, and denial of basic necessities are present in the testimonies of survivors from all areas that Russia has controlled in Ukraine, as well as those forcibly deported by Russian State forces. In Kherson, one survivor of Russian occupation stated that Russian forces constructed blockades and willfully blocked production at a poultry farm, denying citizens basic necessities to force them to accept Russian aid.¹⁶⁹ Ukrainian citizens in this area pooled resources and planted primitive gardens in their apartment courtyards, opting to

¹⁶² OCHA. (2022, April 19). *Sexual Violence and the Ukraine Conflict — April 2022 — Ukraine*. <https://reliefweb.int/report/ukraine/sexual-violence-and-ukraine-conflict-april-2022>; Flowers, G. (2022, May 6). *Russian soldiers accused of raping women, men, and children in Ukraine*. Yahoo! News <https://news.yahoo.com/russian-soldiers-accused-of-raping-women-men-and-children-in-ukraine-224021315.html>; Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) - Ukraine | ReliefWeb*. <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹⁶³ Chovgan, V., Romanov, M., & Melnychuk, V. (2022). “Nine circles of hell”: Places of Detention in Ukraine under Russian Occupation. In *Dignity publication*. <https://www.dignity.dk/wp-content/uploads/42-Nine-circles-of-hell.pdf>.

¹⁶⁴ Human Rights Council. (2023, March 16). *Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62) - Ukraine | ReliefWeb*. (11). <https://reliefweb.int/report/ukraine/report-independent-international-commission-inquiry-ukraine-ahrc5262enruuk-advance-unedited-version>.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*

¹⁶⁸ *Ibid.*, para. 81

¹⁶⁹ Kuryshko, D. (2022, March 9). “It’s like blockaded Leningrad.” How people survive in surrounded cities and villages. *BBC News Ukraine*. <https://www.bbc.com/ukrainian/features-60684140>.

live without water, electricity, medical care, and communication before subjecting to the mental degradation that occupied Russian aid.¹⁷⁰

In keeping with Russian forces' methodical pattern of willfully inflicting mental and physical harm, the Ukrainian government has stated that these retreating forces systematically leave behind mines and booby traps banned by international law in private homes, in food facilities, and on corpses.¹⁷¹ In April 2022, the *New York Times* reported that a man was killed by a booby trap after opening the hood of an abandoned car.¹⁷² In a small village in Kyiv oblast, Ukraine's emergency services reported finding 1,500 explosives in a single day.¹⁷³ As Ukrainian soldiers worked to secure and clear Bucha last spring, they used cables to move corpses out of concern that they would explode.¹⁷⁴ Ukrainian Prime Minister Denys Shmyhal stated in a December interview that nearly 40% of Ukrainian territory was mined, calling the country "currently the largest minefield in the world."¹⁷⁵ Due to the scale of Russian mining and unexploded ordinance, Ukrainian emergency services have estimated that at least a decade will be required to de-mine the country.¹⁷⁶ Economic impacts abound, particularly affecting agriculture — a major industry of Ukraine — as do long-term health impacts, linking this strategy of Russian State violence to other prohibited acts, including Article II (c).¹⁷⁷ Even simple mines, such as grenades rigged with tripwires and duct tape, have killed Ukrainian civilians without serving any military or strategic purpose, indicating a goal of the physical destruction and harming of civilians.¹⁷⁸ Human Rights Watch experts have described this as a mindset of "Let's kill civilians with booby traps. It's salting the earth; it's targeting people."

Beyond the obvious physical effects, which have included death and maiming, research indicates living in landmine-contaminated territory brings known forms of mental harm, including posttraumatic stress disorder,¹⁷⁹ and is associated with long-term educational impacts for

¹⁷⁰ *Ibid.*

¹⁷¹ Cabinet of Ministers of Ukraine. (2022, April 4). *Statement of the Ministry of Foreign Affairs of Ukraine on the occasion of the International Day for Mine Awareness and Assistance in Mine Action*. www.kmu.gov.ua. <https://www.kmu.gov.ua/en/news/zayava-mzs-ukrayini-z-nagodi-mizhnarodnogo-dnya-prosviti-z-pitan-minnovyi-nebezpeki-ta-dopomogi-v-rozminuvanni>; Haroun, A. (2022, April 15). *Ukrainian officials say retreating Russian forces left booby traps including explosives in car trunks, washing machines, and under dead bodies*. Business Insider. <https://www.businessinsider.com/ukraine-officials-russian-forces-left-booby-traps-under-dead-bodies-2022-4>.

¹⁷² Santora, M., Solomon, E., & Gall, C. (2022, April 13). *Russian Invasion of Ukraine: What Happened on Day 49 of the War in Ukraine*. *The New York Times*. <https://www.nytimes.com/live/2022/04/13/world/ukraine-russia-war-news#russia-land-mines-ukraine>.

¹⁷³ The Associated Press. (2022, April 2). *Zelensky alleges Russian troops leaving booby traps behind as Ukraine regains area near Kyiv*. CBS. <https://www.cbc.ca/news/world/ukraine-russia-war-april2-2022-1.6406411>.

¹⁷⁴ Schmitt, M. N. (2022, April 5). *Ukraine Symposium - Russian Booby-Traps and the Ukraine Conflict - Lieber Institute West Point*. Lieber Institute West Point. <https://lieber.westpoint.edu/booby-traps-ukraine-conflict/>.

¹⁷⁵ Haye-ah, L. (2023, January 8). *Ukraine PM says Russia has created world's largest mine field in Ukraine*. Yonhap News Agency. <https://en.yna.co.kr/view/AEN20230107002151315?section=national/diplomacy>.

¹⁷⁶ The State Emergency Service of Ukraine. (2022, June 24). <https://www.facebook.com/MNS.GOV.UA/posts/pfbid0upsm5qFL61jWc54P4G5iGmujg1pMtN9PtJQZcEPvjNgtp9M6kcVb9RZSBHQUqkCl>.

¹⁷⁷ Klain, D. (2022, September 15). *Russia Is Seeding Ukraine's Soil With Land Mines*. Foreign Policy. <https://foreignpolicy.com/2022/09/15/russia-ukraine-land-mines/>.

¹⁷⁸ Wordsworth, R. (2022, December 21). *Russia Has Turned Eastern Ukraine Into a Giant Minefield*. Wired. <https://www.wired.com/story/russian-landmines-ukraine-psychological-warfare/>.

¹⁷⁹ Kakar, F., Bassani, F., Romer, C., & Gunn, S. (1996). The Consequence of Land Mines on Public Health. *Prehospital and Disaster Medicine*, 11(1), 2-10. doi:10.1017/S1049023X00042278.

children.¹⁸⁰ Human Rights Watch experts have described Russian State motives, saying, “That’s the psychology you’re looking at: to continue the punishment. It’s saying, ‘You’re going to remember us.’”¹⁸¹ Human Rights Watch has also noted that Russian State forces have employed at least seven types of antipersonnel mines in at least four Ukrainian regions (Kyiv, Kharkiv, Donetsk, and Sumy), calling this “an unusual situation in which a country that is not party to the 1997 Mine Ban Treaty uses the weapon on the territory of a party to the treaty.”¹⁸²

By April 2023, fourteen months of Russia’s full-scale war against Ukraine resulted in 10,000 Ukrainians who have undergone amputations, while many other Ukrainians have warfare-related blindness, deafness, severe burns, and other lifelong injuries.¹⁸³ Many of these injuries are severe enough or occurred in contexts extreme enough that they indicate additional failed attempts by Russian State forces to physically destroy members of the Ukrainian national group.

The use of physical and mental abuse, including to destroy the Ukrainian identity, by Russian forces does not spare Ukrainian children. One rescued teenager who was forcibly transferred to Russia stated that he and his fellow Ukrainian children were kept in inhuman conditions, that a statue was erected with the inscription “Putin is the king,” and that children who refused to sing the Russian national anthem daily were deprived of food, phone access, and the opportunity to shower for four days.¹⁸⁴ Special beatings with an iron stick were reserved for children who expressed pro-Ukrainian sentiment or who denied the superiority of Russian identity.¹⁸⁵ On the one-year anniversary of Russia’s full-scale invasion of Ukraine, in February 2023, Russian State officials brought children and teenagers onto the stage of their patriotic pep rally in Moscow’s Luzhniki Stadium.¹⁸⁶ Ukrainian neighbors confirmed the identities of several children from Mariupol, including 15-year-old Anna Naumenko and a Russian man identified as a soldier nicknamed “Yuri Gagarin.” At the coaxing of the announcers, she recited, “Thank you, Uncle Yura, for saving me, my sister, and hundreds of thousands of children in Mariupol.” Neighbors stated that Anna’s mother, Olga Naumenko, was killed by shrapnel in the war, and that Anna also had a brother, Danya, who was not mentioned in her Moscow remarks and whose whereabouts are unknown.

Other Russian State threats have particular contextual salience in Ukraine,¹⁸⁷ given that Ukraine experienced the 1986 Chernobyl nuclear disaster, called the “world’s worst-ever civil nuclear

¹⁸⁰ Prem, M., Purroy, M. E., & Vargas, J. F. (2022). *Landmines: the Local Effects of Demining*. https://publications.ut-capitole.fr/id/eprint/44388/1/wp_tse_1305.pdf.

¹⁸¹ Wordsworth, R. (2022, December 21). *Russia Has Turned Eastern Ukraine Into a Giant Minefield*. Wired. <https://www.wired.com/story/russian-landmines-ukraine-psychological-warfare/>.

¹⁸² *Background Briefing on Landmine Use in Ukraine*. (2022, June 15). Human Rights Watch. <https://www.hrw.org/news/2022/06/15/background-briefing-landmine-use-ukraine>.

¹⁸³ Cookman, L. (2023, April 19). Ukraine’s 10,000 amputees and the struggle for artificial limbs. *The Daily Telegraph*. <https://www.telegraph.co.uk/global-health/terror-and-security/ukraine-russia-war-prosthetic-limbs-latest-kyiv/>.

¹⁸⁴ Kuleba, M. (2023, March 29). In Twitter. <https://twitter.com/MykolaKuleba/status/1641009301249482752>.

¹⁸⁵ Sachalko, B. (2023, March 27). *Ukrainian Children Taken By Russia To Crimea Reunited With Families*. Wwww.rferl.org. <https://www.rferl.org/a/ukrainian-children-russia-crimea-reunited-families-/32336387.html>.

¹⁸⁶ Roth, A. (2023, February 25). “That’s my neighbour”: Mariupol residents’ shock at Putin’s parade line-up. *The Observer*. <https://www.theguardian.com/world/2023/feb/25/thats-my-neighbour-mariupol-residents-shock-at-putins-parade-line-up>.

¹⁸⁷ Stepanenko, V. (2023, April 26). *Ukrainians mark Chernobyl disaster amid nuclear threats*. AP NEWS. <https://apnews.com/article/ukraine-chernobyl-disaster-anniversary-nuclear-9ea533917643d80a891d85a8552e2701>.

incident” by the World Health Organization.¹⁸⁸ Our analysis¹⁸⁹ has noted 12 instances of direct nuclear threats by the Russian State (i.e., saying that a nuclear attack is likely, is inevitable, or proposing an attack) and 22 instances of indirect nuclear threats (i.e., suggesting that Russia might use nuclear weapons) over the first 14 months of Russia’s full-scale invasion, including during Russia’s illegal “annexation” of Ukrainian territories.¹⁹⁰ Dmitry Muratov, the editor-in-chief of independent Russian media Novaya Gazeta, further stated in June 2023 that Russian State media made two hundred references to nuclear weapons in a span of two weeks.¹⁹¹ Russia’s continued occupation of the Zaporizhzhia Nuclear Power Plant, the largest nuclear power plant in Europe, adds additional immediacy to these threats.¹⁹²

Today, a significant percentage of Ukrainians experiencing current nuclear threats are Chernobyl survivors. The World Health Organization (WHO) has reported on a variety of continuing health effects from the Chernobyl disaster that directly impact Ukrainians, including 9,000 excess cancer deaths; the social stigmas associated with the relocation of 346,000 persons from contaminated areas; continuing mental health effects; and 5 million people still living in contaminated areas.¹⁹³ With the Kremlin’s negligence and cover-up as major aspects of the 1986 disaster, threats from the present-day Kremlin against the affected Ukrainian nation inflict particular mental harm in this context. Russia’s knowledge of this acute harm is a reasonable inference and part of the larger pattern of threats that they can repeat crimes against Ukrainians with impunity.

Finally, an additional measure of the widespread, nationwide mental harm inflicted by the Russian State on Ukrainians includes emerging psychological health data. In February 2023, WHO estimated that at least 10 million Ukrainians may be suffering from anxiety, depression, and other mental health conditions, with nearly 4 million cases deemed severe or moderate, due to Russia’s war against Ukraine.¹⁹⁴ WHO officials have also stated these numbers are likely significantly larger, and that these diagnoses do not include the large numbers of Ukrainians who face daily stresses and distresses without meeting the criteria for a diagnosis.¹⁹⁵ UNICEF has also estimated that 1.5 million Ukrainian children are at the risk of anxiety, depression,

¹⁸⁸ WHO | World Health Organization report explains the health impacts of the world’s worst-ever civil nuclear accident. (2011, April 4). Web.archive.org.

<https://web.archive.org/web/20110404181327/http://www.who.int/mediacentre/news/releases/2006/pr20/en/index.html>.

¹⁸⁹ This is according to our tracker; see https://docs.google.com/spreadsheets/d/1wDM64Veye7QzZkv-tQYLxS5LVhOiyy_fYgwk22kBRs0/edit#gid=11723.

¹⁹⁰ Sly, L. (2020, October 1). Russia’s annexation puts world “two or three steps away” from nuclear war. *Washington Post*. <https://www.washingtonpost.com/world/2022/10/01/europe-putin-nuclear-threats/>.

¹⁹¹ Muratov, D. (2023, June 21). *There will be a coup d’état in Russia without the overthrow of power*. Русская служба the Moscow Times. <https://www.moscowtimes.ru/2023/06/21/dmitrii-muratov-v-rossii-budet-gosudarstvennii-perevorot-bez-sverzheniya-vlasti-a46685>.

¹⁹² Glantz, M. (2022, August 24). *Russia’s New Nuclear Threat: Power Plants as Weapons*. United States Institute of Peace. <https://www.usip.org/publications/2022/08/russias-new-nuclear-threat-power-plants-weapons>.

¹⁹³ WHO | World Health Organization report explains the health impacts of the world’s worst-ever civil nuclear accident. (2011, April 4). Web.archive.org.

<https://web.archive.org/web/20110404181327/http://www.who.int/mediacentre/news/releases/2006/pr20/en/index.html>.

¹⁹⁴ *Amid a year of relentless war, WHO Regional Director for Europe strengthens commitment for mental health services during visit to Ukraine*. (2023, February 16). Wwww.who.int. <https://www.who.int/europe/news/item/16-02-2023-amid-a-year-of-relentless-war--who-regional-director-for-europe-strengthens-commitment-for-mental-health-services-during-visit-to-ukraine>.

¹⁹⁵ Gottbrath, L.-W. (2023, February 24). *The silent toll of war: Ukraine’s growing mental health crisis*. Axios. <https://www.axios.com/2023/02/24/ukraine-war-mental-health-russia-invasion-children>.

posttraumatic stress disorder, and other conditions.¹⁹⁶ Ukraine’s Ministry of Health published an October 2022 survey in which more than 70% of respondents self-identified as very stressed or nervous.¹⁹⁷ Like sexual and gender-based violence, mental health issues are also frequently underreported. Yet these statistics indicate that intensive mental harm inflicted on Ukrainians will have long-term mental and physical effects, including suicides and compounding health challenges. Russia’s nationwide, regular bombing campaigns across Ukraine have added to this willfully inflicted physical and mental toll. Every region of Ukraine has experienced airstrike warnings. Frontline areas like Donetsk and Kharkiv have spent over 1,000 hours on alert with bracingly loud air sirens by the one-year anniversary of Russia’s full-scale invasion in February 2023.¹⁹⁸ A Kharkiv inhabitant who responded to each air raid since March 15, 2022, over the first year of Russia’s full-scale invasion would have spent at least 59 consecutive days in a bomb shelter, while Kyiv residents would have spent 24 full days under these intense auditory conditions in austere bomb shelters.¹⁹⁹

Article II (c): Deliberately Inflicting on the Group Conditions of Life Calculated to Bring about Its Physical Destruction in Whole or in Part

Summary: Russian State forces have deliberately inflicted conditions of life calculated to bring about Ukrainians’ physical destruction. This campaign has been carried out in a systematic, coordinated manner that has consistently escalated over the past year. Russia has increased its unrelenting attacks on Ukrainian cities, including the wholesale destruction of numerous cities, and the systematic expulsion of millions of Ukrainians from their homes. Highly coordinated efforts by Russian State forces have forcibly deported Ukrainians into Russia in a systematic “filtration” process designed to erase or eradicate Ukrainian expressions of identity. The Russian military has been documented as bombing cities’ sources of electricity, water, gas, and communications in close succession and with tactics that targeted Ukrainian identity and cultural heritage. One significant escalation has been mass missile strikes targeting critical civilian infrastructure across Ukraine, timed for Ukraine’s harsh winter — the most vulnerable season for the physical survival of Ukrainians. These strikes were understood at the time by humanitarian and human rights organizations to pose a significant threat to the physical survival of millions of Ukrainians, yet Russia consistently, systematically escalated its campaign for months and Russia State actors cheered these brutal tactics. Russia’s unrelenting attacks have directly targeted vital civilian infrastructure necessary for the full physical survival of the Ukrainian national group — including water supplies, gas and heating systems,

¹⁹⁶ *Amid a year of relentless war, WHO Regional Director for Europe strengthens commitment for mental health services during visit to Ukraine.* (2023, February 16). [www.who.int. https://www.who.int/europe/news/item/16-02-2023-amid-a-year-of-relentless-war-who-regional-director-for-europe-strengthens-commitment-for-mental-health-services-during-visit-to-ukraine.](https://www.who.int/europe/news/item/16-02-2023-amid-a-year-of-relentless-war-who-regional-director-for-europe-strengthens-commitment-for-mental-health-services-during-visit-to-ukraine)

¹⁹⁷ *More than 70% of Ukrainians feel stressed or nervous, and only 2% consult a specialist.* (2022, October 28). *Government Courier.* [https://ukurier.gov.ua/uk/news/ponad-70-ukrayinciv-vidchuvayut-stres-abo-znervova/.](https://ukurier.gov.ua/uk/news/ponad-70-ukrayinciv-vidchuvayut-stres-abo-znervova/)

¹⁹⁸ Soler, L. N., Vicente, J., & Pérez, M. H. (2023, February 23). *After a year of war, air raid sirens have sounded more than 15,000 times in Ukraine.* *EL PAÍS English.* [https://english.elpais.com/international/2023-02-23/after-a-year-of-war-air-raid-sirens-have-sounded-more-than-15000-times-in-ukraine.html.](https://english.elpais.com/international/2023-02-23/after-a-year-of-war-air-raid-sirens-have-sounded-more-than-15000-times-in-ukraine.html)

¹⁹⁹ *Ibid.*

and power plants — with numerous health consequences. These coordinated attacks also indicate that Russia attempted to impose these life-threatening conditions on Ukrainians across the country and far away from the war's front lines, targeting increasing numbers of Ukrainians. Reconstruction costs needed for the physical recovery of the Ukrainian people are estimated to require hundreds of billions of dollars, as 1,004 attacks on the health care system alone have been recorded. In one clear indication of the physical toll of Russia's full-scale invasion on Ukrainians, premature births have doubled due to excessive stress and rapidly declining standards of living in eastern parts of the country.

Article II (c) of the Genocide Convention refers to willful methods of destruction that may not be necessarily intended to immediately kill members of the protected group but that will ultimately result in their physical destruction. Previous interpretations of the term "conditions of life" have included the denial of food, medical services, and other basic necessities, as well as the systematic expulsion of the targeted group from their homes.²⁰⁰

While relentlessly bombarding Ukrainians from within and without, Russian forces have simultaneously and deliberately imposed brutal sieges on cities, amounting to systematic acts under Article II (c) of the Genocide Convention (which constitute genocide when committed with specific intent).²⁰¹ Military sieges of cities across Ukraine have constituted one such violation. The coordinated actions by the Russian military to deprive Ukrainian residents of basic necessities and trap them under these life-threatening conditions demonstrate that the sieges are calculated to bring about their physical destruction.²⁰² The speed and consistency of destruction across vastly different terrain indicates willful State policy decisions to inflict these conditions. According to UNICEF, by April 15, 2022, 1.4 million people in war-affected eastern Ukraine were without access to safe water and an additional 4.6 million people were without adequate access to water.

In besieging cities, Russian forces have followed a similar pattern of striking water, power, and communication sources early on, and further targeting medical facilities, grain warehouses,²⁰³ and aid distribution centers, demonstrating a military strategy and policy of deliberately inflicting fatal conditions on Ukrainian inhabitants.²⁰⁴ In Bucha, on March 4, 2022, within a week of arriving, Russian forces struck the water tower and gas plant, cutting off residents from

²⁰⁰ Human Rights Council. (2016). "*They came to destroy*": *ISIS Crimes Against the Yazidis*. para. 137.

https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A_HRC_32_CRP.2_en.pdf.

²⁰¹ 7 In eastern Ukraine, Russian military razing towns to take them over. (n.d.). *Washington Post*. Retrieved May 20, 2022, from <https://www.washingtonpost.com/world/2022/04/07/izyum-eastern-ukraine-razing-towns/>.

²⁰² Evidence of war crimes and violations of international humanitarian law committed by the Russian Federation during its campaign of military aggression against Ukraine. (2022). International Partnership for Human Rights. https://truth-hounds.org/wp-content/uploads/2022/04/final_22-march-5-april-3_eng_proof.pdf; Reuters. (2022, March 10). Russia blocked evacuation from part of Ukrainian town - regional governor. <https://www.reuters.com/world/russia-blocked-evacuationpart-ukrainian-town-regional-governor-2022-03-10/>; BBC News. (2022, March 31). Ukraine war: Russia blocks buses heading to Mariupol, says Ukraine. <https://www.bbc.co.uk/news/world-europe-60938429>.

²⁰³ Ukraine says Russia is stealing grain, which could worsen food crisis. (n.d.). *Washington Post*. Retrieved May 20, 2022, from <https://www.washingtonpost.com/world/2022/05/05/ukraine-grain-theft-russia-hunger-war>.

²⁰⁴ Truth Hounds-IPHR Apr. 6-20 Report, at 10.

water, gas, and heating.²⁰⁵ Similarly, by late March 2022, within a week of Russian forces laying siege to Chernihiv, a city with a prewar population of about 300,000, most of the city lost nearly all access to water, electricity, heating, and phone communications.²⁰⁶ Forensic pathologists estimate that approximately 700 people died under the 39-day siege of Chernihiv, including some with signs of torture, though the death toll continues to rise.²⁰⁷ When Russian forces began attacking Izium, which had a prewar population of about 45,000, the entire city quickly became entirely dependent on personal food and humanitarian aid, which only reached some civilians, mainly in large bomb shelters.²⁰⁸ Likewise, early on in its siege of Mariupol, the port city with a prewar population of about 450,000, around March 2, 2022, the Russian military bombed the city's sources of electricity, water, gas, and communications in close succession.²⁰⁹ By July 2022, approximately 14.6% of Ukraine's estimated crop storage capacity had been damaged by Russia's full-scale invasion.²¹⁰

Consistent with the escalated, systematic pattern of destruction against increasingly large numbers of Ukrainians, Russia's willful efforts to inflict conditions of life calculated to bring about Ukrainians' physical destruction intensified last fall. While increasingly stymied in their military sieges against Ukrainian towns and cities by the late summer of 2022, a concerted Russian effort to destroy Ukraine's most vital civilian infrastructure occurred, timed for winter conditions in which the most dangerous risks to health and survival were present. Russia's unrelenting attacks have directly targeted vital civilian infrastructure necessary for the full physical survival of the Ukrainian national group — including water supplies, natural gas and heating systems, and power plants — in a coordinated campaign to strike prohibited targets far away from fighting.²¹¹

Russia's mass missile strikes across the entire territory of Ukraine escalated in September 2022 — notably during winter, the most vulnerable time for targeted Ukrainians. Ukrainian winters are cold and snowy, with temperature averages well below freezing. The nation's average daily temperatures from December to March vary from -4.8 Celsius (23 degrees Fahrenheit) to 2 Celsius (36 degrees Fahrenheit).²¹² Ukrainians referred to this painfully cold winter as *Kholodomor* ("death by cold"), evoking the name of the Holodomor ("death by hunger"), a

²⁰⁵ Yulia Gorbunova. (2022, March 30). *Devastation and Loss in Bucha, Ukraine*. Human Rights Watch. <https://www.hrw.org/news/2022/03/30/devastation-and-loss-bucha-ukraine>.

²⁰⁶ Human Rights Watch. (2022, March 31). *Ukraine: Civilians in Besieged Chernihiv Need Access to Essentials*. <https://www.hrw.org/news/2022/03/31/ukraine-civilians-besieged-bernihiw-need-access-essentials>.

²⁰⁷ Ashleigh Stewart. (2022, May 4). *The siege of Chernihiv: Residents recount five weeks of horror under Russian terror*. Global News. <https://globalnews.ca/news/8808055/bernihiw-ukraine-war-aftermath/>; International Partnership for Human Rights. (2022, April 6–20). *Evidence of war crimes and violations of international humanitarian law committed by the Russian Federation during its campaign of military aggression against Ukraine*. Truth Hounds.

²⁰⁸ 4 Amnesty International. (2022, March 16). *Ukraine: Beleaguered town of Izium at breaking point after constant attack from Russian forces — new testimony*. <https://www.amnesty.org/en/latest/news/2022/03/ukraine-beleaguered-town-of-izium-at-breaking-point-after-constant-attack-from-russian-forces-new-testimony/>.

²⁰⁹ *First Person: A month in a Mariupol basement*. (2022, April 19). U.N. News. <https://news.un.org/en/story/2022/04/1116422>; Voices from the siege of Mariupol. (2022, March 30). *Washington Post*. <https://www.washingtonpost.com/world/2022/03/30/mariupol-siege-voices-ukraine-war/>.

²¹⁰ <https://hub.conflictobservatory.org/portal/apps/sites/#/home/pages/grain-1>.

²¹¹ Ukraine Conflict Observatory. (2022). *Kyiv Falling into Darkness: Data shows significant instability and decrease in nighttime light production*. <https://hub.conflictobservatory.org/portal/apps/sites/#/home/pages/nightlights>.

²¹² *What Ukrainians need to survive winter* | International Rescue Committee (IRC). (2022, December 1). [www.rescue.org](https://www.rescue.org/article/what-ukrainians-need-survive-winter-0#:~:text=Winter%20in%20Ukraine%20is%20snowy). <https://www.rescue.org/article/what-ukrainians-need-survive-winter-0#:~:text=Winter%20in%20Ukraine%20is%20snowy>.

1930s artificially induced famine under Joseph Stalin that killed at least 4 million Ukrainians in under two years.²¹³

Russia's mass attacks left millions without reliably daily power, reduced medical services, deepened poverty and its health consequences in Ukraine's IT services-focused economy, and worsened the health of the acutely vulnerable (i.e., the elderly, newborns, and those with preexisting health concerns).²¹⁴ On one day in mid-November, 7 million Ukrainians were left without electricity, affecting food storage, heat, medical care, and sewage (complicating other public health concerns).²¹⁵ In a December 2022 assessment, 25% of Ukrainians reported that they did not have access to adequate heating, compounded by war-caused homelessness and shelter damage (with 60% of Ukrainians reporting their homes required war-related repairs in the same report).²¹⁶ Representing more than half of Ukraine's population in total, 17.7 million Ukrainians were assessed to require humanitarian aid to survive the winter.²¹⁷ The International Rescue Committee's Ukraine director summarized these findings at the start of Ukraine's heavy winter season, stating, "With no power source, and with damage to their shelter, surviving the winter will be incredibly difficult for a large number of people."²¹⁸ As Russia's nationwide missile strikes increased in September 2022, the World Health Organization named this an "escalation of the humanitarian crisis" in October 2022, warning that the physical effects of civilian infrastructure targeting would increase strokes and heart attacks, pneumonia, hypothermia, and frostbite.

Russian State reactions indicate knowledge and intent to impose conditions calculated to bring about the physical destruction of the Ukrainian people. On October 19, 2022, Russian State Duma Deputy Andrey Gurulyov approvingly characterized the conditions created by the missile strikes as making it "impossible to survive. There is no heating, no water, no sewer, and no lights. You can't cook food, no place to store food, there is no way to transport the food ... All of this is quite effective. I suppose this should be continued. This will produce a very good effect."²¹⁹ Konstantin Dolgov, a senator in the Federation Council (the parliament's upper

²¹³ Hook, K. (2021). Pinpointing Patterns of Violence: A Comparative Genocide Studies Approach to Violence Escalation in the Ukrainian Holodomor. *Genocide Studies and Prevention: An International Journal*, 15(2). <https://doi.org/10.5038/1911-9933.15.2.1809%3C/p%3E>; Wolowyna O. et al. (2020). 7. *Monthly Distribution of 1933 Famine Losses in Soviet Ukraine and the Russia Soviet Republic at the Regional Level*. Nationalities Paper 48, 3. 530–548; Levchuk N. et al. (2020). *Regional 1932–1933 Famine Losses: A Comparative Analysis of Ukraine and Russia*. Nationalities Papers 48, 3; Klid B., Motyl A. J., eds. *The Holodomor Reader: A Sourcebook on the Famine of 1932–1933 in Ukraine*. Toronto: Canadian Institute of Ukrainian Studies Press, 2012.

²¹⁴ Kluge, H. H. P. (2022, October 14). *The escalation of the humanitarian emergency requires an escalation of the humanitarian response*. <https://www.who.int/europe/news/item/14-10-2022-statement---the-escalation-of-the-humanitarian-emergency-requires-an-escalation-of-the-humanitarian-response>.

²¹⁵ *What Ukrainians need to survive winter* | International Rescue Committee (IRC). (2022, December 1). [www.rescue.org. https://www.rescue.org/article/what-ukrainians-need-survive-winter-0#:~:text=Winter%20in%20Ukraine%20is%20snowy](https://www.rescue.org/article/what-ukrainians-need-survive-winter-0#:~:text=Winter%20in%20Ukraine%20is%20snowy).

²¹⁶ *Winter in Ukraine: over 25% of internally displaced people interviewed lack access to sufficient heating, more than 60% houses damaged, IRC initial analysis shows* | International Rescue Committee (IRC). (2022, December 20). [www.rescue.org. https://www.rescue.org/press-release/winter-ukraine-over-25-internally-displaced-people-interviewed-lack-access-sufficient](https://www.rescue.org/press-release/winter-ukraine-over-25-internally-displaced-people-interviewed-lack-access-sufficient).

²¹⁷ *What Ukrainians need to survive winter* | International Rescue Committee (IRC). (2022, December 1). [www.rescue.org. https://www.rescue.org/article/what-ukrainians-need-survive-winter-0#:~:text=Winter%20in%20Ukraine%20is%20snowy](https://www.rescue.org/article/what-ukrainians-need-survive-winter-0#:~:text=Winter%20in%20Ukraine%20is%20snowy).

²¹⁸ *Ibid.*

²¹⁹ Davis, J. (2022). Twitter. <https://twitter.com/JuliaDavisNews/status/1582926857749467137>.

house) and a former Russian commissioner for human rights, echoed in the same panel that he “totally supports” Gurulyov’s position.²²⁰

In addition, the systematic expulsion of Ukrainians from their homes — and the ensuing demographic consequences — fit well with this category, having been noted as a marker of genocide in other cases, including the U.N. Independent Inquiry on the targeting of the Yazidi protected group by ISIS.²²¹ More than 8.2 million fleeing Ukrainian refugees were documented within Europe, and another 8 million Ukrainians were estimated by the United Nations to be internally displaced by late May 2022.²²² Approximately 25% of Ukraine’s total population were driven from their homes.²²³ During the month of March 2022, the United Nations assessed that nearly one Ukrainian child per second was made a refugee by Russia’s full-scale invasion, with a total of 2 million children becoming refugees by the end of the month.²²⁴ With significant demographic ramifications for the physical future of the Ukrainian national group, 50% of refugees were children, and 90% constituted women and children.²²⁵ Russia’s systematic efforts to drive the Ukrainian national group from their homes and their national borders constituted the largest refugee crisis recorded in Europe since World War II, marking the highest refugee flight rate internationally in the early months of Russia’s systematic destruction.²²⁶

Russia’s widespread, large-scale, and systematic destruction of Ukrainian cities, towns, and villages has exacerbated these population displacements. The list of eastern Ukrainian cities and towns whose officials have announced that they have been entirely destroyed includes Mariupol (Donetsk oblast), Bakhmut (Donetsk oblast), Marinka (Donetsk oblast), Volonvakh (Donetsk oblast), Lyman (Donetsk oblast), Rubizhne (Luhansk oblast), Popasna (Luhansk oblast), Sievierodonetsk (Luhansk oblast), Bilohorivka (Luhansk oblast), Hirske (Luhansk oblast), Zolote (Luhansk oblast), Kreminna (Luhansk oblast), and Lysychansk (Luhansk oblast).²²⁷

²²⁰ Kaonga, G. (2022, October 20). *Russia official says no choice but to freeze and starve Ukrainian civilians*. Newsweek. <https://www.newsweek.com/russia-ukraine-conflict-andrey-gurulyov-freeze-starve-electricity-latest-update-1753411>.

²²¹ Human Rights Council. (2016). “*They came to destroy*”: *ISIS Crimes Against the Yazidis*.

https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A_HRC_32_CRP.2_en.pdf.

²²² UNHCR. (2023). *Situation Ukraine Refugee Situation*. Data2.Unhcr.org. <https://data2.unhcr.org/en/situations/ukraine;>

UNHCR. (2022, May 23). *Ukraine, other conflicts push forcibly displaced total over 100 million for first time*. UNHCR.

<https://www.unhcr.org/news/news-releases/unhcr-ukraine-other-conflicts-push-forcibly-displaced-total-over-100-million>.

²²³ Ramsay, G. (2022, March 21). *A quarter of Ukrainians have fled their homes. Here’s where they’ve gone* - CNN.

Web.archive.org. <https://web.archive.org/web/20220321174648/https://www.cnn.com/2022/03/21/europe/ukraine-russia-conflict-10-million-refugees-intl/index.html>.

²²⁴ OECD. (2022, August 3). *The Ukrainian Refugee Crisis*. OECD. <https://www.oecd.org/ukraine-hub/policy-responses/the-ukrainian-refugee-crisis-546ed0a7/>.

²²⁵ *European Commission pledges €1bn to support Ukraine – as it happened*. (2022, April 10). The Guardian.

<https://www.theguardian.com/world/live/2022/apr/09/russia-ukraine-war-latest-zelenskiy-calls-for-firm-global-response-to-war-at-kramatorsk-train-station-live?page=with:block-62517ca78f081f653cd8c59d#block-62517ca78f081f653cd8c59d>; OECD.

(2022, August 3). *The Ukrainian Refugee Crisis*. OECD. <https://www.oecd.org/ukraine-hub/policy-responses/the-ukrainian-refugee-crisis-546ed0a7/>.

²²⁶ *Ukraine has fastest-growing refugee crisis since second world war, says UN | Ukraine | The Guardian*. (2022, March 9).

Web.archive.org. <https://web.archive.org/web/20220309104950/https://www.theguardian.com/world/2022/mar/06/ukraine-fastest-growing-refugee-crisis-since-second-world-war>; OECD. (2022, August 3). *The Ukrainian Refugee Crisis*. OECD.

<https://www.oecd.org/ukraine-hub/policy-responses/the-ukrainian-refugee-crisis-546ed0a7/>.

²²⁷ Sonko, A. (2022, December 31). *Bakhmut as a city “no longer exists, but military situation not catastrophic” — Budanov*.

English.nv.ua. <https://english.nv.ua/nation/bakhmut-as-a-city-no-longer-exists-but-military-situation-not-catastrophic-budanov-50294631.html>; Champion, M. (2023, March 6). *This Used To Be a City in Ukraine*. www.vice.com.

In Mariupol, one of the largest Ukrainian cities to be razed, a pattern of devastation to destroy and erase the Ukrainian national identity echoes similar systematic, coordinated patterns found in other areas of Russian control. Though Mariupol is under Russian control and therefore remains blocked to ground investigations, satellite image analyses have uncovered the rapid and massive expansion of cemeteries and mass graves in the area starting in March.²²⁸ Descending into one of the twenty-first century's most graphic war zones, a total humanitarian crisis gripped the city, and the charred remains of its landscape were almost unrecognizable. Bodies were dumped into a narrow trench, including children, with widespread disease and sanitation issues rampant.²²⁹ Eyewitness journalists' accounts described the city on March 16, 2022, less than one month into Russia's full-scale invasion: "The surrounding roads are mined, and the ports blocked. Food is running out, and the Russians have stopped humanitarian attempts to bring it in. Electricity is mostly gone, and water is sparse, with residents melting snow to drink. Some parents have even left their newborns at the hospital, perhaps hoping to give them a chance at life in the one place with decent electricity and water."²³⁰ Yet in the midst of the humanitarian crisis Russian forces caused, occupation authorities prioritized miniscule changes to Ukrainian language road signs instead of water, food, shelter, electricity, medicine, or other basic necessities for the population they ostensibly claimed to liberate.²³¹

Across Ukraine, Russian forces are documented as conducting mass targeting of Ukrainian heritage sites with no military significance, including concert halls, theaters, libraries, repositories of Ukrainian literature, archives of Ukrainian history, museums, and religious centers, with special targeting of the Ukrainian Orthodox Church (OCU) noted by international

<https://www.vice.com/en/article/v7b4e9/mariupol-ukraine-destroyed>; *First Person: The towns in Ukraine which no longer exist* | UN News. (2023, February 17). News.un.org. <https://news.un.org/en/story/2023/02/1133627>; Reuters. (2022, March 12). Eastern Ukrainian town of Volnovakha destroyed after Russia invasion, local governor says. *Reuters*.

<https://www.reuters.com/world/europe/eastern-ukrainian-town-volnovakha-destroyed-after-russia-invasion-local-governor-2022-03-12/#:~:text=LVIV%2C%20Ukraine%2C%20March%2012%20;> Kholodnova, A. (2022, May 20). *The occupiers of the Russian Federation completely destroyed Rubizhne in Luhansk oblast. There are no surviving buildings in the city*. Babel.ua. <https://babel.ua/en/news/78879-the-occupiers-of-the-russian-federation-completely-destroyed-rubizhne-in-luhansk-oblast-there-are-no-surviving-buildings-in-the-city>; Euronews, & AP. (2022, October 8). *Recaptured Ukrainian city Lyman "completely destroyed", say officials*. Euronews. <https://www.euronews.com/2022/10/08/recaptured-ukrainian-city-lyman-completely-destroyed-say-officials>; Ukrainska Pravda. (2023, March 16). *Russians "officially" admit they completely destroyed city of Popasna*. Ukrainska Pravda. <https://www.pravda.com.ua/eng/news/2023/03/16/7393669/>; Mazurenko, A. (2023, January 12). *Haidai describes cities in Luhansk Oblast which have "ceased to exist" due to constant fighting*. Ukrainska Pravda. <https://www.pravda.com.ua/eng/news/2023/01/12/7384595/>.

²²⁸ Stamm S., Brown E. (2022, May 6). *Mass Graves in Ukraine Reveal Mounting Death Toll*. Wall Street Journal. <https://www.wsj.com/articles/mass-graves-in-ukraine-reveal-mounting-death-toll-11651829402>; Faiola A., Birnbaum M., and Ilyushina M. (2022, April 24). *In Mariupol echoes of history, utter devastation and a last stand*. Washington Post. <https://www.washingtonpost.com/world/2022/04/24/mariupol-ukraine-last-days/?variant=15bc93f5a1ccbb65>; Villegas P. (2022, April 21). *New mass graves point to war crimes in Mariupol, Ukrainian officials say*. Washington Post. <https://www.washingtonpost.com/world/2022/04/21/new-mass-grave-manhush-near-mariupol/>; Watling J. (2022, April 23). *In Mariupol, Putin now rules a wasteland pitted with mass graves*. Guardian. <https://www.theguardian.com/world/2022/apr/23/in-mariupol-putin-now-rules-a-wasteland-pitted-with-mass-graves>; Human Rights watch. (2022, April 26). *Urgently Help Ukraine Civilians Flee Mariupol*. <https://www.hrw.org/news/2022/04/26/urgently-help-ukraine-civilians-flee-mariupol>; Werbeck N., Jones D. (2022, April 22). *Another possible mass grave with as many as 9000 bodies is found near Mariupol*. NPR. <https://www.npr.org/sections/pictureshow/2022/04/22/1094234731/possible-mass-graves-near-mariupol-shown-in-satelliteimages>.

²²⁹ Chernov, M., Maloletka, E., & Hinnant, L. (2022, March 16). *"Why? Why? Why?" Ukraine's Mariupol descends into despair*. AP NEWS. <https://apnews.com/article/russia-ukraine-war-mariupol-descends-into-despair-708cb8f4a171ce3f1c1b0b8d090e38e3>.

²³⁰ Ibid.

²³¹ Euromaidan Press. (2022, June 13). Twitter. <https://twitter.com/EuromaidanPress/status/1536215272545296384>.

experts.²³² In Mariupol, Russian State forces demolished a simple granite monument to the 1932-1933 Ukrainian Holodomor famine, insisting on historically inaccurate claims that Ukrainians had not suffered as badly as others in the Soviet Union.²³³ Russian forces also exacerbated the city's crisis by targeting its health care infrastructure.²³⁴

By May 25, 2022 — two months into Russia's full-scale invasion — WHO documented 248 attacks against Ukraine's health care system.²³⁵ By May 2023, 1,004 attacks on hospitals, medical infrastructure, and health care workers had been recorded in one year by WHO.²³⁶ An investigation by human rights groups highlighted the systematic, repeated nature of this targeting, stating that across 10 regions in Ukraine, 48 hospitals were hit multiple times, suggesting a pattern of being deliberately targeted.²³⁷ Another investigation similarly "concluded that Russia-aligned forces have engaged in widespread and systematic bombardment of Ukrainian healthcare facilities."²³⁸ Many of the targeted hospitals had the internationally recognized symbols of their status clearly visible from above.²³⁹ Seriously damaged in April 2022, Bashtanka Multiprofile Hospital bore a red cross on a white background on its roof.²⁴⁰ The hospital director also stated that drones repeatedly flew over the hospital, saying, "they saw very well, they knew this was a medical institution. We hoped this would somehow save us. But it turns out nothing is sacred in this war."²⁴¹

Notably, on March 9, 2022, Russian forces bombed the clearly identifiable and operational Mariupol Maternity House and Children's Hospital.²⁴² Similarly, after one postliberation

²³² *Targeted destruction of Ukraine's culture must stop: UN experts.* (2023, February 22). OHCHR.

<https://www.ohchr.org/en/press-releases/2023/02/targeted-destruction-ukraines-culture-must-stop-un-experts>.

²³³ Coynash, H. (2022, October 21). *Russian Invaders Destroy Memorial to Victims of Holodomor in Mariupol*. Kharkiv Human Rights Protection Group. <https://khpg.org/en/1608811288>.

²³⁴ OSCE Report, at pp. 46-47; *Mariupol hospital attack: Examining how Russian forces hit a Ukraine maternity and children's hospital* (n.d.). Retrieved May 20, 2022, from <https://www.cnn.com/interactive/2022/03/europe/mariupol-maternity-hospital-attack/index.html>; *Update on the human rights situation in Ukraine*. (2022). United Nations Human Rights Office of the High Commissioner, para. 18. https://www.ohchr.org/sites/default/files/2022-03/HRMMU_Update_2022-03-26_EN.pdf.

²³⁵ World Health Organization. *Surveillance System for Attacks on Health Care (SSA)*. (2022) <https://extranet.who.int/ssa/LeftMenu/PublicReportList.aspx?start=2022-02-24&end=2022-05-26&countryList=229&typeList=0>.

²³⁶ Reuters. (2023, May 30). WHO records over 1,000 attacks on Ukraine healthcare during war. *Reuters*. <https://www.reuters.com/world/europe/who-records-over-1000-attacks-ukraine-healthcare-during-war-2023-05-30/>; see also, Mahase, E. (2023). Ukraine: Over 700 recorded attacks on health facilities and workers in year since Russia invasion. *BMJ*, 451. <https://doi.org/10.1136/bmj.p451>.

²³⁷ *One Year of Russia's Assault on Ukraine's Health Care System Destruction and Devastation One Year of Russia's Assault on Ukraine's Health Care System*. (2023). <https://phr.org/wp-content/uploads/2023/02/REPORT-Destruction-and-Devastation-Ukraine-Feb-21-2023-ENG-WebOptimized.pdf>.

²³⁸ *Evidence of Widespread and Systematic Bombardment of Ukrainian Healthcare Facilities*. (2023, August 8). Conflictobservatory.org. <https://hub.conflictobservatory.org/portal/home/item.html?id=6ed1428ddaad41c2a348fd7b8f807409>.

²³⁹ *One Year of Russia's Assault on Ukraine's Health Care System Destruction and Devastation One Year of Russia's Assault on Ukraine's Health Care System*. (2023). <https://phr.org/wp-content/uploads/2023/02/REPORT-Destruction-and-Devastation-Ukraine-Feb-21-2023-ENG-WebOptimized.pdf>.

²⁴⁰ *Ukraine War: Hospital destroyed by Russian missile in southern Ukraine*. (2022, April 22). Sky News. <https://www.youtube.com/watch?v=ff1eF2JSfnE>.

²⁴¹ *One Year of Russia's Assault on Ukraine's Health Care System Destruction and Devastation One Year of Russia's Assault on Ukraine's Health Care System*. (2023). <https://phr.org/wp-content/uploads/2023/02/REPORT-Destruction-and-Devastation-Ukraine-Feb-21-2023-ENG-WebOptimized.pdf>.

²⁴² Benede, W., Bilková, V., and Sassòli, M. (2022). *Report on violations of international humanitarian and human rights law, war crimes and crimes against humanity*. OSCE. <https://www.osce.org/files/f/documents/f/a/515868.pdf>, 46-47; *Mariupol hospital attack: Examining how Russian forces hit a Ukraine maternity and children's hospital* (n.d.). Retrieved May 20, 2022, from <https://www.cnn.com/interactive/2022/03/europe/mariupol-maternity-hospital-attack/index.html>; *Update on the human*

bombing of Kherson by Russian forces, four charred baby cribs were all that remained in a maternity ward's bomb shelter.²⁴³ Attacks on the health care infrastructure, particularly perinatal centers and maternity hospitals, as well as other impacts from Russia's full-scale invasion, has severely and negatively impacted Ukraine's already declining birthrate.²⁴⁴ Ukraine has also seen a more than doubling of premature births due to excessive stress and rapidly declining standards for people living in eastern parts of the country that will further endanger infant survivability rates.²⁴⁵

Russian forces' consistent attacks against hospitals and the health care infrastructure are particularly probative of genocidal intent. These attacks constitute three of the five genocidal acts under the Genocide Convention's Articles II (a)-(c) in killing or causing serious harm to civilians inside or affected, and exacerbating already-imposed life-threatening conditions. The attacks on the health care infrastructure in Mariupol provide a stark pattern. As noted above, on March 9, 2022, Russian forces bombed the clearly identifiable and operational Mariupol Maternity House and Children's Hospital.²⁴⁶ By March 26, at a very early stage of the siege, out of the six hospitals, two were already destroyed and three were damaged, while the remaining facilities operated with limited staff and without heating, adequate supplies, electricity, or water.²⁴⁷

The Russian military has also damaged or destroyed over 2,400 schools across Ukraine.²⁴⁸ When the September 2023 school year began, Ukrainian government data estimated that less than 25% of schools across the country were able to hold full-time, in-person instruction.²⁴⁹ In addition to causing mental harm, this lack of schooling disrupts the socialization and cultural transmission processes that undergird the reproduction of the Ukrainian national group.

It is assessed with high confidence that the list of destroyed Ukrainian cities is incomplete and likely to grow, as other international and Ukrainian reporting lists additional locations as

rights situation in Ukraine. (2022). United Nations Human Rights Office of the High Commissioner. para. 18. https://www.ohchr.org/sites/default/files/2022-03/HRMMU_Update_2022-03-26_EN.pdf.

²⁴³ *kherson liberation - Google Search.* (n.d.). [www.google.com](https://www.google.com/search?q=kherson+liberation&tbm=nws&sa=X&sqi=2&ved=2ahUKEwifvTs-fL-AhU5QzABHfgIDs0Q0pQJegQIChAB&biw=1536&bih=906&dpr=1.25). Retrieved July 23, 2023, from <https://www.google.com/search?q=kherson+liberation&tbm=nws&sa=X&sqi=2&ved=2ahUKEwifvTs-fL-AhU5QzABHfgIDs0Q0pQJegQIChAB&biw=1536&bih=906&dpr=1.25>.

²⁴⁴ Nadworny, E., & Harbage, C. (2023, February 22). *Ukraine's birth rate was already dangerously low. Then war broke out.* NPR. <https://www.npr.org/2023/02/22/1155943055/ukraine-low-birth-rate-russia-war>.

²⁴⁵ Varenysia, I. (2022, August 22). *On Ukraine's front line, a fight to save premature babies.* AP News. <https://apnews.com/article/russia-ukraine-health-world-news-donetsk-50ae42150e64960eda574dd7769e0212>.

²⁴⁶ OSCE Report, at 46-47; *Mariupol hospital attack: Examining how Russian forces hit a Ukraine maternity and children's hospital* (n.d.). Retrieved May 20, 2022, from <https://www.cnn.com/interactive/2022/03/europe/mariupol-maternity-hospital-attack/index.html>; *Update on the human rights situation in Ukraine.* (2022). United Nations Human Rights Office of the High Commissioner, para. 18. https://www.ohchr.org/sites/default/files/2022-03/HRMMU_Update_2022-03-26_EN.pdf.

²⁴⁷ *Update on the human rights situation in Ukraine.* (2022). United Nations Human Rights Office of the High Commissioner. para. 25. https://www.ohchr.org/sites/default/files/2022-03/HRMMU_Update_2022-03-26_EN.pdf; *Last stand of Mariupol, leveled by Russia's merciless assault* — *Washington Post* (n.d.). Retrieved May 26, 2022, from <https://www.washingtonpost.com/world/2022/04/24/mariupol-ukraine-last-days/?variant=15bc93f5a1ccbb65>; Luckhurst T., Pona O. (2022, April 25). "You can't imagine the conditions" — *Accounts emerge of Russian detention camps.* BBC. <https://www.bbc.com/news/world-europe-61208404>.

²⁴⁸ Haring, M. (2022, September 2). *The War for Ukraine's Schools.* The National Interest. <https://nationalinterest.org/feature/war-ukraine%E2%80%99s-schools-204596>.

²⁴⁹ Hook, K. (2023, January 9). *Russia's war in Ukraine threatens students daily and forces teachers to improvise.* The Conversation. <https://theconversation.com/russias-war-in-ukraine-threatens-students-daily-and-forces-teachers-to-improvise-196773>.

demolished or severely damaged.²⁵⁰ Cities — including major population centers — with extreme damage are found in many additional Ukrainian regions. In devastated Chernihiv, residents struggled to cope with the severe violence and destruction unleashed by Russian State forces in their town, lamenting, “We don’t know what we did to deserve this.”²⁵¹ The city of Kherson (prewar population, 290,000) and other towns on Kherson oblast’s right bank were liberated by Ukrainian armed forces in the fall of 2022. Russian forces responded to their retreat by systematically targeting the newly free and jubilant city with shelling and missile attacks, resulting in immense nearly daily destruction and civilian deaths.²⁵² “Death is everywhere,” one resident reflected.²⁵³

In Kharkiv oblast, twenty kilometers from Russia’s internationally recognized border, the northern suburb of Saltivka exemplifies the systematic destruction and conditions calculated to further destroy the Ukrainian national group. Prior to Russia’s full-scale invasion of Ukraine, approximately 20,000 citizens lived in Saltivka. Only 2,000 to 3,000 residents remain, with buildings collapsed and scarred by Russian military targeting, windows blown out in this city with harsh winter conditions, and with civilian infrastructure heavily damaged. One resident fled with her sister to neighboring Kharkiv after her husband was shot at a gas station while getting fuel, telling a reporter: “Life used to be beautiful here. To be honest, I cannot look at this without tears. I have no words. They destroyed everything. They left us without our loved ones, without our parents, without husbands, without sons, without our previous life, without jobs, without anything.”²⁵⁴

Physical destruction on this scale has resulted in multiple prohibited acts under the Genocide Convention — including Article II (a), (b), and (c) — resulting in direct killing and deaths by omission, by severe physical and mental harm, and by imposing conditions of life calculated to bring about the physical destruction of the Ukrainian people, related to both severe property and infrastructure damage as well as explicit targeting of Ukraine’s health, maternity, and perinatal health facilities. The massive, systematic targeting of Ukraine’s health infrastructure has resulted in those injured by warfare dying unnecessarily, in those with serious conditions like cancer succumbing without treatment possibilities, and in increased premature births, maternal mortality rates, and newborn health complications.

Efforts to control the movement of the Ukrainian population have been reported since the earliest days of Russia’s full-scale invasion.²⁵⁵ Forcible deportations through abusive “filtration camp”

²⁵⁰ For example, Ovsyanyi, K. (2023, February 22). Before and after. A satellite view of Ukrainian cities destroyed by Russia. *Radio Svoboda*. <https://www.radiosvoboda.org/a/skhemy-rik-vtorhnennya-sputnyk/32279385.html>.

²⁵¹ Bearak, M., & O’Grady, S. (2022, April 5). In *shattered Chernihiv, Russian siege leaves a city asking, “Why?”* Washington Post. <https://www.washingtonpost.com/world/2022/04/05/chernihiv-scene-death-destruction/>.

²⁵² *Russian troops hit residential buildings and a hospital in central Kherson*. (2023, March 23). English.nv.ua. <https://english.nv.ua/nation/russian-troops-hit-residential-buildings-and-a-hospital-in-central-kherson-50312782.html>.

²⁵³ Gettleman, J. (2023, May 10). “Death Is Everywhere” in a Once-Jubilant Ukrainian City. *The New York Times*. <https://www.nytimes.com/2023/05/10/world/europe/ukraine-russia-kherson-killing.html>.

²⁵⁴ Gauriat, V. (2023, February 14). *Kharkiv suburb shows scale of destruction from war in Ukraine*. Euronews. <https://www.euronews.com/2023/02/14/life-used-to-be-beautiful-here-saltivka-shows-scale-of-destruction-caused-by-fighting-in-u>.

²⁵⁵ Matviichuk, O., Arno, N., & Cameron, J. D. (2023, March 3). *Russia’s Forcible Transfers of Ukrainian Civilians: How Civil Society Aids Accountability and Justice - Just Security*. [www.justsecurity.org](https://www.justsecurity.org/85324/russias-forcible-transfers-of-ukrainian-civilians-how-civil-society-aids-accountability-and-justice/). <https://www.justsecurity.org/85324/russias-forcible-transfers-of-ukrainian-civilians-how-civil-society-aids-accountability-and-justice/>.

processes are well documented, with estimates that at least 2 million Ukrainians have been deported to Russia.²⁵⁶ Human Rights Watch has termed these violations on their own as war crimes and potential crimes against humanity, stating that the violent conditions Russia has inflicted on Ukraine make these nonvoluntary, forcible transfers.²⁵⁷ The filtration process has also been verified as “compulsory, punitive, and abusive,”²⁵⁸ designed to weed out those who are “irredeemably” Ukrainian. A Ukrainian who managed to flee Mariupol told the *New York Times* that when she asked a Russian soldier at a checkpoint to direct her to Ukraine, he replied, “we will exterminate everyone there, go to Russia.”²⁵⁹ Other Russian captors have told Ukrainians that they must be “denazified.”²⁶⁰ One Ukrainian woman from Mariupol who experienced the filtration and deportation process stated, “They [Russian State forces] simply want to get rid of Ukraine and its people.”²⁶¹

In addition to separating the Ukrainians from their country and place of identity, other experts have stated that these filtration sites pose additional health risks for Ukrainians. Experts from the Yale School of Public Health concluded in their report on the Russian State’s filtration camps that “incommunicado detention of civilians is more than a violation of international humanitarian law — it represents a threat to the public health of those currently in the custody of Russia and its proxies. The conditions of confinement documented ... allegedly include insufficient sanitation, shortages of food and water, cramped conditions, and reported acts consistent with torture.”²⁶² These degrading forms of mental and/or physical harm are occurring in the context of multiple centuries of formalized *Russification* governmental policies dating back to the Russian Empire, whereby non-Russians surrendered their culture and language (voluntarily or involuntarily) for Russian language and culture.²⁶³ Forcible, often violent Russification has served as a key distinguishing feature of Russia’s full-scale invasion of Ukraine and may serve as a motive for the acts of physical and biological destruction that are occurring against Ukrainians.

Reconstruction costs will continue to grow, challenging the physical recovery of Ukrainians. In October 2022, Ukrainian Prime Minister Denys Shmyhal said that Ukrainian governmental

²⁵⁶ Hinnant, L., Stepanenko, V., Deeb, S. E., Anna, C., & AP staffs Russia and Georgia. (2022, July 29). *AP investigation finds Ukrainian refugees forcibly evacuated*. AP Beats. <https://leads.ap.org/best-of-the-week/ukrainian-refugees-sent-to-russia>.

²⁵⁷ “We Had No Choice”: “Filtration” and the Crime of Forcibly Transferring Ukrainian Civilians to Russia. (2022, September 1). Human Rights Watch. <https://www.hrw.org/report/2022/09/01/we-had-no-choice/filtration-and-crime-forcibly-transferring-ukrainian-civilians>.

²⁵⁸ *Forcible Transfer of Ukrainians to Russia*. (2022, September 1). Human Rights Watch. <https://www.hrw.org/news/2022/09/01/forcible-transfer-ukrainians-russia>.

²⁵⁹ Tavernise, S., Toeniskoetter, C., Novetsky, R., Chaturvedi, A., Feldman, N., Daniel, C., Baylen, L. O., Benoist, M., Powell, D., Bonja, R., Lozano, M., Ittoop, E., and Wood, C. (2022, May 18). *The Battle for Azovstal: A Soldier’s Story*. New York Times. At 15:56-16:52. <https://www.nytimes.com/2022/05/18/podcasts/the-daily/the-battle-for-azovstal-a-soldiers-story.html>.

²⁶⁰ Miller, C. (2022, May 26). *One Ukrainian family’s perilous journey through Russia’s “filtration camps.”* POLITICO. <https://www.politico.com/news/2022/05/26/ukraine-filtration-camps-00034862>.

²⁶¹ *Ibid.*

²⁶² *Yale researchers identify 21 sites in Donetsk oblast, Ukraine used for civilian interrogation, processing, and detention*. (2022, August 25). Ysph.yale.edu. <https://ysph.yale.edu/news-article/yale-researchers-identify-21-sites-in-donetsk-oblast-ukraine-used-for-civilian-interrogation-processing-and-detention/>; Ukraine Conflict Observatory. (2022). *System of Filtration: Mapping Russia’s Detention Operations in Donetsk Oblast*. Conflictobservatory.org. <https://hub.conflictobservatory.org/portal/apps/sites/#/home/pages/filtration-1>.

²⁶³ Plokhy, S. (2017). *Lost Kingdom: A History of Russian Nationalism from Ivan the Great to Vladimir Putin*. New York: Basic Books. Tarapon, O. and Potapenko R. (2021). *Russification Policy in Ukraine as a Means of Cultural Assimilation: Historical Dimension*. *Ethnic History of European Nations* 63: 121-127.

estimates for reconstruction stood at \$750 billion.²⁶⁴ In March 2023, the United Nations Development Programme's second rapid assessment stated that \$411 billion is now needed for recovery, that an additional 7.1 million Ukrainians have been pushed into poverty, and that 15 years of Ukraine's development progress have been reversed.²⁶⁵ The United Nations noted that extensive infrastructure damage has disrupted basic necessities like electricity and water, while leaving millions of Ukrainians homeless.²⁶⁶ Russia's widespread destruction is also resulting in the long-term environmental contamination of land, water, and the inhabited environment, which will usher in long-term health consequences and shortened life spans for members of the protected group, especially those affected by the Nova Kakhovka environmental disaster.²⁶⁷ Some environmental consequences, such as the release of asbestos and other particulate matter, have resulted in the deaths of members of the protected group, including one infant who succumbed to environment-induced respiratory illness after prolonged periods in a Kharkiv bomb shelter, even after his family relocated to western Ukraine.²⁶⁸ Even more explicitly, as discussed above, Russian State forces have deliberately mined Ukraine's landscapes, with a pattern that suggests further willful targeting of civilian lives and health.

Article II (d): Imposing Measures Intended to Prevent Births Within the Groups

Summary: Numerous instances of sexual and gender-based violence committed by Russian forces and authorities in all areas of Russian control have been well documented (and are discussed in other sections of this report). Similarities of testimonies regarding the overlap of sexual violence and the targeting of group identity have also been recorded. Rape and conflict-related sexual violence has been flagged in other genocide assessments as fulfilling criteria of preventing births, affecting women and girls' desires to marry, have children, or contemplate future relationships. Castration of male Ukrainians in Russian custody has been documented, and emerging reporting may indicate that this practice is widespread and systematic.

This report has previously covered numerous instances of sexual and gender-based violence committed by Russian State authorities in all the Ukrainian territories they have controlled, given overlap in this form of violence with additional prohibited acts in the Genocide Convention's Article II (b) and (c), as well as Article II (a) when the victim is killed. Large-scale rape and sexual violence of a degree that indicates systematic policy also indicates Article II (d) violations. In this respect, in concluding that ISIS imposed birth prevention measures on the Yazidi community through rape, the Commission of Inquiry on the Syrian Arab Republic cited

²⁶⁴ Reuters. (2022, October 24). Ukraine sees post-war reconstruction costs nearing \$750 billion - PM. *Reuters*. <https://www.reuters.com/world/europe/ukraine-sees-post-war-reconstruction-costs-nearing-750-billion-pm-2022-10-24/>.

²⁶⁵ *Costs to rebuild Ukraine increase sharply* | United Nations Development Programme. (2023, March 24). UNDP. <https://www.undp.org/ukraine/press-releases/costs-rebuild-ukraine-increase-sharply>.

²⁶⁶ Ibid.

²⁶⁷ Pennington, J., Shelley, J., Voitovych, O., Kesaieva, J., & Regan, H. (2023, June 7). *Collapse of Ukraine's Nova Kakhovka dam an "ecological catastrophe."* CNN. <https://edition.cnn.com/2023/06/07/europe/ukraine-nova-kakhovka-dam-environment-damage-intl-hnk/index.html>; Glanz, J., Santora, M., Robles, P., Willis, H., Leatherby, L., Koettl, C., & Khavin, D. (2023, June 16). Why the Evidence Suggests Russia Blew Up the Kakhovka Dam. *The New York Times*. <https://www.nytimes.com/interactive/2023/06/16/world/europe/ukraine-kakhovka-dam-collapse.html?smid=tw-share>.

²⁶⁸ Hook, K., & "Drew" Marcantonio, R. (2022, March 10). *Grappling with environmental risks in the fog of war*. Bulletin of the Atomic Scientists. <https://thebulletin.org/2022/03/grappling-with-environmental-risks-in-the-fog-of-war/>.

the testimony of a trauma psychology expert who treated hundreds of Yazidi women and girls after being held by ISIS, to the effect that the women and girls “did not want to marry, or to contemplate relationships with men now or in the future.”²⁶⁹

Since the May 2022 report, evidence indicating the systematic nature of Russian State forces’ widespread rape and sexual violence has increased.²⁷⁰ Ukrainian officials have noted that once Russian ground troops enter an area, “rapes start on the second or third day”²⁷¹ in nine regions of Ukraine that have been controlled by Russian forces and in Russia.²⁷² Witnesses have reported Russian commanders ordering or suggesting rape.²⁷³ In reviewing more than 30 cases of sexual violence, Mobile Justice Team experts noted acquiescence by commanders.²⁷⁴ Ukrainian intelligence intercepted a phone call by a Russian soldier admitting to “raping, cutting, and shooting” civilians when Russia left the Ukrainian city of Lyman.²⁷⁵ The U.N. special representative on sexual violence has said that rape is a Russian military strategy, noting that women have testified that Russian soldiers are equipped with Viagra.²⁷⁶ Russian soldiers have been found carrying packs of condoms, and Ukrainian civilians have reported being required to provide condoms to Russian soldiers at checkpoints.²⁷⁷ No discernible reaction by the Russian State to these internationally publicized actions of Russian forces has been detected.

Women who have been held in detention by Russian soldiers have reported torture and rape, including at gunpoint.²⁷⁸ Another woman reported being raped, tortured, and beaten for 10 days during the occupation of Izyum.²⁷⁹ When she was initially detained, the Russian soldiers told her, “we’ll beat the Ukrainian out of you.”²⁸⁰ This follows a pattern from an incident in which Russian soldiers told the women and girls held in a basement for 25 days that “they would rape

²⁶⁹ Id., para. 145. See also Human Rights Watch’s finding regarding the Kosovo war: “One purpose that rape in the war may have served was discouraging women from reproducing in the future.” Human Rights Watch, Kosovo: Rape as a Weapon of “Ethnic Cleansing.” (2000, March 1). https://www.hrw.org/legacy/reports/2000/fry/Kosov003-02.htm#P186_35892.

²⁷⁰ Barber, H. (2022, November 28). Castration, gang-rape, forced nudity: How Russia’s soldiers terrorise Ukraine with sexual violence. *The Telegraph*. <https://www.telegraph.co.uk/global-health/terror-and-security/how-russian-soldiers-terrorise-ukraine-sexual-violence/>.

²⁷¹ Gall, C., “*Fear Still Remains*”: *Ukraine Finds Sexual Crimes Where Russian Troops Ruled*. (2023, January 5). New York Times. <https://www.nytimes.com/2023/01/05/world/europe/ukraine-sexual-violence-russia.html>; October U.N. report, para. 88, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/637/72/PDF/N2263772.pdf?OpenElement>.

²⁷² U.N. report, para. 78, 12, https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A_HRC_52_62_AUV_EN.pdf; Hatsenko, K., & Zakurdaeva, K. (2023, March 8). “Anxiety, Depression, Nightmares”: Bringing Help, And Justice, To The Survivors Of Wartime Sexualized Violence In Ukraine. *Radio Free Europe/Radio Liberty*. <https://www.rferl.org/a/ukraine-wartime-sexual-violence-justice-russian-soldiers/32299075.html>.

²⁷³ Gall, C. “*Fear Still Remains*”: *Ukraine Finds Sexual Crimes Where Russian Troops Ruled*. (2023, January 5). New York Times. <https://www.nytimes.com/2023/01/05/world/europe/ukraine-sexual-violence-russia.html>.

²⁷⁴ Ibid.

²⁷⁵ *Security Service of Ukraine received another confirmation of the war crimes of the Russian Federation: during the retreat from Liman, the Russians killed civilians and raped women (audio)*. (2023). SSU. <https://ssu.gov.ua/novyny/sbu-otrymala-cherhove-pidtvrdzhennia-voiennykh-zlochyniv-rf-pry-vidstupi-z-lymanu-rashysty-vbyvaly-tsyvilnykh-i-gvaltuvaly-zhinok-audio>.

²⁷⁶ *Rape used in Ukraine as a Russian “military strategy”*. (2022, October 14). U.N. <https://www.france24.com/en/live-news/20221014-rape-used-in-ukraine-as-a-russian-military-strategy-un>.

Orlova, V. (2022, June 7). *Occupants at checkpoints demand the most expensive dumplings and condoms from drivers*. UNIAN. <https://www.unian.ua/war/vyna-v-ukrajini-okupanti-na-blokpostah-vimagayut-naydorozhchih-pelmeniv-ta-prezervativiv-novini-vtorgnennya-rosiji-v-ukrajinu-11856963.html>.

²⁷⁸ U.N. report, para. 80.

²⁷⁹ O’Grady, S., Galouchka, A., & Shefte, W. (2022, October 9). *In Russian-occupied Izyum, she was raped and tortured*. Washington Post. <https://www.washingtonpost.com/world/2022/10/09/izyum-rape-torture-occupation-russia/>.

²⁸⁰ Ibid.

them to the point where they wouldn't want sexual contact with any man, to prevent them from having Ukrainian children."²⁸¹ Further, news articles have also cited unnamed doctors at a hospital in Poltava reporting their female patients had their vaginas injected with window sealant during rape for the purpose of making them sterile.²⁸²

The magnitude of sexual violence from this war will only emerge over time, though will likely never fully come to light. There is a wide range of reasons why survivors are unwilling to report rape, even to their families, which include stigma, self-blame, extreme trauma, shame, safety concerns, and a lack of services and options for justice.²⁸³ Survivors of sexual violence in conflict can face exclusion from their communities, rejection from their families, or be deemed unfit for marriage, particularly in more patriarchal societies.²⁸⁴

Emerging reports may also indicate widespread, systematic castration of Ukrainian military men who have been captured during combat. A Ukrainian psychologist who works with Ukrainian soldiers who have been castrated reported that she believes this practice is widespread,²⁸⁵ an observation confirmed by another international journalist citing an unnamed Ukrainian government source.²⁸⁶ Indicating possible signs of a systematic practice, the psychologist stated that her patients "told [her] that Russians performed the castration procedures very skillfully, as if they knew how to do it. And I've heard about a lot of cases from colleagues treating others."²⁸⁷ Of particular importance, her patients told her, "The Russians told them, 'We are doing this so you can't have kids.'"²⁸⁸

Article II (e): Forcibly Transferring Children of the Group to Another Group

Summary: The large-scale transfer of Ukrainian children to Russia or Russian-controlled territory can amount to forcibly transferring children of the group to another group," under Article II (e) of the Genocide Convention. The forcible transfer of Ukrainian children by Russian State forces and authorities has escalated significantly over the course of Russia's full-scale invasion. Exact numbers of children forcibly transferred are unknown, but at present 19,393 children's identities have been verified by Ukrainian officials. The scale of

²⁸¹ Limaye, Y. (2022, April 11). *Ukraine conflict: "Russian soldiers raped me and killed my husband"*. BBC News. <https://www.bbc.com/news/world-europe-61071243>.

²⁸² Lamb, C. (2023, June 17). She thought she was unshockable, then two castrated Ukrainian soldiers arrived. *The Sunday Times*. <https://www.thetimes.co.uk/article/4561e12a-0d14-11ee-aa7c-6e26d8c3ad9b>.

²⁸³ See Statements by the U.N. Human Rights High Commissioner and the Head of U.N. Human Rights Monitoring Mission in Ukraine, <https://www.ohchr.org/en/statements-and-speeches/2022/05/ukraine-update-human-rights-council-special-session> ("Survivors are often unwilling to be interviewed because of fear and stigma"); and <https://ukraine.un.org/en/181201-press-briefing-head-un-human-rights-monitoring-mission-ukraine-matilda-bogner> ("In general, however, we found that victims of sexual violence and their families and friends are reluctant to speak due to stigma ... Over time the scale of these violations will become clearer.")

²⁸⁴ Rosenberg, E. F. (2021). *Gender and genocide in the 21st century: how understanding gender can improve genocide prevention and response*. New Lines Institute. At 6. https://newlinesinstitute.org/wp-content/uploads/Final-Edits_Gender-and-Genocide-Conference-Report_ep-Final.pdf.

²⁸⁵ Lamb, C. (2023, June 17). She thought she was unshockable, then two castrated Ukrainian soldiers arrived. *The Sunday Times*. <https://www.thetimes.co.uk/article/4561e12a-0d14-11ee-aa7c-6e26d8c3ad9b>.

²⁸⁶ Rushton, J. (2023, June 17). In *Twitter*: <https://twitter.com/JimmySecUK/status/1670136975108587524>.

²⁸⁷ Lamb, C. (2023, June 17). She thought she was unshockable, then two castrated Ukrainian soldiers arrived. *The Sunday Times*. <https://www.thetimes.co.uk/article/4561e12a-0d14-11ee-aa7c-6e26d8c3ad9b>.

²⁸⁸ *Ibid*.

children being deported requires extensive governmental coordination and management. The deportation of children is also occurring regularly, further indicating systematic directives. Russian legislation has also been adapted to “legalize” these forcible transfers without the child’s or guardian’s permission. Given documented cultural stigmas surrounding adoption in Russia, these procedures appear designed to forcibly strip transferred children of their Ukrainian identity, citizenship, and sense of national group belonging. These formalized procedures also indicate intensive State involvement in this process at the highest levels, as well as many lower-level authorities who carry out the directives. Russian authorities have taken documented steps to conceal Ukrainian children’s identities or make it otherwise challenging for them to be returned home. Indicating premeditation, coordinated planning, and systematic directives, uniformed Russian State security officials have been caught on Ukrainian CCTV conducting raids on children’s homes and confiscating files to further track children down against the wishes of their community and guardians.

Within the first year of the full-scale invasion, Russian State media reported that over 5.3 million people have been relocated from Ukraine to Russia since February 24, including over 738,000 children.²⁸⁹ This number appears to be in line with numbers reported by government officials in December, when Russia’s Commissioner for Human Rights reported that over 700,000 children had been transferred to Russia.²⁹⁰ While Russia claims the evacuations are voluntary, Ukrainians are clearly largely forced to flee due to Russia’s invasion, and refugees and officials have further reported being transferred by force or the threat of force.²⁹¹ According to the Ukrainian Parliament’s Commissioner for Human Rights, more than 150,000 children have been forcibly deported to Russia.²⁹² Ukraine’s Presidential Commissioner for Children’s Rights has estimated that between 200,000 and 300,000 children have been taken.²⁹³ Within those estimates, 19,393 children’s identities have been verified by Ukrainian officials.²⁹⁴

The policies of forcible transfers of Ukrainian children began before the full-scale invasion, according to a Russian media source dated February 18, 2022.²⁹⁵ Credible reporting has identified four common pretexts for the Russian government to carry out the transfers : (1) for

²⁸⁹ TASS. (2023, February 20). *5.3 million refugees arrived in Russia from Ukraine and Donbass in a year*. TACC. <https://tass.ru/obschestvo/17091725>.

²⁹⁰ Yakovleva, E. (2022, December 8). *Tatyana Moskalkova: 5 million refugees have arrived in Russia since February*. Russian Newspaper. <https://rg.ru/2022/12/08/tatiana-moskalkova-s-fevralia-v-rossiiu-pribylo-5-millionov-bezhencev.html>.

²⁹¹ Ilyushina, M. (2022, March 30). *Ukraine says Russia forcibly relocated thousands from Mariupol. Here’s one dramatic account*. *Washington Post*. <https://www.washingtonpost.com/world/2022/03/30/ukraine-mariupol-russia-evacuationfiltration/>; *What Happened on Day 66 of the War in Ukraine*. (2022, April 30). *New York Times*. <https://www.nytimes.com/live/2022/04/30/world/ukraine-russia-war-news>.

²⁹² *More than 150,000 Ukrainian children may be in Russia — Lubinets*. (2023, January 28). *Suspilne News*. <https://suspilne.media/368540-u-rosii-moze-perebuvati-ponad-150-tisac-ukrainskih-ditej-lubinec/>.

²⁹³ *More than 70 camps for “re-education” of children from Ukraine have been created in the Russian Federation*. (2023, April 22). *Espresso.tv*. <https://espresso.tv/u-rf-stvorili-ponad-70-taboriv-dlya-perevikhovannya-ditey-z-ukraini>.

²⁹⁴ *Children of war*. (n.d.). *Childrenofwar.gov.ua*. <https://childrenofwar.gov.ua/en/>.

²⁹⁵ *Interfax.ru*. (2022, February 18). *Evacuation from the DPR began with orphans from a boarding school in Donetsk*. *Interfax.ru*. <https://www.interfax.ru/world/822971>.

adoptions or foster care, (2) for stays in so-called recreation camps, (3) for alleged security reasons, and (4) for supposed medical care.²⁹⁶ These policies impact four categories of children — children deemed orphans by the Russian state, unaccompanied children (i.e., those who have been separated from their parents, either due to non-war-related family circumstances or due to the war), children under the care of Ukrainian state institutions, and children with clear guardianship.²⁹⁷

Russia has implemented programs for the adoption of Ukrainian children from occupied territories since its initial aggression in Ukraine in 2014, most notably with the “Trains of Hope” program.²⁹⁸ Following Russia’s full-scale invasion on February 24, 2022, the Russian government moved quickly to accelerate the naturalization process for Ukrainian children, thereby more quickly facilitating their adoption within Russia.²⁹⁹ The law allows the heads of institutions to apply for Russian citizenship on behalf of the children without the child’s consent and without the consent of the child’s legal guardian.³⁰⁰

Senior Russian State representatives have issued public statements regarding these changes to their citizenship laws. For example, Russia’s Presidential Commissioner for Children’s Rights, Maria Lvova-Belova, published a statement on Telegram openly declaring the chief benefit of the amended laws — “now that the children have become Russian citizens, temporary guardianship can become permanent.”³⁰¹ The urgency with which the Russian government has moved to make Ukrainian children available for adoption has been complicated by the fact that adoption is heavily stigmatized in Russia. Officials have struggled to convince Russians to take in parentless children from Russia.³⁰² In fact, Lvova-Belova insists that Ukrainian children are not subject to adoption but rather guardianship.³⁰³ Given that adoptions are stigmatized and rare in Russia, reasonable grounds exist to believe that the impetus for expediting the granting of citizenship to Ukrainian children is not to facilitate adoptions more quickly but rather to strip the children of their Ukrainian citizenship and identity.

Ukrainian children in Russian-occupied Ukrainian territories and in Russia are heavily targeted for “reeducation” policies and are pressured to express pro-Russian sentiment.³⁰⁴ The Russian

²⁹⁶ OSCE report, 14-17, 39-40; Yale report, 10.

²⁹⁷ OSCE report, 13-14; Yale report, 4; U.N. report, 15; Zmina report, 15-16. For example, OSCE Report: Moscow Mechanism: “Report on Violations and Abuses of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity, Related to the Forcible Transfer and/or Deportation of Ukrainian Children to the Russian Federation”. (2023, May 4). <https://www.osce.org/odihr/542751>; Yale report: Russia’s Systematic Program for the Re-education and Adoption of Ukraine’s Children. (2023, February 14). <https://hub.conflictobservatory.org/portal/sharing/rest/content/items/97f919ccfe524d31a241b53ca44076b8/data>; U.N. report: Report of the Independent International Commission of Inquiry on Ukraine. (2023, March 15). https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A_HRC_52_62_AUV_EN.pdf; Zmina report: Deportation of Ukrainian citizens from the territory of active military operations or from the temporarily occupied territory of Ukraine to the territory of the Russian Federation and the Republic of Belarus. (2023, January). https://zmina.ua/wp-content/uploads/sites/2/2023/01/deportation_eng.pdf.

²⁹⁸ OSCE report, 16.

²⁹⁹ UN report, 14-15; Yale report, 17; OSCE report, 19-20.

³⁰⁰ OSCE report, 20.

³⁰¹ Lvova-Belova, M. (2022, July 5). In *Telegram*. <https://t.me/malvovabelova/331>.

³⁰² Tyan, A. (2015, August 31). The Russian parents challenging stigma surrounding adoption. *The Guardian*. <https://www.theguardian.com/world/2015/aug/31/russia-adoption-stigma-ban>.

³⁰³ Lvova-Belova, M. (2023, April 4). In *Telegram*. <https://t.me/malvovabelova/1280>.

³⁰⁴ OSCE report, 21.

media openly boasts about mandatory schools policies in occupied Ukrainian territories that force Ukrainian children to write letters of gratitude to Russian soldiers, activities that have implications for other prohibited acts under the Genocide Convention, including causing serious mental harm prohibited in Article II (b).³⁰⁵

One mechanism by which Russia has forcibly transferred Ukrainian children operates through an extensive network of so-named “recreation” camps in occupied Ukrainian territories and across Russia. The Yale School of Public Health has verified 43 camps, of which 32 were identified as reeducation camps, noting that the true number is likely to be significantly higher.³⁰⁶ Each of the four categories of transferred children have been taken to these camps, although children with clear guardianship status are most targeted for reeducation.³⁰⁷ Parents in occupied areas are informed about free recreational camps by occupation authorities, Russian soldiers, and teachers, identified as areas where to allow their children a place of safety and health care.³⁰⁸ In many cases, parents are pressured in active war zones to send their children, despite expressing reluctance.³⁰⁹ Contact information for camp officials is withheld from parents; and in some instances, parents have been required to a sign power-of-attorney form.³¹⁰

While attending the camps, children are subject to the promotion of cultural, historical, societal, and patriotic messages or ideas that serve the political interests of Russia and that denigrate or deny Ukrainian identity.³¹¹ When the Ukrainian military liberated the Kharkiv region in September 2022, parents were informed that their children would not be returned home.³¹² Ukraine’s presidential advisor for children’s rights has stated that “there was never a single time when the Russians returned a group of children on their own,” although Ukrainian government, NGO, and private efforts to return children have continued since the start of the full-scale invasion.³¹³

Children who have returned from the camps report that they faced cruel conditions and were pressured to reject their Ukrainian identity. One boy was told by Russian State representatives that he would only be returned to his home in Izyum (in Kharkiv oblast) if Russian forces recaptured the city.³¹⁴ Another boy was told he would not return home due to his “pro-Ukrainian views.”³¹⁵ One girl said her group at a camp in occupied Crimea was told they “were not allowed to speak about Ukraine.”³¹⁶ Another boy reported that his class was told, “Ukraine are

³⁰⁵ Makarenkov, N., & Khanarin, P. (2022, May 23). “You are our heroes!”: Children write letters to servicemen of Russia and Donbass and believe in their victory. Donetsk Komsomolskaya Pravda. <https://www.donetsk.kp.ru/daily/27395/4591515/>.

³⁰⁶ Yale report, 5.

³⁰⁷ Yale report, 4.

³⁰⁸ Yale report, 11.

³⁰⁹ Yale report, 11.

³¹⁰ Yale report, 13.

³¹¹ Yale report, 14.

³¹² Yale report, 12.

³¹³ Slidstvo Info. (2023, March 29). *The story of the rescue of kidnapped Ukrainian girls*. Wwww.youtube.com. <https://www.youtube.com/watch?v=zPyWA9ZK4Qs>.

³¹⁴ Yale report, 12.

³¹⁵ Ibid.

³¹⁶ Roshchyna, V. (2023, May 3). *Putin’s way to The Hague through “filtration” and “rehabilitation”. How Russia kidnaps Ukrainian children*. Ukrainska Pravda. <https://www.pravda.com.ua/articles/2023/05/3/7400386/>.

terrorists, they kill people.” The same boy said camp officials burned a girl’s Ukrainian flag.³¹⁷ A girl reported that the head of camp security, together with occupation police forces, told a girl to cut a sweater that read “Glory to Ukraine.” When she refused, the head of security “cut it himself with scissors.”³¹⁸

Under the pretext of security, Russia has transferred Ukrainian children from orphanages and homes for disabled children in occupied Ukrainian territories.³¹⁹ In one instance, the Russian security services (i.e., the FSB) were caught on CCTV footage searching for children in an orphanage to transfer them away from a village near Kherson.³²⁰ Indicating premeditation, coordinated planning, and systematic directives, the Russian security services confiscated all the children’s files, computers, and the CCTV system to trace and pursue the children after local residents hid them.³²¹ The Ukrainian orphanage director stated that local residents hid the children after “we saw Russian propagandists saying they need to take the orphans and give them to military schools, indoctrinate them, and let them fight for Russia. It was the scariest thing, so we started hiding children because we understood they would take them.” Another local resident was not able to stop Russian State forces from taking fifteen Ukrainian orphans, age 3 to 5 years, and stated that she was still “haunted” by this.³²² Documented Ukrainian efforts to hide children, including through falsified medical documents, indicate the forcible nature of Russian State transfers of Ukrainian children against the wishes of guardians and local residents.³²³

III. The Duty to Prevent Genocide

States have a legal obligation to prevent genocide beyond their borders once they become aware of the serious risk of genocide — a threshold that was found to have been exceeded in the May 2022 report and that remains today. The Genocide Convention imposes an obligation on States “to employ all means reasonably available to them, so as to prevent genocide so far as possible.”³²⁴ The ICJ has clarified that in determining whether a third State has met its prevention obligation, a “due diligence” assessment is applied, looking at factors in which the State’s “capacity to influence effectively the actions of persons likely to commit genocide, *or already committing genocide*” (emphasis added) is of critical importance.³²⁵ States may influence genocidal actors through geographic, historical, political, economic, military, and other links, and which can be carried out unilaterally or bi/multilaterally in coordination with other States.

³¹⁷ Ibid.

³¹⁸ Ibid.

³¹⁹ OSCE report, 15.

³²⁰ Waghorn, D. (2022, December 22). *CCTV shows chilling moment Russian FSB agents and soldiers scour Ukrainian orphanage for children*. Sky News. <https://news.sky.com/story/cctv-shows-chilling-moment-russian-fsb-agents-and-soldiers-hunt-for-ukrainian-orphans-12772595>.

³²¹ Ibid.

³²² Ibid.

³²³ McKenzie, D., Balkiz, G., & Avdeeva, M. (2023, March 24). *A Ukrainian orphanage tried to hide its children when war began. Then the Russians came*. CNN. <https://www.cnn.com/2023/03/24/europe/kherson-orphanage-children-russians-intl-cmd/index.html>; Aubenat, F. (2023, May 15). War in Ukraine: Kherson, the city of hidden children. *Le Monde.fr*. https://www.lemonde.fr/en/international/article/2023/05/15/war-in-ukraine-kherson-the-city-of-hidden-children_6026686_4.html.

³²⁴ *Bosnia v. Serbia*, para. 430.

³²⁵ Ibid.

Since Russia’s full-scale invasion began, many State Parties to the Genocide Convention have taken important actions to meet their prevention obligation, including steps ranging from travel bans to associated sanctions, support for the Ukrainian military, and a variety of types of humanitarian and defensive support for the Ukrainian people, including those displaced outside Ukraine.

States have also supported a number of justice and accountability measures, including supporting U.N.-mandated and multilateral investigation efforts, support for Ukraine’s domestic legal system, and through cooperation with and support for the International Criminal Court (ICC). While cooperation with the ICC fulfills States’ Article VI obligations,³²⁶ and support for any justice and accountability efforts more broadly is to be applauded, “[t]he obligation on each contracting State to prevent genocide is both normative and compelling. It is not merged in the duty to punish, nor can it be regarded as simply a component of that duty.”³²⁷

As the ICJ has emphasized, the obligation to prevent genocide does not end if a State determines that genocide has begun, but rather continues. Over the past year, increasing evidence indicates that Russia’s attempts to commit and incite genocide against Ukrainians have intensified, while its coordinated, systematic campaign to do so has evolved with new tactics targeting an increasingly wide number of Ukrainians far from the battlefield. This report sets out how these evolving genocidal tactics, accompanied by the chilling “We Can Do it Again” refrain, recall some of the darkest periods in Ukraine’s history and threaten the renewed occurrence of past atrocities committed by Russia against Ukrainians. To fulfill their ongoing prevention obligations, Parties must match and respond to these new genocidal tactics aimed at the Ukrainian people. In doing so, States will uphold the *raison d’être* of the Genocide Convention and its prevention mandate, and they will deliver a clear message to Russia, the Ukrainian people, and the international community as a whole — a message powerfully delivered by Moldovan President Maia Sandu: “‘We can do it again’ — No. ‘Never again’ — Yes.”³²⁸

³²⁶ See *Bosnia v. Serbia*, para. 443.

³²⁷ *Bosnia v. Serbia*, para. 427.

³²⁸ Sandu approved the ban in *Moldova of the St. George ribbon and symbols Z and V*. (2022, April 19). *Evropeyskaya Pravda*. <https://www.eurointegration.com.ua/rus/news/2022/04/19/71380>.