

## Lessons Learned from the Holocaust and the Contemporary Genocide

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**Abstract:** The paper is focused on the analysis of the lessons learned from the genocides in the 20<sup>th</sup> century for the existing situation in Ukraine. Apart from the short overview of the history behind the term genocide and the adoption of the convention for its prevention and punishment in the post-World War II period, the paper explores the main specifics of the selected genocides (Armenian genocide, the Holocaust, Cambodia, Rwanda, and Yugoslavia). On the basis of the identified specifics, several conclusions and lessons have been drawn, including the expectation that mass atrocities will happen again and that international justice is often slow and deals with a limited number of perpetrators.

### 1. Introduction

The war in Ukraine and its consequences once again put humanity to the test. The unimaginable scale of destruction in a sovereign nation, with several million refugees and displaced persons, including tens of thousands of children, has once again raised concerns in the civilized world regarding the atrocities being committed. The issues of war crimes and genocide have once again returned to the discussion table.

Having this in mind, the paper is focused on the analysis of the lessons learned from the Holocaust and other 20<sup>th</sup>-century genocides for the prevention of mass atrocities in the contemporary world, including Ukraine. The systematic and deliberate destruction of an entire people or ethnic

group has always been perceived as the “crime of all crimes.” Yet the situation in the last century did not significantly change, as a number of genocides have occurred and been documented, including the Holocaust, an unprecedented state-sponsored genocide with the aim of annihilating the Jewish people by Nazi Germany and their allies and collaborators.

The paper has been focused on the lessons learned from the main genocides in the 20<sup>th</sup> century (Armenian genocide, the Holocaust, Bosnia and Herzegovina, Rwanda, and the former Yugoslavia) and their relevance to the existing war in Ukraine.

## 2. The Concept and History of Genocide

Following World War II and the unimaginable persecution and destruction of European Jewry during the Holocaust, the international community was strongly committed to preventing mass atrocities in the future. The term “genocide” was coined by the Polish lawyer of Jewish descent, Raphael Lemkin, in the last years of the war to describe the campaign of extermination by Nazi Germany against the Jews during the Holocaust. Driven by his personal tragedy, he had the opportunity to participate in the Nuremberg trials, and the term “genocide” was included in Count 3 of the Indictment of the Nuremberg Trial Proceedings.<sup>1</sup> However, at this point, the term “genocide” had not yet been officially accepted as a formal legal term.<sup>2</sup>

A year later, the United Nations General Assembly recognized genocide as a crime under international law and urged Member States to enact the necessary legislation for the prevention and punishment of this crime.<sup>3</sup> It took an additional two years for the United Nations General Assembly to adopt the Convention on the Prevention and Punishment of the Crime of

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<sup>1</sup> “Coining A Word And Championing A Cause: The Story Of Raphael Lemkin”, United States Holocaust Memorial Museum, accessed on August 24, 2023, <https://web.archive.org/web/20230623112630/https://encyclopedia.ushmm.org/content/en/article/coining-a-word-and-championing-a-cause-the-story-of-raphael-lemkin>; Yale Law School, The Avalon Project, Documents in Law, History and Diplomacy, Nuremberg Trial Proceedings Vol. 1, Indictment: Count Three, accessed September 10, 2023, <https://avalon.law.yale.edu/imt/count3.asp>.

<sup>2</sup> Ibid.

<sup>3</sup> United Nations, 1946 United Nations General Assembly Resolutions, The Crime of Genocide, accessed August 3, 2023, <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/47/PDF/NR003347.pdf?OpenElement>.

Genocide (the Genocide Convention).<sup>4</sup> In Art. 2 of the Convention, genocide is defined as:

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.<sup>5</sup>

Moreover, the Convention provides punishment for other related acts such as conspiracy to commit, direct and public incitement to commit, attempt to commit, as well as conspiracy to commit genocide. Additionally, genocide in the convention is prohibited regardless of the time of commission (both during war and peace).

One should bear in mind that the Charter of the International Military Tribunal<sup>6</sup> and the Control Council Law No. 10<sup>7</sup> did not specifically include the crime of genocide as a separate offense against humanity. While the wording of relevant provisions clearly demonstrated that the crimes encompassed genocide, these documents did not explicitly mention it. The term used for the extermination of Jews and other groups was the crime of persecution.

### 3. Genocides in the 20<sup>th</sup> Century

From ancient times, there have been a number of cases of mass atrocities which fit the contemporary definition of genocide. However, the overall development of the civilization and the lessons learned from the Holocaust

<sup>4</sup> The Convention entered into force on January 12, 1951.

<sup>5</sup> United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, accessed August 10, 2023, [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1\\_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf).

<sup>6</sup> The Charter of the International Military Tribunal was prepared by the European Advisory Committee in August 1945. The charter defined the rules and procedures for the implementation of the Nuremberg trials.

<sup>7</sup> Antonio Cassese, *International Law* (Oxford University Press, 2005), 443.

created the necessary framework for the establishment of a legal mechanism from punishment and prevention of the crime of genocide, as well as improved the instruments for the documentation of mass atrocities in the 20<sup>th</sup> century. In this part of the paper, several genocides of the 20<sup>th</sup> century and their specifics will be explored.

The Armenian genocide is considered the first large-scale genocide of the 20<sup>th</sup> century. It represented a series of deportations and killings of Armenian Christian people living in the Ottoman Empire, mainly occurring from spring 1915 to autumn 1916. Conducted in the context of World War I and by the Ottoman authorities controlled by the Young Turks movement, it was aimed to solidify Turkish dominance in the regions of central and eastern Anatolia by eliminating the sizeable Armenian community.

One should keep in mind that the Armenian community achieved a significant economic progress in the Ottoman Empire during the 19<sup>th</sup> century. They were involved in various segments of the economy, including industries such as cannon and shipbuilding, and worked as architects, merchants, watchmakers, and more. To illustrate the economic superiority of the Armenian people within Ottoman society, according to Krikor Zohrab, out of the 166 Ottoman importers, 141 were Armenian and 13 Turkish and out of the 9,800 shopkeepers and craftsmen, 6,800 were Armenian and 2,550 were Turkish.<sup>8</sup> Another factor influencing the decision to target Armenians was the aftermath of the Ottoman Empire's defeat in the First Balkan War, as well as the positions of Armenian political factions in collaboration with Russia to achieve their political goals. This resulted in an unprecedented campaign against the Armenian people. According to the United States Holocaust Memorial Museum, at least 664,000 and possibly as many as 1.2 million died during the genocide, either in massacres and individual killings, or from systematic ill treatment, exposure, and starvation.<sup>9</sup> As the first genocide of the 20<sup>th</sup> century, and with the development of technology, relevant documents and photographs are available.

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<sup>8</sup> Razmik Panossian, *The Armenians: From Kings and Priests to Merchants and Commissars* (London: Cambridge University Press, 2006), 128–87.

<sup>9</sup> “The Armenian Genocide (1915–1916). Overview,” United States Holocaust Memorial Museum, accessed August 23, 2023, <https://encyclopedia.ushmm.org/content/en/article/the-armenian-genocide-1915-16-overview>.

It should also be emphasized that while Turkish authorities acknowledge that atrocities occurred, they deny the existence of an organized plan or policy for the eradication of the Armenian people.

As it was already mentioned, the Holocaust represented an unprecedented state-sponsored murder of six million Jews by the Nazi regime and their allies and collaborators. The persecution of Jews began in 1933 and continued until 1945. During this period, the Nazi authorities developed a number of mechanisms to systematically deprive Jews of their political and economic rights. Later, these mechanisms were implemented in the territories occupied by the Nazis and their allies. The Holocaust, as an unprecedented process of persecution and destruction of a people, culminated with the Wannsee Conference. This conference ensured the collaboration of Nazi government departments in the implementation of the Final Solution to the Jewish Question, which involved the deportation of all European Jews to occupied Poland for their extermination. In other words, there existed a concrete plan for the annihilation of the entire Jewish population, without exception. This plan included a systematic approach, encompassing identification, separation, transportation, and organized murder. As a result of the Nazi antisemitic policies, by 1945, six million Jewish men, women, and children had been murdered; two out of every three European Jews were killed. As it was already mentioned, the incomprehensible scale of organized murder and the evident determination of the civilized world after World War II not to tolerate these mass atrocities being ignored led to the adoption of the Genocide Convention. The definition of this new term and the adoption of the Convention represented an attempt to prevent similar atrocities occurring in the future. However, history has shown this to be tragically wrong.

One should keep in mind that a number of scholars have argued that the comparison between the Holocaust and other genocides is inadequate for a number of reasons including the fact that the Holocaust was unparalleled in a number of ways. In this context, Yehuda Bauer has argued that the main difference between the Holocaust and other genocides was the intention to destroy every member of the group without exception, leaving the group with no chance of survival. It was the Nazis' intention to eliminate all Jews without exception, representing the most extreme form of genocide. As a result, the Holocaust has become the paradigm for

genocidal threats in general.<sup>10</sup> In this context, some scholars argue that the discourse on the Holocaust within the general history of genocide and mass violence will divert attention from what was unique about the extermination of Jews. While these positions are highly relevant and valid, there are several reasons for comparing the Holocaust and other genocides. This includes the fact that the Holocaust is often seen as a starting point for research into other genocides, and the term “genocide” was created in response to the destruction of the European Jews. Additionally, knowledge about other genocides could potentially offer new perspectives in the study of the Holocaust.<sup>11</sup>

Having this in mind, in this part of the paper, we will briefly explore the main specifics of the genocides conducted by the end of the 20<sup>th</sup> century.

One of the deadliest genocides carried out in the second half of the 20<sup>th</sup> century was the genocide in Cambodia. According to the political scientist Karl D. Jackson, the Cambodian genocide was “the greatest per capita loss of life in a single nation in the twentieth century.”<sup>12</sup> Over the period of four years (1975–1979) the Khmer Rouge military government was responsible for the deaths of between 1.5 and 3 million people.

The main target groups for the genocide were religious groups (out of a total of 2,680 Buddhist monks from eight of Cambodia’s 3,000 monasteries, only 70 monks were found to have survived in 1979),<sup>13</sup> ethnic minorities (Vietnamese, Chinese, Thai, Muslim Cham etc.) and the majority Khmer population (15% of the rural population and 25% of the urban population perished between 1975 and 1979).

After seizing power, the key figure behind the genocide, Pol Pot, aimed to establish a form of agrarian utopia in Cambodia. All intellectuals, as well

<sup>10</sup> Yehuda Bauer, “On the Holocaust and Other Genocides. Joseph and Rebecca Meyerhoff Annual Lecture,” October 5, 2006. First Printing, February 2007.

<sup>11</sup> *The Holocaust and Other Genocides: An Introduction*, eds. Barbara Boender and Wichert ten Have (Amsterdam: NIOD Institute for War, Holocaust and Genocide Studies, Amsterdam University Press, 2012), 8–9.

<sup>12</sup> Bennett Sherry, “Why Does Genocide Still Happen?” World History Project, 1040L, accessed September 3, 2023, <https://www.oerproject.com/-/media/WHP-1200/PDF/Unit9/WHP-1200-9-2-3-Read---Why-Does-Genocide-Still-Happen---1040L.ashx>.

<sup>13</sup> Ben Kiernan, “Orphans of Genocide: The Cham Muslims of Kampuchea under Pol Pot,” *Bulletin of Concerned Asian Scholars* 20, no. 4 (1988): 2–33.

as those who spoke foreign languages, were immediately killed. Private property and the national currency were abolished. Cities were abandoned, and schools closed.

International responses to the mass atrocities in Cambodia were very limited. Following the Vietnamese invasion in 1979, the provisional People's Republic of Kampuchea was established. However, the former regime maintained its diplomatic presence abroad, including at the UN, without facing consequences for a limited period of time. At the same time, during the 1980s, no significant efforts were made to investigate the crimes committed by the Khmer Rouge. Several legal organizations rejected proposals to send delegations to Cambodia to investigate the crimes. Only a few voluntary organizations initiated some form of reaction to the mass atrocities, including the US Cambodia Genocide Project (1980), the Australian section of the International Commission of Jurists (1990), the Minnesota Lawyers International Human Rights Committee (1990), and so on.

The pressure from the public began to grow in the early 1990s. The New York Times called for the publication of a list of Khmer Rouge war criminals, their exclusion from Cambodian political life, and a trial before an international tribunal for crimes against humanity.<sup>14</sup> Additionally, in the fall of 1991, the Paris Peace Agreement was signed between the involved parties. In this regard, Article 17 of this agreement foresaw the appointment of a guardian for human rights: "The United Nations Commission on Human Rights should continue to monitor closely the human rights situation in Cambodia, including, if necessary, by the appointment of a Special Rapporteur who would report their findings to the Commission and to the General Assembly."<sup>15</sup>

Following the political turmoil of the 1990s, the Extraordinary Chambers in the Courts of Cambodia (ECCC) were established in 1997 through an agreement between the United Nations and the Royal Government of

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<sup>14</sup> Ben Kiernan, "The Cambodian Genocide, 1975–1979," in *The Holocaust and Other Genocides: An Introduction*, edited by Barbara Boender and Wichert ten Have (Amsterdam: NIOD Institute for War, Holocaust and Genocide Studies, Amsterdam University Press, 2012), 87.

<sup>15</sup> Agreement for a Comprehensive Political Settlement of the Cambodia Conflict, 1663 UNTS 27 (Paris, 23 October 1991), Art. 17. See: United Nations, Department of Public Information, *The United Nations and Cambodia 1991–1995* (UN Blue Book Series, Vol. II, UN, 1995).

Cambodia, with the sole purpose of ensuring accountability for the crimes of the Khmer Rouge regime. It took another decade until the first open hearing was organized in November 2007. The main claim of the prosecutors was that the Communist Party of Kampuchea has committed crimes against humanity and genocide. While a number of perpetrators died before being convicted (including Son Sen, Pol Pot, Ke Pauk and Mok), several prominent members of the Khmer Rouge were convicted. For instance, Kang Kek Iew was found guilty of crimes against humanity; Khieu Sampha's verdicts included genocide, crimes against humanity, and grave breaches of the Geneva Convention, among others. The Tribunal concluded its operations in 2022.

The genocides continued to occur in other places as well. The process of decolonization brought a major shift in the global balance of power, increasing tensions in many African nations. This was also the case in Rwanda, a Central African country where a century of German and Belgian imperialism had divided people along ethnic lines.

When the country gained its independence in 1962, tensions between the Hutu majority and Tutsi minority started a cycle of violence. Discrimination and violence against the Tutsi persisted during the 1960s and 1970s, leading many members of the community to leave the country. In 1990, Tutsi rebels invaded Rwanda from the north which once again triggered hostilities and resulted in a three year civil war. Under the auspices of the Organisation of African Unity, a peace treaty known as the "Arusha Accords"<sup>16</sup> was signed between the Rwandan Government and the insurgents (Rwandese Patriotic Front). The treaty envisioned the establishment of a Broad-Based Transitional Government with the participation of the insurgents. Additionally, a UN mission, the United Nations Assistance Mission for Rwanda (UNAMIR), was established in October 1993.<sup>17</sup> While the Accords set a course for sustainable peace, the situation abruptly escalated on April 6, 1994, following the downing of the airplane carrying

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<sup>16</sup> Peace Agreement between the Government of the Republic of Rwanda and Rwandese Patriotic Front, accessed August 27, 2023, [https://peacemaker.un.org/sites/peacemaker.un.org/files/RW\\_930804\\_PeaceAgreementRwanda-RwandesePatrioticFront.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/RW_930804_PeaceAgreementRwanda-RwandesePatrioticFront.pdf).

<sup>17</sup> United Nations, Resolution 872 (1993)/adopted by the Security Council at its 3288<sup>th</sup> meeting on 5 October 1993, accessed August 15, 2023, <https://digitallibrary.un.org/record/197341?ln=en>.



the Presidents of Rwanda and Burundi near the Rwandan capital, Kigali. Immediately after the assassination, the Prime Minister and acting Head of State of Rwanda were killed overnight, and the genocide began the next morning. The main targets of the genocide were Tutsi minority ethnic group, as well as some moderate Hutu and Twa. Within the first twelve hours, many Tutsi elites and moderate Hutus in influential positions in Kigali were killed. The process was assisted by RTLM (Radio Télévision Libre des Mille Collines), a radio station that started naming Tutsi and moderate Hutu individuals along with their addresses as signals for their elimination. After a week, the exterminations continued in the rural areas of Rwanda. Over a period of 100 days, around one million people have been slaughtered. The number of victims executed in such a short time period is unprecedented in history. Despite a limited UN mission on the ground, no effective national or international response occurred to prevent the genocide.

Considering the scale of the mass atrocities, the United Nations took action several months later and established the International Criminal Tribunal for Rwanda through the Security Council.<sup>18</sup> The Tribunal operated from 1994 to 2015 and convicted a total of 61 perpetrators, including notable cases such as the one against Jean-Paul Akayesu<sup>19</sup> and the case against the representatives of the RTML radio station and a newspaper. It should be emphasized that the judgement in the Akayesu case marked the first interpretation and application by an international court of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

Another example of mass atrocities and genocide was the violent dissolution of the Yugoslav federation. Once the most liberal socialist country in Eastern Europe and a leader of the Non-Aligned Movement, Yugoslavia disintegrated in the early 1990s in a series of military conflicts that claimed the lives of over 130,000 people. The largest loss of lives occurred in ethnically and religiously diverse Bosnia and Herzegovina, where mass murders escalated into genocide.

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<sup>18</sup> United Nations, Resolution 955 (1994)/adopted by the Security Council at its 3453<sup>rd</sup> meeting on 8 November 1994, accessed August 21, 2023, <https://digitallibrary.un.org/record/198038?ln=en>.

<sup>19</sup> This case represented the first conviction of rape as a component of genocide which has established a legal precedent.

Considering the growing escalation of conflict and the extent of hostilities, in May 1993, the United Nations Security Council passed Resolution 827,<sup>20</sup> which established the International Criminal Tribunal for the former Yugoslavia (ICTY). The Tribunal operated from 1993 to 2017, resulting in a total of 90 individuals being convicted. However, it is important to note that although the ICTY was established in 1993, this mechanism was not sufficient to prevent the Srebrenica massacre, which claimed the lives of over 8,000 Bosniak men and boys in the first half of July 1995. The killings were carried out by units of the Army of the Republic Srpska (VRS). Despite the presence of UN soldiers on the ground, they were unable to prevent the atrocities. Inaction by the Americans and Europeans, coupled with obstruction by the Russians, put UN peacekeepers in jeopardy. Serbian forces captured UN peacekeepers and used them as human shields. One month later, the scale of the mass killings led to a NATO-led bombardment of Serb military positions throughout Bosnia, and the Dayton Peace Accord, which ended the war in Bosnia, was signed in November 1995.

As for the issue of genocide in the Bosnian War, Bosnia and Herzegovina submitted an Application to the International Court of Justice (ICJ) initiating proceedings against the Federal Republic of Yugoslavia (later Serbia and Montenegro) regarding alleged violations of the Genocide Convention. The ICJ judgement concluded that acts of genocide were committed by members of the VRS in and around Srebrenica in July 1995. However, the Court concluded that Serbia did not commit genocide, did not conspire to commit genocide, and was not complicit in genocide. On the other hand, the Court found that Serbia violated the obligation to prevent genocide.<sup>21</sup> At the individual level, several perpetrators have been convicted of the crime of genocide. The first case of an individual convicted of

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<sup>20</sup> United Nations, Security Council resolution 827 (1993) on establishment of the International Tribunal for Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, accessed August 23, 2023, <https://digitallibrary.un.org/record/166567?ln=en>.

<sup>21</sup> International Court of Justice, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgement of 26 February 2007, accessed September 7, 2023, <https://www.icj-cij.org/case/91/judgments>.

genocide by the ICTY was Radislav Krstic, one of the commanding officers of the Srebrenica massacre.

As far as the issue of genocide is concerned, it should be emphasized that legal acts for establishment of international tribunals have incorporated the crime of the genocide, including the International Criminal Tribunal for the Former Yugoslavia (ICTY),<sup>22</sup> the International Criminal Tribunal for Rwanda (ICTR),<sup>23</sup> and the International Criminal Court (ICC).<sup>24</sup>

Unfortunately, the aforementioned events in the 1990s were not the end of the history of genocide. The beginning of the 21<sup>st</sup> century brought new challenges as violence, mass atrocities, and destruction ravaged the Darfur region of western Sudan. It is estimated that over 400,000 people have died, and more than 2.5 million people have been displaced from their homes. The United States Congress and President George W. Bush recognized the situation in Darfur as a “genocide.” Darfur, often described as “near Hell on Earth,” was declared the worst humanitarian crisis in the world at that time. The International Criminal Court’s investigation in Darfur led to the indictment of several individuals, including the former President of Sudan, Omar al-Bashir, who was charged for genocide.

#### 4. The War in Ukraine

On February 24, 2022, a new era in European history began. The Russian invasion of Ukraine resulted in a massive loss of life, destruction of economic infrastructure, and a high number of refugees. Undoubtedly, the war in Ukraine has changed the world politically, economically, and strategically. As for civilian casualties, according to data from the UN Office of the High Commissioner for Human Rights, from February 2022 to August 2023,

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<sup>22</sup> United Nations, Statute of the International Criminal Tribunal for the Former Yugoslavia, Article 2, accessed September 3, 2023, [https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_en.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf).

<sup>23</sup> United Nations, Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994, Article 2.

<sup>24</sup> Rome Statute of the International Criminal Court, Article 6, accessed September 2, 2023, <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.

OHCHR recorded 26,717 civilian casualties in the country: 9,511 killed and 17,206 injured.<sup>25</sup>

After the first year of hostilities, in March 2023, the UK Defence Secretary suggested that more than 220,000 Russian troops and mercenaries have been killed or injured since the start of the invasion.<sup>26</sup> Additionally, according to the Kyiv School of Economics, the value of damage caused due to the invasion has reached \$137.8 billion (at replacement cost) by the end of the first year of the war. This includes the complete destruction of 344 bridges, 440 educational facilities, 173 hospitals, and hundreds of thousands of homes, while many more buildings have suffered extensive damage.<sup>27</sup> Tens of thousands of children have been displaced, including to Russia, which additionally raised the concerns of the international community. At the same time, the number of refugees and internally displaced persons remains very high. An estimated 8 million Ukrainian refugees are now outside their country, and a further 5 million are internally displaced.

Now, we come to the essential question. When considering all these basic parameters, the legitimate question that arises is whether the conflict has the potential to escalate into war crimes and genocide. In this context, this is why a number of reports in the last 18 months have raised the question of whether war crimes, including genocide, have been committed in Ukraine.

Immediately after the start of the hostilities, the New Lines Institute for Strategy and Policy and the Raoul Wallenberg Centre for Human Rights released an analysis of the breaches of the Genocide Convention

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<sup>25</sup> United Nations, Office of the High Commissioner for Human Rights, Ukraine: civilian casualty update 28 August 2023, accessed September 10, 2023, <https://www.ohchr.org/en/news/2023/08/ukraine-civilian-casualty-update-28-august-2023#:~:text=Total%20civilian%20casualties,9%2C511%20killed%20and%2017%2C206%20injured>.

<sup>26</sup> Deborah Haynes, “Ukraine War: More than 220,000 Russian Troops and Mercenaries Killed or Injured since Start of Invasion, UK Defence Sec Says”, SkyNews, March 29, 2023, accessed September 10, 2023, <https://news.sky.com/story/ukraine-war-more-than-220-000-russian-troops-and-mercenaries-killed-or-injured-since-start-of-invasion-uk-defence-sec-says-12844916>.

<sup>27</sup> Janek Lasocki, “The Cost of War to Ukraine,” Royal United Services Institute, February 24, 2023, accessed September 10, 2023, [https://www.rusi.org/explore-our-research/publications/commentary/cost-war-ukraine#:~:text=Economic%20Collapse,billion%20\(at%20replacement%20cost\)](https://www.rusi.org/explore-our-research/publications/commentary/cost-war-ukraine#:~:text=Economic%20Collapse,billion%20(at%20replacement%20cost)).

by the Russian Federation in the early stages of the conflict. The Report included an extensive set of arguments that Russia is responsible for direct and public incitement to commit genocide and presented a “pattern of atrocities from which an inference of intent to destroy the Ukrainian national group in part can be drawn.”

The Report provides numerous examples of Russia’s state-orchestrated incitement to genocide, including the denial of the existence of a Ukrainian identity, accusation in a mirror,<sup>28</sup> denazification and dehumanization, as well as the construction of Ukrainians as an existential threat. In this regard, the Report references statements made by high-level officials and state media journalists denying the Ukrainian identity. As far as the accusations in a mirror are concerned, several cases of statements by Russian official representatives have been presented in which Ukraine has been accused of planning, or having committed, atrocities like those Russia has envisioned against them, “framing the putative victims as an existential threat makes violence against them appear defensive and necessary.” Apart from that, a number of statements have been documented which invoke “denazification” as one of the main goals of the invasion and have broadly described Ukrainians as subhuman. As a result of that, the Ukrainians are portrayed as mortal enemies which represent a legitimate target for destruction.

Moreover, a separate chapter in the Report has been dedicated to the issue of a genocidal pattern of destruction targeting Ukrainians. A number of examples of mass killings (including the Bucha events); deliberate attacks on shelters, evacuation routes, and humanitarian corridors; indiscriminate bombardment of residential areas; rape and sexual violence; and the forcible transfer of Ukrainians (including the forcible transfer of tens of thousands of Ukrainian children to Russia) have been indicated in the Report.<sup>29</sup>

<sup>28</sup> Accusation in a mirror (AiM) is a common technique for inciting genocide by accusing one’s intended victims of precisely the crimes that one intends to commit against them. More: Kenneth L. Marcus, “Accusation in a Mirror,” *Loyola University Chicago Law Journal* 43, no. 2 (2012): 357–93.

<sup>29</sup> New Lines Institute for Strategy and Policy, Raoul Wallenberg Centre for Human Rights, *An Independent Legal Analysis of the Russian Federation’s Breaches of the Genocide Convention in Ukraine and the Duty to Prevent*, May 2022, accessed September 10, 2023, <https://newlinesinstitute.org/wp-content/uploads/English-Report-1.pdf>.

Considering the sequence of events, on February 26, 2022, Ukraine submitted an Application to the International Court of Justice, initiating proceedings against the Russian Federation concerning “a dispute... relating to the interpretation, application, and fulfillment of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.” Ukraine also filed a Request for the indication of provisional measures. After several phases, including the submission of objections on various grounds by the Russian Federation, the Court determined that it had jurisdiction to order provisional relief “pursuant to Article IX of the Genocide Convention.” This position marked a significant legal victory for Ukraine in the ongoing process at the International Court of Justice.

One should keep in mind that different views on the topic exist. The latest comprehensive report released by the UN Independent International Commission of Inquiry on Ukraine to the Human Rights Council was released on March 16, 2023. While the Report found that Russia has committed murder, rape, and torture in Ukraine, it stopped short of classifying its actions as genocide.<sup>30</sup> In addition, during the briefing of the Helsinki Commission on Russia’s Genocide in Ukraine, Dr. Erin Rosenberg emphasized that Russia’s actions do qualify as genocide under the genocide convention and that Ukrainian nationality is a protected group. However, she added that genocidal intent must be tied to a desire to physically or biologically destroy the group, not just culturally.<sup>31</sup> This also represents a legitimate argument in the overall discussion. Furthermore, as was the case in the aforementioned trials for genocide, concrete evidence from the targeted cases against the perpetrators is required.

## 5. What Could We Learn from the Holocaust and Other Genocides?

Keeping in mind the fact that a number of genocides have occurred after the Holocaust due to the limited mechanisms to prevent atrocities, some lessons learned can be identified from the 20<sup>th</sup> century cases. This is even more

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<sup>30</sup> United Nations, Human Rights Council, “Report of the Independent International Commission of Inquiry on Ukraine to the Human Rights Council (A/HRC/52/62),” accessed September 10, 2023, <https://www.ohchr.org/en/hr-bodies/hrc/iicir-ukraine/index>.

<sup>31</sup> Helsinki Commission Briefing On Russia’s Genocide In Ukraine, November 14, 2022, accessed September 10, 2023, <https://www.ohchr.org/en/hr-bodies/hrc/iicir-ukraine/index>.

important in respect to the existing situation in Ukraine. On the basis of the issues discussed in this paper, several lessons learned can be identified.

It will happen again. Although the mechanism for prevention and punishment of genocide has been in place for over 70 years, genocides have continuously occurred in several countries in the world. The scale of the conflict and the involvement of specific parties in Ukraine, along with the information mentioned on particular cases of atrocities, raise significant concerns and underscore the evident need for close monitoring of the situation. The prolongation of the conflict, combined with the frustration of the military, constitutes an additional factor for concern in the forthcoming period.

Each genocide has its own specifics. As it was demonstrated in the paper, each of the examined cases had its own phases, dynamics, and outcomes. While there may be some similarities between different phases of implementation, each genocide, each organized murder, retains its unique notoriety. Essentially, genocide is an organized murder, and it is of vital importance to recognize and prevent specific aspects in the early stages by comparing them with other cases.

Early action is vital. There have been a number of examples of early manifestations of crimes that ultimately led to genocide. This was the case in all the analyzed situations. Particular attention should be given to any signs of extensive hate speech and crimes, demonstration of policies for the official identification of certain groups (religious, ethnic, political), and their separation/ghettoization, evidence of violations of basic human rights during a military conflict, among other factors.

The deployment of peacekeepers is often ineffective to prevent mass atrocities. While UN missions have achieved evident success in many instances, several examples in history, including the cases explored in this paper, demonstrated that deployment of peacekeepers did not prevent genocides. This was evident in both Bosnia and Herzegovina, as well as Rwanda. One of the lessons learned is that such deployments require better planning and more advanced risk assessment to mitigate the challenges of atrocities, war crimes, and genocide.

International justice is slow and deals with a limited number of perpetrators. The examples analyzed in the paper have clearly shown that the international justice is notably slow. This was evident in all the cases

examined in this paper (the Holocaust, Cambodia, Rwanda, and Yugoslavia). At the same time, the number of prosecuted cases for war crimes and the crime of genocide remains limited. This is an important lesson learned from previous military tribunals and should be taken into account in the current situation.

People make choices. In all conflicts, people have the choice to help or not to help the victims. It is approximately estimated that between 50,000 and 500,000 non-Jews helped the Jews during the Holocaust. According to Mordecai Paldiel, the former Director of the Righteous at Yad Vashem, the approximate number of people who risked their lives to save Jews during the Holocaust is around 50,000 individuals, which represents less than one-half of one percent of the total population under Nazi occupation. This was also the case in Rwanda. This statistical information clearly shows that the opportunities for rescue from war crimes and genocide are very limited.

Document atrocities. Access to technology has evidently improved over the years. New technologies are widely available. This expands the potential for documenting atrocities in conflicts. The technology is often available to different parties – victims, bystanders, and perpetrators.

In summary, the complex situation in Ukraine has the potential to escalate into an even more violent conflict, which naturally raises concerns about war crimes, including the crime of genocide. The words of Justice Robert H. Jackson, Chief of Counsel for the United States, made during his opening statement of the Nuremberg Trials seem more relevant than ever:

Civilization asks whether law is so laggard as to be utterly helpless to deal with crimes of this magnitude by criminals of this order of importance. It does not expect that you can make war impossible. It does expect that your juridical action will put the forces of international law, its precepts, its prohibitions and, most of all, its sanctions, on the side of peace, so that men and women of good will, in all countries, may have 'leave to live by no man's leave, underneath the law.'<sup>32</sup>

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<sup>32</sup> Robert H. Jackson Centre, Opening Statement before the International Military Tribunal, November 21, 1945, accessed September 10, 2023, <https://www.roberthjackson.org/speech-and-writing/opening-statement-before-the-international-military-tribunal/>.



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