



# Crimes involved in Russia's Invasion of Ukraine



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## Introduction

The current war in Ukraine began with Russia's invasion on February 24th, 2022. This act is widely regarded as violating the Ukrainian people's right to self-determination.<sup>1</sup> It has also been regarded as an attempt to re-colonise Ukraine and to re-establish a Russian empire in Eastern Europe.<sup>2</sup>

This report will focus on Russia's alleged crimes in the war in Ukraine for the purposes of cohesion and to illustrate the multifaceted nature of the alleged war crimes and crimes against humanity committed by Russian forces. The invasion has already culminated in one of the harsher humanitarian crises of the century, where massive violations of human rights and international humanitarian law are at the core of the conflict. There have, however, also been reports of Ukraine's military violating the terms of the third Geneva Convention.<sup>3</sup> Notably, a video emerged in which a Ukrainian soldier appears to kill a Russian soldier who had surrendered.<sup>4</sup> The report will examine tactics reportedly used by Russia's military forces in its assault which violate Ukrainians' rights and are used to exert fear and submission. These include the targeting of civilian areas and infrastructure, the use of torture, rape, and the potential use of chemical weapons.

1. UNGA Res ES-11/1 (2 March 2022) UN Doc A/RES/ES-11/1

2. Laura Kinstler, 'To understand the Ukraine-Russia conflict, look to colonialism' (Washington Post, 24 February 2022) <<https://www.washingtonpost.com/outlook/2022/02/24/ukraine-colony-russia/>> accessed April 22, 2022

3. Convention (III) relative to the Treatment of Prisoners of War. (12 August 1949)

4. Kieran Devine and Jack Taylor, 'Video appears to show Ukrainian soldier killing Russian prisoner' (Sky News, 7 April 2022) <<https://news.sky.com/story/video-appears-to-show-ukrainian-soldier-killing-russian-prisoner-12584437>> accessed April 22 2022

## Targeting civilian areas

Since the beginning of Russia's invasion of Ukraine, 4,232 civilian casualties in the country have been reported, with 1,793 deaths and 2,439 injured. Most of the civilian casualties registered were owed to the use of explosive weapons, shelling from heavy weaponry and multiple launching missile systems, rockets and airstrikes.<sup>5</sup>

It is well established that international humanitarian law protects civilians and civilian properties for those who are not involved in the armed conflict. The law also lays out a series of clearly distinguishable symbols (e.g., the red cross and the red crescent) which can be used to identify protected people, civilian facilities, and places.<sup>6</sup> Moreover, important international agreements enshrine the protections of civilians and civil facilities in international and non-international armed conflicts, starting from the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War, the Protocol Additional to the Geneva Conventions of August 12th, 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I). Article 48 enshrines that “the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.”<sup>7</sup>

Lastly, the Rome Statute of the International Criminal Court reiterates in Article 7 that a widespread or systematic attack against the civilian population is considered to be a crime against humanity. Article 8, – dedicated to war crimes – paragraph (b) includes among serious violations of international law and customary law the intentional “attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;” and the intentional “attacks against civilian objects, that is, objects which are not military objectives.”<sup>8</sup> It is established that the targeting of civilians and civilian areas is severely condemned by major international treaties, and it has become a solid rule of customary international law. However, data and testimonies show different practices taking place in Ukraine, where major targets are the civil society and civilian facilities. The next section will go further into detail, outlining Russia's targeting of Ukrainian civilian areas since the beginning of the invasion in February 2022.

5. United Nations Human Rights Office of the High Commissioner, 'Ukraine: civilian casualty update 10 April 2022' (United Nations Human Rights Office of the High Commissioner, 10 April 2022) <<https://www.ohchr.org/en/news/2022/04/ukraine-civilian-casualty-update-10-april-2022>> accessed April 22 2022

6. International Committee of the Red Cross, 'What is International Humanitarian Law?' (July 2004). <[https://www.icrc.org/en/doc/assets/files/other/what\\_is\\_ihl.pdf](https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf)> accessed April 22 2022

7. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Article 48.

8. The Rome Statute of the International Criminal Court, Article 8 (b) (I); (ii).

## 2.1 Instances of targeting civilian areas

The increasing number of verifiable photos and videos, descriptions, and visual evidence from the Ukrainian military and government authorities, the work in the field by international and regional non-governmental organisations (NGOs), and the reports of journalists and witnesses demonstrated that Ukrainian civilians, health and cultural facilities, cities, and towns are in the crosshairs of the Russian army.

Ukraine's invasion started with airstrikes and bombing directed at government and military buildings and infrastructures. As the invasion escalated, the targets started to broaden to include attacks on highly populated areas aiming at important civilian facilities. Russian attacks have damaged schools, post offices, museums, shopping centres, private buildings, sports facilities, and factories.<sup>9</sup> Power and gas pipes have been disrupted while bridges and train stations have been blown away. In the southeast region of Ukraine, the city port of Mariupol, has been exposed to endless aggression by Russian forces, with victims and injuries that went well above the figures given by the United Nations. The city's Drama Theatre, where hundreds of people had been sheltering and hiding, was bombed on March 16th, 2022, dramatically increasing the death toll. In a recent analysis of satellite images, approximately 391 buildings were found with evidence of damage in an area of the town characterised by schools and health facilities. The International Criminal Court's top prosecutor has opened an official investigation to probe alleged war crimes and crimes against humanity, as, under international humanitarian law, the parties of the conflict are supposed to act to minimise damage to civilians or civilian facilities, like homes, buildings, other infrastructure or vehicles that are not for military purposes.<sup>10</sup> On April 12th, 2022, Mariupol's Mayor Vadym Boychenko reported the latest estimate of the casualties in the town since the beginning of the invasion, amounting to approximately 21,000 civilian residents allegedly killed by Russian forces.<sup>11</sup> In several televised statements, the Mayor stated that it had been difficult to determine the exact number of victims since street fighting had started. According to Pavlo Kyrylenko, head of the Donetsk regional military administration, the number of casualties is expected to increase in the near future.<sup>12</sup>

9. Keith Collins and others, 'Russia's Attacks On Civilian Targets Have Obliterated Everyday Life in Ukraine' (New York Times, 2022) <<https://www.nytimes.com/interactive/2022/03/23/world/europe/ukraine-civilian-attacks.html>> accessed April 22 2022

10. Ibid.

11. The Guardian, 'Russia-Ukraine war latest: more than 20,000 civilians killed in Mariupol, says mayor' (The Guardian, 2022) <<https://www.theguardian.com/world/live/2022/apr/12/russia-ukraine-war-latest-mariupol-mayor-says-more-than-10000-civilians-killed-zelenskiy-taking-chemical-weapons-threat-seriously>> accessed April 22 2022

12. Ibid.

According to Ukrainian officials, Russian forces are preparing a new offensive in the eastern region of Ukraine, apparently with the intent of targeting more civilian areas. On April 8th, 2022, the city of Kramatorsk saw the attack on the local train station by the Russian army causing the death of approximately 60 civilians, indicating that the Kremlin has started to shift its geographical focus after failing to seize Kyiv. In Kharkiv, one of the major cities in Eastern Ukraine, 11 civilians were killed after Russian forces launched 66 different raids on April 10th, 2022. On the same day, President Zelensky stated that “Russian troops will move to even larger operations in the east of our state. But, we are preparing for their actions. We will respond”.<sup>13</sup>

In the northern city of Chernihiv, witnesses reported the deliberate attack by Russians on civilian buildings and residential areas. The town has been almost completely surrounded by Russian forces and left without basic provisions. Civilians are trapped with no water connections, electricity, and heating, under incessant bombing and shelling.<sup>14</sup> Hospitals, schools, cultural and residential buildings are the first target of the Russians, wiping out the city suburbs and historical buildings. Governor of the Chernihiv region, Viacheslav Chaus, declared that half of the city's population had left since the start of the invasion. However, after the Russians bombarded a bridge on the way towards the capital, Chernihiv had been cut off and civilians had nowhere to go, including the wounded requiring medical support for their injuries. The Governor continued by saying that civilians were hit on purpose, targeting residential buildings, schools, hospitals, kindergartens, and the stadium. Approximately 200 people had already died in the town of Chernihiv, where some bodies were believed to be covered under the debris of collapsed buildings, the Governor said, adding that “we're still trying to collect them”.<sup>15</sup>

The World Health Organisation (WHO) reported on April 7th, 2022 that more than 100 attacks on health care facilities and personnel have been carried out since the start of the invasion on February 24th, 2022. So far, 73 have lost their lives and 51 were injured. Of 103 attacks, 89 have hit health facilities while 13 strikes have impacted transports such as ambulances.<sup>16</sup> These attacks resulted in

13. Kelsey Carolan, 'Russian forces targeting civilian areas in eastern Ukraine' (The Hill, 11 April 2022). <<https://thehill.com/news/3263915-russian-forces-targeting-civilian-areas-in-eastern-ukraine/>> accessed April 22 2022

14. Hugo Bachega and Orysia Khimiak, 'In Chernihiv, civilians are trapped as hospitals and schools attacked' (BBC, 28 March 2022). <<https://www.bbc.com/news/world-europe-60860197>> accessed April 22 2022

15. Ibid.

16. World Health Organization, 'WHO records 100th attack on health care in Ukraine' (WHO, 7 April 2022). <<https://www.who.int/news/item/07-04-2022-who-records-100th-attack-on-health-care-in-ukraine>> accessed April 22 2022

numerous losses and injuries as well as long-term consequences for the Ukrainian health care system, undermining the country's efforts to develop inclusive health reforms and achieve universal healthcare coverage, a goal that Ukraine had almost reached before the outbreak of the war. WHO Representative in Ukraine, Jarno Habicht, explained that "Across Ukraine, 1000 health facilities are in proximity to conflict areas or in changed areas of control".<sup>17</sup> He added that health workers across the country are risking their lives every day. Therefore, the healthcare workforce, their patients, and civilians must be fully protected from the battlefield. When people are targeted and precluded from requesting and accessing healthcare services, they lose hope, severely impairing their mental health.<sup>18</sup> The WHO has been delivering around 150 metric tonnes of medical supplies to support trauma, surgeries, and basic healthcare in the country, but the needs remain overwhelming.<sup>19</sup> Despite the great amount of international support, the disruption of primary services and supplies in Ukraine represents an increased risk for people with existing conditions. Access to COVID-19 care services is similarly severely compromised.

It is generally believed that the widespread attacks on civilian areas should be further examined and investigated to see if violations of customary humanitarian law took place. The International Criminal Court's prosecutor, Karim A.A. Khan QC, has opened an official investigation based on the referrals he received from State Parties. The scope of the situation covers any past and current allegations of war crimes, crimes against humanity, or genocide perpetrated on any part of the territory of Ukraine by anyone from November 21st, 2013 onwards.<sup>20</sup> The Prosecutor in his statement on March 11th, 2022 noted that

"If attacks are intentionally directed against the civilian population: that is a crime. If attacks are intentionally directed against civilian objects: that is a crime. [...] There is no legal justification, there is no excuse, for attacks which are indiscriminate, or which are disproportionate in their effects on the civilian population".<sup>21</sup>

17. Ibid.

18. Ibid.

19. World Health Organization, "We fight for every patient here": Portraits of resilience from health workers and patients in Kyiv, Ukraine' (WHO, 25 March 2022). <<https://medium.com/who/we-fight-for-every-patient-here-d3b9e0cc1294>> accessed April 22 2022

20. International Criminal Court, 'Ukraine' (International Criminal Court, 2022). <<https://www.icc-cpi.int/ukraine>> accessed April 22 2022

21. International Criminal Court, 'Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Additional Referrals from Japan and North Macedonia; Contact portal launched for provision of information Image', (International Criminal Court, 11 March 2022). <<https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-additional-referrals-japan-and>> accessed April 22 2022



## Torture

Since the Russian invasion began, numerous reports of human rights violations have surfaced, including the alleged torture of both civilians and soldiers. Torture means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused.<sup>22</sup> It constitutes both a crime against humanity, as well as a war crime as it constitutes a grave breach of the Geneva Conventions if it is committed against a protected person, i.e. a prisoner of war, a civilian, a sick, wounded, or shipwrecked person, and a person not taking part in hostilities. Defined more extensively in the International Criminal Court's Elements of Crime, for an act to qualify as torture it must not have arisen from a lawful sanction, and it must have been committed as part of a widespread or systematic attack against a civilian population that the perpetrator was aware of or that the perpetrator intended to be part of the attack.<sup>23</sup> The prohibition of torture is a jus cogens norm, meaning that no derogation from the norm is permitted. Therefore, even though Russia and Ukraine are not State Parties to the Rome Statute, torture is still a prohibited offence. Even so, both countries are parties to the Convention Against Torture (CAT). In the first article of this convention, torture is defined as:

“...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.<sup>24</sup>

This Convention also imposes a positive duty on States to prevent torture, and allows for no exceptional circumstances, including a state of war or following orders, that could excuse or justify the use of torture. Both Russia and Ukraine have a history of allegedly using torture; in Eastern Ukraine civilians were allegedly subjected to torture and unlawful detention at the hands of both Russian separatists and the Ukrainian government forces in 2015 and 2016.<sup>25</sup> Moreover, Russia has a history of using torture in armed conflicts as well; it was frequently used during the Chechen wars in the 1990s

22. The Rome Statute of the International Criminal Court 1998, art. 7(2)

23. International Criminal Court publication, Elements of Crimes, Official Records of the Review Conference of the Rome Statute of the International Criminal Court, 2010

24. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

25. 'Ukraine: Torture and Secret Detention on Both Sides of the Conflict Line' (Amnesty International, July 26 2021) <<https://bit.ly/36iojp4>>, accessed April 15 2022

and early 2000s, in what Human Rights Watch claimed was a widespread and systematic occurrence.<sup>26</sup>

### 3.1 Instances of torture during the invasion

In the early stages of the Russian invasion of Ukraine, few instances of torture were reported. Specifically, in the period from the February 24th, 2022 to the March 3rd, 2022, two reports were found claiming torture: one being a yet unconfirmed claim of torture of Russian soldiers at the hands of Ukrainian forces,<sup>27</sup> the other being reports of the kidnapping and torture of the mayor of Melitopol, Ivan Fedorov, at the hands of Russian forces.<sup>28</sup> The mayor, who was allegedly tortured to ensure his collaboration with the invaders, was released several days later in an exchange for captured Russian soldiers.<sup>29</sup> One other event, the reports of which only came out later, was the kidnapping and torture of a Ukrainian interpreter and fixer working for a French media outlet on March 5th, 2022. He was kept for nine days during which he was beaten, tortured with electric shocks, and subjected to a mock execution, alongside several civilians who were subject to the same treatment.<sup>30</sup> This occasion was corroborated by interviews with his family and other journalists, all verified by Reporters Without Borders. Significantly more reports have been published in the more recent stages of the invasion, particularly once Ukrainian forces began to move into the areas that were previously occupied by Russian forces. I

The broader Kyiv region, including Bucha, Borodyanka, and Irpin, has been the reported scene of the crime of numerous violations of human rights. Aside from directly targeting civilian areas in attacks, extrajudicial killings, and sexual violence, many Ukrainian civilians were tortured.<sup>31</sup> Over 400 bodies were found in Bucha when Ukrainian forces entered the city, many of whom showed signs of being tortured before their death. The bodies of several people were found in the basement of a children's summer camp with hands tied behind their backs, seemingly tortured before they were killed and over 20 bodies of people found similarly with hands tied behind their backs were found in another area of Bucha;<sup>32</sup> in a nearby glass factory detainees were tortured and executed and one person was found

26. HRW, 'Chechnya: Research shows widespread and systematic use of torture' (Relief Web, November 13 2006) <<https://bit.ly/37he70M>>, accessed April 15 2022

27. Jon Henley and Samantha Lock, 'Russia-Ukraine war: what we know on day eight' (The Guardian, March 3 2022), <<https://bit.ly/3xEgglA>>, accessed April 15 2022

28. Timothy Bella, 'Thousands protest in Melitopol after Russian forces reportedly abduct mayor with a hood over his head' (Washington Post, March 12 2022) <<https://wapo.st/3Ekfg3A>>, accessed April 15 2022

29. Siba Jackson, 'Kidnapped' Melitopol mayor: City leader Ivan Fedorov freed in swap with nine Russian conscripts' (Sky News, March 17 2022) <<https://bit.ly/36io9Ou>>, accessed April 15 2022

30. Chilling account of Radio France fixer who was kidnapped and tortured by Russian soldiers in Ukraine' (Reporters Without Borders, March 25 2022) <<https://bit.ly/3KN0jth>>, accessed April 15 2022

beaten and bruised, with burns from cigarettes visible on their body.<sup>33</sup> In Irpin, the bodies of two children, both younger than ten, were found - both bodies showed signs of torture and rape.<sup>34</sup> The body of the mayor of Motyzhyn, a small town near Borodyanka, was found in a mass grave with broken arms and fingers, pointing to torture before her death.<sup>35</sup> She was killed alongside her husband and son. In Borodyanka, one man was taken and tortured for three days, including by being forced to breathe exhaust fumes, apparently for breaking curfew and suspicions that he was a Ukrainian soldier.<sup>36</sup> Meanwhile, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has reported on allegations of torture of pro-Russian supporters in Ukraine-controlled territories, including at the hands of police officers or members of the Ukrainian territorial defence. The victims in these cases are often tied to poles or trees outside in the cold, partially undressed and beaten with sticks and rods.<sup>37</sup>

Other cities under Russian control were not excluded from such conduct either. In the Kharkiv and Chernihiv regions, local leaders are detained and tortured while other victims were tortured before their bodies were concealed and burned.<sup>38</sup> In Kherson, the first city to fall under Russian control, reports of torture and fears of a massacre similar to the one found in Bucha are frequent. Ukraine's human rights ombudswoman relayed allegations of elderly people being tortured and killed in the city, while resistance organisers captured by Russian forces reported being beaten, cut with bayonets, and being shot at to taunt them.<sup>39</sup> Many allegations of such acts in Kherson and other areas under Russian control have been verified by the World Organisation against Torture (OMCT), which noted that torture seemed to be a significant trend in occupied areas. In a review of the crisis in Ukraine, the OMCT noted that:

“Methods of torture include severe beatings, disproportionate and punitive use of tasers, threats of

31. Deborah Haynes, 'Ukraine war: Torture and execution with automatic weapons recorded as war crimes investigations around Kyiv begin' (Sky News, April 6 2022) <<https://bit.ly/3KJWrZY>> accessed April 22 2022
32. Deborah Haynes, 'Ukraine war: Mass graves, evidence of torture and bodies in basements - the Bucha left behind by Russian troops' (Sky News, April 5 2022) <<https://bit.ly/3ErK6ra>> accessed April 15 2022
33. Carlotta Gall, 'Bucha's Month of Terror' (New York Times, April 11 2022); <<https://www.nytimes.com/interactive/2022/04/11/world/europe/bucha-terror.html?smid=url-share>> accessed April 16 2022; Max Bearak and Louisa Loveluck, 'In Bucha, the scope of Russian barbarity is coming into focus' (Washington Post, April 6 2022) <<https://wapo.st/3xB0MxQ>> accessed April 15 2022
34. 'Two children with signs of rape and torture found dead in Irpin - Denisova' (Ukrinform, April 5 2022) <<https://bit.ly/3jN4wBn>> accessed April 15 2022
35. Will Bolton, 'Ukraine mayor's tortured body found alongside husband and son in mass grave' (The Telegraph, April 4 2022) <<https://bit.ly/3k1MeFX>> accessed April 15 2022
36. Daniel Boffey, 'Ukrainian man accuses Russians and Chechen troops of mock executions and days of torture' (The Guardian, April 5 2022) <<https://bit.ly/3rRXT9>> accessed April 22 2022
37. Office of the United Nations High Commissioner for Human Rights, 'HRMMU Update on the human rights situation in Ukraine, 24 February – 26 March 2022', 2022
38. Halya Coynash, 'Charred bodies of Russian invaders' torture victims found in Kharkiv oblast' (Kharkiv Human Rights Protection Group, April 11 2022) <<https://khp.org/en/1608810389>> accessed April 16 2022
39. Danielle Ong, 'Russia Builds 'Torture Prison' In Ukraine City Of Kherson, 150 Held Captive: Ukrainian MP' (International Business Times, April 14 2022) <<https://bit.ly/3JPmu0B>> accessed April 15 2022

executions and mock executions. These appear to be used to punish pro-Ukrainian positions; to force cooperation with the Russian military; to avenge civic activism; and, in a number of cases, to punish past affiliation with the Ukrainian army".<sup>40</sup>

A statement published by Human Rights Watch details similar instances of torture,<sup>41</sup> as does an in-depth report published by the Organisation for Security and Co-operation in Europe (OSCE).<sup>42</sup> In the report, instances of torture, in particular those used against journalists and civilians are relayed, and both Russia and Ukraine are reminded of their obligation to ensure respect for international humanitarian law and their obligation to investigate instances of crimes, particularly when a suspicion exists that the crimes may constitute war crimes.<sup>43</sup> So far, Ukrainian authorities have been collecting evidence and opening investigations into torture allegations of civilians and reported instances of the torture of Russian forces. Specifically, an official investigation was opened to investigate an as of yet unconfirmed video showing three Russian prisoners of war being tortured.<sup>44</sup> Russian authorities have also launched an investigation to assess these torture claims, but have not commented on the allegations of torture used by their own forces, or have claimed that these instances are false allegations and that the crime scenes have been staged by Ukrainians.<sup>45</sup>

To conclude, while reports of violations of international humanitarian law through torture and inhumane or degrading treatment are persistently rising, the exact number of those who suffered from these acts is still unknown. Moreover, with the continuation of the conflict in Ukraine, more violations are likely to arise. Both Russia and Ukraine have a duty to ensure such acts are not committed and to investigate and prosecute existing instances of such crimes. With the onset of the investigation at the International Criminal Court and domestic investigations in Ukraine, some hopes for accountability for the crimes exist. However, the main concern for many civilians in Ukraine remains the cessation of violence and, as a consequence, the prevention of a high number of future criminal acts.

40. 'Ukraine: Concern over the abduction and torture of civilians in territories under Russian control' (OMCT, March 29 2022) <<https://bit.ly/3xy9XFE>> accessed April 22 2022

41. 'Ukraine: Apparent War Crimes in Russia-Controlled Areas' (Human Rights Watch, April 3 2022) <<https://bit.ly/3EibQ1>>

42. Wolfgang Benedek and others, 'Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity committed in Ukraine since 24 February 2022' [2022] 132/2022 (ODIHRGAL/26/22/Rev1) Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights

43. Ibid.

44. Daniel Boffey, 'Ukraine government investigates video alleged to show torture of Russian PoWs' (The Guardian, March 28 2022). <<https://bit.ly/38KqbYu>>

45. 'Outrage at Russian 'war crimes' swells, fresh attacks slam Ukraine' (Euractiv, April 4 2022) <<https://bit.ly/3M3TweS>> accessed April 15 2022; 'Russia opens criminal cases into alleged torture of its soldiers by Ukraine' (Reuters, April 14 2022) <<https://www.reuters.com/world/europe/russia-opens-criminal-cases-into-alleged-torture-its-soldiers-by-ukraine-2022-04-14/>> accessed April 15 2022

## Rape as a war crime

Ukrainian civilians, particularly women and children, have become increasingly exposed to rape and sexual assault since the outbreak of the war in Ukraine. Images of horror and reports of systematic rape by Russian forces have emerged in the aftermath of Russia's withdrawal from the outskirts of Kyiv, raising the likelihood that rape was used as a weapon of war by Russian forces.<sup>46</sup> Sexual and gender-based violence (SGBV) in times of war is not a new phenomenon; conquering forces that “rape” their enemies have been feared throughout history.<sup>47</sup> Although sexual harassment and gender-based violence can be directed at both men and boys, women and girls are the most commonly targeted victims during a conflict. The international community for the first-time recognised rape as a national security threat and a deliberate military strategy in 1996,<sup>48</sup> marking a significant step forward in the recognition of SGBV against women and children as a weapon of war. Both the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda Statutes included rape and other forms of sexual assault as international war crimes.<sup>49</sup> Commanders of forces who knew or had reason to know about such crimes, but did not attempt to stop them or punish those responsible, are held responsible and even criminally liable for war crimes.<sup>50</sup> Since then, war-related rape and other forms of SGBV have been successfully prosecuted as war crimes, crimes against humanity, and genocide under international humanitarian law.

### 4.1 The magnitude of the Problem

It appears that Russian troops are consistently breaching international law and other applicable norms of war, including punishing and humiliating the Ukrainian community through gender-based violence. Images of destroyed buildings, people wrapped in blankets, and people attempting to flee the war spread around the world, demonstrating the ruthlessness of the Russian army. Since the conflict began, many of these photographs serve as living proof that Ukrainians have been subjected to torture

46. Bethan McKernan, 'Rape As A Weapon: Huge Scale Of Sexual Violence Inflicted In Ukraine Emerges' (the Guardian, 2022) <<https://www.theguardian.com/world/2022/apr/03/all-wars-are-like-this-used-as-a-weapon-of-war-in-ukraine>> accessed April 22 2022

47. Mitchell K, 'Children born from rape: Overlooked victims of human rights violations in conflict settings.' [2005] In Master of Public Health Capstone Symposium.

48. Marlise Simons, 'U.N. Court, For First Time, Defines Rape As War Crime' (Published 1996) (Nytimes.com, 1996) <<https://www.nytimes.com/1996/06/28/world/un-court-for-first-time-defines-rape-as-war-crime.html>> accessed April 22 2022

49. Statute of the International Criminal Tribunal for the Former Yugoslavia, U.N. Doc. S/25704, art. 5(g) (1993); Statute of the International Criminal Tribunal for Rwanda, U.N. Doc. S/RES/955, art. 3(g) (1994).

50. Mahmoud Cherif Bassiouni, "International Criminal Law, Volume 3: International Enforcement" (2008) Brill 1, 459.

and rape in Russian-controlled territory. Along with the horrific photographs obtained, some women and girls have come forward to detail the atrocities they have undergone at the hands of the Russian military.

A 31-year-old woman told Human Rights Watch that a Russian soldier repeatedly raped her at a school in the Kharkiv area, which was controlled by Russian forces at the time, where she and her family had been sheltering on March 13th, 2022.<sup>51</sup> The soldier escorted her to a second-floor classroom, where he pointed a gun at her and ordered her to strip off her clothing. The woman stated that "He told me to give him [oral sex]. The whole time he held the gun near my temple or put it into my face. Twice, he shot at the ceiling and said it was to give me more 'motivation'".<sup>52</sup> Even though she was freezing, the soldier permitted her to put on only her top. After she refused to remain in the classroom with him, the soldier pulled out a knife and instructed her to do what he said if she wanted to see her child again. The soldier raped her again, beat her, and used a knife to cut her face, neck, and hair. Photographs that she shared with Human Rights Watch, dated March 19th and 20th, 2022, show cut marks and bruising on her neck and face.<sup>53</sup> The next day the woman fled to Kharkiv, where she was able to get medical treatment and other services.

Another case involves a woman in her forties who was reportedly raped and murdered by a Russian soldier.<sup>54</sup> According to one of her neighbours, she was removed from her home and kept in the bedroom of a neighbouring residence, where massive bloodstains were discovered on the mattress and duvet. He also told the BBC that the Russian soldiers found the woman's body and buried her. He stated that "they [Russian soldiers] told me she had been raped and that her throat was either slit or stabbed, and she bled to death and there was a lot of blood".<sup>55</sup> When the authorities exhumed her body to conduct an investigation, they discovered she was buried naked and with a deep, lengthy slash across her neck.

Furthermore, a 50-year-old Ukrainian widow reported to the BBC that the same Russian soldiers had

51. Human Rights Watch, 'Ukraine: Apparent War Crimes In Russia-Controlled Areas' (Human Rights Watch 2022) <<https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>> accessed April 22 2022

52. Ibid.

53. Ibid.

54. Yogita Limaye, 'Ukraine Conflict: 'Russian Soldiers Raped Me And Killed My Husband' (BBC News, 2022) <<https://www.bbc.com/news/world-europe-61071243>> accessed April 22 2022

55. Ibid.

56. Ibid.

57. Ibid.

58. Ibid.

59. Ibid.

On March 9th, 2022, another man was killed while attempting to defend his family in a town 50 kilometres west of Kyiv.<sup>60</sup> According to police reports following the incident, two Russian soldiers raped the woman on many occasions, leaving and then returning to rape her a total of three times.<sup>61</sup> The Russian soldiers warned her that if she resisted, they would hurt her son, so she chose not to resist to protect her child. When the troops left, they set fire to the house and shot their dogs. The woman was able to flee with her son and then notify the authorities. The police took notes on her statement, and have been gathering evidence at the family house. Additionally, the police exhumed the remains of her husband, who had been buried by his neighbours. According to local police, they want to take the matter to international courts.<sup>62</sup> Additionally, Ukraine's prosecutor and the International Criminal Court have indicated that they will conduct investigations into sexual assaults perpetrated in the country.<sup>63</sup>

Other claims of rapes and sexual assaults have been received by investigators, including reports of minors being raped, the vast majority of which were carried out under the threat of a weapon. According to Lyudmyla Denisova, Ukraine's Ombudsman for Human Rights, they are now investigating several such cases. In one case, Russia's military forces sexually assaulted a 16-year-old girl on the street, in front of her older sister, who said that while they were raping her the soldiers screamed, "This will happen to every Nazi prostitute".<sup>64</sup> Furthermore, Denisova stated that "about 25 girls and women aged 14 to 24 were raped on a systematic basis in the basement of one Bucha house during the occupation; nine of them are pregnant".<sup>65</sup> What makes these cases more problematic is the fact that females who become pregnant as a result of SGBV during times of conflict may be forced to carry their pregnancies owing to medical system interruptions, a lack of security, fear, or shame. Additionally, Denisova revealed that Russian soldiers told the females that they would be raped "to the point where they would not want sexual contact with any man, to prevent them from having Ukrainian children".<sup>66</sup> Thus, this type of sexual assault might be viewed as a genocidal tactic employed by the Russian army, as it points to an intent to destroy, in whole or in part, a national or ethnic group.<sup>67</sup> It may also

60. Yogita Limaye, 'Ukraine Conflict: 'Russian Soldiers Raped Me And Killed My Husband' (BBC News, 2022) <<https://www.bbc.com/news/world-europe-61071243>> accessed April 22 2022

61. Ibid.

62. Ibid.

63. Bethan McKernan, 'Rape As A Weapon: Huge Scale Of Sexual Violence Inflicted In Ukraine Emerges' (the Guardian, 2022) <<https://www.theguardian.com/world/2022/apr/03/all-wars-are-like-this-used-as-a-weapon-of-war-in-ukraine>> accessed April 22 2022

64. Yogita Limaye, 'Ukraine Conflict: 'Russian Soldiers Raped Me And Killed My Husband' (BBC News, 2022) <<https://www.bbc.com/news/world-europe-61071243>> accessed April 22 2022

65. Ibid.

66. Ibid.

67. The Rome Statute of the International Criminal Court 1998, art. 6

constitute a crime against humanity, specifically the crime of forced pregnancies aimed at affecting the ethnic composition of the population.<sup>68</sup>

Worryingly, Ukrainian women are not only being raped by Russian soldiers but also by those who are supposed to support and help them. For instance, in Vinnytsia, a town in the western part of Ukraine, a teacher went to the police and stated that a member of the territorial defence forces had pulled her into the school library and attempted to sexually assault her.<sup>69</sup> Many, however, remain sceptical of the exact number of rape occurrences, as assessing the scale of sexual crimes committed by Russian troops in a combat situation can be difficult to do accurately and effectively. Kateryna Cherepakha, president of La Strada Ukraine, a humanitarian organisation dedicated to assisting survivors of human trafficking, violence, and sexual assault, expressed similar concerns, stating that:

“We have had several calls to our emergency hotline from women and girls seeking assistance, but in most cases, it's been impossible to help them physically. We haven't been able to reach them because of the fighting. Rape is an underreported crime and stigmatised issue even in peaceful times. I am worried that what we learn about is just going to be the tip of the iceberg”<sup>70</sup>

Lyudmyla Denisova, Ukraine's Ombudsman for Human Rights, expressed scepticism about the ability of Ukrainian authorities to estimate the scope of sexual crimes perpetrated by Russian forces. According to her, they cannot register the sexual assaults until the victims provide their testimonies which is harder in the cases when the victims are not yet prepared to share what occurred to them.<sup>71</sup> Due to a lack of documentation and self-reporting, the complete picture of what is being perpetrated is concealed, and survivors are left with no means of obtaining assistance. As a result, there is rising concern that the use of rape as an offensive military tactic in Ukraine may result in significant scars that will be carried by Ukrainian society for many years to come. Rape and sexual assault in the war in Ukraine are, therefore, issues that demand formal attention and a coordinated response by State and non-State actors.

68. The Rome Statute of the International Criminal Court 1998, art. 7(1)(g)

69. Bethan McKernan, 'Rape As A Weapon: Huge Scale Of Sexual Violence Inflicted In Ukraine Emerges' (the Guardian, 2022) <<https://www.theguardian.com/world/2022/apr/03/all-wars-are-like-this-used-as-a-weapon-of-war-in-ukraine>> accessed April 22 2022. Ibid.

71. Yogita Limaye, 'Ukraine Conflict: Russian Soldiers Raped Me And Killed My Husband' (BBC News, 2022) <<https://www.bbc.com/news/world-europe-61071243>> accessed April 22 2022



## The fear of a chemical war

It is widely acknowledged that the use of biological and chemical weaponry is banned under international humanitarian law. According to the 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, State Parties are never “to develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone”.<sup>72</sup> It is broadly accepted that the prohibition on the use of chemical weapons is a customary rule in both international and non-international armed conflicts, thus applicable to all states and non-state actors, including those who are not part of the Convention. The Russian Federation is a party state to the Convention, thus under the obligation to adhere to the destruction of declared stockpiles. However, the 2018 poisoning of Sergei Skripal, a former intelligence officer, using a Novichok chemical was immediately traced to Moscow, despite the Kremlin's denial.<sup>73</sup> Another high-profile incident saw the Russian opposition leader Alexei Navalny poisoned in August 2020 with a different type of Novichok agent. Once again, Russia denied any involvement. In addition, the Russian Federation widely supported and flanked Syria during the 2011 country's civil war, where the Organisation for the Prohibition of Chemical Weapons (OPCW) confirmed that the Syrian army deployed chemical weapons against the population while Russian authorities denied any involvement in the attacks.<sup>74</sup>

With the Russian invasion of Ukraine comes the fear of a new chapter of warfare characterised by the deployment of chemical weapons, with Ukraine, the U.S., and other Western allies raising concerns about the possible uses of chemical weapons by the Kremlin. The Russian Foreign Ministry has defined the accusations of Russia's military plan to use such weapons in Ukraine as a “smear campaign” by Western countries.<sup>75</sup> Specialists indicated that chemical weapons have limited effectiveness on the battlefield. Instead, they represent a primary tool for terrorising civilians, breaking their determination to resist and fight back.<sup>76</sup> Currently, there is growing concern that chemical weapons are being used in the besieged Ukrainian port of Mariupol. Reports first emerged late on April 11th, 2022, when Ukraine's Azov regiment stated that a Russian drone had launched a “poisonous substance” on the army and civilians in Mariupol. Hanna Malyar, Ukraine's Deputy Defence Minister, reported that the government was checking unconfirmed information that Moscow may have employed chemical weapons while sieging Mariupol.<sup>77</sup>

72. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (1993), Art. 1 (a).

73. Davide Castelvecchi, 'Will Russia use chemical weapons in Ukraine? Researchers evaluate the risks' (Nature, 5 April 2022). <<https://www.nature.com/articles/d41586-022-00948-0>> accessed April 22 2022

74. Ibid.

75. Ibid.

76. Ibid.

77. Al Jazeera, 'Chemical weapons watchdog 'concerned' by Mariupol reports' (Al Jazeera, 12 April 2022). <<https://www.aljazeera.com/news/2022/4/12/chemical-weapons-watchdog-concerned-by-mariupol-reports>> accessed April 22 2022

In conclusion, it can be asserted that there is no verified data on the use of chemical weapons by the Kremlin. Specialists and analysts discuss the likelihood of their use during the Russia-Ukraine war, but right now there is poor evidence on their effective deployment. The Technical Secretariat of the OPCW is thoroughly monitoring the situation in Ukraine, stating that “the use of chemical weapons anywhere by anyone under any circumstances is reprehensible and wholly contrary to the legal norms established by the international community against such use”.<sup>78</sup> Since the beginning of the war, the Secretariat has stayed in contact with concerned States Parties, receiving from both the Russian Federation and Ukraine correspondence on feasible threats of use of toxic chemicals as weapons.

78. Organization for the Prohibition of Chemical Weapons, ‘Statement on Ukraine from the OPCW spokesperson’ (OPCW, 12 April 2022). <<https://www.opcw.org/media-centre/news/2022/04/statement-ukraine-opcw-spokesperson>> accessed April 22 2022

## Conclusion

This report has assessed several categories of crimes allegedly committed during the Russian invasion of Ukraine, from Russian military attacks on civilian targets to allegations and investigations into the use of torture. Later sections looked at sexual violence committed during the invasion, particularly against women and girls across Russian targeted areas of Ukraine. This appears to be a key aspect of a Russian genocidal strategy to diminish the Ukrainian ethnic group by inducing pregnancies of Ukrainian women by Russian soldiers.

Beyond the scope of this report, scholars have pointed toward similar developments that would suggest Russia is employing a genocidal strategy in Ukraine. The head of the defence committee in the Russian parliament's lower house discussed a "re-education" programme for Ukrainians, estimating that its completion would likely arise in around 30-40 years.<sup>79</sup> This has been accompanied by rhetoric publicised by Russian State owned-media and government officials which Eugene Finkel, a genocide expert at Johns Hopkins University, called "clearly genocidal". Reports have emerged of Russian soldiers in Ukraine destroying books in libraries and schools that mention Ukraine's history and independence movements, as well as any books written in the Ukrainian language. In response, Finkel noted that "They're talking about destroying Ukrainians as a group, Ukraine as a state and as an identity community".<sup>80</sup> He said that, from the Russian perspective, "The argument is that we are going to destroy this national community as it exists and create something new that we like instead, no matter how many people we kill in the process".<sup>81</sup>

The crimes mentioned in this report constitute only one part of all the crimes that were committed and continue to be committed in Ukraine. As seen from the analysis above, it appears that it is not soldiers and military targets, but rather civilians that continue to suffer the most damage in the course of the war. Moreover, while there appears to be little evidence of further escalation of the conflict with the use of chemical weapons, fears of a spillover of the conflict to neighbouring countries are not unfounded. In Transnistria, a breakaway region of Moldova under Russian control, heightened security is already in place.<sup>82</sup> Moreover, 'denazification' rhetoric similar to that used by Russians when talking

79. Robyn Dixon, 'Ominous rhetoric gains ground in Russia as its forces founder in Ukraine' (Washington Post, 13 April 2022) <<https://www.washingtonpost.com/world/2022/04/13/russias-war-ukraine-founders-ominous-rhetoric-gains-ground/>> accessed April 22 2022

80. Ibid.

81. Ibid.

82. Laurence Peter, 'Transnistria and Ukraine conflict: Is war spreading?' (BBC, 27 April 2022) <<https://www.bbc.com/news/world-europe-61233095>> accessed May 1 2022

about the invasion in Ukraine is now also reportedly used against Sweden since it has announced its intention to join NATO.<sup>83</sup> Further investigation is needed domestically and in international courts to establish facts surrounding the crimes committed by both sides and to work towards accountability for the victims. Moreover, the international community should continue to criticise the invasion and support Ukraine to prevent further victims and destruction in Ukraine, to prevent a spillover of the conflict to other countries, and to decisively condemn the Russian genocidal rhetoric which underpins their conduct in Ukraine.

83. Michael Horovitz, "We are against Nazism, they are not": Russian campaign labels Swedes Nazis' (The Times of Israel, 4 May 2022) <<https://www.timesofisrael.com/we-are-against-nazism-they-are-not-russian-campaign-labels-swedes-nazis/>> accessed May 5 2022

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# Crimes involved in Russia's Invasion of Ukraine

