

HUMAN RIGHTS DISASTER - RUSSIA'S INVASION OF UKRAINE

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ABSTRACT

The invasion has likely resulted in tens of thousands of deaths on both sides and caused Europe's largest refugee crisis since World War II, with an estimated 8 million people being displaced within the country by late May as well as 7.8 million Ukrainians fleeing the country as of November 2022. Within five weeks of the invasion, Russia experienced its greatest emigration since the 1917 October Revolution. The invasion has also caused global food shortages. The invasion began on the morning of 24 February, when Russian president Vladimir Putin announced a "special military operation" aiming for the "demilitarisation" and "denazification" of Ukraine. In his address, Putin espoused irredentist views, challenged Ukraine's right to statehood, and falsely claimed Ukraine was governed by neo-Nazis who persecuted the ethnic Russian minority. Russia announced the illegal annexation of four partially occupied Ukrainian oblasts. In the course of the southern Counter offensive, Ukraine retook Kherson in November. The invasion has received widespread international condemnation. The United Nations General Assembly passed a resolution condemning the invasion and demanding a full withdrawal of Russian forces. The International Court of Justice ordered Russia to suspend military operations and the Council of Europe expelled Russia. Many countries imposed sanctions on Russia, as well as on its ally Belarus, which have affected the economies of Russia and the world, and provided humanitarian and military aid to Ukraine, totaling over \$80B from 40 countries as of August 2022. The International Criminal Court has opened an investigation into crimes against humanity in Ukraine since 2013, including war crimes in the 2022 invasion.

Keywords- Invasion, Condemnation, Humanitarian, Violations, Investigation

INTRODUCTION

The Russo-Ukrainian War has been ongoing between Russia (alongside Russian separatists in Ukraine) and Ukraine since February 2014. Following Ukraine's Revolution of Dignity, Russia annexed Crimea from Ukraine and supported pro-Russian separatists in the war in Donbas against Ukrainian government forces; fighting for the first eight years of the conflict also included naval incidents, cyberwarfare, and heightened political tensions. In February 2022, the conflict saw a major escalation as Russia launched a full-scale invasion of Ukraine. In early 2014, pro-Russian Ukrainian president Viktor Yanukovich was ousted from office as a result of the pro-European Euromaidan and the Revolution of Dignity. Shortly after Yanukovich's overthrow and exile to Russia, pro-Russian unrest erupted in Ukraine's eastern and southern regions. Simultaneously, unmarked Russian troops moved into Ukraine's Crimea and took control of strategic positions and infrastructure, including government buildings. Russia soon annexed Crimea after a highly disputed Crimean status referendum.

In April 2014, pro-Russian separatists in Ukraine's eastern Donbas region proclaimed the establishment of the Donetsk People's Republic and the Luhansk People's Republic with considerable but clandestine support from Russia. Ukrainian attempts in late 2014 to retake separatist-held areas were unsuccessful, leading to a protracted war in Donbas. Although Russia continued to deny involvement, Russian troops directly participated in the undeclared war. In February 2015, the Minsk II agreements were signed by both Russia and Ukraine in an attempt to end the conflict, but the agreements were never fully implemented in the years that followed. The war in Donbas settled into a violent but static conflict between Ukraine and Russian proxies, with frequent brief ceasefires but no lasting peace and few changes in territorial control. Beginning in 2021, Russia built up a large military presence near its border with Ukraine, including from within neighbouring Belarus.

Russian president Vladimir Putin criticized the enlargement of NATO and demanded that Ukraine be barred from ever joining the military alliance. He also expressed irredentist views and questioned Ukraine's right to exist. On 21 February 2022, Russia officially recognized the Donetsk People's Republic and the Luhansk People's Republic as independent states. Three days later, Putin announced a "special military operation" in Ukraine during a televised broadcast, marking the start of a full-scale invasion of Ukraine. The invasion was internationally condemned, leading to many countries to impose sanctions against Russia and ramping up existing sanctions. The ongoing full-scale war has resulted in a major refugee crisis and tens of thousands of deaths. Russia abandoned an attempt to take Kyiv in early April 2022 amid fierce resistance. In late September, Russia announced its annexation of several parts of southern and eastern Ukraine, drawing widespread condemnation. Ukrainian counteroffensives in the south and northeast have recently retaken significant areas.

UKRAINE 1991-2014

In 1991 Ukraine declared independence. The referendum on the Act of Declaration of Independence was held in Ukraine on 1 December 1991. An overwhelming majority of 92.3% of voters approved the declaration of independence made by the Verkhovna Rada on 24 August 1991. Until 8 June 1995, Ukraine's supreme law was the Constitution (Fundamental Law) of the Ukrainian SSR (adopted in 1978, with numerous later amendments). On 8 June 1995, President Leonid Kuchma and Speaker Oleksandr Moroz (acting on behalf of the parliament) signed the Constitutional Agreement for the period until a new constitution could be drafted. The first constitution since independence was adopted during an overnight parliamentary session after almost 24 hours of debate of 27–28 June 1996, unofficially known as "the constitutional night of 1996." The Law No. 254/96-BP ratifying the constitution, nullifying previous constitutions. The Agreement was ceremonially signed and promulgated in mid-July 1996. According to a ruling of the Constitutional Court of Ukraine, the constitution took force at the moment when the results of the parliamentary vote were announced on 28 June 1996 at approx. 9 a.m. Kyiv Time and for the first time enshrined the obligations of human rights into law.

Ukraine had been labelled as "free" by organizations such as Freedom House in 2009. In their report they stated: "Ukraine has one of the most vibrant civil societies in the region. Citizens are increasingly taking issues into their own hands, protesting against unwanted construction, and exposing corruption. There were no limits seen on NGO activities. Trade unions function, but strikes and worker protests were infrequently observed, even though dissatisfaction with the state of economic affairs was pervasive in the fall of 2008. Factory owners were seen as still able to pressure their workers to vote according to the owners' preferences." On 20 October 2009 experts from the Council of Europe stated "in the last five years the experts from the Council of Europe who monitor Ukraine have expressed practically no concerns regarding the important process of the formation of a civil society in Ukraine. Ukraine is one of the democratic states in Europe that is securing human rights as a national policy, as well as securing the rights of national minorities." According to Human Rights Watch (HRW), "while civil society institutions operate mostly without government interference, police abuse and violations of the rights of vulnerable groups ... continue to mar Ukraine's human rights record."

After the early 2010 election of President Viktor Yanukovich international organizations started to voice their concern. According to Freedom House, "Ukraine under President Yanukovich has become less democratic and, if current trends are left unchecked, may head down a path toward autocracy and kleptocracy." Among the recent negative developments, they mentioned "a more restrictive environment for the media, selective prosecution of opposition figures, worrisome intrusiveness by the Security Service of Ukraine, widely criticized local elections in October 2010 ... and erosion of basic freedoms of assembly and speech." This led Freedom House to downgrade Ukraine from "Free" to "Partly Free" in Freedom in the World 2011. Also in 2011 Amnesty International spoke of "an increase in the number of allegations of torture and ill-treatment in police custody, restrictions on the freedom of

speech and assembly, as well as mass manifestations of xenophobia". In Reporters without Borders Press Freedom Index 2010 Ukraine had fallen from 89th place to 131. Neighboring Russia's press freedom was ranked at position 140. The International Federation for Human Rights called Ukraine "one of the countries seeing the most serious violations against human rights activists" in December 2011. As of late 2013 the situation continued to deteriorate and was one of the causes of the Euromaidan revolution, as joining or even working towards meeting the requirement to join the European Union would dramatically improve human rights across Ukraine. Russia, which had already laid the ground work reacted to the Euromaidan protests and invaded Crimea and the wider Donbass regions.

INTERNATIONAL AND EUROPEAN HUMAN RIGHTS TREATIES

Ukraine is a party to the following International Treaties

- International Covenant on Civil and Political Rights (ICCPR)
- (First) Optional Protocol to the ICCPR
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Optional Protocol to CEDAW
- Convention on the Rights of the Child (CRC)
- Optional Protocol to the CRC on the involvement of children in armed conflict
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Optional Protocol to the Convention against Torture
- Convention relating to the Status of Refugees (1951)
- Protocol relating to the Status of Refugees (1967)
- Rome Statute of the International Criminal Court (UKRAINE SIGNED BUT NOT YET RATIFIED)

Ukraine is a party of the following European Treaties

- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (1950)
- Protocol No. 6 to the ECHR concerning the abolition of the death penalty in times of peace (1983)
- Protocol No. 12 to the ECHR concerning the general prohibition of discrimination (2000)
- Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances (2002)
- Framework Convention on the Protection of National Minorities

FULL-SCALE RUSSIAN INVASION OF UKRAINE

The 2022 Russian invasion of Ukraine began on the morning of 24 February, when Putin announced a "special military operation" to "demilitarise and denazify" Ukraine. Minutes later, missiles and airstrikes hit across Ukraine, including Kyiv, shortly followed by a large ground invasion along multiple fronts. Zelenskyy declared martial law and a general mobilisation of all male Ukrainian citizens between 18 and 60, who were banned from leaving the country. Russian attacks were initially launched on a northern front from Belarus towards Kyiv, a north-eastern front towards Kharkiv, a southern front from Crimea, and a south-eastern front from Luhansk and Donetsk. In the northern front, amidst heavy losses and strong Ukrainian resistance surrounding Kyiv, Russia's advance

stalled in March, and by April its troops retreated. On 8 April, Russia placed its forces in southern and eastern Ukraine under the command of General Aleksandr Dvornikov, and some units withdrawn from the north were redeployed to the Donbas. On 19 April, Russia launched a renewed attack across a 500 kilometres long front extending from Kharkiv to Donetsk and Luhansk. By 13 May, a Ukraine counter-offensive had driven back Russian forces near Kharkiv. By 20 May, Mariupol fell to Russian troops following a prolonged siege of the Azovstal steel works. Russian forces continued to bomb both military and civilian targets far from the frontline. The war caused the largest refugee and humanitarian crisis within Europe since the Yugoslav Wars in the 1990s; the UN described it as the fastest-growing such crisis since World War II. In the first week of the invasion, the UN reported over a million refugees had fled Ukraine; this subsequently rose to over 7,405,590 by 24 September, a reduction from over eight million due to some refugees' return.

Ukrainian forces launched counteroffensives in the south in August, and in the northeast in September. On 30 September, Russia annexed four oblasts of Ukraine which it had partially conquered during the invasion. This annexation was generally unrecognized and condemned by the countries of the world. After Putin announced that he would begin conscription drawn from the 300,000 citizens with military training and potentially the pool of about 25 million Russians who could be eligible for conscription, one-way tickets out of the country nearly or completely sold out. The Ukrainian offensive in the northeast successfully recaptured the majority of Kharkiv Oblast in September. In the course of the southern counteroffensive, Ukraine retook the city of Kherson in November and Russian forces withdrew to the east bank of the Dnieper River. The invasion was internationally condemned as a war of aggression. A United Nations General Assembly resolution demanded a full withdrawal of Russian forces, the International Court of Justice ordered Russia to suspend military operations and the Council of Europe expelled Russia. Many countries imposed new sanctions, which affected the economies of Russia and the world, and provided humanitarian and military aid to Ukraine. In September 2022, Putin signed a law that would punish anyone who resists conscription with a 10-year prison sentence resulting in an international push to allow asylum for Russians fleeing conscription.

HUMAN RIGHTS VIOLATIONS

Violations of human rights and atrocity crimes have both occurred during the war. From 2014 to 2021, there were more than 3,000 civilian casualties, with most occurring in 2014 and 2015. The right of movement was impeded for the inhabitants of the conflict zone. Arbitrary detention was practiced by both sides in the first years of the conflict. It decreased after 2016 in government-held areas, while in the separatist-held ones it continued. The investigation into the abuses, including torture, committed by both sides made little progress. According to OHCHR the closure of three TV channels amounted to a violation of the freedom of expression. There were cases of conflict-related sexual violence, however OHCHR believes that "there are no grounds to believe that sexual violence has been used for strategic or tactical ends by Government forces or the armed groups in the eastern regions of Ukraine." [259] OHCHR estimates that from 2014 to 2021 around 4,000 detainees were subjected to torture and ill-treatment, approximately 1,500 by government actors and 2,500 by separatist armed groups, and reckons that around 340 of them were also victims of sexual violence.

INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON UKRAINE

In resolution 49/1, on the situation of human rights in Ukraine stemming from the Russian aggression, adopted on 4 March 2022, the Human Rights Council decided to urgently establish an Independent International Commission of Inquiry, comprising three human rights experts, to be appointed by the President of the Human Rights Council for an initial duration of one year. The Commission of Inquiry was mandated to complement, consolidate and build upon the work of the UN Human Rights Monitoring Mission in Ukraine (HRMMU), in close coordination with HRMMU and the Office of the United Nations High Commissioner for Human Rights. On 12 May 2022, at its 34th special session, the Human Rights Council adopted resolution S-34/1 on the deteriorating human rights situation in Ukraine stemming from the Russian aggression and requested the Commission of Inquiry to address the events in the areas of Kyiv, Chernihiv, Kharkiv and Sumy regions in late February and in March 2022.

With the adoption of resolution 49/1 of 4 March 2022, the Human Rights Council provided the Commission of Inquiry with the following mandate:

- To investigate all alleged violations and abuses of human rights and violations of international humanitarian law, and related crimes in the context of the aggression against Ukraine by the Russian Federation, and to establish the facts, circumstances and root causes of any such violations and abuses;
- To collect, consolidate and analyze evidence of such violations and abuses, including their gender dimension, and to systematically record and preserve all information, documentation and evidence, including interviews, witness testimony and forensic material, consistent with international law standards, in view of any future legal proceedings;
- To document and verify relevant information and evidence, including through field engagement, and to cooperate with judicial and other entities, as appropriate;
- To identify, where possible, those individuals and entities responsible for violations or abuses of human rights or violations of international humanitarian law, or other related crimes, in Ukraine, with a view to ensuring that those responsible are held accountable;
- To make recommendations, in particular on accountability measures, all with a view to ending impunity and ensuring accountability, including, as appropriate, individual criminal responsibility, and access to justice for victims;
- To provide the Human Rights Council, at its fifty-first session, with an oral update, to be followed by an interactive dialogue, and a comprehensive written report at its fifty-second session, to be followed by an interactive dialogue, and to submit a report to the General Assembly at its seventy-seventh session;

With the adoption of resolution S-34/1, the Human Rights Council provided the Commission of Inquiry with the following mandate:

- to conduct an inquiry, consistent with its mandate and international standards, and in coordination with other national and international mechanisms, to address the events in the areas of the Kyiv, Chernihiv, Kharkiv and Sumy regions in late February and in March 2022, including their gender dimension, with a view to holding those responsible to account, and also requests the commission to brief the Human Rights Council on the progress of that inquiry as part of the oral update to the Council at its fifty-first session, and to include its findings after the completion of the inquiry in its report to the Council at its fifty-second session

THOROUGH INVESTIGATION

Commission chairperson Erik Møse said that investigators visited 27 towns and settlements and interviewed more than 150 victims and witnesses. They also inspected “sites of destruction, graves, places of detention and torture”, as well as remnants of weapons. “Based on the evidence gathered so far during the Commission’s existence, we found out after having carried out the investigations in these four areas just mentioned, we found that war crimes have been committed in Ukraine,” he told journalists in Geneva. That conclusion is in line with findings published earlier this year by the UN Human Rights Monitoring Mission in Ukraine (HRMMU). It documented unlawful killings - including summary executions of civilians - in more than 30 settlements in Kyiv, Chernihiv, Kharkiv and Sumy regions, by Russian armed forces while they controlled these areas in late February and March.

BRUTAL EXECUTIONS, SEXUAL VIOLENCE, INCLUDING AGAINST CHILDREN

Other key findings from the report include the surprisingly “large number of executions” in 16 towns and settlements, where “common elements” of the crimes included “visible signs of executions on bodies, such as hands tied behind backs, gunshot wounds to the head, and slit throats”. The report, delivered to the Human Rights Council earlier on Friday, also documented how explosive weapons had been used by the Russian Federation forces, “without distinguishing between civilians and combatants in populated areas”. “We were struck by a large number of executions and other violations by Russian forces, and the Commission received consistent accounts of torture and ill-treatment.” Horrific allegations of sexual violence against Ukrainian communities - including children - were also found to be based in fact. “The Commission investigated cases of sexual gender-based violence. It documented cases in which some Russian Federation soldiers made such crime,” said Commissioner Jasminka Džumhur.

Ukrainian forces were also responsible for human rights violations, said Commissioner Pablo de Greiff: “We have found two instances of ill-treatment of Russian Federation soldiers by Ukrainian soldiers, and we mentioned this in our statement. We have found obviously significantly larger numbers of instances that amount to war crimes on the part of the Russian Federation.”

CONCLUSION

UN report has found that Russian forces were responsible for the "vast majority" of human rights violations, including war crimes, in four regions of Ukraine during the early weeks of the war. The Independent International Commission of Inquiry on Ukraine documented events in Ukraine's northern Kyiv, Chernihiv, Kharkiv, and Sumy regions in late February and March 2022. The commission's report on October 18 found that Russian forces indiscriminately shelled areas they were trying to capture and attacked civilians trying to flee. The commission "found reasonable grounds to conclude that an array of war crimes, violations of human rights and international humanitarian law have been committed in Ukraine," the UN Human Rights Council said in a news release. "The impact of these violations on the civilian population in Ukraine is immense. The loss of lives is in the thousands.

The commission documented patterns of summary executions, unlawful confinement, torture, ill-treatment, rape, and other sexual violence committed in areas occupied by Russian troops across the four regions covered by the report, the Human Rights Council said. While Russian armed forces were responsible for "the vast majority of the violations identified, Ukrainian forces have also committed international humanitarian law violations in some cases, including two incidents that qualify as war crimes," the Human Rights Council said. Kyiv has said it will punish abuses committed by its own forces but believes the number of such incidents is small. Moscow denies deliberately targeting civilians despite ample evidence that it has indiscriminately bombarded villages, towns, and cities, killing scores of people.

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