



# Holding Russia Accountable For Its Crimes

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As grim evidence of probable war crimes comes to light in Ukraine, it is important to remember that the war itself is a crime, and those who ordered it—even Vladimir Putin—can be held responsible.

Russian forces have retreated from the Kyiv suburbs and other previously occupied zones in northern Ukraine. What advancing Ukrainian forces found was shocking. In the town of Bucha, 20 bodies lay on the street, some with hands tied behind their backs, killed with gunshots to the head. Elsewhere, a mass grave was discovered containing as many as 300 bodies. Locals say the victims were murdered systematically by the Russian occupiers.

In addition to the Bucha killing fields, other evidence of war crimes is emerging. In the town of Motyzhyn, Mayor Olha Sukhenko, her husband and son were kidnapped, tortured, killed and buried in a shallow grave. Nearby, another man was tied up and thrown into a well.

President Joe Biden has called these killings war crimes. To Ukraine's President Volodymyr Zelensky, they are evidence of genocide. He has a point; these are sights not seen in this region since the time of the Holocaust or the Holodomor, the mass starvation caused by Stalin's forced collectivization.

Russia of course denies the charges, blaming the killings on "Ukrainian Nazis." This is straight out of the Soviet playbook; when the mass graves of 22,000 Polish POWs murdered by Stalin's NKVD were uncovered in the Katyn Forest during the Second World War, Moscow blamed the original Nazis.

The horrific killings in Bucha are intentional acts of brutality. They are deliberate, close-up, vicious crimes. They merit investigation by an international tribunal. And there are other crimes to be catalogued, other charges for the court's docket.

Russia targeted Ukrainian cities with indiscriminate force, bombing schools, shelling hospitals and killing noncombatants, including women and children. This wanton destruction had no clear military purpose or benefit, and it violated numerous articles of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, both in crimes against persons and property.

Moscow kidnapped 11 mayors of Ukrainian cities, violating Article 34 of the Geneva Convention which forbids taking hostages. Wide-scale rape and sexual violence violates Article 27. Russia indiscriminately shelled the Ukrainian port city of Odessa from the sea, a form of attack made illegal in the 1907 Hague Convention. And the alleged poisoning of pro-peace Russian oligarch Roman Abramovich and Ukrainian negotiators runs afoul of the 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons Including Diplomatic Agents.

And all these crimes are taking place within the greater crime of the war itself. Russia's invasion of Ukraine was itself an illegal act. The first charges addressed in the post-World War II Nuremberg trials were for "crimes against peace." This charge was defined in Article Six of the London Charter of 1945 as "planning, preparation, initiation or waging of a war of aggression." In the present case, Russian leaders planned, prepared, initiated *and* waged such a war.

This means it is not only the Russian troops tying up and shooting Ukrainian civilians who are criminals. It is not only the regimental and division commanders ordering the indiscriminate shelling of cities. Article Seven of the London Charter makes heads of state and other government officials accountable for war crimes committed under their orders. So, the court can also levy charges against the Kremlin decision makers who schemed to subdue Ukraine and launched this vicious and unprovoked war. And yes, that includes President Putin.

Carla Del Ponte, former chief prosecutor of United Nations war crimes tribunals for the former Yugoslavia and Rwanda, has already called for an international arrest warrant to be issued for Putin. He may not be available for arrest, but the precedent of war crimes proceedings *in absentia* was established with the trial, conviction and death sentence of Hitler's henchman Martin Bormann.

The next steps are clear. The United Nations should catalogue war crimes in Ukraine, collect evidence, depose witnesses and, if possible, identify perpetrators. A court should be established following the precedents of the Nuremberg and Far East tribunals and the International Criminal Tribunal for the former Yugoslavia. The tribunal would weigh evidence and issue indictments. Then the international community can bring pressure to bear to bring the defendants before the court. Lacking that, a series of trials *in absentia* could be held, and those convicted would become international outlaws.

It is possible that none of the perpetrators of the war crimes in Ukraine will ever face justice. But doing nothing would be surrendering to injustice.