

## The Russia-Ukraine Conflict: Obstacles to Accountability

Allison Weiner<sup>105</sup>

*The Russia-Ukraine conflict has left much of the international community increasingly concerned about violations of international law and the strength of the international legal system's ability to end impunity. With such a young international legal system, having yet to reach its 100<sup>th</sup> birthday, precedents are still fresh and being set with each new case. Each investigation opened by the International Criminal Court (ICC) encounters new uncharted territory. Using legislation foundational to the modern international system, this article seeks to analyze and understand the unique impact of Russian aggression against Ukraine on the present-day system of international law. This evaluation provides a quasi-directive on how the international system can move forward in the fight against international impunity.*

### I. Introduction

On February 24, 2022, Russian armed forces invaded Ukraine from multiple positions along the Russian and Belarusian borders.<sup>106</sup> The invasion initiated over a year of hostilities between the two nations, with no end in sight as of this writing.<sup>107</sup> The motivations of such an aggressive, extensive attack have been puzzling to many in the international community. The commitment of war crimes, as well as violations of international law, is of increasing concern

---

<sup>105</sup> Brandeis University Undergraduate, Class of 2025.

<sup>106</sup> Zinets, Natalia, and Aleksandra Vasovic. "Missiles Rain Down Around Ukraine." *Reuters*, February 24, 2022.

<https://www.reuters.com/world/europe/putin-orders-military-operations-ukraine-demands-kyiv-forces-surrender-2022-02-24/>

<sup>107</sup> Article was composed between February and March of 2023.



as the war wages on. President Vladimir Putin’s continued reign over Russia further exacerbates this concern, given the volatility he brings to the region and its impact on the international legal system of human rights and criminal prosecution.

Ultimately, the recent conduct of the Russian Federation continues to perplex the legal international community. Though an “impulse for imperialism” emerging from Russia is not necessarily unpredicted, scholars worldwide have deemed the invasion of Ukraine “nonsensical,” thus, leading many in the international community to question its motivations.<sup>108</sup> Questions regarding why Russian officials responsible for potential breaches of international law continue to hold positions of power remain unanswered. Scholars are still attempting to understand the obstacles that have thus far prevented foreign entities from holding the Russian government accountable. This article seeks to respond to these questions and provide a comprehensive understanding of the issues surrounding Russian officials accountability under international law.

## II. Justification of the Invasion

With substantial Russian aggression against Ukraine beginning with the annexation of Crimea, finalized in March

---

<sup>108</sup> Rieber, Alfred. “Russian Imperialism: Popular, Emblematic, Ambiguous.” *The Russian Review* 53, no. 3 (July 1994): 331–35, 332; Guterres, Antonio. “Secretary-General’s Remarks to Press on the War in Ukraine.” United Nations, March 2022. [https://www.un.org/sg/en/content/sg/press-encounter/2022-03-22/secretary-generals-remarks-press-the-war-ukraine?\\_gl=1%2A1rdjbf0%2A\\_ga%2AMTYxMDgzNDk4Mi4xNjY4NjI5ODg2%2A\\_ga\\_TK9BQL5X7Z%2AMTY3Nzc4OTI2My41LjEuMTY3Nzc4OTI5NC4wLjAuMA](https://www.un.org/sg/en/content/sg/press-encounter/2022-03-22/secretary-generals-remarks-press-the-war-ukraine?_gl=1%2A1rdjbf0%2A_ga%2AMTYxMDgzNDk4Mi4xNjY4NjI5ODg2%2A_ga_TK9BQL5X7Z%2AMTY3Nzc4OTI2My41LjEuMTY3Nzc4OTI5NC4wLjAuMA).



2014, understanding the Russian regime's motivations is necessary to contextualize the 2022 invasion.<sup>109</sup>

Prompted by Euromaidan (also referred to as the Ukrainian Revolution of Dignity), a collection of non-violent demonstrations in Ukraine expressing pro-Western sentiment, the annexation of the Crimean Peninsula was utilized as a means to shield Russian Separatists from alleged Ukrainian aggression. When acting Ukrainian president Viktor Yanukovich paused the signing of the European Union (EU) Association Agreement to closer align Ukraine with the EU, demonstrations across the territory emerged. These demonstrations protested the pause's implications: hesitance to ally with Europe coupled with the potential strengthening of relations with the neighboring Russian Federation.<sup>110</sup>

These protests, favoring stronger ties to the EU, initiated Russian aggression and continue to contextualize the ongoing conflict between Russia and Ukraine. Through Euromaidan, Vladimir Putin and his inner circle of Russian officials were able to exploit domestic nationalism and launch their moral justification campaign against Ukraine. With cultural ties to World War II so deeply ingrained in Russian society, the Kremlin effectively utilized the pro-Western sentiment first expressed in Ukraine during the Revolution to pit Russian citizens against their neighbors.<sup>111</sup> Utilizing the

---

<sup>109</sup> President of Russia. "Agreement on the Accession of the Republic of Crimea to the Russian Federation Is Signed," n.d. <http://en.kremlin.ru/events/president/news/20604>.

<sup>110</sup> Zelinska, Olga. "Ukrainian Euromaidan Protest: Dynamics, Causes, and Aftermath." *Sociology Compass* 11, no. 9 (2017).

<sup>111</sup> Often forgotten in the west is Russia's role in the conclusion of WWII and victory against the Nazi Party. However, domestically, Russia's efforts in the war have remained an incredibly strong point of pride. This has been fully integrated into Russian society and strongly influences Russian views of strength and bravery. Veterans of the war are understood as the pinnacle of who a Russian should strive to be. The Nazi party is also considered a piece of Western history considering the geographical positions of Russia



legacy left by WWII, the Kremlin effectively propagandized Ukraine as a Nazi puppet state under the control of the West, a strategy still applied today in the effort to justify the invasion.<sup>112</sup> Citing the Western influence under which Nazism developed and the colonial history of much of the Western world, Vladimir Putin argues that the motions to align closer with Europe, and thus, the West, invalidates the Russian history and roots of many modern Ukrainians. Russian justification and propaganda have embellished the invasion as a second Great Patriotic War and redefined the nation of Ukraine as a victim to Nazism.<sup>113</sup> Taken together, the Kremlin actively portrays the invasion of Ukraine as a liberation rather than an intervention.

### III. Relevant Legislation

Despite the ever-evolving state of International Humanitarian Law (IHL) and the innumerable list of treaties and statutes viable as a lens for investigation into Russia, the scope of this article's evaluation will focus on three integral pieces of international legislation: *The Charter of the United Nations*, *The Geneva Conventions of 12 August 1949*, and *The Rome Statute*. *The Charter of the United Nations* (UN) forms the foundation of the international system, housing many of the rules and customs by which the international order operates.

---

and the remainder of Europe. With Ukrainians advocating for much stronger allyship with Europe, The Kremlin began propagandizing Ukraine as falling victim to Western Nazism.

<sup>112</sup> The Kremlin complex is located in Moscow, Russia and holds the president's main office and official residence. It is the central working venue of the presidential administration. However, it also operates as an international symbol of Russian power and authority; Kumankov, Arseniy. "Nazism, Genocide, and the Threat of the Global West: Russian Moral Justification of War in Ukraine." *Etikk I Praksis--Nordic Journal of Applied Ethics*, n.d.

<sup>113</sup> Arseniy, "Nazism."



*The Geneva Conventions* are a cornerstone in the institution of *jus in bello*, the permitted conduct of parties engaged in conflict.<sup>114</sup> *The Conventions* establish explicit regulations on permissible methods of warfare and the treatment of civilians, combatants, and prisoners. *The Rome Statute* is the founding document of the International Criminal Court (ICC), the permanent international judiciary tasked with the criminal prosecution of those found in violation of international law. These three pieces of legislation establish a strong guide of possible violations committed in Ukraine, as well as abridge what would otherwise be a complex nexus of international laws and regulations.

#### A. *The Charter of the United Nations*

Signed in June of 1945, the *UN Charter* is fundamental to a contemporary understanding of international law and politics. Establishing the basis for countless treaties, the Charter instructs member countries on how to interact with one another and establishes the preliminary mechanics that the international organization uses to operate. In Article 2, the *UN Charter* demands the recognition of all member states by member states.<sup>115</sup> Additionally, it obligates members to use “*peaceful means*” in dispute settlement and prohibits the use of threat or force against the “*territorial integrity or political independence of any state.*”<sup>116</sup>

In addition to founding the United Nations, the charter establishes the United Nations Security Council (UNSC), one of its several principal organs of which Russia is a permanent

---

<sup>114</sup> “International Humanitarian Law: Answers to Your Questions.” International Committee of the Red Cross, June 2020.

<sup>115</sup> “Charter of the United Nations and Statute of the International Court of Justice.” United Nations, June 26, 1945.

<sup>116</sup> “Charter of the United Nations.”



member and possesses subjective veto power.<sup>117</sup> Having currently cast nearly half of all vetoes in the UNSC, Russia has a strong precedent of unbridled veto usage, particularly in cases of genocide or war crimes; after several decades of relative silence, the Russian Federation reemerged as a central proponent of veto power when met with several UNSC resolutions regarding Syria.<sup>118</sup> Bound by their signature to the Charter, members consent to the quasi-judicial status of the UNSC and agree to execute, to the best of their ability, decisions and resolutions handed down by the Council. The Council is tasked with the maintenance of international peace and, due to their capability to refer international concerns to the ICC, it is the primary vehicle through which the UN and the Court interact.

The UNSC is the most powerful of the principal organs, being the only one capable of creating legally binding orders to member countries. The presence of permanent members and their power to veto resolutions as they see fit further exemplifies the power of the Council, isolating it from the General Assembly and other organs with less cumulative power.

---

<sup>117</sup> “Charter of the United Nations,” 18; It should be noted that the permanent members of the Security Council, and thus those given veto power were not selected arbitrarily. The UN was designed just following WWII and deliberately granted greater influence to the Allied powers, the victors of the war. However, the use of this veto power when reviewing potential resolutions to be adopted by the UNSC is capricious. Any of the five countries can veto a resolution for any number of reasons and they are not subjected to even a preliminary of justification for their choice.

<sup>118</sup> Security Council Report. “UN Security Council Working Methods: The Veto,” December 2022.

<https://www.securitycouncilreport.org/un-security-council-working-methods/the-veto.php>.



*B. The Geneva Conventions of August 12th, 1949*

*The Geneva Conventions* set the standard definition for war crimes as they are understood in IHL. With protections for wounded combatants, prisoners of war, and civilians caught in the crossfire of international conflict, *The Conventions* codify several guidelines on the treatment of human beings during war time. *The Conventions* consist of seven main bodies: four individual conventions and three additional protocols. Considering both brevity and relevance, this analysis will exclusively address Convention IV and Protocol I. Codifying the protections for civilians during war, Convention IV addresses a multitude of civilian types in conflict and the protections guaranteed to them by the treaty. Most notably, the protection of civilian hospitals and medical personnel, all children under the age of 15, women—specifically against any forms of sexual violence—, and the prohibitions of direct harm to any “protected persons” are listed in Articles 18(a), 24, 27, and 32 respectively.<sup>119</sup>

Protocol 1, “relating to the protection of victims of international armed conflicts,” further extrapolates on several ideas presented in Convention IV and supplements areas the fourth convention may have missed, most prevalent being Articles 48, 35, and 51.<sup>120</sup> Expanding on ideas presented in Convention IV, Article 35(b) prevents the deployment of weapons known to cause “superfluous injury and unnecessary suffering.”<sup>121</sup> Article 35(c) prohibits the use of warfare intended to cause widespread or severe damage to the natural environment.<sup>122</sup> Aiming to provide ample protections to

---

<sup>119</sup> “The Geneva Conventions of 12 August 1949.” International Committee of the Red Cross, August 12, 1949.

<sup>120</sup> “Protocols Additional to The Geneva Conventions of 12 August 1949.” International Committee of the Red Cross, August 12, 1949, 1.

<sup>121</sup> “Protocols Additional,” 30.

<sup>122</sup> “Protocols Additional,” 30.



civilians, Article 48 prevents combatants from directing any operations against individuals or objects not-yet-distinguished as military.<sup>123</sup> Combatants are to assume civilian status until proven otherwise. Arguably the most significant is Article 51, which aims to provide complete and undeniable protections to civilians. 51(1) grants “general protection against dangers arising from military operations,” 51(2) prevents civilian populations or individuals from being the object of military attacks, 51(3) guarantees all protections to all civilians unless they join the military, and 51(4) entirely outlaws “indiscriminate attacks.”<sup>124</sup>

### C. *The Rome Statute*

Establishing one of the several avenues for accountability to be evaluated, *The Rome Statute* is the founding document of the ICC. Tasked with the prosecution of individuals who have committed war crimes, crimes against humanity, the crime of genocide, and the crime of aggression, the ICC is the only permanent international judicial body in the world with capacity to try world leaders for their atrocities.

Importantly, the Statute establishes the standards for each of the crimes within the Court’s jurisdiction. Article 6 defines genocide as

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

---

<sup>123</sup> “Protocols Additional,” 36.

<sup>124</sup> “Protocols Additional,” 37.





prevent births within the group; (e) Forcibly transferring children of the group to another group.<sup>125</sup>

Article 7 outlines crimes against humanity as “any of the following acts when committed as a systematic attack directed against any civilian population: murder, forcible transfer, imprisonment, torture, sexual violence, or other inhumane acts of a similar character.”<sup>126</sup> Lastly, Article 8 establishes war crimes as any grave breaches of the *Geneva Conventions* or “other serious violations of the laws and customs applicable in international armed conflict.”<sup>127</sup>

Despite confusion surrounding the jurisdiction of the ICC in the Russia-Ukraine conflict, Article 12 outlines that with Ukraine’s acceptance of ICC jurisdiction in 2015, the Court has the ability to prosecute any Russian nationals convicted of statute violations committed on Ukrainian territory.<sup>128</sup>

However, under Article 15(5), the Court is unable to charge individuals for crimes of aggression when these individuals are nationals of a non-member state.<sup>129</sup> With respect to the crimes of genocide, crimes against humanity, and war crimes, any Russian national found responsible for their commitment in Ukraine since the 2015 declaration are eligible to be charged and tried by the ICC. Considering the role the Court plays in IHL and criminal prosecution, jurisdiction is absolutely vital in overcoming obstacles to Russian accountability.

---

<sup>125</sup> “The Rome Statute,” 3.

<sup>126</sup> “The Rome Statute,” 3-4.

<sup>127</sup> “The Rome Statute,” 4-8.

<sup>128</sup> Klimkin, Pavlo. “Declaration of the Verkhovna Rada of Ukraine,” September 8, 2015; “The Rome Statute.” International Criminal Court, July 1, 2022. <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.

<sup>129</sup> “The Rome Statute,” 10.



#### IV. International Law Violations

In accordance with each of the preceding treaties, with evidence presented by various respected news outlets and the International Independent Commission of Inquiry on Ukraine (COI), and corroborated by a March 2023 ICC arrest warrant for Russian officials, it is evident that violations of international law are no longer speculative. It should be noted that many of the crimes are outlawed by more than one treaty, subsequently leading to overlap, and specific criminal incidents will not be examined. The confirmation of violations of international law are vital, as accountability cannot be considered without a crime having been committed.

##### A. COI on Ukraine

Established by the United Nations Human Rights Council (UNHRC), the COI issued its first report on war crimes in Ukraine on October 12th, 2022. Among offenses mentioned in the report, “war crimes, violations of human rights, and violations of [IHL],” were all found in Ukraine.<sup>130</sup>

Violations of Protocol I of the *Geneva Conventions* include threats to use nuclear weapons, the launching of explosives far from the frontlines causing considerable civilian damage, the use of explosive weapons in civilian areas, indiscriminate attacks using explosives, frivolous attacks on civilians, and summary executions.<sup>131</sup> Breaching Article 8(2) of *The Rome Statute*, the definition of war crimes, were the deployment of explosive weapons across civilian areas,

---

<sup>130</sup> Independent International Commission of Inquiry on Ukraine. “Report of the Independent International Commission of Inquiry on Ukraine.” The United Nations, October 18, 2022.

<https://www.ohchr.org/sites/default/files/2022-10/A-77-533-AUV-EN.pdf>.

<sup>131</sup> Independent International, “Report,” 6, 7, 8, 10.



forcible transfers, unlawful confinement, and inhumane treatment.<sup>132</sup> Violations of Convention IV of the *Geneva Conventions* include the torture, ill treatment, and deliberate wounding of protected persons; the use of explosives in civilian areas; the deliberate endangerment of civilians; multiple commitments of sexual violence; and the lack of respect for the life of children.<sup>133</sup> Fundamentally, the grounds upon which Russia waged war on Ukraine lead to the violation of Article 2 of the *UN Charter*. The annexation of Crimea in 2014, the violent invasion of Ukraine in February 2022, and the disingenuous referenda held in the Kherson, Zaporizhzhia, Luhansk, and Donetsk regions in September 2022 each violate the Charter.<sup>134</sup> They disregarded the obligation to pacific settlement, the mandated recognition of sovereignty, and the prohibition of threats or uses of force against territorial integrity or political independence of other states.

### B. War Crimes

Regarding the war crimes, the first of several potential arrest warrants were issued by the ICC in March 2023. The Court officially issued an arrest warrant for President Vladimir Vladimirovich Putin and Russian Commissioner for Children's Rights, Maria Alekseyevna Lvova-Belova. Putin and Lvova-Belova have both been charged with committing war

---

<sup>132</sup> Independent International, "Report," 6, 13, 13.

<sup>133</sup> Independent International, "Report," 13, 14, 15, 16.

<sup>134</sup> Myers, Steven, and Ellen Barry. "Putin Reclaims Crimea for Russia and Bitterly Denounces the West." *New York Times*, March 18, 2014. <https://www.nytimes.com/2014/03/19/world/europe/ukraine.html>; Ellyatt, Holly. "Russian Forces Invade Ukraine." *CNBC*, February 24, 2022. <https://www.cnbc.com/2022/02/24/russian-forces-invade-ukraine.html>; Ellyatt, Holly. "Fake Referendums in Occupied Ukraine Set the Stage for Annexation — and Immense Danger for Ukraine." *CNBC*, September 28, 2022.



crimes, specifically the abduction, deportation, and forced transfer of children from occupied areas of Ukraine. With Ukrainian officials reporting as many as 8,000 children missing and transported to Russia, the Court asserts that both Putin and Lvova-Belova had intimate knowledge of the alleged violation and bear individual responsibility.<sup>135</sup>

Furthermore, the Russian Federation has been accused of forcibly deporting children to Russia, implementing simple and rapid avenues to “citizenship,” and placing Ukrainian children up for Russian adoption.<sup>136</sup> As this measure works to strip Ukrainian children of their national and ethnic identities, the primary concern is its role as a potential step towards the ethnic cleansing and genocide of the Ukrainian people.

### *C. Concluding Notes*

To conclude this segment of the evaluation, it is vital to comprehend the meaning of these blatant violations. Between the work of journalists and international investigations, it is undeniable that an array of war crimes and violations of IHL have been committed on Ukrainian territory. Even more so, the impact of these breaches on the Ukrainian people have been unfathomable. The blood of thousands is on the hands of the Russian government, critical infrastructure has been decimated,

---

<sup>135</sup> Deeb, Sarah, Anastasiia Shvets, and Elizaveta Tilna. “How Moscow Grabs Ukrainian Kids and Makes Them Russians.” *AP News*, March 17, 2023.

<https://apnews.com/article/ukrainian-children-russia-7493cb22c9086c6293c1ac7986d85ef6>; International Criminal Court. “Situation in Ukraine: ICC Judges Issue Arrest Warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova,” n.d. <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>.

<sup>136</sup> Deeb, Shvets, and Tilna, “How Moscow.”



and millions have been displaced.<sup>137</sup> Regardless of whether Vladimir Putin and other Russian officials are held accountable, Ukraine will spend years, if not decades, recovering from the devastation left by Putin's Regime.

## V. Obstacles to Accountability

Contextually evaluating legal accountability pertaining to the Russia-Ukraine conflict implies three primary avenues, and subsequently, the obstacles within each: The UNSC, the ICC, and the role of free will within an anarchical system. The UNSC's ultimate purpose is the maintenance of international peace, while the ICC's is criminal prosecution; free will and its relationship with anarchy is integral to the most preliminary of understandings on international law and politics. A thorough evaluation of each within the context of the Russia-Ukraine conflict provides for a nuanced understanding of obstacles to accountability.

### A. *The UNSC*

Russia holds one of the five permanent seats on the UNSC and, as such, possesses veto power over any potential resolutions that come before the Council.<sup>138</sup> Ultimately, this grants a great deal of freedom and impunity not only to Russia, but to essentially any of the permanent members.

*Prima facie*, a step similar to that taken by the UNHRC, the suspension of the Russian Federation seems to be in order. However, a suspension is neither judicially effective for

---

<sup>137</sup> Cooper, Helene, Eric Schmitt, and Thomas Gibbons-Neff. "Soaring Death Toll Gives Grim Insight Into Russian Tactics." *New York Times*, February 2, 2023.

<https://www.nytimes.com/2023/02/02/us/politics/ukraine-russia-casualties.html>.

<sup>138</sup> "Charter of the United Nations," 18.



Ukraine nor exactly plausible. A suspension would result in removal from the UNSC, while an expulsion indicates the state's removal from the entirety of the UN. Russia holding one of the five permanent seats on the security council makes both of these options virtually impossible due to any suspension or expulsion requiring all five security council seat sign offs, requiring Russia to approve of their own ramifications.

Due to the impossibility of Russian suspension or expulsion, it is clear that the *UN Charter* failed to consider the potentially dangerous ramifications of establishing the UNSC in this way. Ultimately, suspension of a member state from the Council is not mentioned anywhere in the Charter. However, the UNSC and its permanent members are explicitly established by Article 23(1).<sup>139</sup> This indicates the necessity of an amendment to alter the permanent seats of the UNSC in any way, shape, or form; which leads to Article 108, mandating the approval of all five permanent council members to bring a proposed amendment into force.<sup>140</sup> Given that this requires Russia to sign their own death certificate, removal from the UNSC is not a presently viable option. Regarding expulsion from the UN altogether, it is a similarly grim situation. As stated in Article 6, "a member of the United Nations... may be expelled... upon the recommendation of the security council."<sup>141</sup> Consistent with a potential suspension from the UNSC, a complete expulsion would require Russian approval.

Additionally, there is an argument to be made about the efficacy of an expulsion or suspension from UN activities in bringing the Russian Federation to justice. Due to the anarchical nature of the international order, and widely respected foundational principles like "consent of the governed," a given nation can only be held responsible for violations of a treaty they have signed. Russia cannot be held to

---

<sup>139</sup> "Charter of the United Nations."

<sup>140</sup> "Charter of the United Nations," 69.

<sup>141</sup> "Charter of the United Nations," 8.



UN standards, penalized for violations of the organization's charter, or legally bound by its mandates if it is no longer a member state. Suspension from the UNSC could very well lead to a voluntary exit from the organization, while an assembly-led expulsion would make accountability even more challenging.

To fully evaluate the Security Council, it is crucial to consider the potential outcome had Russia not vetoed the UNSC resolution regarding their troops in Ukraine, despite the situation's hypothetical nature. Corroborated by the realist paradigm of international relations, a veto is merely a formal process of informing the other permanent members that a state does not intend to abide by a given resolution.<sup>142</sup> In turn, Russia's veto of the February mandate, calling for Moscow to remove all troops from Ukraine, simply informs council members that it has every intention of keeping its troops in place.

However, what if Russia did not possess veto power? What if such a resolution was passed? Realism asserts that hard power (i.e. military strength) is foundational to legitimacy. States act according to their own self-interest. Hence, only military strength or threats can change such behavior. Considering the atrocities committed in Ukraine since then, it is fair to say that it would have taken enemy boots on the ground, actively pushing the Russians out of Ukrainian territory, to change the Kremlin's position.

The UN does not have enough coercive capacity on its own to enforce mandates by the UNSC; it relies on the

---

<sup>142</sup> One of the three paradigms of international relations, the realist paradigm stresses the importance of anarchy and hard power in the international order. Anarchy refers not to chaos but to the lack of a universal, international governing body, and hard power refers to tangible resources, most often the economy and military strength. Due to the size and strength of both the Russian military and economy, the realist paradigm asserts that there is no force capable of coercing The Kremlin to behave in a specific way.



manpower of its largest member states to keep the rest in line. The Security Council, an institution designed for the preservation of international peace, inherently awards impunity to the Allied Powers of WWII. The lack of checks on the power of permanent members breeds a power dynamic in which there is no method of enforcing punishment on the largest, and subsequently most powerful member states. The Security Council's necessity to the functionality of the UN elevates the status of the council. Furthermore, the lack of independent UN coercive capabilities only reinforces the idea first proposed in the Peloponnesian war, that "the strong will do what they can and the weak suffer what they must."<sup>143</sup>

### *B. The ICC*

The ICC is responsible for prosecuting individuals found in violation of international law. However, bureaucracy, enforcement mechanisms, and dwindling legitimacy hinder the abilities of the Court to do so.

Bureaucracy generally slows various processes and those of the ICC are no exception. Despite not necessarily minimizing the courts physical capabilities to charge guilty Russian officials, the bureaucratic processes by which the court operates can take years, if not decades. The International Criminal Tribunal for the Former Yugoslavia (ICTY) closed over ten years following their issuance of the final indictments.<sup>144</sup> The ICTY was open for a total of twenty-four

---

<sup>143</sup> Art, Robert, and Robert Jervis. "Anarchy and Its Consequences." In *International Politics: Enduring Concepts and Contemporary Issues*, 13th ed. Pearson Education, Inc., 2016.

<sup>144</sup> Zhou, Han-Ru. "The Enforcement of Arrest Warrants by International Forces." *Journal of International Criminal Justice* 4, no. 2 (2006): 202–18; Legacy Website of the ICTY. "ICTY Marks Official Closure with Moving Ceremony in The Hague." Archive. Accessed November 29, 2022.





years and delivered a total of 161 sentences.<sup>145</sup> There is no reason to presume an ICC prosecution of Putin and other responsible officials would take any less time. The pace at which these trials move guarantees that thousands of Ukrainians would likely die before seeing any justice or reparations for all they have endured at the hands of Russian officials. Additionally, Article 63(1) poses a large enforcement barrier to the ICC because it obligates the Court to have the suspect in custody prior to conducting the trial.<sup>146</sup> It should be clarified that the following analysis in no way intends to make a statement on the rights awarded to individuals accused of a crime or assert that due process should be removed from the protocols by which the ICC abides. However, lacking an independent law enforcement agency, this mandate objectively disrupts the Court's ability to bring those guilty of international atrocities to justice, and brings the legitimacy of the Court into question. As seen with the ICTY, if the ICC is forced to rely on multinational forces, the legitimacy of the court as an independent entity is questionable.<sup>147</sup>

With the ICTY, and the ICC trial regarding Darfur, Sudan, the international community has illustrated hesitance to enforce arrest warrants issued by the Court.<sup>148</sup> In multiple cases,

---

<https://www.icty.org/en/press/icty-marks-official-closure-with-moving-ceremony-in-the-hague>.

<sup>145</sup> Legacy Website of the ICTY. "About the ICTY." Accessed November 29, 2022. <https://www.icty.org/en/about>.

<sup>146</sup> "The Rome Statute," 31.

<sup>147</sup> Zhou, "The Enforcement of Arrest Warrants," 202–18.

<sup>148</sup> Sharp, Walter. "International Obligations to Search For and Arrest War Criminals: Government Failure in the Former Yugoslavia." *Duke Journal of Comparative and International Law*, 1997, 411–60; Chazal, Nerida. *The International Criminal Court and Global Social Control: International Criminal Justice in Late Modernity*. Routledge, n.d. Accessed September 21, 2022; Beginning in 2003, rebels in Darfur, a western region of Sudan, staged an insurrection against the Sudanese government. They claimed the current regime disregarded the needs of the large non-Arab population in Darfur. Over the course of several years the situation between the Sudanese



including those of Yugoslavia and Darfur, arrest warrants have gone unenforced by countries in which suspects were found.<sup>149</sup> Currently, a precedent has been established of nations' complicity in the behavior of war criminals and reluctance to enforce arrest warrants.

### *C. Free Will and Anarchy*

The International system is fundamentally anarchic. Both state and non-state actors operate within the law as they see fit. This seemingly lawlessness is in the absence of "will at national and/or international levels."<sup>150</sup> Unfortunately, there is no global enforcement agency to ensure the cooperation of other nations. As such, within the context of the Russia-Ukraine conflict, little to no coercive action has been taken against Russia. Though sanctions have been employed, the lack of more aggressive coercive efforts (stronger military opposition) only reinforces the notion that the Russian Federation, as a relatively strong world power, enjoys impunity from the coercive capacity of other states and international forces.

Referencing the ICC as understood in the previous section, an arrest warrant can, and likely will, go unfulfilled for years. With a precedent of international complicity, the responsibility to execute such a warrant now falls on the Russian Federation and its allies. The Kremlin has already

---

military and the rebels escalated and was eventually referred to the ICC by the UNSC. This led to the issuance of an arrest warrant for Omar al-Bashir, the sitting president of Sudan, for genocide, war crimes, and crimes against humanity.

<sup>149</sup> Sharp, "International Obligations," 411-460; Chazal, "International Court and Social Control"

<sup>150</sup> Morris, Madeline. "International Guidelines Against Impunity: Facilitating Accountability." *Law and Contemporary Problems* 59, no. 4 (1996): 29-39.



dismissed the ICC warrant for Putin and Lvova-Belova, indicating its more than expected refusal to enforce it.<sup>151</sup> However, the recent arrest warrant issued by the Court certainly shrunk the world of Vladimir Putin; it prevents him from traveling to any major countries in the West as well as attending any summits of major world leaders. Though Putin will likely attend the 2023 G20 summit in India (as of the writing of this article), the presence of a Russian delegation at important meetings going forward will likely hinge on the host country, and its status of allyship with the Russian Federation. The degree to which Putin can interact with the rest of the international order will likely be inconsistent. Though such irregular involvement in the international system will certainly reduce Russia's role on the world stage and drain its ability to weigh in on policy, it will take time for these hindrances to show their full impact.

When evaluating the known reasons for why Russia has violated international law in such egregious ways, there are three primary factors to assess regarding why an international actor abides by a given rule or acts in accordance with an organization: (1) they fear the punishment of the enforcers, (2) the actor views the rule or mandate as within their own self-interest, or (3) the actor feels as though the rule or mandate is legitimate and ought to be obeyed.<sup>152</sup> Conversely, each one of these can be inverted to signify reasons as to why a given rule or organization is not obeyed by international actors. Either (1) there is not a large enough coercive threat to force the actor into submission, (2) the rule is not within the actor's own

---

<sup>151</sup> Reuters. "Kremlin: ICC Warrants Outrageous and Unacceptable, but Null and Void for Us," March 17, 2023.

<https://www.reuters.com/world/europe/russia-warrant-against-putin-meaningless-russia-does-not-belong-icc-2023-03-17/>.

<sup>152</sup> Hurd, Ian. "Legitimacy and Authority in International Politics." *International Organization* 53, no. 2 (1999): 379–408, 379.



self-interest, or (3) the actor does not view the given mandate or body as legitimate and deserving of obedience. Situations like the Russia-Ukraine conflict, or general international disobedience, occur when neither one, two, nor three are met. Though a given international organization or mandate does not necessarily need all three, it is certainly clear that at least two of the three factors are necessary to guarantee the cooperation of actors. Though the UN has widespread legitimacy, its lack of coercive capacity alongside its clear opposition to Russian interests has left the international body paralyzed.

When viewing the reasons for international conflict specifically through the lens of the situation in Ukraine, each tenet necessary for cooperation can be evaluated individually. It is evident that neither the UN nor the ICC independently possess an adequately strong coercive apparatus to either halt Russia's behavior or force a surrender to the Court. The violations prohibiting the very conduct performed in Ukraine clearly competes with the self-interest of the Russian Federation. Further, none of the international bodies capable of holding Russia accountable are viewed as legitimate by the Russian Federation to actively prevent atrocities from being committed. As mentioned previously, at least two of the three factors must be met for cooperation. However, there is an argument to be made that the regularity and magnitude of international disobedience comes from the lack of all three. No single international mandate or organization possesses coercive capacity, legitimacy, and self interest and it is possible that the lack of such an international institution is to blame for the frequency and scale at which international conflict occurs.

Increasing coercive efforts and capability seems to be the most efficient solution to improve the UN's capacity for resolution in the Russia-Ukraine conflict. However, it should be noted that coercion as a method of guaranteed cooperation is the least sustainable. Coercion to motivate compliance requires excessive resources dedicated to surveillance and enforcement



and increases the likelihood of disobedience upon the halting of enforcement measures.<sup>153</sup> Due to the vast nature of the Russia-Ukraine conflict and the reduction in the likelihood of compliance without coercion in the future, increasing the coercive capacity is not a permanent solution to the problems offered by the situation in Ukraine.<sup>154</sup> Fundamentally, the very nature of the international system is one of the greatest obstacles in ending impunity held by officials of world powers. The anarchy inherent to the international order only decreases the likelihood that Russia, and other nations like it, can or will be held accountable for the atrocities they have committed.

## VI. Concluding Thoughts

The preceding analysis aimed to synthesize a large portion of the existing information on the Russia-Ukraine conflict, specifically regarding the international law in question, the validity of claims that said international law has been violated since the February invasion, and the obstacles to bringing Russian officials to justice. The ICC, with the potential to hold Russian officials accountable for their crimes, has opened an investigation. However, with limited resources and the lack of cooperation from the UNSC, bound by Russia's veto power, the Court will continue to face challenges and it is unclear if or when a trial will ever commence. Just over a year into hostilities and the impact of the ongoing war has been insurmountable. With millions from the region displaced, an estimated 280,000 casualties, and over 30,000 civilian deaths, Eastern Europe will be recovering from the wreckage left by

---

<sup>153</sup> Hurd, "Legitimacy and Authority," 384.

<sup>154</sup> Hurd, "Legitimacy and Authority," 385.



this war for years.<sup>155</sup> With each new case opened by the ICC, new precedents are set; it is of the utmost importance that the international order commits to an agenda rooted in justice and ending impunity held by many world leaders. Let the foregoing assessment serve as a directive not only on the recent conduct of the Russian Federation, but the obstacles in place hindering international heroes from bringing the nation to justice.

---

<sup>155</sup> Cooper, Helene, Eric Schmitt, and Thomas Gibbons-Neff. “Soaring Death Toll Gives Grim Insight Into Russian Tactics.” *New York Times*, February 2, 2023.  
<https://www.nytimes.com/2023/02/02/us/politics/ukraine-russia-casualties.html>.



### **Bibliography**

- Art, Robert, and Robert Jervis. “Anarchy and Its Consequences.” In *International Politics: Enduring Concepts and Contemporary Issues*, 13th ed. Pearson Education, Inc., 2016.
- “Charter of the United Nations and Statute of the International Court of Justice.” United Nations, June 26, 1945.
- Chazal, Nerida. *The International Criminal Court and Global Social Control: International Criminal Justice in Late Modernity*. Routledge, n.d. Accessed September 21, 2022.
- Cooper, Helene, Eric Schmitt, and Thomas Gibbons-Neff. “Soaring Death Toll Gives Grim Insight Into Russian Tactics.” *New York Times*, February 2, 2023.  
<https://www.nytimes.com/2023/02/02/us/politics/ukraine-russia-casualties.html>.
- Deeb, Sarah, Anastasiia Shvets, and Elizaveta Tilna. “How Moscow Grabs Ukrainian Kids and Makes Them Russians.” *AP News*, March 17, 2023.  
<https://apnews.com/article/ukrainian-children-russia-7493cb22c9086c6293c1ac7986d85ef6>.
- Ellyatt, Holly. “Fake Referendums in Occupied Ukraine Set the Stage for Annexation — and Immense Danger for Ukraine.” *CNBC*, September 28, 2022.  
<https://www.cnb.com/2022/09/28/fake-referendums-in-ukraine-pave-the-way-for-annexation-and-escalation.html>.
- Ellyatt, Holly. “Russian Forces Invade Ukraine.” *CNBC*, February 24, 2022.  
<https://www.cnb.com/2022/02/24/russian-forces-invade-ukraine.html>.
- Guterres, Antonio. “Secretary-General’s Remarks to Press on the War in Ukraine.” United Nations, March 2022.  
<https://www.un.org/sg/en/content/sg/press-encounter/20>



[22-03-22/secretary-generals-remarks-press-the-war-ukraine?\\_gl=1%2A1rdjbf0%2A\\_ga%2AMTYxMDgzNDk4Mi4xNjY4NjI5ODg2%2A\\_ga\\_TK9BQL5X7Z%2AMTY3Nzc4OTI2My41LjEuMTY3Nzc4OTI5NC4wLjAuMA.](https://www.ohchr.org/sites/default/files/2022-10/A-77-533-AUV-EN.pdf)

Hurd, Ian. “Legitimacy and Authority in International Politics.” *International Organization* 53, no. 2 (1999): 379–408.

Independent International Commission of Inquiry on Ukraine. “Report of the Independent International Commission of Inquiry on Ukraine.” The United Nations, October 18, 2022.

<https://www.ohchr.org/sites/default/files/2022-10/A-77-533-AUV-EN.pdf>.

International Criminal Court. “Situation in Ukraine: ICC Judges Issue Arrest Warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova,” n.d.

<https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and-lvova-belova>.

“International Humanitarian Law: Answers to Your Questions.” International Committee of the Red Cross, June 2020.

Klimkin, Pavlo. “Declaration of the Verkhovna Rada of Ukraine,” September 8, 2015.

Kumankov, Arseniy. “Nazism, Genocide, and the Threat of the Global West: Russian Moral Justification of War in Ukraine.” *Etikk I Praksis--Nordic Journal of Applied Ethics*, n.d.

Legacy Website of the ICTY. “About the ICTY.” Accessed November 29, 2022. <https://www.icty.org/en/about>.

Legacy Website of the ICTY. “ICTY Marks Official Closure with Moving Ceremony in The Hague.” Archive. Accessed November 29, 2022.





<https://www.icty.org/en/press/icty-marks-official-closure-with-moving-ceremony-in-the-hague>.

Morris, Madeline. “International Guidelines Against Impunity: Facilitating Accountability.” *Law and Contemporary Problems* 59, no. 4 (1996): 29–39.

Myers, Steven, and Ellen Barry. “Putin Reclaims Crimea for Russia and Bitterly Denounces the West.” *New York Times*, March 18, 2014.

<https://www.nytimes.com/2014/03/19/world/europe/ukraine.html>.

President of Russia. “Agreement on the Accession of the Republic of Crimea to the Russian Federation Is Signed,” n.d.

<http://en.kremlin.ru/events/president/news/20604>.

“Protocols Additional to The Geneva Conventions of 12 August 1949.” International Committee of the Red Cross, August 12, 1949.

Rieber, Alfred. “Russian Imperialism: Popular, Emblematic, Ambiguous.” *The Russian Review* 53, no. 3 (July 1994): 331–35.

Reuters. “Kremlin: ICC Warrants Outrageous and Unacceptable, but Null and Void for Us,” March 17, 2023.

<https://www.reuters.com/world/europe/russia-warrant-against-putin-meaningless-russia-does-not-belong-icc-2023-03-17/>.

Security Council Report. “UN Security Council Working Methods: The Veto,” December 2022.

<https://www.securitycouncilreport.org/un-security-council-working-methods/the-veto.php>.

Sharp, Walter. “International Obligations to Search for and Arrest War Criminals: Government Failure in the Former Yugoslavia.” *Duke Journal of Comparative and International Law*, 1997, 411–60.

“The Geneva Conventions of 12 August 1949.” International



- Committee of the Red Cross, August 12, 1949.
- “The Rome Statute.” International Criminal Court, July 1, 2022.  
<https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.
- Zelinska, Olga. “Ukrainian Euromaidan Protest: Dynamics, Causes, and Aftermath.” *Sociology Compass* 11, no. 9 (2017).
- Zhou, Han-Ru. “The Enforcement of Arrest Warrants by International Forces.” *Journal of International Criminal Justice* 4, no. 2 (2006): 202–18.
- Zinets, Natalia, and Aleksandra Vasovic. “Missiles Rain Down Around Ukraine.” *Reuters*, February 24, 2022.  
<https://www.reuters.com/world/europe/putin-orders-military-operations-ukraine-demands-kyiv-forces-surrender-2022-02-24/>.

