

CSHL NEWSLETTER

FEBRAURY 2022

By Kong Sreynou, ELBBL Student

War Crimes in Ukraine

Russia launched a large-scale invasion of Ukraine on February 24, 2022, authorizing this as “special military operations”.¹ Over 700 civilians have been reported killed while about 6.5 million people have reportedly been displaced within the country.² According to the Article 8 of the Rome Statute of the International Criminal Court, “War Crimes” are those violations of International Humanitarian Law that incur individual criminal responsibility under International Law that always take place in the context of an armed conflict.³ The allegations of war crimes that occur in Ukraine include crimes against humanity, mass killing, mass destruction of infrastructure and the use of banned weapon.

The laws of war prohibit willful killing, rape and other sexual violence, torture, and inhumane treatment of captured combatants and civilians in custody. This is considered as the crimes against humanity acts as stipulated in article 7 of the Rome Statute of the International Criminal Court.⁴ According to Human Rights Watch, there are cases that Russian military forces committing laws-of-war violations against civilians in occupied areas such as Chernihiv, Kharkiv and Kyiv regions of Ukraine including looting civilian property, repeated rapes, murder and other violent acts against people.⁵ This is one allegation that have been found during the crisis in Ukraine which shall be responsible by Russia. The second allegation falls under deliberate and mass killing. Ukraine had claimed that there were at least 410 civilians killed whom were the victims of extra-judicial killings by Russian forces.⁶ Article 15(2)(a) of the 1977 Additional Protocol I provide that violence of persons, in particular “murder”, is prohibited at any time and in any place.⁷ The third allegation consists in the destruction of the infrastructure from the indiscriminate weapons towards hospital, civilian shelters and other critical infrastructures. According to Article 18 of the fourth Geneva convention, civilian hospitals and medical staffs in warzones must be protected by parties to conflict.⁸ However, Russia launched the attack through the air strike which has devastated a maternity hospital in Mariupol and wounded at least 17 people.⁹ The last allegation is about the utilizing of banned weapon such as thermobaric explosives, which create a massive vacuum by sucking up oxygen. A thermobaric weapon might be targeted specifically at military installations, but its effects cannot be contained to one area in which many civilians would be killed if such bombs were used in any city.¹⁰ Article 3(8) of the 1996 Amended Protocol II to the Convention on Certain Convention Weapons provides that the indiscriminate use of weapons is prohibited.¹¹ Amnesty International accused Russia of using vacuum bombs to attack a preschool in northeastern Ukraine while Civilians took shelter inside.¹²

In conclusion, there have been on-going acts and attacks from Russia that falls under war crimes. People in Ukraine are facing a catastrophic human rights crisis. The International Criminal Court (ICC) and the International Court of Justice (ICJ) have the roles to uphold the rules of war in this contemporary world. However, the effectiveness of ICJ, ICC and the way international law plays out in practice do not solely depend on treaties, but politics and diplomacy.

¹ Reuters, “Timeline: the events leading up to Russia’s invasion of Ukraine”, March 01, 2022. Retrieved from: <https://www.reuters.com/world/europe/events-leading-up-russias-invasion-ukraine-2022-02-28/>

² Rescue.org, “The Ukraine-Russia crisis: what is happening”, March 30, 2022. Retrieved from: <https://www.rescue.org/article/ukraine-russia-crisis-what-happening>

³ Article 3 of Rome Statute of the International Criminal Court.

⁴ Article 7 of Rome Statute of the ICC.

⁵ Ibid 5

⁶ Sharmita Kar, “Ukraine mass killings: a lowdown as world reacts with horror”, Hindustan Times, April 05, 2022. Retrieved from: <https://www.hindustantimes.com/world-news/ukraine-mass-killings-a-lowdown-as-world-reacts-with-horror-101649125184841.html>

⁷ Article 15(2)(a) of the 1977 Additional Protocol I

⁸ Article 18 of the IV Geneva Convention

⁹ Radio Free Europe, “Mariupol Maternity hospital destroyed by Russian air strike, triggering global horror outrage”, March 9, 2022. Retrieved from: <https://www.rferl.org/a/ukraine-mariupol-hospital-bombed-russia/31744934.html>

¹⁰ NDTV, “Russia-Ukraine War: what are thermobaric weapons? And why should they be banned”, March 04, 2022. Retrieved from: <https://www.news/russia-ukraine-war-what-are-thermobaric-weapons-and-why-should-they-be-banned-2800732>

¹¹ Article 3(8) of the 1996 Amended Protocol II to the Convention on Certain Convention Weapons

¹² SCMP, “Russia is accused of using vacuum bombs in Ukraine”, March 2, 2022. Retrieved from: https://www.scmp.com/news/world/russia-central-asia/article/3168873/russia-has-been-accused-using-vacuum-bombs-ukraine?module=perpetual_scroll_0&pgtype=article&campaign=3168873

LIBRARY HOURS

Monday - Friday
8:30 AM - 5:30 PM

E-RESOURCES

E-Journals on (1) Human Rights Law Review and (2) Case Western Reserve Journal of International Law And other Free E-Resources

CONTACTS

sophorn@elbbl-
cshl.org
www.cshl-kh.org

CSHL

CENTER FOR THE STUDY
OF HUMANITARIAN LAW

RAOUL
WALLENBERG
INSTITUTE

OF HUMAN RIGHTS AND HUMANITARIAN LAW

