

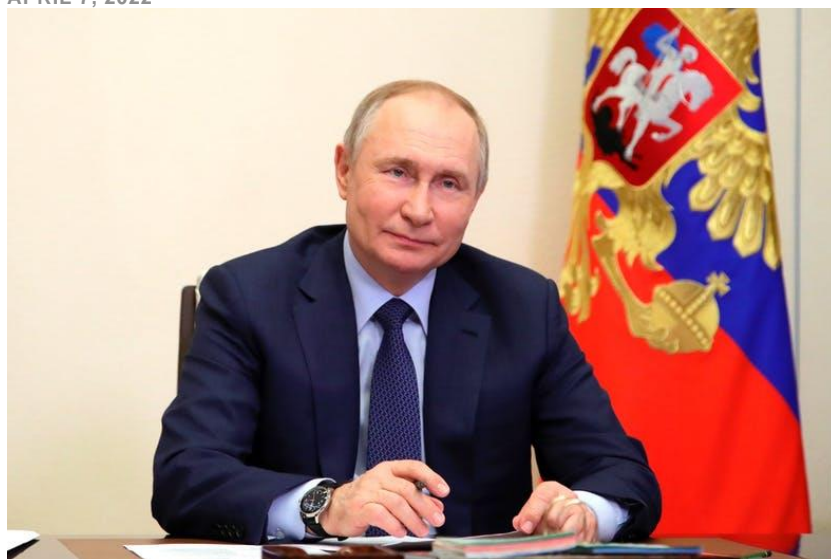


The cases that can be made against Vladimir Putin

Genocide, war crimes, crimes against humanity and aggression all apply. Here's what to know about them and where they are being investigated.

By Ellen J. Kennedy and Bradley Lehrman

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Russian President Vladimir Putin attends a meeting in Moscow, March 25.

A Ukrainian friend in Minnesota asked, "What if Putin bombs the cemetery in Lviv where my parents are buried?"

In Ukraine, even the dead are not safe.

We are overwhelmed with outrage, grief and anger at the devastation. Russian President Vladimir Putin is guilty of the four most heinous human rights abuses: war crimes, genocide, crimes against humanity and the crime of aggression. It is important to consider the four crimes, each one a unique type of horror. Together they violate every principle of human rights. They are defined in the Rome Statute, the foundational document of the International Criminal Court.

The U.S., Australia, Britain, Canada and the European Union have accused Russia of war crimes in Ukraine and accused Putin of responsibility for those crimes. **War crimes** are attacks against civilians, especially children; acts of sexual brutality; destruction of humanitarian aid operations and humanitarian safe corridors; wanton annihilation of towns and villages; the use of forbidden weapons such as thermobaric bombs, the largest non-nuclear explosive devices in the world; torture and mutilation of civilians; destruction of historic monuments; violence by an occupying force and more.

The legal definition of **genocide** is the intent to exterminate, in whole or in part, a national, ethnic, racial or religious group — and the group here is the Ukrainian people. Genocide involves killing members of the group; causing serious bodily or mental harm; deliberately inflicting conditions to bring about the group's physical destruction in whole or in part; preventing births and forcibly transferring the children to another group.

Putin is exterminating the Ukrainian people by destroying more than a thousand towns, leaving the residents without food, water, heat, light or medicine; preventing births by bombing maternity hospitals; displacing 6.5 million people with explosives and artillery; forcing another 4 million people, mostly women and children, to flee across Ukraine's borders for safety, and forcibly transferring 2,389 children to Russia. The U.N. Office of the High Commissioner for Human Rights reports that at least 4,000 civilians have been murdered, with actual numbers likely to be far higher.

Rape is specifically a crime of genocide. As reported in the Guardian, "Gang-rapes, assaults taking place at gunpoint, and rapes committed in front of children are among the grim testimonies collected by investigators."

Crimes against humanity are like genocide in their brutality, but they are widespread or systematic attacks against any civilian population, not against an identifiable group. An estimated 285,000 foreigners were residing permanently in Ukraine, and thousands more temporarily, including about 16,000 African students, when the war began. They are victims although they are not Ukrainian, with Russia therefore carrying out both crimes against humanity and genocide.

The final international crime is that of **aggression**: The illegal use of force, invasion, bombardment, military occupation and attack by one state on another state. The illegal invasion that began on Feb. 24 is the worst violence in Europe since World War II.

It is clear that these four crimes are occurring, each with specific elements. Putin must face charges for all four crimes.

There is precedent for multiple charges against a single perpetrator because of the breadth of the crimes. An example is the prosecution of Slobodan Milosevic, former Serb leader who faced 66 counts of crimes against humanity, genocide and war crimes committed during the Yugoslav wars of the 1990s.

Where can Putin be held to account?

Four investigations are currently underway.

One is at the **International Court of Justice** in The Hague, Netherlands. This court adjudicates interstate disputes and already has ruled that Russia "shall immediately suspend the military operations that it commenced" on Feb. 24.

The second is at the **International Criminal Court (ICC)**, also in The Hague. Russia is not a party to the ICC but that doesn't prohibit the ICC from investigating and issuing arrest warrants against individual Russians.

The third is in **federal court in Germany** using the legal strategy of universal jurisdiction, which allows crimes that are so heinous to be prosecuted almost anywhere in the world. Other countries must initiate similar trials in their own domestic courts to encourage justice throughout the world.

The fourth is the **European Court of Human Rights**. This court has also already issued a ruling: Russia must "refrain from military attacks against civilians and civilian objects, including ... schools and hospitals."

Although the rulings do not carry enforcement provisions, they are steps toward accountability.

Legal expert Jennifer Trahan suggests, in the online forum Just Security, that the United Nations General Assembly should create a hybrid criminal tribunal for the crime of aggression to be agreed to between the U.N. and the government of Ukraine.

This tribunal would be a multilateral approach. Member states recently demonstrated overwhelming support for a resolution condemning Russian aggression against Ukraine (141 member states in favor, five against). The General Assembly is also the most appropriate body for action because Russia can paralyze the Security Council through its veto power; this allows a "sidestep" to that roadblock. There is precedent for this type of tribunal with the Special Court for Sierra Leone, agreed upon by Sierra Leone and the U.N., and the Extraordinary Chambers in the Courts of Cambodia (ECCC), formed by Cambodia and the U.N.

Russia's aggression must be prosecuted in a multilateral forum — now. There cannot be sustainable peace without justice.

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