

What Is a War Crime? Russia Faces Accusations as Civilian Casualties in Ukraine Grow

Western governments reiterate calls for investigations after reports of mass killings in formerly Russian-occupied territory

[Russia's invasion of Ukraine](#) has brought allegations of war crimes against President [Vladimir Putin](#) and his army, including accusations from the U.S., raising the question of whether he or his commanders will ultimately be charged.

Ukrainian President Volodymyr Zelensky said more than 300 [civilians were killed or tortured](#) in and around the Kyiv suburb of Bucha after [Russian troops withdrew](#), prompting condemnation by Western governments, who pledged they would help gather evidence for investigations into potential war crimes by Russia. Mr. Zelensky said many more dead may be found in other towns as Russian forces turn back their advance to focus instead on the east of the country.

Whether President Putin and his commanders can ultimately be charged is a complex legal issue, compounded in part by the fact that Russia, like the U.S. and China, isn't a party to the International Criminal Court, which usually hears war-crime cases at its headquarters in the Netherlands.

ICC prosecutor Karim Khan four days into the invasion said he [would begin an investigation into violations](#), based on Ukraine's previously agreeing to the court's jurisdiction. Mr. Khan traveled to western Ukraine and Poland and held a virtual meeting with Mr. Zelensky.

The U.S. government subsequently [accused Russian forces](#) in Ukraine of committing war crimes, a formal move designed to preserve information and evidence for future review. Secretary of State Antony Blinken cited reports of [attacks on civilian centers](#) including

apartment buildings, schools, hospitals, civilian vehicles and more, adding the sites were clearly identifiable as used by civilians.

It is easier to try commanders on the ground for alleged war crimes than the political leaders who ordered them into the field. If Mr. Putin were to be charged, he would first have to be arrested in a country that accepts the jurisdiction of the court—something he could easily avoid. Moscow has rejected war-crimes allegations, including accusations that Russia has targeted civilians.

Meanwhile, reports of wider abuses are mounting as Ukrainian officials and independent rights watchdogs say they are uncovering evidence of war crimes perpetrated by occupation forces. Russia denies the allegations, saying video and photographic images purporting to show civilians bound and shot are fakes.

What constitutes a war crime?

War crimes are broadly defined and include willfully killing or causing suffering, widespread destruction and seizing of property, deliberately targeting civilian populations, in addition to other serious violations of laws applicable in armed conflict. The ICC also prosecutes three other offenses: crimes against humanity, genocide and the crime of aggression. Mr. Khan, the ICC prosecutor, said there was already a reasonable basis to believe that both war crimes and crimes against humanity had taken place in Ukraine.

What crimes has Russia been accused of?

Mr. Zelensky has zeroed in on what he says is Russia's decision to target civilian populations after Ukrainian forces delayed the Russian battalion's initial advance on the capital, Kyiv. He described an attack on Freedom Square in the eastern city of Kharkiv as a war crime and has called on the West to help stop "the crime Russia is committing" in Ukraine.

"Atrocity! How much longer will the world be an accomplice ignoring terror?" Mr. Zelensky tweeted after a Russian strike hit a maternity hospital in Mariupol on March 9.

On April 3, he described Russian forces as “murderers” and “rapists” after mass graves were found in Bucha, a Kyiv suburb formerly held by Russian forces. Human Rights Watch said it had documented several cases of war crimes by Russian military forces in areas around Chernihiv, Kharkiv and Kyiv. Following the reports of mass graves, President Biden [called for a war-crimes trial](#) and said Mr. Putin was a war criminal who must be held accountable for the war in Ukraine.

“We have to get all the detail so this can be an actual war crime trial. This guy is brutal, and what’s happening in Bucha is outrageous and everyone has seen it,” Mr. Biden told reporters at the White House on April 4.

The Russian Defense Ministry has dismissed the reports of widespread killing of civilians in Bucha, calling them “another provocation” by the Ukrainian side.

In its war-crimes accusation in March against Russian forces operating in Ukraine, the State Department noted the Russian bombardments of [a maternity hospital](#) and [a theater](#) in the southern coastal city of Mariupol.

“Every day that Russia’s forces continue their brutal attacks, the number of innocent civilians killed and wounded, including women and children, climbs,” Mr. Blinken said on March 23. “Based on information currently available, the U.S. government assesses that members of Russia’s forces have committed war crimes in Ukraine.”

Legal experts said it would have to be proved that Russian forces were systematically selecting civilian targets.

Who has the authority to take action?

The International Criminal Court in The Hague hears war-crime cases and related matters, including genocide. Though Ukraine isn’t party to the 1998 Rome statute that established the court, it has previously accepted the court’s jurisdiction. That means that while Ukraine can’t refer any alleged crimes to the court, the ICC can investigate on its own initiative and charge Mr. Putin or other Russian leaders, though it can’t try them in absentia. Kremlin

spokesman Dmitry Peskov has already rejected the ICC's investigation, noting that Russia isn't a party to the court, having withdrawn in 2016.

Ukraine has been seeking an ICC investigation since 2014, when Russia annexed Crimea. The court's prosecutor in 2018 said it found a reasonable basis that war crimes—including torture, rape and the intentional targeting of civilians—had taken place in eastern regions of Ukraine, where Russian-backed separatists were fighting the central government. The investigation was put on hold because of the Covid-19 pandemic and other cases.

What are the Geneva Conventions?

The initial Geneva Convention was adopted in 1864, and four additional treaties were introduced in 1949 after World War II. Further protocols were adopted in 1977 and 2005. The conventions personnel; care for the wounded sick and shipwrecked at sea; the humane treatment of prisoners of war; and the protection of all civilians. provide for: the protection of the sick and wounded along with medical and religious

In addition, more than [100 nations have signed an international treaty](#) called the [Convention on Cluster Munitions](#) prohibiting the use of such devices, which can be scattered over a large area. Ukraine has accused Russia of using cluster bombs.

Will Putin be prosecuted for war crimes?

The short answer: Unlikely, or at least not while he is still in power.

Cases at the International Criminal Court tend to revolve around the individual actions of commanders in the field, not their political masters. In addition, for Mr. Putin to be tried he would have to be arrested and handed over to the court. That seems improbable while he is in the Kremlin. Moreover, Moscow formally withdrew in 2016 after the ICC published a document describing its annexation of Crimea as an occupation, though this was a largely cosmetic move: it had never ratified its membership in the first place.

Russia could also veto any U.N. Security Council move to refer a war-crime case—specifically the crime of aggression—to the ICC.

The dynamic could change radically if Mr. Putin were no longer in power and a new Russian leadership decided to hand him over.

Some national courts, meanwhile, could move to prosecute Mr. Putin if they have what are known as universal jurisdiction laws. Germany did this in January when a court there sentenced a former Syrian intelligence officer to prison in relation to crimes against humanity committed during the civil war there. They were both in Germany. French prosecutors have said they would begin their own investigation into alleged war crimes in Ukraine. French law allows them to conduct an investigation outside of French territory if a war crime targets French people or is committed by a French national or resident.

Again, the problem would be how to arrest and try Mr. Putin.