



**LXXI**  
SEVENTY-FIRST SESSION



**ICJ**

————— **BERKELEY MODEL UNITED NATIONS** —————

# WELCOME LETTER

Hello and welcome to Berkeley Model United Nations' 71st session! I am so grateful and glad that you have chosen the International Court of Justice (ICJ) as your committee this year, and I can guarantee you that this committee will not only be incredibly informative and influential, but also a super fun and enriching experience. Before I get into some more information about the committee, let me introduce myself...

My name is Nadia Kazempoor, and I will be your head chair for ICJ this year at BMUN! I am a junior at Cal studying Political Science and Middle Eastern Language and Culture. I am also the USG of Education and Outreach here at BMUN, and am always looking to promote BMUN's educational mission and spread the influential power of MUN to all students—especially as someone whose academic career was shaped by their high school MUN experience. Besides BMUN, I was also the President of my sorority, Kappa Kappa Gamma, and am currently the External Affairs Director of the Iranian Students' Cultural Organization, as well as a Research Fellow at the Institute of International Studies. Outside of school, I love cats, books, and pretending I'm a food critic at local restaurants!

To get back into committee information, I am incredibly proud of each and every one of you for selecting ICJ this year, for the conflict (and more specifically the court case) we will be discussing in committee is extremely relevant today. What is occurring between Russia and Ukraine has been years in the making, however the climax we are currently observing will truly be marked down in history as an event that forever changed our political, social, and economic world order. You will be researching—in real time—a court case that is likely to be ongoing by the time you step into the ICJ committee room in March. Get excited!

For those of you that have never been in an ICJ committee during an MUN conference, or are completely new to MUN, do not fret! I, along with your Vice Chairs, are here specifically to help guide the committee through ICJ procedure as well as the complex topic/court case our committee is centered around. First off, ICJ is different from more standard MUN committees in that you will represent a Justice as opposed to an entire country. Having said that, you will still be assigned a country in this ICJ committee, mainly to help guide your research into this court case. As a justice, you do not have to follow your country's policy exactly. Rather, you should have individual morals and beliefs that guide your policy alongside your country's policy.

The most important thing to remember is that, like in the real ICJ, all of your work should be

backed by international law and governing documents. Alongside this, it is important to note that rather than draft resolutions, you will be issuing rulings; you can choose to do so individually or in collaboration with other Justices. More information about ICJ procedure at BMUN will be available in the ICJ Procedure Guide to be published shortly on our website, so be on the lookout for that. In the meantime, always feel free to reach out with any questions!

This year, I am lucky enough to be joined by two vice chairs: Deepak Ragu and Sophia Wang!

Deepak Ragu (he/him) is a fourth-year at UC Berkeley double majoring in Computer Science and Political Science, and loves the intersection of technology and politics. This is his ninth year of Model UN; his past experience traveling to, participating in, and running MUN conferences has fostered his passion for international politics. Deepak also currently serves as BMUN's Chief of Staff, where he coordinates chair training and runs club meetings. Outside of BMUN, Deepak is also a member of Sigma Alpha Nu (a co-ed pre-law fraternity) and intends on eventually attending law school. In his free time, he loves to play card games like Yu-Gi-Oh!, stargaze with friends at 3 AM, and sing loudly and terribly at karaoke. He looks forward to passing on his experience to you, the future leaders of this world!

Sophia Wang is a freshman studying Political Economy at Berkeley. In her free time, she loves learning different languages, collecting tote bags, visiting art museums, listening to true crime podcasts, and reading sob-stories. Before coming to Cal, she spent a summer with the Department of State studying Russian language and culture as well as Russian-United States relations. She hopes that the delegates will enjoy the topic as much as she does. Aside from BMUN, you can also find her at Eshleman Hall floor three and four working as a caseworker for the Student Advocate's Office and the Legal Clinic. She is so excited to meet you all!

We are so excited to meet you in March! Please reach out to us at [icj71@bmun.org](mailto:icj71@bmun.org) if you have any questions, concerns, or just want to say hi!

Best,

*Nadia Kazempoor*

Nadia Kazempoor

Head Chair, ICJ

# TOPIC: ALLEGATIONS OF GENOCIDE UNDER THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE (UKRAINE V. RUSSIAN FEDERATION)

## Note about Relevance:

Since the case of Ukraine v. Russian Federation was brought to the ICJ very recently (February of 2022) and continues to be an ongoing case today, I want to emphasize to you all the importance for you to stay up to date on this case. I recommend staying updated on press releases, hearings, rulings, and any news regarding Russia-Ukraine and the ICJ court case (even beyond when you submit your position paper!). It is very likely that the case will continue to be ongoing when we convene in March, which is why I wanted to provide this note on relevance. We will operate our committee in March with a sensitivity to the proceedings of this court case in real-time, which will prove to be both challenging and incredibly enriching!

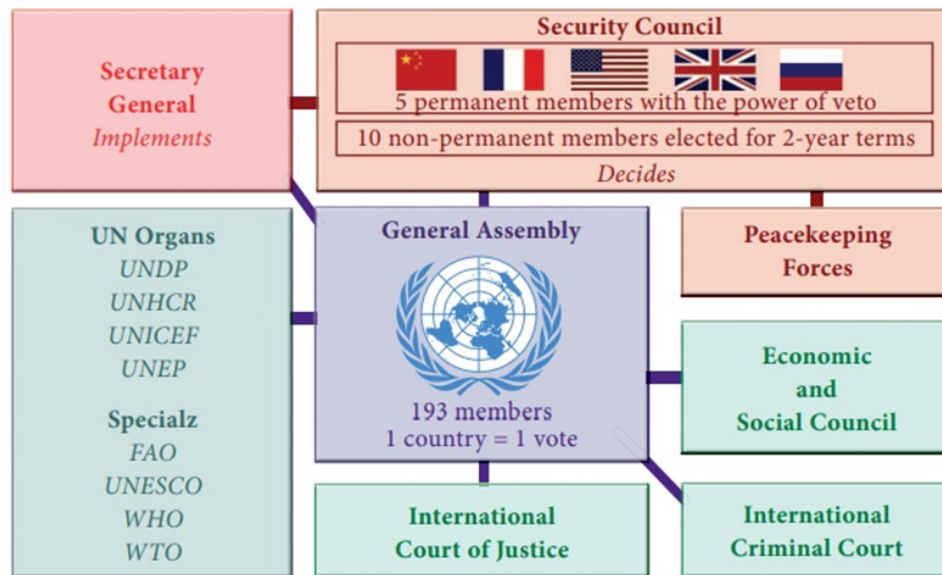
The best piece of advice I can give you all is to develop a true care for the case, as well as the devastating conflict that it is attached to, so that reading up on its daily, weekly, or monthly updates will seem less like a burden, and more like a privilege. It is in fact a privilege, and a necessity, to stay informed on world politics, and I encourage you all to use this as an opportunity to stay knowledgeable on an issue of such massive importance to our international community. I hope, first and foremost, that you leave ICJ at the end of BMUN 71 feeling like a well-informed, empathetic, and passionate student of the world!

## ICJ BACKGROUND

### What is the ICJ?

The International Court of Justice (ICJ) is the chief judicial organ of the United Nations. The ICJ was created in 1945 within the UN Charter, at the same time as the formation of the United Nations itself, in order to provide the international community with a legal body that is capable of

working across state borders and providing rulings for crimes that cross the boundaries of individual nation's jurisdiction. Prior to the development of the UN, and in turn the ICJ, there had been no successful international bodies capable of solving the ancient issue arisen in Thucydides' Melian Dialogue: that there was no institution capable of controlling state power and the issues that arise between states (Thucydides). Not to be confused with the International Criminal Court (ICC), the primary difference between the ICJ and the ICC is that "the International Court of Justice (ICJ) is a civil court that hears disputes between countries. The ICC is a criminal court that prosecutes individuals" (Amnesty International).



The ICJ exclusively hears two types of cases: contentious cases and advisory proceedings (Cornell Law School). First off, a contentious case is a case submitted to the ICJ between two or more states. In accordance with Article 94 of the UN Charter, all UN member states are obligated to act in accordance with the ruling(s) that the ICJ produces in any case they are party to (UN Charter). Failure to do so would result in action from the Security Council and its member states. Typically, contentious cases brought forth to the ICJ are due to an inability for the involved states to resolve the conflict, disagreement, or issue themselves. Some of the most notable contentious cases brought to the ICJ are regarding genocide, as seen in the case our committee is centered around. It is important to note that in contentious cases, the ICJ can only issue and enforce rulings when all states involved (both the petitioner and the defendant) have recognized the court's jurisdiction. The case we will be discussing in committee, Ukraine v. Russian Federation, falls under the category of a

contentious case.

Subject Matter	Number & % of Cases Filed and Closed	Number & % of Decisions on Merits+	Compliance Rate of decisions on merits	% of filed cases of this type with decisions and compliance
Borders/Maritime Delimitation	24 (29%)	21 (48%)	84	75
Use of Force	23 (28%)	5 (13%)	60	13
Private property rights, including espousal of claims	13 (16%)	2 (7%)	100	15
Diplomatic or consular relations	8 (10%)	7 (17%)	57	50
Other	14 (7%)	6 (12%)	50	21
<b>TOTAL</b>	<b>82</b>	<b>41</b>	<b>73</b>	

+ includes cases in which the only outcome was an order for provisional measures.

Next, an advisory proceeding is a non-binding way for the ICJ to provide its insight, when desired by a state party, regarding a legal issue it is facing. A non-binding proceeding means that all parties involved (in this case being states) have no obligation to follow the advice given by the Court. In contrast, since contentious cases are legally binding, member states of the UN who recognize the jurisdiction of the ICJ do in fact have an obligation to oblige by the Court's ruling. Rather, the purpose of the advisory proceeding is to offer an opportunity for an international institution like the ICJ, and in turn the UN, to acknowledge a political or human rights crisis that is plaguing a state or states, and as such, offer its support in the form of legal guidance. It is also important to note that cases brought before the ICJ have no opportunity to be appealed, or in other words, to be retried.

## Limitations of the ICJ

The International Court of Justice is flawed at the root, in that any and all international institutions must grapple with the fact that they hold a limited amount of power when it comes to controlling the individual actions, and in turn crimes, of states. The reason for this is the right of all states to their individual state sovereignty. Although the United Nations, as well as the ICJ, was formed in order to address unyielded state power, historical evidence shows that international institutions have not been as successful as the founders of the UN hoped when they created such a revolutionary concept following the Second World War. The fact of the matter is that what gives international institutions power is the member states that embody it. The key to international cooperation is accountability enacted from state to state. Without that, the world order would likely collapse as we know it, with or without the ICJ.

The limitations of the ICJ can be simplified into three key areas: court membership, jurisdiction, and enforcement. First off, court membership is a limitation of the ICJ, for the composition of the Court makes it difficult for the Court as an entity of various Justices of various nationalities to remain purely impartial. The issue of impartiality amongst Justices is not a new concept, for even the United States Supreme Court has historically struggled with this issue, despite provisions to prevent this from occurring (Clark, Montagnes, and Spenkuch). The Court is composed of 15 Justices, who are expected to represent the values and interests of over 191 states. The composition of the Court more specifically requires member states to nominate candidates from their country, where 15 will be selected to serve a nine-year term on the Court. Currently, the ICJ is composed of Justices from the United States, Russian Federation, Slovakia, France, Morocco, Somalia, China, Uganda, India, Jamaica, Lebanon, Japan, Germany, and Australia. In a research study conducted by Eric Posner and Miguel F. P. de Figueiredo, it was determined that “whereas judges vote in favor of a party about 50 percent of the time when they have no relationship with it, that figure rises to 85–90 percent when the party is the judge’s home state” (Posner and de Figueiredo 601). What this means is that factors such as bias, patriotism, and national loyalty can, and often do, skew Justices from providing the Court with impartial opinions based solely on international law, and instead cause them to, more times than not, vote in favor of their own country. This is an especially troubling conclusion drawn for an institution that is intended to be an impartial judicial organ of the entire international community.



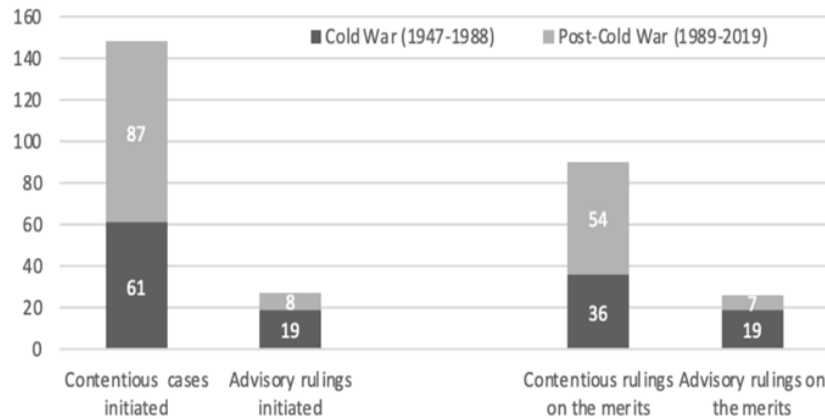


Secondly, jurisdiction proves to be one of the most impactful limitations of the Court, for it directly hinders the Court's ability to carry out its duties in a manner that prevents further conflict and tension from occurring. Like most international laws, documents, and institutions, it is difficult to force jurisdiction within national issues and conflicts between nations, for at any time, the states involved can use the argument of sovereignty to free themselves from what they deem to be international meddling. The largest issue here is that the ICJ only holds jurisdiction in cases where all states involved have recognized their jurisdiction, and in tandem, where all parties involved in the case have agreed beforehand that they desire the opinion of the Court, and therefore have submitted a proceeding to be heard. There have been multiple historical cases brought forth to the ICJ that failed to hold any real positive impact, for the defendant either did not recognize the Court or did not agree for the case to be brought to the Court (Nalbandan 13). In these cases, the ICJ holds no power in telling the state what to do, and they may continue violating international law with no punishment. Despite this, in instances like these it is common that the Security Council and its Big 5 states will take matters into their own hands with actions such as sanctions, intervention, or even war. The purpose of the ICJ to provide diplomatic and peaceful resolutions to conflicts fails in cases like these.

The final limitation faced by the ICJ is its lack of enforcement, and more specifically, its legal inability to enforce any of the rulings it provides to its cases. In Article 94, Section 2 of the UN Charter, it is stated that "if any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give



effect to the judgment” (UN Charter). The key conclusion to note here is that in instances where a party disobeys the Court following a ruling, the Court does not have the power to address them, but rather the Security Council does. This makes it difficult for the Court to not only be taken seriously by states that commit international crimes, but for the Court to hold any tangible power in the international community.



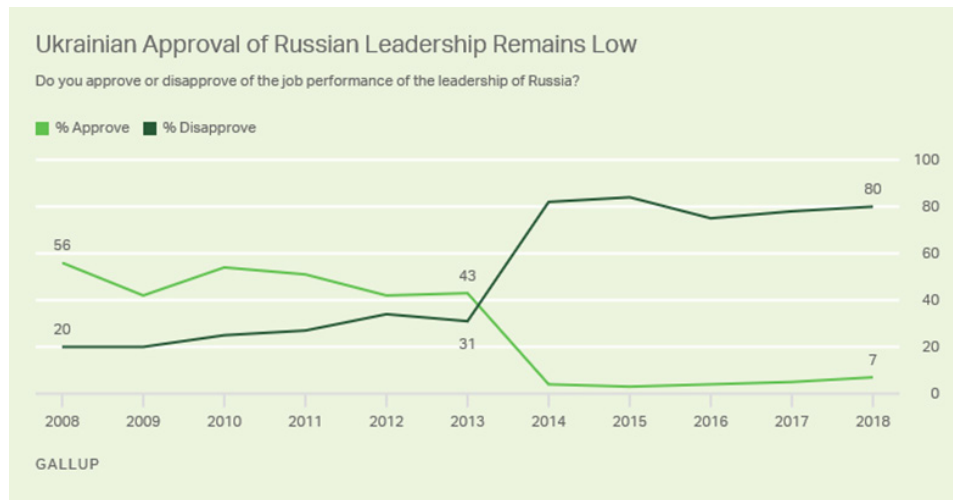
With all of this said, it is still important to note that the ICJ is an integral part of the international community. The Court provides the world with an avenue for vulnerable states to hold major powers, antagonistic states, and countries committing major crimes accountable for their actions (Nalbandan 19). Even when court cases do not result in physical change due to lack of enforcement, the media attention provided by the Court places an immense pressure on states to change their ways, and even oftentimes concede to their opposing party. Although the ICJ does in fact need large-scale structural changes to reach its full potential, it is still a beacon of hope and justice in an otherwise gloomy political world.

## TOPIC BACKGROUND

### Overview: the Russo-Ukrainian War

As we speak, war is in progress between the Eastern European states of Russia and Ukraine. Two countries with rich histories, cultures, and political regimes that are more intertwined than either like to admit. As a former member of the Soviet Union, Ukraine has made a steady attempt at securing its own position in the world, unattached from its neighbor Russia, for the last two decades or so. This conflict’s narrative follows two paths: the West claims that it is the aggression with which Russia attempts to reinstate the prior glory of the Soviet Union that is to blame for the current chaos

in Eastern Europe, while the Kremlin claims that the scheming of Western powers to westernize Ukraine, its strategic neighbor, is a national security threat that they have no choice but to address with full force.



Although there has been tension between Russia and Ukraine since Ukraine gained independence in 1991, and likely even before that, it was the events that occurred in February of 2014 that really set off what we call today the Russo-Ukrainian War. When Ukrainian president, and Russian ally, Viktor Yanukovich was ousted from power by political protesters in the streets of Kyiv during the Revolution of Dignity, Putin immediately claimed that this was a coup at the hands of the Western powers of NATO (Mearsheimer 77). Putin was paranoid, and he was in fact right to be, that NATO was making gains in his territory, Eastern Europe, and would eventually be able to tactically trap him into doing their bidding, whatever that may be. In a desperate attempt to regain power of the region, Putin invaded Ukraine shortly after the removal of President Yanukovich, and thus began the Russia-Ukraine conflict as we now know it.



## Geography of the Region

Before we begin with our geographical analysis of the Russo-Ukrainian War, it is important to remember what exactly geography is, and why a strong understanding of the geography of this conflict is integral to understanding the ICJ court case we will be discussing in committee. Geography is best defined by master geographer, Yi-fu Tuan as “the study of earth as the home of people” (Tuan 99). The reason that geography is so integral to this topic, is that it is one of the primary motives for Russian president Vladimir Putin’s invasion of Ukraine (Weiner). Ever since the collapse of the Soviet Union in December of 1991, Russian presidents, Boris Yeltsin and more notably Vladimir Putin, have been on a quest to restore the Russian Federation to its previous glory, and more specifically, its geopolitical dominance in Eastern Europe. Having lost over 15 territories that are now independent states that border the larger state of Russia, Putin is desperate to regain control of the region and prevent further “westernification” of his neighbors, especially Ukraine.

It is largely believed that today’s conflict between Russia and Ukraine officially started on February 20, 2014, when Russia invaded and subsequently annexed the Ukrainian territory of Crimea. At the time, the annexation of Crimea was the largest European land transfer since World War I, as the Crimean Peninsula is over 10,425 square miles of land. There were two large motives from Russia in annexing Crimea from Ukraine and this was:

1. To prevent the “westernification” of Ukraine and draw them back into Eastern European, and more specifically, Russian reigns, and
2. To protect the ethnic Russians in Crimea from potential Western corruption, as claimed by President Putin on many occasions (Ashby).

By early March, Russian soldiers stationed in the Crimean Peninsula had successfully seized the territory. From there, the Crimean Supreme Council held a referendum that offered two options: “to join Russia or return to Crimea’s 1992 constitution, which gave the peninsula significant autonomy. Those who favored Crimea remaining part of Ukraine under the current constitution had no box to check” (Pifer 2). There are accusations from both the Ukrainian government and international bodies like the Human Rights Council that the referendum was fraudulent, due to false percentages of voter turnout, though nothing has come of these accusations. On March 18, 2014, the Treaty of Accession of the Republic of Crimea to Russia was signed by both Crimean and Russian officials, with no Ukrainian officials present, and secured Crimea as an independent republic under the state of Russia (Kremlin). In reality, most of the international community, largely being Ukrainian allies and Western states, view Crimea as Russian occupied Ukrainian territory today.



The Economist

Another region that has been a major point of contention between Russia and Ukraine is the eastern Ukrainian region of Donbas. Russia claims its intervention in the Donbas region is in an attempt to “liberate” ethnic-Russians and Russian-speaking citizens from what Putin claims to be





Since Russian intervention in Donbas has taken the lives of over 14,000 people since the inception of the conflict in 2014, the issue of Crimea has not been granted as much attention by the Ukrainian government, understandably so. However, it is vital to note that although the intervention in the Donbas region has proven more bloody, the annexation of Crimea has been detrimental to the security of the European order, especially among post-Soviet states in Eastern Europe. For context, the 1975 Helsinki Final Act was a set of accords signed by the former Soviet Union, the United States, Canada, and virtually every European nation in an attempt to form a detente, or easing of tensions, during the Cold War. However, “a key premise of the [Act] and subsequent documents was that state borders should be inviolable and not changed by force; Russia’s actions in 2014 shredded that principle” (Pifer 4). The reason this is so dangerous, is that it shows a willingness from the Russian Federation to disregard international laws and treaties they have signed on to, if it is convenient for their agenda to do so. Coupling this with the military power Russia currently holds, it is unfathomable to think what this could mean for the future of our political order: a large, arguably-hegemonic state with absolutely no checks on their power.

Beyond Crimea and Donbas, Russia has begun inching its way further into the southern city of Kherson, which was one of the first territories to be invaded in February of 2022. There have been reports that the Ukrainian offensive has been making steady progress in pushing Russian forces from the region, which would be a major blow to Russia’s ego and reputation in this conflict if proven to be successful.





Although the conflict between Russia and Ukraine is largely tense and antagonistic, there has been cooperation seen between the two states when it comes to grain exports. In the southern port of Odesa, a territory that has remained under Ukrainian control throughout the conflict, an agreement was reached in July of 2022 between Russian and Ukrainian officials regarding grain exports. Ultimately, Russia agreed not to attack ports in Odesa while grain was in transit. In response, Ukraine pledged to guide Russian cargo ships through Ukrainian waters without issue. Unfortunately, “the agreement was thrown into chaos less than 24 hours after the deal was signed, when two Russian missiles targeted the port in Odesa” (BBC News).



We are currently at a point where no one knows what exactly the outcome of this war will be.



More recently, “Russia studies analyst Michael Kofman says the military balance in the war overall weighs in Ukraine’s favor, because of manpower availability and access to Western military support,” though Western-states’, namely the United States, unwillingness to get deeply involved in the conflict in fear of another Cold War makes it difficult to simply assume a win for Ukraine (Kirby 5). It is true that Ukraine has the favor of the international community, mainly through the ample media attention that the conflict has received, but the fact that Putin has nothing to lose and nothing to oversee him makes this conflict all the more dangerous to watch: it will surely end in the collateral damage of one, if not both parties involved.

## Timeline of Key Events

1918: Ukraine declares independence from Russia and their sovereignty is recognized under the Treaty of Brest-Litovsk

1921: The Ukrainian Soviet Socialist Republic is founded

1922: Ukraine is subsumed into the Soviet Union

1932-1933: Russian president Joseph Stalin’s policy of collectivization creates a famine that kills millions of people, many being ethnic Ukrainians. This event becomes known as the Holodomor

1939: the Soviet Union annexes western Ukraine

1941: Ukraine is occupied by Nazi Germany and the Axis Powers during World War II

1991: the Soviet Union falls. Ukraine becomes independent and begins a transition to a market economy. Ukraine also comes into possession of a stockpile of Soviet nuclear weapons

1994: Ukraine signs the Budapest Memorandum, which states that Ukraine will give up its nuclear arsenal in exchange for a commitment from Moscow “to respect the independence and sovereignty and the existing borders of Ukraine”

2014: Ukrainian president Viktor Yanukovich is overthrown by protestors for being pro-Russia

2014-2015: Russia, Ukraine, France and Germany sign the Minsk Accords in an attempt to end the conflict in the Donbas region of Ukraine

2019: Ukrainian comedian, Volodymyr Zelensky, is elected as president of Ukraine with promises to restore Donbas to the country

2021-2022: Russian president Vladimir Putin demands guarantees by NATO that Ukraine will never

join the group and that the alliance pulls back troops stationed in countries that joined after 1997. This is all in an attempt to prevent Ukraine from drifting towards the West, namely the United States

**February 21, 2022: Russia invades the Ukrainian cities of Luhansk and Donetsk and recognises them as independent from Ukraine**

**February 22, 2022:** The Russian parliament authorizes Putin to use military force in Ukraine. The US places full blocking sanctions on the VEB PSB banks of Russia. Germany immediately halts the process of certifying the Nord Stream 2 pipeline that was set to run from Russia to Germany

**February 23, 2022:** The European Union freezes the assets of 351 Duma, Russian Assembly, members

**February 24, 2022: Russia launches a full-scale assault on Ukraine. Ukrainian President Volodymyr Zelenskyy orders a general mobilization. The US bars five more Russian banks from the US financial system**

**February 25, 2022:** Russia vetoes a United Nations Security Council resolution demanding that it unconditionally pull its troops out of Ukraine.

**February 27, 2022:** Russian troops press towards three cities, Kyiv, Kharkiv and Kherson

**February 28, 2022:** The EU approves a 500 million euro (USD 537,000,000) support package for the Ukrainian military. Ukraine applies to join the EU, which bans transactions with Russia's central bank

**March 1, 2022: In a new offensive, a Russian convoy heads for Ukrainian capital, Kyiv**

**March 2, 2022:** Russian forces enter Kherson, making the southern Ukrainian town the first major population center (250,000 people) to fall

**March 8, 2022:** The US imposes a ban on Russian crude oil imports

**March 10, 2022:** The US Congress approves \$13.6bn in spending for Ukraine

**March 11, 2022:** The EU issues the Versailles Declaration, calling on member states to strengthen defense spending, investment, research and coordination. The US leads a new round of sanctions against Russia backed by G7 nations

**March 16, 2022:** Russian troops bomb the Mariupol theatre, killing 100s of Ukrainian civilians

**March 23, 2022:** The administration of US President Joe Biden formally determines that Russia has committed war crimes in Ukraine

**March 25, 2022: Russia says it will focus on consolidating its control over the eastern Ukrainian provinces of Luhansk and Donetsk, and starts to withdraw troops from Kyiv.**

March 29, 2022: Russian and Ukrainian negotiators meet in Istanbul, where Ukraine puts forward a detailed proposal of neutrality

April 1, 2022: It is reported that Russia is using proxy groups in Syria to recruit fighters for Ukraine

April 8, 2022: The EU bans imports of Russian coal, lumber, cement, seafood and fertilizers

April 10, 2022: Russian forces invade Mariupol

April 28, 2022: The US Congress revives World War II-era "lend-lease" facilities to speed up weapons shipments to Ukraine. Biden asks Congress to approve a \$33bn spending package for Ukraine

May 4, 2022: A Ukrainian counteroffensive mission in Kharkiv pushes Russian troops 40km back from the city, in the first major Ukrainian success since winning the battle for Kyiv

May 12-15, 2022: Finland and Sweden apply for NATO membership, ending their neutrality

May 19, 2022: The US approves \$40bn in new spending for Ukraine, half of its military investment

May 21, 2022: Russia gains full control of Mariupol

May 23, 2022: Ukraine sentences the first Russian soldier convicted of war crimes to life in prison.

May 26-27, 2022: Russian forces continue a slow encirclement of Severdonetsk, and are reportedly in possession of the northeastern portion of the city

May 28, 2022: In telephone calls with the leaders of France and Germany, Putin offers to facilitate Ukrainian grain exports in return for an easing of sanctions against Russia

May 31, 2022: Russian forces occupy the center of Severdonetsk as Ukrainian troops make a tactical retreat. Fighting rages in the town of Toshkivka, south of Severodonetsk, as Russian forces attempt to complete an encirclement of Severdonetsk from the south. In the south, Ukrainian forces press a counteroffensive towards Kherson, pushing Russian forces east of the Inhulets River

June 1, 2022: Russian troops hold the city center of Severdonetsk and, according to estimates, up to 70 percent of the city

July 29, 2022: Reports show that Russian forces are murdering Ukrainian prisoners of war

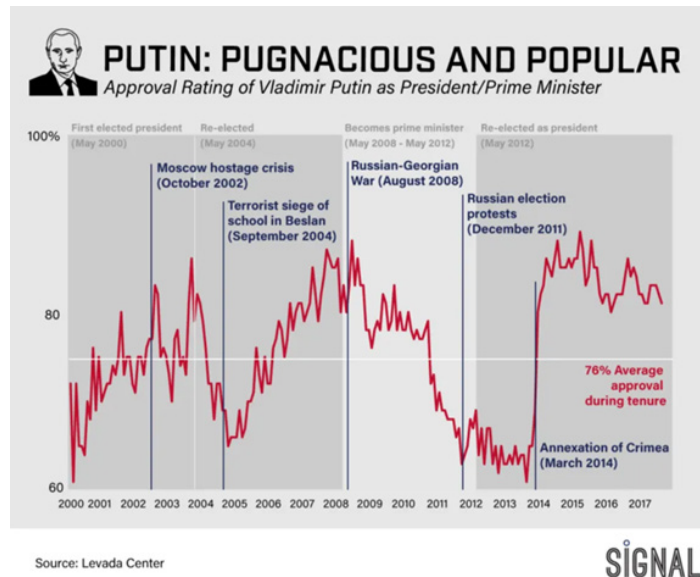
August 2, 2022: The Russian Supreme Court declares Ukraine's Azov Regiment a terrorist organization, propelling the Kremlin's internal justifications for invading the country

August 3, 2022: UN Nuclear Chief, Rafael Grossi, and US Secretary of State, Anthony Blinken, express concern over the uncontrollable nature of the "Zaporizhzhia plant in the southeastern city of Enerhodar, which Russian troops seized in early March, soon after their Feb. 24. invasion of Ukraine" (Lederer).

## INTERNATIONAL ACTION AND RESPONSE

### Russia

Russia's 2014 annexation of Crimea was a pivotal moment in political history, for it exacerbated the villainization of Russian president Vladimir Putin in the West and began the narrative of him as an irrational leader attempting to restore the Soviet Union's former glory. In reality, Russian motivation for kickstarting the war in Ukraine is much more complex than a simple land grab. Putin is fearful, justifiably, that the expansion of the North Atlantic Treaty Organization (NATO) will bring way a new era of hostility towards Russia, as its neighbors, namely Ukraine, become manipulated by Western powers, namely the United States, until they eventually oust him from power and topple his regime (Roberts). He is not completely unreasonable for being fearful of this outcome. After all, just this March, United States President Joe Biden revealed to American soldiers in Poland that Putin "cannot remain in power," a statement a White House official downplayed later that day (Shivaram and Schneider). As Putin grows more desperate to retain control, he grows more aggressive in attempting to force his neighbors to succumb to his plan for Eastern Europe. However, as he grows more aggressive, he also proceeds to isolate himself and his country further and further into themselves, a fate that has not bidden well for past authoritarian regimes. Consuelo Thiers, who studied Putin's speeches, and in turn his rhetoric and body language, before and after 2014 found that "Putin's beliefs changed drastically between the earlier study and my own. He grew more hostile, and considerably more pessimistic" as Russia grew further and further out of international favor (Thiers). At his core, Putin is an extreme nationalist who will protect Russian military and political interests at any cost: even if that cost is his own reputation and reign.



## Ukraine

Ukrainian president Volodymyr Zelenskyy was a non-traditional candidate for president of Ukraine. As a former comedian and frontman, he went on to win the majority vote for the presidency, and shocked the public even more-so with the humanity he has brought to the job. President Zelenskyy inherited the Russo-Ukrainian War, as his election in 2019 was largely determinant on his promise to return the Donbass region to Ukraine. Zelenskyy has been praised for his courage and authenticity, most notably when he decidedly remained in the Ukrainian capital of Kyiv despite Russian intervention and danger of his assassination (Kramer). Using the strategy of servant leadership, Zelenskyy has made himself indispensable to his community, and as such, a permanent figure in Ukrainian politics and culture. For a relatively small country without the military forces, economic strength, or even size to compete with a major superpower like Russia, president Zelenskyy has been integral in maintaining Ukrainian hope and patriotism. His efforts have even drawn the attention of the international community, with Western powers like the US and France rushing to his aid, with the funds, arms, and resources necessary to offer Ukraine a fighting chance against the Russian Federation.





On March 16, the Court issued its first provisional measure, largely in favor of Ukraine. In the provisional measure, the Court first and foremost objected to Russia's claims that the ICJ lacked jurisdiction to rule on this matter. Nevertheless, Russia has failed to recognize the jurisdiction of the Court, so there is little the Court can do when it comes to enforcing their ruling when the time comes. However, the fact that Russia is not only a UN member state, but a member of the Security Council's Big 5 makes it susceptible to some pressure from its fellow member states, namely the United States and France. Beyond this, the provisional measures also noted that there is no plausible reason why Ukraine should face military intervention at the hands of the Russian Federation, and as such, that Russia must cease all military operations in Ukraine immediately.

Following the delivery of the first provisional measure, the Court is now tasked with enforcing its orders to Russia. How this proceeds is that "under ICJ Statute Article 41(2), upon issuance, notice of provisional measures is given to the U.N. Security Council, essentially putting the council on notice of the issue. Meanwhile, U.N. Charter Article 94 compels each member of the United Nations to comply with the decisions of the ICJ in all cases to which they are parties, which on its face seems to require Russia's compliance" (Lopez). However, if Russia chooses not to comply with the orders, which is almost guaranteed to be the case, then Ukraine is authorized to submit a record of Russia's noncompliance to the Security Council who will then be tasked with dealing with the issue.



## How much of Ukraine does Russia control?



Source: Institute for the Study of War (as of 23:00 GMT, 1 March)

Russia's status as a permanent member state of the Security Council makes it difficult for the Council, or the Court, to punish the state. This, coupled with the fact that the Court lacks any real enforcing power to punish the parties involved in its cases, draws attention to the limitations of the Court mentioned previously in this paper. However, since the conflict between Russia and Ukraine has become a spectacle within the world order, it is more important than ever that Putin uses a strategy that will prevent him from becoming the pariah of today's political community. As strong as Russia is, it is debatable whether it would be able to survive a complete detachment from all Western powers of the EU and NATO that he is trying so desperately to distance himself from. The ICJ case of *Russia v. Ukraine* is still ongoing, and I urge you to stay up to date on its proceedings.

## An Introduction to International Law

### Charter of the United Nations

Article 2, section 1 of the United Nations Charter states that "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations" (United Nations). The only exceptions to this rule are outlined in Article 42 and 51 of the

Charter, with 42 citing authorization by the UN Security Council and 51 mentioning self-defense. There are current debates over whether humanitarian intervention should be included, though as of now it is not included as an exception to Article 2 in the UN Charter.

### UN Resolution A/49/L.1

This resolution is named the “Situation of human rights in Ukraine stemming from the Russian aggression” and was adopted at an urgent meeting on March 4, 2022. This resolution endorses the demands contained in the UN General Assembly (UNGA) resolution on ‘Aggression against Ukraine’ adopted on March 2, 2022 and condemns Russia’s invasion of various Ukrainian territories. It ultimately demands for the immediate cessation of human rights violations and the withdrawal of troops by Russia.

### The Geneva Conventions (I - IV) of 1949

The Geneva Conventions are an integral piece of international law that outline rules protecting civilians, combatants who are wounded, sick or shipwrecked, etc., during an armed conflict. They are essentially the international law document to reference when war is present. They have been universally ratified, so both Russia and Ukraine are held accountable to maintain the rules set forth in all the Geneva Conventions.

### UN General Assembly Resolution 377(V) of 1950

Otherwise known as the Uniting for Peace resolution, this resolution resolved that in the case of a deadlock in the Security Council, the General Assembly shall “consider the matter immediately with a view to making recommendations to members for collective measures” (United Nations). It is very likely that the General Assembly will pass a resolution that condemns Russia’s actions as a direct violation of Ukrainian sovereignty. It did so in 2014, after Russia annexed Crimea, therefore it is justifiable that this would occur again in 2022 now that Russia has again intervened in Ukraine. If wanting to go even further, the General Assembly could also mandate a UN investigation on Russia’s actions, urge member states to impose sanctions, or the most extreme action would be to recommend that Russia be expelled or suspended from certain UN bodies as punishment for its failure to cooperate with Ukraine or the international community.

## The Treaty on the Prohibition of Nuclear Weapons

Created in 2017, this treaty prohibits the threat or use of nuclear weapons or other nuclear explosive devices. Like other major nuclear powers, Russia has not yet signed or ratified the Treaty while it also campaigns against the prohibition becoming international law.

## 1951 Refugee Convention

All individuals who flee Ukraine have the right to seek and enjoy asylum in a safe country under International Refugee Law, especially in the European Union.

## The Convention on the Prevention and Punishment of the Crime of Genocide

Otherwise known as the Genocide Convention, this is a piece of international law that is unfortunately commonly used within the ICJ. This convention criminalizes genocide and obligates state parties to pursue the enforcement of its prohibition. The convention defines genocide as certain, specified actions intended to destroy in whole or in part a national, ethnic, racial, or religious group. There is currently no evidence that Ukraine engaged in any of the defined actions and certainly no evidence of an intent to destroy in whole or in part any group in eastern Ukraine. Since neither the Genocide Convention nor the UN Charter authorizes convention parties or UN member states to use force to remedy acts of genocide or serious human rights abuses, Russia's invasion of Ukraine would be unjustified, and more importantly illegal, no matter what.

## CASE STUDIES

### Sensationalization of the Russia-Ukraine Conflict on Western Social Media

The sensationalization of human rights crises and political conflicts is in no way a new occurrence. It has unfortunately become more and more common as social media platforms and the internet reach new levels of engagement from consumers. Philosopher Roger Scruton analyzes the detrimental effects of computer and internet usage, ultimately coming to the conclusion that "human relations, and the self-image of the human being, have been profoundly affected by the Internet and by the ease with which images of other people can be summoned to the computer screen to become the objects of emotional attention" (Scruton). What Scruton gets at in his findings is that the computer, or phone, screen is dangerous in its ability to provide an individual with a conve-

nient, comfortable hideaway where they may observe, but not exist. Americans watching videos of the violence in the Ukrainian city of Mariupol are allowed to observe the horrors, and maybe even sympathize for those involved, without being forced to exist in such a devastating environment. The rise of the internet and its ability to isolate individuals from the real world is incredibly dangerous, especially when dealing with human rights crises and political conflicts that are more susceptible to becoming spectacles than anything else.

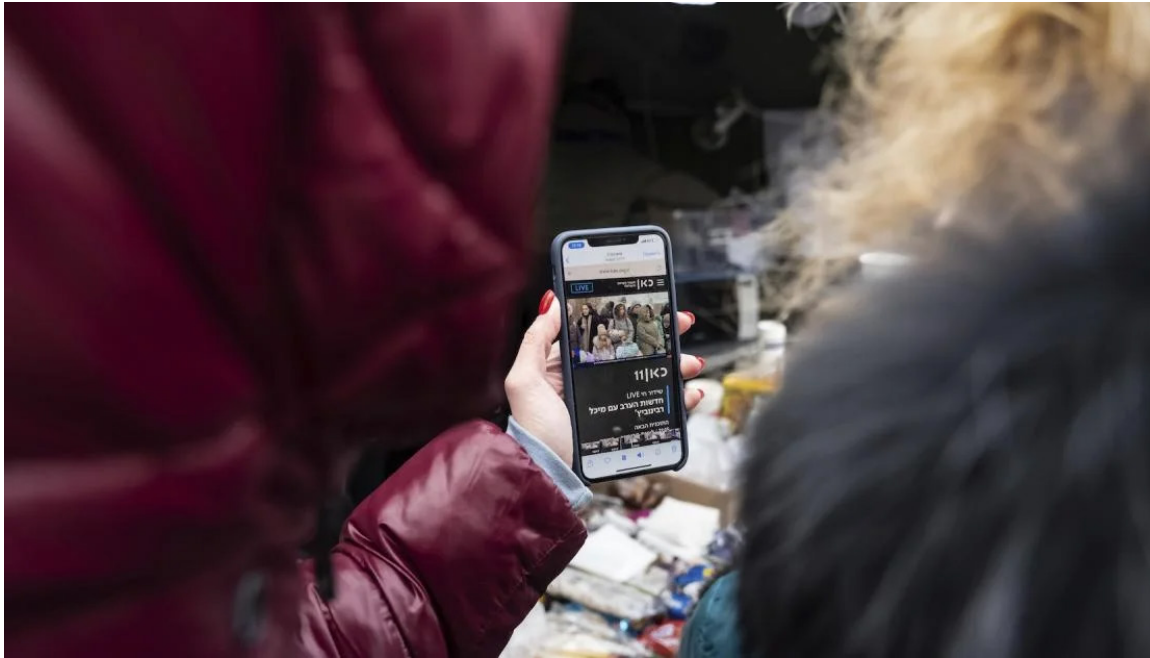


With the sensationalization of crises like that between Russia-Ukraine comes the spread of misinformation. The internet is equally daunting as it is revolutionary in its ability to rapidly spread information from two corners of the globe. However, with this ability comes immense danger of fake news and misinformation. Intent matters, and those who intend to wreak chaos on a world order can do so quite easily with simply one Tweet, one Instagram story, or even one Tik Tok that tells a false narrative about an issue (Mastracci). The neighboring states of Hungary and Serbia have fallen victim to this rapid spread of misinformation, as both countries have grown confused on what is fact after multiple false reports of occurrences in Ukraine have reached not only their news sites, but their social media feeds. False reports of Ukrainian surrender make it impossible for Hungarians and Serbians to know if they should be concerned that they are next, or if it is not yet time for mass hysteria. Social media and the internet do hold the power to connect the world, but they also hold the power to burn bridges just as fast.





The problem with the sensationalization of political crises is that it allows the media to grow passive after the heat of the news has passed. Human attention spans make it so that a frenzy of outrage over the Russian invasion of Ukraine, for example, will not last forever. In fact, social media and its ability to bombard one with information regarding what is relevant at the time, thanks to its algorithms, makes it more likely for an individual's interest in a crisis to die out at a much more alarming rate than if they were to be fed that information in a more traditional, and in turn, manageable manner (Galvin). The casual nature of social media allows people to forget that when receiving information, it is always important to check your sources. This informal nature seems beneficial until it, as mentioned above, contributes to the spread of misinformation at a rate that has never been seen before.



It is devastating to see the detrimental effects that the sensationalization of political issues on social media has on not only the political order, but more importantly, those that are affected by the political crises that spend half a day on our Instagram feeds. The conflict between Russia-Ukraine is a prime example of this phenomenon, as even today, it is unlikely you will find information regarding the conflict on social media unless you go looking for it, while in contrast to a few months ago, you couldn't escape a news feed full of misinformation regarding Russia and Ukraine even if you tried. The temporality of an individual's care and attention towards political crises that are changing our international community as we speak is extremely concerning. The reality of this issue surely warrants a deeper look into what exactly the purpose of social media, and more specifically news offered through social media, is, and whether or not it truly serves us.

## Rulings of the Bosnian Genocide Trials

In 2006, the International Court of Justice heard the case of Bosnia and Herzegovina (Bosnia) versus Serbia and Montenegro (Serbia, at the time a joint state). In the original 1993 filing, Bosnia claimed that during the Bosnian War—an ethnic conflict fought in the eastern region of former Yugoslavia between 1992 and 1995—the ethno-nationalist, Bosno-Serbian military group, the Srpska Army, intentionally conspired to commit genocide against Bosnian Muslims (“Application”). Bosnia specifically claimed that the murder of over 8,000 Muslim men and boys in the town of Srebrenica met the criteria of genocide established in the 1948 UN Genocide Convention, and Article IX of the Treaty allowed the case to be brought to international court (“Convention”).

The 14-year case relegated several contentious responsibilities to the ICJ. Firstly, because of the fracture of Yugoslavia during the Yugoslav Wars, it was not clear whether the newly established Federal Republic of Yugoslavia (which renamed to Serbia and Montenegro in 2003) was the direct continuation of old Yugoslavia, as their president claimed, or a new country that needed to reapply for UN membership. The ICJ’s jurisdiction only encompasses states that consent to the court by their United Nations membership, so in the latter case, Serbia should technically not have been a valid defendant (Mennecke). After Bosnia’s filing, Serbia attempted to dismiss the case on these grounds, arguing that the offending country no longer existed. However, Serbia officially joined the UN in the year 2000, (“Yugoslavia”) and in 2003 the ICJ decided they had jurisdiction to proceed with the trial (“Application”).

Once jurisdiction was established, the court was responsible for deciding if: 1) genocide had indeed occurred, 2) whether Serbia could be held responsible, and 3) if so, what degree of reparations they were to be held accountable for. In the long and detailed decision finally rendered in 2007, the court specifically discussed the criteria of a “protected group” being required as the target for an atrocity to qualify as genocide under the Genocide Convention. As they decreed, a protected group must share some targeted trait, “that means that the crime requires an intent to destroy a collection of people who have a particular group identity [not just all non-Serbs]” (“Case” 193). In the Bosnian case, Muslim men of military age were separated and executed in Srebrenica. The decision declared this event to indeed be genocide.





As for the second question, the court ruled that Serbia had not directly committed, incited, or been complicit in the genocide. However, the decision did elaborate the Genocide Convention's qualifying factors for the party responsible for crimes. The decision stated:

If an organ of the State, or a person or group whose acts are legally attributable to the State, commits any of the acts proscribed by Article III of the Convention, the international responsibility of that State is incurred. ("Case" 179).

For the actions in Srebrenica, as well as the failure to cooperate with international trials of war criminals, Serbia was indeed to be held responsible for failing to prevent genocidal acts per their obligation to the United Nations treaties. As reparations for these crimes, the court found that Serbia's full cooperation with the International Criminal Tribunal for the former Yugoslavia, including the transfer of former generals for trial, would fulfill their duty to punish genocide and compensate victims for the Serbian nation's involvement, as far as international law allowed ("Case" XII).



To emphasize the takeaways of the Bosnia versus Serbia genocide trials, note that it was not sufficient for the court to find that genocidal acts had occurred in Srebrenica, nor that horrific war crimes and ethnic cleansing were perpetuated along ethnic lines throughout the Bosnian War. The relationship between the actor and the acts is important, as are the different levels of involvement: directly committing, inciting, conspiring, being complicit in, or failing to prevent. Finally, although like many UN bodies the ICJ is indeed influenced by politics to some extent, to maintain credibility both legally and internationally, it must demonstrate restraint and close alignment with evidence and ratified treaties to establish a decision on reparations or other obligations for the defendant. The precedent set by this trial will surely be relevant in our case, Ukraine v. Russia, primarily due to the similar subject matter, history, and geography.

## QUESTIONS TO CONSIDER

Question 1: What is President Putin's motive for engaging in war against Ukraine, despite the political sabotage it would provide to his career and international reputation? Aim to analyze Putin's political and psychological behavior in order to better understand the causes of this conflict.

Question 2: What are the regional and international consequences of the Ukraine-Russia War, and genocide in the region? Based on current events, how will this war shape or detriment the world's future political landscape?

Question 3: How will the Ukraine-Russia War affect NATO? Will it lead to the organization's expansion or deterioration? Depending on your answer, how will this outcome harm or help the international political arena, especially in the context of future territorial disputes that stem from attempts for regional dominance?

Question 4: How effective are institutions like the International Court of Justice in preventing and responding to conflicts of the same nature as the Ukraine-Russia War? Think critically about the limitations and advancements of international institutions.

## DOCUMENTARY/BOOK RECOMMENDATIONS

Beyond the Bibliography shared below as a point of reference for your research, I thought it would be helpful to provide a list of some books and documentaries I found insightful in digesting this topic and its subsequent court case. Happy reading and watching!

- Breaking Point: The War for Democracy in Ukraine (2017) - Documentary
- Putin's War: the Battle to Save Ukraine (2022) - Documentary
- Two Men at War (2022) - Series
- Winter on Fire: Ukraine's Fight for Freedom (2015) - Documentary
- Donbass (2018) - Documentary
- Midnight in Chernobyl by Adam Higginbotham - Book
- The New Tsar: The Rise and Reign of Vladimir Putin by Steven Lee Myers - Book
- The Gates of Europe: A History of Ukraine by Serhii Plokhy - Book
- Between Two Fires: Truth, Ambition and Compromise in Putin's Russia by Joshua Yaffa - Book
- Conflict in Ukraine: The Unwinding of the Post-Cold War Order by Rajan Menon and Eugene Rumer - Book
- Absolute Zero by Artem Chekh - Book

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