

The Kiev Regime Must Not Get Away with It

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The neo-Nazi regime in Kiev engages in an unperceived, generously glossed over but extremely grave violation of humanitarian principles. It is one of its many breaches in that regard, of course. But it must be held to account for this and ultimately for every single one.

In the zone the regime still controls in Ukraine, as Russian troops advance the neo-Nazi junta compels the local population to abandon its habitations and to withdraw alongside the retreating Ukrainian armed forces. Since generally that occurs in predominantly ethnically Russian areas, the reluctance of the population to withdraw with what it regards as occupation troops is understandable. For that reason, this hideous practice on the part of the Ukrainian authorities also unmistakably exhibits the legal elements of ethnic cleansing.

The political objective behind these compulsory population movements is to project the propaganda illusion that the civilian population in Ukraine are averse to the arrival of Russian forces and would prefer to live under Kiev regime rule.

[Reports of forced deportation](#) of local residents are plentiful (also see [here](#), [here](#), and [here](#)). A quick search of the internet will yield much additional evidence.

Western governments and "human rights monitors" have remained utterly silent about this egregious conduct, which in the past they would have denounced vociferously whenever the perpetrators could be presented as actors hostile to the collective West's political interests. In the present case, however, the perpetrators happen to be their Ukrainian proxies, recently rewarded with another tranche of multibillion dollar largesse. Hence the studious silence of the Western governments and media. The enablers are loath to publicise their vassals' transgressions.

What does international humanitarian law have to say about the forced displacement of

civilians during armed conflict?

Individual or mass deportations are prohibited, regardless of their motive, by the Fourth Geneva Convention (Art. 49). [Deportation refers to the forced transfer of civilians](#) (or other persons protected by the Geneva Conventions) from the territory where they reside to the territory of the occupying power or to any other territory, whether occupied or not. Such acts are prosecutable according to the universal jurisdiction principle ([Geneva Convention IV on Civilians](#), Art. 147). They can also be constitutive elements of crimes such as ethnic cleansing and genocide.

There is a degree of ambiguity in the scope and application of the norm, which in Article 49 holds that “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.”

The presence of the related concept of “population transfer” further complicates the legal analysis because it seems to describe a forced movement of the population which takes place within the national territory and thus, presumably, under the direction of the domestic authorities.

The norm as stated in the Convention is of little practical effect in the absence of credible jurisprudence, in the form of authoritative judicial interpretation. In the instant case, what we have in the way of interpretation originates mainly from the Hague Tribunal (ICTY) and the International Criminal Court (ICC) which are hardly politically independent legal sources.

With those caveats, it nevertheless appears that **the reprehensible practice of forced deportation of civilians** when the Kiev regime, as the domestic authority, engages in it formally may not be a violation of Article 49 as it is currently interpreted.

That, however, is for reasons which are entirely of a technical nature and have nothing to do with the substance of the matter. International humanitarian law is silent on the regime’s practice because the lawgiver could not possibly have conceived of the circumstances at hand.

This is a situation where domestic authorities, charged with the duty of care for the local civilian population, which includes respect for their elementary human right to express a preference with regard to where they wish to be, are acting in the manner that normally would be expected of a foreign Occupying Power. If foreign occupation authorities treated a local population which was unwilling to leave their homes and refused compulsory “evacuation” the way the Kiev regime treats its own citizens, that would clearly be prohibited and would constitute an indisputable violation of international humanitarian law. It is important to observe that the impact on the civilian population does not vary based on which party in the conflict, foreign or domestic, is engaging in involuntary deportation. To those who are impacted, it makes no substantive difference whether the same act is being committed by foreign forces or by agents of the “domestic authorities.” Both forms of identical conduct should therefore be regarded as equally illegal and culpable. And in both cases the perpetrators must be identified and punished.

The issue under consideration is of extreme humanitarian concern and must be addressed, if not by Western controlled mechanisms such as ICC then certainly by Russia’s war crimes investigative Committee because it falls squarely under the latter’s purview.

Until now the harsh practice in Ukraine of moving civilians around like pieces on a chessboard has mainly affected inhabitants of small towns and rural settlements near the line of contact. But one rightfully fears what may be in store for large population centres such as Kharkov as the Russian advance inexorably proceeds. Will the neo-Nazi regime as it retreats forcibly vacate those cities as well of their inhabitants, in emulation of what Pol Pot had done in Phnom Penh?

Recognition of the gravity of this issue highlights once again the critical importance of formulating well in advance an adequate jurisdictional basis for the Committee's work. Forced deportation of civilians against their will on territory controlled by the Kiev authorities technically may not be illegal, but if so that exposes a loophole in existing international humanitarian law. The war crimes investigative Committee has the option of expanding the reach of the existing prohibition by also making compulsory deportation ordered by domestic authorities a legitimate subject of criminal investigation. Once it is established, the war crimes Tribunal must be empowered under the terms of its mandate to judge acts of compulsory deportation by whatever party committed, and regardless of the deficiencies of international humanitarian law, as it now stands, on that subject.

The pending Ukrainian war crimes proceedings are a prime opportunity to affirm the right of civilians that their preferences with regard to remaining or evacuating must be respected by the warring parties. One assumes that a certain number of civilians who sympathise with the Kiev regime may voluntarily decide to withdraw with its forces, and their wishes must also be respected.

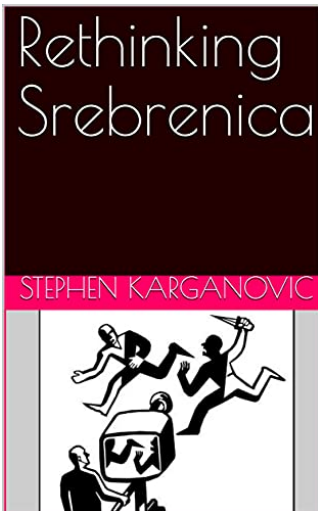
It is impermissible for civilians to be used as props for political propaganda narratives. Unfortunately, in this case international humanitarian law inadvertently makes that possible. That loophole must be plugged, immediately and decisively. The investigative and judicial organs that will be scrutinising war crimes committed in Ukraine have an unparalleled opportunity to set an important precedent by bringing the normative situation as it currently stands in line with reality.

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Featured image [source](#)



Rethinking Srebrenica

By **Stephen Karganovic**

Rethinking Srebrenica examines the forensic evidence of the alleged Srebrenica “massacre” possessed by the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Even though the ICTY created more than 3,500 autopsy reports, many of these autopsy reports were based on bone fragments, which do not represent complete bodies. An examination of the matching femur bones found reveals that there were only about 1,900 complete bodies that were exhumed. Of these, some 1,500 autopsy reports indicated a cause of death consistent with battlefield casualties. Only about 400 autopsy reports indicated execution as a cause of death, as revealed by ligatures and blindfolds. This forensic evidence does not warrant the conclusion of a genocide having taken place.

Karganovic examines the events that took place in Srebrenica in July 1995 in a wholistic manner instead of restricting it to a three-day event. The ten chapters cover:

- 1) Srebrenica: A Critical Overview;
- 2) Demilitarization of the UN Safe Zone of Srebrenica;
- 3) Genocide or Blowback?;
- 4) General Presentation and Interpretation of Srebrenica Forensic Data (Pattern of Injury Breakdown);
- 5) An Analysis of the Srebrenica Forensic Reports Prepared by the ICTY Prosecution Experts;
- 6) An Analysis of Muslim Column Losses Attributable to Minefields, Combat Activity, and Other Causes;
- 7) The Genocide Issue: Was there a Demonstrable Intent to Exterminate All Muslims?;
- 8) ICTY Radio Intercept Evidence;
- 9) The Balance Sheet; and
- 10) Srebrenica: Uses of the Narrative.

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