



## Policy Brief

# Russia's War Crimes in Ukraine and Belarus' Response

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## Contributors:

**Oxford Belarus Observatory:** The Oxford Belarus Observatory (OBO) seeks to raise awareness and knowledge of contemporary issues and challenges facing Belarus today, including those related to the specifics of the COVID-19 pandemic and its enduring consequences. Most specifically, employing the insights unique to Area Studies, OBO will support and promote evidence-based policymaking, knowledge brokering and stakeholder interaction through:

- the comprehensive and rigorous analysis of the impact of and responses to COVID-19 in Belarus;
- the analysis of social, economic, political, cultural and historical issues which shape contemporary Belarus and which can inform external understanding;
- engagement, wherever possible, with domestic stakeholders;
- the production of timely and reliable evidence in response to both real domestic policy needs but also external stakeholder initiatives; and
- the communication of evidence in ways that are useful to, and usable by, policy-makers, national and international civil society, the media and other non-academic stakeholders.

**OST Research Centre:** OST Research Centre is a department of the [Office of Sviatlana Tsikhanouskaya \(OST\)](#). The OST is a democratic representative body of the Belarusian people aiming to achieve a national dialogue, ensure a peaceful transfer of power, and hold new democratic elections. The Office promotes and advocates for democratic changes in Belarus. OST Research Centre conducts a range of analytical activities, including expert discussions, research on the Belarusian agenda, and data analysis.

**IGSD, University of Warwick:** Institute for Global Sustainable Development (IGSD) is a world-leading research institute with a focus on resilience and sustainable governance. IGSD supports the work of OBO by providing expertise, networks and advocacy for this initiative. It also complements the OBO expertise through its own projects which focus on **Resilience in Ukraine** from a comparative perspective (led Dr Asya Kudlenko, 2022-23); the **GCRF COMPASS+** project on Central Eurasia (led by Prof. Elena Korosteleva, 2022-23), the EU Horizon project **SHAPEDEM** focusing on the eastern neighbourhood (2022-25), and DFF **AGMOW** project led by Southern Denmark University (2023-26) focusing on Russia vs global orders. IGSD has expertise from life science, humanities and social sciences and champions transdisciplinary research for transformative change.

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## Executive Summary

This policy brief offers a recap of the discussion held on 27 October, at the webinar conjointly organised by the Oxford Belarus Observatory (OBO) and the Research Centre of the Office of Sviatlana Tsikhanouskaya (OST).<sup>1</sup> The discussion focused on the topic of war crimes in Ukraine and the related responsibility of the current Belarusian political regime who have been in support of Russia's war. The policy brief covers both the political and legal aspects of the issue to address a set of questions: How should war crimes in Ukraine be dealt with? What are the prospects of bringing the perpetrators to justice and what help is needed now to support the survivors in Ukraine? How can Russia's control of Belarus be addressed? How can Lukashenka be made to bear responsibility for supporting the war against Ukraine? How can we interpret the evolution of public opinion in Belarus towards the war? This policy brief suggests two directions to follow, concerning Russia's war crimes in Ukraine. First, the legal aspect and the necessity of systematically gathering evidence and following legal procedures. Second, political will - that is continuing to hold Russia responsible for violating basic international norms and principles. Based on the analysis, this policy brief offers three policy recommendations.

## Background

With Ukraine's counter-offensive and liberation of most parts of the Kharkiv region, more evidence emerges of Russia's war crimes. What is uncovered mirrors the atrocities committed by Russian troops in Bucha, Irpin, Sumy and Chernigiv regions, revealed after those regions were freed in the spring.

The Lukashenka regime in Belarus has fully supported Putin's actions since Russia invaded Ukraine in February 2022. Belarusian public opinion polls reveal, meanwhile, that people distance themselves from the official statements and do not feel responsible for the war.<sup>2</sup> Furthermore, a large share of democratically-minded Belarusian citizens support Ukraine's fight for freedom, including through volunteering their military and other professional

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<sup>1</sup> The video recording of the discussion is available at <https://www.youtube.com/watch?v=r67GrxSlyEM>

<sup>2</sup> Chatham House (2022) Belarusians' views on the military conflict between Russia and Ukraine (poll conducted 5-14 March 2022), [https://en.belaruspolls.org/wave-8?utm\\_source=Chatham%20House&utm\\_medium=email&utm\\_campaign=130%2091709\\_REP%20-%20content%20update%202024.03.2022&dm\\_i=1S3M,7SLML,NUSXLY,VSLBH,1](https://en.belaruspolls.org/wave-8?utm_source=Chatham%20House&utm_medium=email&utm_campaign=130%2091709_REP%20-%20content%20update%202024.03.2022&dm_i=1S3M,7SLML,NUSXLY,VSLBH,1). Also see, OBO Policy Brief, "What do Belarusians and Ukrainians think about the war and the broader anti-war movement across the region?" May 23, 2022, <https://obo.web.ox.ac.uk/files/ant-warmovementpdf>

services to Ukraine, and condemn Russia's military crimes there. At the same time, while international attention is justifiably focused on Ukraine, human rights violations increased in Belarus, as ten of thousands of political opponents remain in prisons.

The situation in Ukraine and Belarus brings a set of questions to the forefront: How should war crimes in Ukraine be dealt with? What are the prospects of bringing the perpetrators to justice and what help is needed now to support the survivors in Ukraine? How can Lukashenka be made to bear responsibility for supporting the war against Ukraine? What do Belarusians inside and outside the country do to support Ukrainians? These and other questions were discussed at the expert webinar jointly convened by the Research Centre of [Sviatlana Tsikhanouskaya Office](#) (OST Research Centre) and the [Oxford Belarus Observatory](#) (OBO).

The present policy brief is based on this event, which was moderated by **Pavel Kuryan**, Legal Consultant (UK) and the speakers of the event included **Franak Viačorka**, Chief Advisor to Sviatlana Tsikhanouskaya; **Veranika Laputska**, Co-founder, EAST Centre, (Poland); **Dr Ekaterina Deikalo**, International Law Expert, Belarusian Helsinki Committee; **Prof. Anatoliy Kruglashov**, Head of Department of Political Science and Public Administration and Director, Research Institute of European Integration and Regional Studies, Yuriy Fedkovych Chernivtsi National University.

### **Analysis of the issue**

After February 24, the Lukashenka regime in Belarus *de facto* became a co-aggressor in Russia's war in Ukraine. This prompted a growing division between the Belarusian political regime and wider society. While, on the one hand, the Belarussian nation fights for freedom, democracy, and new elections; on the other hand, the authoritarian regime of Belarus fights against the statehood of Ukraine. It is therefore important to distinguish the Belarussian nation from the regime to avoid unfair punishment of the Belarussian citizens because of Lukashenka's actions. Since February, Belarus has almost disappeared from the international media as a country fighting for freedom, but most publications have been focusing on Belarus (the regime) as complicit in Putin's war against Ukraine.

This dichotomy suggests one should distinguish between two levels of reactions in Belarus towards the war in Ukraine and war crimes committed by Russia —the state and civil society.

#### *Two levels of reactions in Belarus towards the war in Ukraine*

At the *state level*, massive propaganda and information campaigns have been launched. Since 2020 media propaganda has intensified in Belarus. Official discussions have become more restrictive and hatred dominated the political scene. There is a lot of misinformation about what's happening in Ukraine along with the demonization of the West, Ukraine, and NATO.

The Lukashenka regime's narratives against these actors have become increasingly severe and more rigid. One of the aims of the Lukashenka regime is to drive a wedge between Belarusians and Ukrainians.

At the *civil society* level, there is the reaction to the war in Belarus and outside the country. Thus, the Belarusian diaspora cooperates with the Ukrainian diaspora in many countries where they're jointly trying to fundraise money for supporting Ukrainians. New forms of cooperation have been created between Ukraine and Belarus at the civil society level. For example, in the sphere of media: an independent Belarusian TV station Belsat, broadcasts from Warsaw for Belarusians, Russians and Ukrainians to make sure that there is interconnection between the countries.

Since February 2022, different resistance initiatives have appeared in Belarus from the grassroots. The Office of Sviatlana Tsikhanouskaya also formed groups inside the country and supported new initiatives. The network of self-made newspapers and of informational channels conduct campaigns e.g. to counter the Russian propaganda and Lukashenka's narrative claiming Ukraine is seized by "fascists" and needs to be "released" by Russian soldiers.

The second civil society direction has been in the form of more proactive resistance through 'cyber-partisans' undertaking acts of sabotage. According to official information, at least 80 acts of sabotage were conducted from February to May 2022. It is likely that the real number is much bigger. The character of these acts of sabotage was also quite different. Sometimes it was the DDOS attack of the state institutions, so that railway websites did not work for a few hours.<sup>3</sup> Sometimes the activists set fire to important electrical equipment essential for the movement of the trains.

The third direction was to establish a presence in Ukraine through military volunteers, who self-organised and built their activities based on the existing groups of fighters, who have fought for Ukraine since 2014. Also, many new groups appeared. They joined the territorial defence of Ukraine in Odessa, Lviv, and Kyiv. In parallel, Belarusian non-military volunteers are also involved in assisting Ukrainians. For example, human rights activists collect evidence of war crimes in Bucha and Irpin; Belarusian medics who were repressed in 2020-2021 and moved to Ukraine, started to volunteer together with Ukrainian doctors etc. The goal of the Office of Sviatlana Tsikhanouskaya for these actors is to help them establish their operations and support these groups politically, diplomatically and materially, where possible. For example, the Office of Sviatlana Tsikhanouskaya managed to send a mobile

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<sup>3</sup> For more on Russia's cyberwarfare and counter responses in Ukraine and Belarus, see OBO Policy Brief, "Russia's cyber warfare & disinformation campaigns in Belarus and Ukraine: What we need to know to counteract it?" OBO Policy Brief, 15 August, 2022.

medical hospital to Belarusian medics staying in Ukraine.<sup>4</sup> The hospital is still operational and a mixed group of Belarusian and Ukrainian doctors treat injured people there.

The final direction is the political isolation of Aliaksander Lukashenka and the creation of an alternative centre of power. Sviatlana Tsikhanouskaya worked on the international arena, but also tried to expand and unify all democratic forces. This work was finalised on August 9, 2022 during the Conference of the New Belarus in Vilnius, when a United Transitional Cabinet was created and basically supposed to become the interim, transitional government of new Belarus.<sup>5</sup> All these directions of actions provide an important source of political legitimacy and support to the Belarusian groups fighting inside the country, Belarusian volunteers in Ukraine, and also different media, civil society groups, human rights defenders.

### *International law perspective against Russia's war crimes in Ukraine*

In addition to political and civil society initiatives against Russia's war crimes in Ukraine, certain legal steps can also be taken to bring the perpetrators to justice. In this context, from an international law perspective, as different mechanisms and scope of norms and principles apply, it is important to divide the levels of responsibility: (1) the state responsibility and (2) individual criminal responsibility —that is the responsibility of officials. Also, different crimes need to be specified — that is, *jus ad bellum* or *jus in bello*. The former refers to “the rules of international law governing the legality of the use of force by states” and the latter refers to the rules “by which international law regulates the actual conduct of hostilities once the use of force has begun.”<sup>6</sup> War crimes fall into the scope of *jus in bello* that covers everything going on in the theatre of war and that is covered by international humanitarian law.

From a legal perspective, there are two parties of armed conflict, Russia and Ukraine. Belarus has not participated in armed conflict so far because, for the purposes of international humanitarian law, the definition of armed conflict is a very narrow one that covers states whose armies and military forces directly participate and constantly engage in armed activities. This suggests Belarus cannot be held responsible for war crimes or for international humanitarian law violation because it has not participated in war (until now), which was confirmed by the OSCE report, issued in April of 2022.<sup>7</sup> However, what Belarus is committing in Ukraine is a **crime of aggression**, a lasting internationally wrongful act,

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<sup>4</sup> “Germany will provide a mobile hospital to Belarusian doctors in Ukraine at the request of Sviatlana Tsikhanouskaya,” 7 March 2022, <https://tsikhanouskaya.org/en/events/news/e4cb5a154ef9e4f.html>

<sup>5</sup> For details see, “Sviatlana Tsikhanouskaya announced the United Transitional Cabinet and named its first members,” <https://tsikhanouskaya.org/en/events/news/e1e57cee6d4a3a9.html>

<sup>6</sup> Christopher Greenwood, “The relationship between *ius ad bellum* and *ius in bello*”, *Review of International Studies*, Volume 9, Issue 4, 1983, pp. 221-234.

<sup>7</sup> Wolfgang Benedek, Veronika Bilková and Marco Sassòli, “Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine Since 24 February 2022,” OSCE, 13 April, 2022, <https://www.osce.org/files/f/documents/f/a/515868.pdf>

defined in the Rome Statute of the International Criminal Court.<sup>8</sup> This started when Belarus provided its territory to the Russian soldiers and will remain so as long as they continue to do so.

In terms of personal responsibility, the position of Lukashenka comes to the forefront. Lukashenka's individual criminal responsibility at the international level can be for what he did to the Belarusian people: gross human rights violations, alongside tortures and co-participation in Russian aggression. It is not clear whether this can be combined in one tribunal, but still Lukashenka has a lot to be held responsible for, based on the general principles of criminal law. It might be difficult to hold Lukashenka responsible for war crimes in Ukraine, but he would be responsible individually for **the crime of aggression** in addition to his action of violence and oppression in Belarus, resulting in nearly 2000 political prisoners, and nearly 50000 incarcerated, and tortured.

On a broader scale, the Russian invasion of Ukraine has led to a set of consequential developments undermining “the rules based order” and the effectiveness of global governance institutions.<sup>9</sup> In this context, Russia's war in Ukraine, which started with Crimea's illegal occupation in 2014, resulted in the violation of several international law provisions as well as the bilateral agreements Russia signed with Ukraine. Russia also violated the *Treaty of Friendship, Cooperation and Partnership* (signed in 1997), where it guaranteed the territorial integrity of Ukraine as a sovereign state as well as the provisions of international organisations such as the Council of Europe and United Nations. All these raise difficult questions for the international community regarding the status of Russia in the global order. For instance, how could Russia remain a member of the UN Security Council with veto power over any resolution pointing out the war crimes Russia and its allies committed—such as killing civilians, children, women, and elderly people, targeting civilian infrastructure, historical sites etc?

## Conclusions

The Lukashenka regime has supported Russia's invasion of Ukraine since the early days. As a result, the Lukashenka regime *de facto* became a co-aggressor in Russia's war. On the other hand, the split between Lukashenka and the Belarussian people increased since the war started. In contrast to Lukashenka's actions, Belarussian civil society has formed resistance groups and pursued several strategies to support Ukraine. The Office of Sviatlana Tsikhanouskaya has also been working at the international level to isolate the Lukashenka regime and document war crimes and wrongdoings in Ukraine as well as in Belarus.

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<sup>8</sup> See, Rome Statute of the International Criminal Court, <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

<sup>9</sup> For more on Russia's invasion of Ukraine within the context of the “rules based order” and transformation towards a “multi-order world”, see Trine Flockhart and Elena A. Korosteleva, “War in Ukraine: Putin and the multi-order world,” *Contemporary Security Policy*, Volume 43, No. 3, 2022, pp. 466-481.

This policy briefing reviewed the political and legal aspects of Russia's war crimes in Ukraine and the position of the Lukashenka regime in this process. It is suggested that gathering evidence and following legal procedures will prove critical to eventually holding Putin's Russia to account. However, for this to happen, political will also becomes critical and serves to facilitate progress and persistence in pursuing the legal process. In this sense, collecting evidence and documenting Russia's war crimes should be combined with and complemented by political initiatives at the international level. Based on the analysis above, three policy recommendations stand out:

### **Policy recommendations**

- 1.** Cooperation between the Belarusian Democratic Forces, civil society, media and Ukraine proves crucial in countering Russian propaganda and disinformation campaigns. It is important to reduce the knowledge gap between Belarusians and Ukrainians about each other and their history to negate the propaganda of the Russian and Belarusian regimes.
- 2.** It is true that legal procedures take time and getting a majority to start a tribunal for war crimes and other wrongful acts may be subject to power politics. Yet, there are other mechanisms that could be used to take immediate action against Russia's war crimes in Ukraine and Lukashenka's participation in aggression. For instance, *pre-examination*, which can be opened by a prosecutor even before Belarus joins the Rome statute, can be an option for the ICC to collect evidence.
- 3.** It is also critical to collect evidence about Russia's war crimes in Ukraine and the role of Lukashenka's regime in this process. It would also be useful for state and non-state organisations working on the matter to coordinate their activities.

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