



Transformation of mechanisms of international legal responsibility for genocide in the context of Russian aggression against Ukraine: Literature review

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Abstract. The relevance of the study is conditioned by the deep crisis of the international security system and the failure of existing institutions, in particular, the UN Security Council, to promptly prevent acts of genocide in the context of Russian aggression. The purpose of the study was to comprehensively analyse changes in the mechanisms of international legal responsibility for genocide and identify ways to overcome institutional obstacles on the example of the war in Ukraine. With the help of dialectical and historical legal methods, the evolution of international criminal law was analysed; the formal legal approach helped to assess the compliance of modern actions of the aggressor state with the norms of the 1948 Convention and the Rome Statute; the use of system analysis identified the connection between digital narratives and the practical implementation of genocidal intent. It was established that the veto power of permanent members of the United Nations Security Council has become a destructive tool for ensuring impunity for the aggressor, which requires immediate reform of voting procedures; the necessity of transforming the concept of “duty to protect” from a declarative political doctrine into an effective legal algorithm with clear criteria for international intervention was substantiated; the role of digital platforms in scaling hate speech was analysed and it has been established that algorithmic promotion of dehumanising content should be recognised as a form of incitement to genocide; it has been proven that the forced displacement and Russification of Ukrainian children constitute a premeditated act of biological and social annihilation of the nation; it has been established that the warrants issued by the International Criminal Court provide the necessary legal precedent, but require supplementation with specialised repatriation mechanisms; it has been proposed that standardised international registers be introduced to record criminal acts in real time. The results obtained and the proposals formulated can be used by experts in the field of international law, diplomats, and representatives of law enforcement agencies to develop strategies for the prosecution of war crimes and the development of new protocols for the repatriation of deported persons

Keywords: international crimes; Rome Statute; UN Security Council; hate speech; forced displacement; repatriation of children; transitional justice

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Introduction

The crime of genocide in the world today has evolved from the direct physical extermination of groups into a complex system of ideological, digital, and socio-cultural pressure aimed at eradicating national identity. The full-scale aggression against Ukraine demonstrated a deep functional crisis of international institutions, which were unable to quickly respond to signs of genocidal policies in real time. The problem of the study is the critical need to rethink the classical mechanisms of responsibility, since existing legal algorithms do not consider the role of digital platforms in inciting violence and do not offer effective tools to counteract the forced assimilation of the most vulnerable segments of the population. The lack of preventive effectiveness of the UN Security Council and the difficulty of proving a special intention in a hybrid war create a security vacuum that allows aggressor states to avoid responsibility for systemic violations of peremptory norms of international law. Thus, the transformation of responsibility mechanisms is not just a theoretical discussion, but a question of the survival of nations and the restoration of the authority of the global justice system.

The analysis of recent studies and publications indicates a high interest of the scientific community in this topic. According to V.V. Mangora *et al.* (2025) the use of force or other measures by the international community to protect civilians from massive human rights violations, such as genocide or ethnic cleansing, requires a clear distinction between the military and non-military nature of the intervention. The researchers stressed the importance of combining diplomatic pressure and economic sanctions as preventive methods that should precede extreme responses within the framework of the concept of protecting fundamental human rights. A.S. Saukh (2025) conducted a thorough legal analysis of the forced transfer of children from one human group to another as an objective side of the crime of genocide. The researcher proved that such actions are part of a purposeful repressive policy that can be implemented both during and outside an armed conflict. It concluded that to qualify this act as a form of genocide, it is critical to establish a special goal – the intention to destroy a protected nation or ethnic group in whole or in part by destroying the mechanisms of its biological and social reproduction. D. Budrytė (2025) considered two perspectives of historical justice after the genocide, emphasising that sustainable peace is impossible without full justice. The researcher proved that reconciliation processes in societies affected by mass atrocities directly depend on the recognition by the international community of the very fact of genocide and ensuring the inevitability of punishment for the organisers of the crime. I.I. Pylypyshyna & O.N. Turchenko (2022) analysed the protection of children's rights in the context of the armed conflict in Ukraine. The researchers concluded that the existing mandate of international

organisations such as UNICEF and the Red Cross is often insufficient to overcome the sovereign resistance of the aggressor state, which requires the creation of new, more stringent protocols for the intervention and return of displaced persons. M. Baldi *et al.* (2024) carried out a comprehensive analysis of the challenges that arise in the qualification of genocide in the context of the rapid development of digital technologies. The researchers investigated how social networks and artificial intelligence algorithms transform methods of spreading hate speech, turning them into tools for coordinating mass violence and dehumanising target groups. The researchers concluded that conventional legal approaches to defining “direct and public incitement” need to be adapted to digital realities, where the speed and scale of information dissemination create new levels of threat. They stressed the importance of developing international standards of digital responsibility that would effectively record electronic evidence of genocidal intent and hold accountable not only the direct authors of appeals, but also the technological platforms that facilitate their broadcasting. V.K. Singh (2025) argued that international justice faces challenges of prosecution for cybercrime that accompany acts of aggression, which creates prerequisites for expanding the jurisdiction of international tribunals. Despite the thoroughness of the works cited, the research did not devote sufficient attention to the transformation of the concept of the “responsibility to protect” in the context of the abuse of the veto right in the UN Security Council, nor to the legal assessment of the role of digital platform algorithms in amplifying incitement to genocide. These aspects remain fragmentary, which served as the basis for conducting this research.

The purpose of the study was to comprehensively investigate current changes in the mechanisms of international legal responsibility for genocide and identification of practical ways to improve their effectiveness on the example of countering Russian aggression against Ukraine. The methodological basis of the study consisted of general scientific and special legal methods: the dialectical method was used to analyse the transformation of legal norms in their development; the formal legal approach allowed assessing the provisions of the Rome Statute and the 1948 Convention; the comparative legal method was used to contrast the reaction of the international community to various cases of genocide, and the systematic analysis helped to identify institutional gaps in the UN structure.

Evolution of the duty to prevent genocide and the concept of the “duty to protect”

The issue of genocide prevention in international law is traditionally formulated as a combination of two inter-related dimensions: the legal duty of states to prevent crime and the institutional capacity of the international

community to ensure a timely response. In theory, the Convention on the Prevention and Punishment of the Crime of Genocide (1948) establishes a direct requirement: states “undertake to prevent” genocide and punish it (Article I), and may, if necessary, request the authorised bodies of the United Nations to take such measures as they deem necessary to prevent and suppress acts of genocide (Article VIII). Although the Convention provides clear instructions, in practice, they often do not work. Everything stops because of bureaucracy and the fear of states making difficult political decisions.

The evolution of contemporary international criminal law began with the Convention on the Prevention and Punishment of the Crime of Genocide, adopted in December 1948. Solving the issues of preventing and punishing any international crime is impossible without ensuring institutional mechanisms for the responsibility of individuals for such actions. Therefore, the next step in the evolution of contemporary international criminal law was the adoption at the Diplomatic Conference in Rome on July 17, 1998 of the Rome Statute of the International Criminal Court, which established the International Criminal Court. The Rome Statute of the International Criminal Court (1998) was ratified on August 21, 2002, and entered into force on July 1, 2002. According to A.S. Slavko & V.A. Bashkyrova (2017), “this was a step towards consolidating international criminal law, in particular, the principles of fair and individual responsibility”.

Genocide is not just a crime; it is an attempt to completely destroy an entire nation. When the crime has already begun, it is incredibly difficult to stop it, and it is impossible to restore people’s lives. That is why it is so important to prevent it, that is, to take preventive measures. However, in practice, it is the preventive component that is the weakest. Often, the international community usually acts late. The demand to provide irrefutable evidence of the intention to destroy the people is often used as an excuse to simply do nothing. Instead of stopping the tragedy at its outset, the international community delays action, citing the legal difficulty of establishing that genocide has occurred. The difficulty of proving that this is genocide is only an excuse not to interfere earlier. It appears justified to argue that when international organisations, such as the United Nations, do little more than express concern while a people are being exterminated, the law itself loses its meaning. This logic is seen as dangerous, and the responsibility of prevention should by its very nature include early identification of risks, instruments of pressure and coordination of international mechanisms. The effectiveness of international legal mechanisms directly depends on the political will of the participating states and their ability to implement decisions of international courts at the national level (Silitonga & Abdillah, 2025).

A contemporary manifestation of the international legal framework for the protection of fundamental

human rights in extreme situations is the concept of “duty to protect”, which is aimed at protecting people’s lives in cases where they are in immediate danger of existence (Liubashko, 2018). This concept was the result of an attempt by the international community to correct the shortcomings of “humanitarian intervention”, which was often criticised for its political selectivity and violation of sovereignty. Humanitarian intervention focused on the right of strong states to intervene in the affairs of weak ones by force, and the concept of “duty to protect” shifts the focus to the needs of victims and state responsibility. Humanitarian intervention is the use of force or other measures by the international community to protect civilians from massive violations of human rights, such as genocide, ethnic cleansing, torture, or other forms of violence committed by governments or other actors within a particular state. Intervention can be both military and non-military in nature (for example, economic sanctions, diplomatic pressure, humanitarian aid) (Mangora *et al.*, 2025).

The concept of “duty to protect” combines law, politics and moral imperative. On the one hand, it appeals to the Charter of the United Nations of June 26, 1945 (Charter of the United Nations, 1945) and its collective actions (primarily under Title VII), on the other hand, it seeks to prevent a situation where state sovereignty is used as a shield for mass atrocities. The problem is that the rules of this concept are vague. On the one hand, they can be interpreted as a reason for interference in other people’s affairs, and on the other, it is advisable to point out their predominantly declarative nature. This creates confusion: it is not clear when force can actually be used, and why in some cases the world reacts and in others it does not.

Therefore, the content of the international legal obligation of a state to prevent genocide cannot be reduced only to criminalisation of the act at the national level or to general political statements. The Convention on the Prevention and Punishment of the Crime of Genocide (the Convention) formulates the duty to “prevent” as an independent (and preemptive) duty of conduct that exists in parallel with the duty to “punish” (Convention on the Prevention and Punishment of the Crime of Genocide, 1948). Terminological unification of concepts in the field of international humanitarian law is a necessary condition for ensuring the inevitability of punishment for crimes against humanity and genocide. The key legal specification is provided by the practice of the International Court of Justice. In the case of *Judgment of International Court of Justice* (2022), the court explained that the duty of prevention is a separate legal obligation which arises when the state is aware or should have been aware of a serious risk of genocide and requires it to take action within its capabilities. It seems that it is this logic of “serious risk” that shifts the focus from proving a crime that has already been committed to assessing danger indicators and to the obligation to act in advance.

For the first time at the highest political level, the concept of “duty to protect” was consolidated in the outcome document (United Nations, 2005) (Paras. 138-139). It stipulates that each state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity, and the international community must help and, if necessary, act collectively in accordance with the UN Charter. It is important to highlight three aspects of the concept of “duty to protect” proposed in UN practice: primary state responsibility; international assistance and capacity-building; and timely and decisive response. It is the third aspect that causes the most discussion, since it falls within the scope of sanctions, the use of force and collective decisions.

UN Security Council institutional crisis and the issue of the veto

The UN Security Council plays a central role in the maintenance of international peace and security, and Section VII of the Charter of the United Nations provides tools for responding to threats to peace, breaches of peace and acts of aggression. However, the decision-making procedure (Article 27) grants permanent members the right of veto, which leads to a structural vulnerability of the system. When the central peacekeeping body, which can be considered the UN Security Council, is paralysed due to the right of veto (Article 27 of the UN Charter), this negates the possibility of collective measures exactly when they are most needed, that is, in the early stages of escalation and in the presence of signs of preparation for international crimes. This is evident when a permanent member of the Security Council is itself a party to a conflict or an aggressor. The critical ineffectiveness of this mechanism is observed when a permanent member of the Security Council acts as a party to a conflict or an aggressor. In cases of mass atrocities, a veto often means not just a lack of consensus, but the actual impossibility of applying even minimal preventive measures: sanctions, embargoes, investigative mandates, increased monitoring, or appeals to the ICC. From a legal standpoint, the question is debatable: is a veto a right that can be used without considering the consequences, or is it a tool whose use should be restricted if mandatory norms are threatened?

In the context of blocking in the Security Council, the key alternative is the UN General Assembly (the UN General Assembly). Resolution of United Nations General Assembly No. 377(V) (1950) establishes a political and procedural instrument that allows the UN General Assembly to consider issues when the Security Council is unable to act due to the lack of unanimity of permanent members, and recommend collective measures. Additionally, Resolution of United Nations General Assembly No. A/RES/76/262 (2022) introduced the obligation to convene a meeting of the General Assembly whenever a veto is applied in the Security Council,

which increases the level of public accountability. However, these mechanisms have limits: decisions of the UN General Assembly are mostly advisory in nature and do not replace coercive measures of the Security Council. Therefore, the issue of institutional reform goes beyond one procedure.

Judicial practice also reinforces the idea that the prevention of genocide is a matter for the international community, not just an internal matter for the state. In the application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar) (2022), the International Court of Justice has confirmed that any state party to the Convention, and not just the affected state, can hold another state party liable for failure to comply with its obligations under the Convention, thereby recognising the right of Gambia to apply to the court. The obligation to comply with the Convention is an “*erga omnes*” obligation and means that all states parties can demand that Myanmar cease its violations. In the case of Order of International Court of Justice No. 182 (2022), the court pointed out the need for a cessation of hostilities in the context of a dispute concerning the interpretation and application of the convention. On February 26, 2022, just two days after the start of a full-scale Russian invasion, Ukraine filed a lawsuit with the International Court of Justice regarding Russia’s violation of the Convention on the Prevention and Punishment of the Crime of Genocide and a request for a court order on temporary measures against Russia. In the lawsuit, the Ukrainian side insisted that Russia resorted to a full-scale armed invasion because of a fictitious pretext for “genocide of the people of Donbass”, which it used as false accusations as “*casus belli*” and thus abused the UN Convention on the prevention and punishment of the crime of genocide. The International Court of Justice also noted that at this stage of the proceedings, there is no evidence to support Russia’s statements about genocide on the territory of Ukraine. Moreover, the use of force against another state cannot be justified by the state’s accusations of genocide. The court also noted that the so-called “special military operation” of Russia has already caused a large number of civilian casualties and civilian objects and quoted the Order of the International Court of Justice No. 182 (2022).

Summing up, it should be noted that today the right of veto has become an instrument of impunity. When a permanent member of the UN Security Council itself becomes an aggressor or supports a party committing mass crimes, the collective security system is paralysed. The main problem is that the UN Charter does not provide effective safeguards against the abuse of this right in cases where the threat of genocide is concerned. This creates a situation in which the political interests of one state become higher than the duty to save the lives of thousands of people. The case of Ukraine has clearly demonstrated that as long as the veto can block

investigations and preventive measures, the Security Council is not able to fully perform its main function – preventing the most serious crimes against humanity. That is why the reform of this mechanism, or at least the restriction of the veto in cases of mass atrocities, is not just a legal discussion, but a matter of survival and the international rule of law.

The digital dimension of genocide: hate speech and incitement on social media

In the era of digital transformation, public communication between states and societies has changed the mechanisms for implementing violence: hate speech, which was previously spread mainly through traditional media, is now massively distributed in social networks, and has a significant impact on public opinion. The position advanced by Ye.V. Renov (2025) merits support: “freedom of expression, as one of the cornerstones of democracy, is of paramount importance; however, it is not absolute, given the genuine threat that hate speech poses to human rights, human dignity, and the security of society as a whole. This threat becomes particularly dangerous when politicians or officials use the media to spread hate speech. And the response to such manifestations should not be tacit tolerance, but effective legal instruments of counteraction at the national and international levels”. In international criminal law, “direct and public incitement to genocide” (Article III (c) of the Convention) is a unique offence. Its specificity is that this crime is considered completed at the time of the proclamation of the appeal, even if the genocide itself did not take place after that. To qualify incitement in the digital age, criteria such as publicity (audience reach, number of subscribers, reposts, views, etc.) and direct nature (the call does not have to contain the word “kill” and can be veiled if the audience clearly understands it as a call to violence) are used. “Directness” is usually associated with the extent to which a message in its natural meaning, in the context of the addressees of the first situation, encourages the destruction of the protected group. Therefore, the analysis of “directness” requires considering the digital context (previous publications of the author, references to narratives, audience reactions, the role of botnets, etc.). The criterion of publicity in the digital age is largely transformed: a message published even on an official’s personal page or in a channel/account of a state institution can become public through open access, reposts, and algorithmic promotion.

An example of responsibility for direct and public incitement is the establishment by the United Nations Security Council of the International Criminal Tribunal for Rwanda (The ICTR in Brief, n.d.) for “the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed on the territory of Rwanda and neighbouring states between 1 January 1994 and 31 December

1994”. The ICTR is the first international tribunal in history to issue verdicts on genocide, and the first to interpret the definition of genocide set out in the 1948 Geneva Convention. The ICTR became the first international tribunal to hold media representatives accountable for broadcasts aimed at inciting the public to commit acts of genocide. The radio, known as Radio Television Libre des Mille Collines (RTLM), was accused of creating what prosecutors called “the most powerful weapon for committing genocide”. The indictment states that radio co-founder Felicien Kabuga is accused of “genocide, direct and public incitement to genocide, conspiracy to commit genocide and persecution for political reasons, extermination and murder as crimes against humanity committed in Rwanda in 1994”.

The key in genocide cases is to prove the intention to destroy the group as such. In the practice of the International Court of Justice, intent is usually derived from a set of circumstances (the scale and consistency of violence, the nature of actions, the choice of victims, the context), and from public statements, documents, and policies. Accordingly, messages and statements of Russian officials in social networks can potentially have evidentiary value, but only if they are: clearly aimed at a protected group (Ukrainians as a national group); have content that, in context, clearly indicates support for or justification for the destruction/displacement/elimination of the group’s identity; are associated with or supported by real state practice; come from persons capable of shaping or reflecting state policy. In proceedings before the International Court of Justice, such records can be used as elements confirming a state’s position, intention, or knowledge, although a “screenshot” alone without proper verification would not be sufficient (Geneva Convention (IV), 1949).

Public statements of Russian officials in media resources and social networks regarding Ukraine and Ukrainians can serve as direct proof of intent in the courts. And this already has practical confirmation. French lawyer Emmanuel Dowd, who filed a lawsuit with the International Criminal Court (ICC) regarding the illegal and forced export of children from Ukraine, said in an exclusive interview with Voice of America that all factual material was taken from open Russian sources. This is the official website of the Kremlin, where Vladimir Putin discusses the situation with Maria Lvova-Belova and asks her to change the legislation to allow the immediate adoption of Ukrainian children by Russians. This is Russian television, which showed how these children were brought by buses, trains or planes, how they were met by the governors of various Russian regions, who were going to transfer them to Russian families. The amendments to Russian legislation that they propose would allow the civil status of these children to be altered in less than 24 hours, including changes to their surnames, given names, places

of birth, and dates of birth, effectively transforming them into “perfect little Russians” (Turkova, 2023).

At a press conference in Kyiv, the Head of the UN Independent International Commission to investigate violations in Ukraine, Eric Mese, noted that the commission did not come to the conclusion that genocide is taking place in Ukraine, but the investigation will continue. “There were certain statements in the Russian media that may have been related to the issue of incitement to genocide”. Contemporary information platforms use algorithms aimed at maximising audience engagement. In the context of preparing for genocide, this is quite a dangerous factor. In the current realities of Russian aggression against Ukraine, the use of information platforms as a space for the implementation of genocidal intent is of particular importance, since the public rhetoric of individual officials of the Russian Federation, reproduced on a large scale and reinforced in digital environments, can (if there is an appropriate procedural framework) be considered as an element of the evidence base for the existence of an intention to destroy Ukrainians as a national group, in particular, through attacks on identity, culture, and future generations. An additional dimension is the practice of forced transfer of Ukrainian children, for whom the information campaign and dehumanisation can perform the function of “preparing the ground” and normalising appropriate actions, in particular, illegal displacement, violation of the child’s right to preserve individuality, including citizenship, name, and family ties (Convention on the Rights of the Child, 1989). It is seen that in the context of digital transformation, social media algorithms become catalysts for dehumanisation, which requires a revision of classical approaches to the qualification of incitement to genocide.

An example of how the digital ecosystem (primarily social media platforms) can act not only as a channel, but also as a multiplier of genocidal propaganda is the tragedy of the Rohingya people in Myanmar. The genocide escalated in 2016-2017 and continues with varying intensity to this day. A report by the non-profit organisation Business for Social Responsibility (BSR) confirmed public concerns about the role of Facebook (Meta) in events in Myanmar. The study found that the platform has become a tool in the hands of attackers to spread hate speech, incite violence, and incite interethnic conflicts. In response to these findings, the company’s management officially acknowledged that they did not stop the distribution of dangerous content in time and did not prevent the use of the social network as a platform for harmful and racially provocative activities (Ellis-Petersen, 2018). It is significant that Rohingya representatives in the UK and the US filed lawsuits against Facebook/Meta, claiming that the company created conditions for the large-scale spread of hate speech and calls for violence. As of the beginning of 2026, no decision has been made. This has exposed a gap:

international law does not yet have established, unambiguous mechanisms for holding it giants or individuals accountable for “digital” incitement in connection with genocide, and proof of special intent (*dolus specialis*) remains a key challenge in all relevant proceedings. In international criminal law, incitement to genocide has a special status – it is already recognised as punishable as an independent crime, even if the genocide has not been proven to be complete (provided that the elements of incitement are fulfilled). The classic phrase “direct and public incitement to commit genocide” is consolidated in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

Currently, the responsibility of platforms for “digital incitement” in international law consists of disparate norms that are not consistent with each other. In cases of genocide, the International Court of Justice requires convincing confirmation, which is consistent with the general logic of proof. Therefore, the most promising strategy is one that combines digital evidence with documents and reports of international missions, state acts, and regulatory decisions, and the behaviour of the aggressor in the occupied territories (in particular, in relation to children). An analysis of the practice of international tribunals indicates the need to develop unified criteria for assessing direct and public incitement carried out through digital platforms.

L.V. Milimko & Y.V. Zhydovtsev (2025) considered it appropriate to strengthen the role of civil society institutions in the processes of collecting electronic evidence of incitement to violence in a hybrid war. In 2024, the International Federation for Human Rights (FIDH) and its partners – the Kharkiv Human Rights Group and the Centre for Civil Liberties, published an appeal based on Article 15 of the Rome Statute of the International Criminal Court “The situation in Ukraine: hate speech as a crime against humanity in the form of persecution”. This appeal was aimed at bringing to justice five key Russian public figures whose activities have become decisive in organising the persecution of Ukrainians. In particular, Vladimir Solovyov, Margarita Simonyan, Dmitry Kiselyov, Dmitry Medvedev, and Sergey Mardan are accused of systematically spreading discriminatory hate speech based on political beliefs. The aforementioned figures exerted massive information influence through public and private media platforms, including social networks. Their activities were aimed at spreading hate speech and psychological attitudes of the population against Ukrainians. Propagandists acted with direct intent, realising the aggressive nature of the military actions of the Russian army and using the media resource as a tool to support the war of conquest (Submission under Article 15..., 2024). This is just one example of collecting and systematising materials that will be used as an evidence base for establishing genocidal intent in international courts.

Forced displacement of children: legal qualification and proof of intent

According to Article II(e) of the Convention on the Prevention and Punishment of the Crime of Genocide, one of the acts committed with the intention of destroying, in whole or in part, a national, ethnic, racial or religious group as such is the forced transfer of children of that group to another group. The relevant provision is reproduced in Article 6 (e) of the Rome Statute of the International Criminal Court, dated 17.07.1998, confirming its status as one of the main international crimes. The international legal prohibition of the forced transfer of children is based on the understanding that genocide can be carried out not only through physical destruction, but also through the destruction of the mechanisms of reproduction of the group. Thus, the group is deprived of future generations who should have continued its existence, and loses its “biological reserve”. The scientific literature emphasises that the displacement of children can be considered as a form of biological and social destruction. The biological dimension is associated with the loss of the demographic potential of the group, while the social dimension is associated with a gap in cultural and historical continuity. It is the coercive nature of the transfer and transfer of children to another group that determines, which may include both cross-border export and their further integration into someone else’s socio-cultural environment (Budrytė, 2025).

One of the first confessions of genocide of children was the abduction of children from the occupied territories of Eastern European states for the purpose of their nationalisation during the Second World War, which was recognised as a particularly cruel and unacceptable act for the international community. In the decision of the Nuremberg Military Tribunal in the case of Judgment of the U.S. Military Tribunal Nuremberg on Greifelt *et al.* (1948), this practice was qualified as genocide. A similar situation is currently taking place in the occupied territories of Ukraine in the context of the aggression of the Russian Federation against Ukraine. There is a forced transfer of Ukrainian children to the Russian national group. In this regard, on April 14, 2022, the Verkhovna Rada of Ukraine recognised the actions of the Russian Armed Forces and its political and military leadership as genocide. This political declaration contains a legal justification and explains why Russia’s actions should be considered as genocide of the Ukrainian people. In addition, it specifically states that the act of genocide manifests itself in the forced displacement of Ukrainian children to the territory of the Russian Federation and their transfer to someone else’s environment for upbringing in order to destroy their self-identification as Ukrainians (Statement of the Verkhovna Rada of Ukraine No. 2188-IX, 2022).

These norms acquire practical significance in the light of documented facts of forced displacement of

children. The OSCE report, prepared within the framework of the Moscow mechanism, records violations of international humanitarian and human rights law related to the forced transfer of Ukrainian children, and indicates the possible organised nature of such actions. Additionally, the Yale Humane Research Lab study described a network of institutions where children were exposed to political and cultural influences, which may indicate a focus on changing their national identity. In cases where the movement is accompanied by a change in personal data, restriction of contacts with the family and integration into another cultural environment, this forms a set of indicators that can be used to prove special intent – a key element of the crime of genocide.

The position advanced by A.S. Saukh (2025) appears well founded, namely that the forcible transfer of children from one protected group to another is carried out as part of a repressive policy directed against the affected group and may occur both during an armed conflict and independently of one. This act can be qualified as a form of genocide if there is a special purpose – the destruction of the protected group, in whole or in part. K.V. Yurtaieva (2024) proposed to supplement the accusation of representatives of the Russian authorities in the deportation and transfer of Ukrainian children from the occupied territories of Ukraine to Russia with the accusation of forcible transfer of children from one human group to another as a form of genocide of the Ukrainian people. The question of whether the deportation of Ukrainian children to the Russian Federation can be recognised as a crime of genocide is complex and requires a solid evidence base, which will consist of carefully collected recorded and documented evidence. The difficulty of determining is that it is difficult to determine how many children were taken to the Russian Federation. According to the state portal “Children of War”, more than 20,000 cases of deportation and forced displacement of children (Children of War, n.d.). It is worth noting that this indicator is not final, since work continues to establish the exact number of victims.

Poland’s experience with the abduction of Polish children by Nazi Germany during World War 2 is noteworthy. First of all, the Polish side had to prove that a certain child was “abducted” from Polish territory. Children were found in different places far from Poland, their family documents were destroyed or falsified, time passed, circumstances changed, and the victims of the abductees were no longer the same children. Children over the age of 16 were also required to submit applications for their readiness to return to Poland. Victims abducted in early childhood did not remember their biological parents, did not know Polish, and often acclimated relatively well to German families who surrounded them with care and love, and did not want to return to foreign places and people. The number of abducted Polish children was estimated at 200,000, of which just over 30,000 have returned to

Poland. The abduction of children was recognised by the International Military Tribunal in Nuremberg as a crime of genocide, and the 1948 UNESCO Conference held in Trogen, Switzerland, recognised the abduction and extermination of children as a crime against humanity (Murawska, 2023).

The Parliamentary Assembly of the Council of Europe (PACE) on April 27, 2023, during the debate at the spring session, adopted a resolution “deportation and forced displacement of Ukrainian children and other civilians to Russia and the temporarily occupied territories of Ukraine: creating conditions for return, stopping the commission of crimes and punishing those responsible” and recommendations thereto. The document, in particular, contains provisions that: forced displacement and deportation of civilians and children can be investigated as a crime of genocide, a war crime, a crime against humanity; all states parties to the Rome Statute must ensure the execution of arrest warrants from the International Criminal Court; address to the Council of Europe to ensure responsibility and justice for the aggression of the Russian Federation against Ukraine; support for the work of Ukrainian initiatives aimed at the return of Ukrainian citizens; the importance of bringing war criminals to justice, etc. Thus, within the walls of the European Parliament, the actions of the Russian Federation were recognised as genocide. Thus, for the first time, an international document refers to a possible genocide by Russia against Ukrainians. The resolution notes that most of the Ukrainian children were taken to Russia in summer camps, where they were “re-educated”, in particular “Russified”. In these camps, children were forbidden to speak Ukrainian or express their Ukrainian identity in general, but they were taught Russian, the Russian version of history, and also promoted Russian patriotism. Some children were even told lies that their parents died to change their last names in order to further complicate the search. All these actions, according to PACE deputies, may be elements of genocide (Resolution of Parliamentary Assembly of the Council of Europe No. 2495, 2023).

The current stage in the development of International Criminal Justice is characterised by increased attention to the protection of the most vulnerable groups of the population in situations of armed conflict. The issuance by the International Criminal Court of arrest warrants for senior Russian officials in March 2023 on charges of illegal deportation and relocation of Ukrainian children was an unprecedented act of deep legal significance. Warrants are based on the existence of “sufficient grounds” to qualify actions as a war crime (according to Article 8 of the Rome Statute). This creates a legal prejudice for further investigations, in particular in the context of establishing a special genocidal intent under Article 6(e). The observation by M.I. Hurkovskyi regarding the reform of the collective security system appears well founded, namely, that

such reform should be based on limiting sovereign immunities where acts of mass atrocities and genocidal policies have been established (Yavorska, 2025).

Repatriation mechanisms and international protection of deported persons

The problem of repatriation of persons to their homeland is a complex set of legal and humanitarian obstacles, where international law faces a lack of enforcement mechanisms. Numerous norms of international humanitarian law and international human rights law provide for the immediate and unconditional return of civilians, in particular minors, and the reunification of separated families. That is why the states of the world are devoting significant resources and making significant efforts to establish and support international organisations designed to prevent armed conflicts and massive human rights violations, especially those affecting children. The main goal of such organisations is to ensure the security of member states and simultaneously assert the right of everyone to security, with a particular focus on children as an extremely vulnerable social group in need of an increased level of protection (Pylypyshyna & Tkachenko, 2022).

The Russian Federation is purposefully transforming the legal status of deported children through simplified citizenship and the institution of adoption. From the perspective of international law, this constitutes a violation of Article 50 of the Fourth Geneva Convention of 12 August 1949, which prohibits an occupying power from altering the personal status of children. The lack of access of international monitoring missions to the registers of deportees and their places of stay makes data verification impossible. Therefore, this requires the development of new legal instruments for digital monitoring and the creation of a single international register under the auspices of the UN. Statements by officials of international organisations also indicate the seriousness of violations. In particular, the UN High Commissioner for Refugees F. Grandi said that Russia violated the basic principles of protecting children in wartime by issuing Russian passports to Ukrainian children and giving them up for adoption (Roshchina & Kryshevych, 2026).

One of the key areas of international activity in this area is the organisation of the process of return of children, and one of the most difficult problems remains the repatriation of deported children. The difficulties of this process are related to the lack of complete information about their location, possible changes in the status of citizenship, and limited access of international organisations to the relevant territories. No return mechanism will work with approximate information about deported children. Ukraine should prepare detailed lists of children in order to declare a consolidated demand to the Russian Federation to return them.

Despite the fact that diplomatic relations between Ukraine and Russia were terminated on February 24, 2022 (Letter of Ministry of Foreign Affairs of Ukraine No. 72/11-612/1-81401, 2022), international organisations such as the UN, UNICEF, and the International Committee of the Red Cross have an extremely important role to play in protecting children during armed conflicts. They not only streamline interstate relations, but also make decisions on global issues of our time. However, the existing mandate of international organisations is often insufficient to overcome the sovereign resistance of the aggressor state. Due to Russia's refusal to cooperate with Ukraine on the return of deported and displaced children, the cooperation of the government of Ukraine with international organisations in creating an international mechanism for the search and return of such children is extremely important. Also effective is the mechanism that operates in accordance with Article 45 of the Vienna Convention on Diplomatic Relations (1961), in accordance with the procedure for identifying, returning, escorting, and reintegrating children who have been deported or forcibly displaced, or were at risk of deportation and/or forced displacement as a result of the armed aggression of the Russian Federation against Ukraine, approved by the resolution of Cabinet of Ministers of Ukraine No. 544 (2024). In particular, it was noted that "in the event of a break in diplomatic relations between two states or the final or temporary withdrawal of representation, the accreditation state may entrust the protection of its interests and the interests of its citizens to a third state acceptable to the host state". The conceptual framework for criminalising the forced displacement of children has been analysed in detail by E. Gzoyan (2020), who traced the evolution of the relevant norm from its development during the development of the Convention to contemporary mechanisms of international criminal prosecution. The researcher emphasised that this form of genocide has not only a biological, but also a socio-cultural dimension, since it is aimed at destroying group identity through the assimilation of children.

D.A. Kourtis (2024) pointed to the historical experience of the Greek civil war and demonstrated that the forced displacement of children was used as a tool for transforming ethnic and political identity long before modern conflicts. The contemporary Ukrainian context has become the subject of analysis by a number of researchers. In particular, Y. Ioffe (2023) examined whether the actions of the Russian Federation to move Ukrainian children can be qualified as genocide. The researcher carefully approached the problem of proving special intent (*dolus specialis*), considering the existing factual circumstances through the prism of international judicial practice. Instead, H. Moodrick-Even Khen (2024) took a more categorical position, arguing that the Ukrainian case actually updated the norm of the Convention, which

for a long time remained insufficiently involved in international law. A similar conclusion was reached by L. Muelrath (2024), who analysed the forced displacement and adoption of Ukrainian children in the context of international humanitarian law and the law of international criminal responsibility.

The most comprehensive assessment of contemporary international legal instruments and judicial practice is offered by A. Mohammadi & A. Laridashti (2025). The researchers systematised the provisions of the Convention, the Rome Statute, and the decisions of international judicial institutions and conclude that there are sufficient legal grounds for considering the forced displacement of Ukrainian children as a potential act of genocide. A comparative analysis of these studies showed that there is a general scientific consensus that the forced displacement of children is one of the least studied, but at the same time the most dangerous forms of genocide. Thus, the involvement of the "patron state" or international organisations as intermediaries is critical to ensuring the rights of deported children in the absence of direct interstate dialogue. The implementation of this mechanism allows not only to monitor the state of human rights in territories that are beyond the de facto control of Ukraine, but also creates a legitimate legal path for the physical return of children and their further reintegration into Ukrainian society.

Conclusions

Social media has transformed the very nature of incitement, transforming it from a local phenomenon to a global and instant threat. The establishment of "genocidal intent" through the analysis of the digital rhetoric of officials is becoming a key element of the evidence base in contemporary international courts. The international community must develop mechanisms to hold accountable those platforms whose algorithms deliberately scale incitement to genocide for profit or political loyalty to certain regimes. It is necessary not only to improve the methods of collecting digital evidence, but also to develop universal criteria of responsibility for all participants in the information process – from individual officials-authors to multinational corporations-owners of platforms.

The fragmentation of international norms on responsibility for "digital incitement" remains a key legal problem. The most promising legal strategy for Ukraine is a comprehensive approach that will prove that information campaigns were not accidental, but served as an ideological preparation and support for acts of genocide. Legal recognition of the fact of forced deportation of children at the level of international courts makes it much easier to prove genocidal intent in subsequent trials. But the problem of repatriation of deported persons has revealed a serious institutional gap in contemporary international law. Despite the existence of rules prohibiting deportation, the international community

still does not have a unified mechanism for the forced return of victims. The repatriation process now depends on the political will of mediators and situational agreements, which is unacceptable on the scale of a mass war crime. Forced assimilation, change of citizenship, and “re-education” of children are acts of erasure of national identity that require an immediate legal response. Therefore, it seems that ICC warrants are a necessary but not sufficient step.

Effective preventive and repatriation mechanisms must be established to effectively address the problem of deportation. This includes the development of binding international protocols for the search and return of children and the recognition of any attempt to assimilate deported persons as an automatic violation of the convention on the prevention of genocide. The prospects for further research in this area lie in a detailed

study of repatriation processes, and the development of legal tools for holding private technology companies accountable for facilitating the dissemination of genocidal rhetoric. Special attention should be paid to the analysis of the possibilities of expanding the jurisdiction of international judicial institutions to qualify cyber discrimination and digital assimilation as components of the crime of genocide in hybrid conflicts.

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Conflict of Interest

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Трансформація механізмів міжнародно-правової відповідальності за геноцид у контексті російської агресії проти України: огляд літератури

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Анотація. Актуальність дослідження зумовлена глибокою кризою системи міжнародної безпеки та неспроможністю існуючих інституцій, зокрема Ради Безпеки ООН, оперативно запобігати актам геноциду в умовах російської агресії. Метою роботи був комплексний аналіз змін у механізмах міжнародно-правової відповідальності за геноцид та визначення шляхів подолання інституційних перешкод на прикладі війни в Україні. За допомогою діалектичного та історико-правового методів проаналізовано еволюцію міжнародного кримінального права; формально-юридичний підхід дозволив оцінити відповідність сучасних дій держави-агресора нормам Конвенції 1948 року та Римського статуту; застосування системного аналізу дозволило виявити зв'язок між цифровими наративами та практичною реалізацією геноцидного наміру. Встановлено, що право вето постійних членів Ради Безпеки Організації Об'єднаних Націй перетворилося на деструктивний інструмент уможливлення безкарності агресора, що потребує негайного реформування процедур голосування; обґрунтовано необхідність трансформації концепції «обов'язок захищати» з декларативної політичної доктрини в дієвий правовий алгоритм із чіткими критеріями міжнародного втручання; проаналізовано роль цифрових платформ у масштабуванні мови ворожнечі та встановлено, що алгоритмічне просування дегуманізуючого контенту має визнаватися формою підбурювання до геноциду; доведено, що примусове переміщення та русифікація українських дітей є заздалегідь спланованим актом біологічного та соціального знищення нації; визначено, що ордери Міжнародного кримінального суду створюють необхідну юридичну преюдицію, проте потребують доповнення спеціалізованими механізмами репатріації; запропоновано впровадження уніфікованих міжнародних реєстрів для фіксації злочинних актів у реальному часі. Отримані результати та сформульовані пропозиції можуть бути використані фахівцями у сфері міжнародного права, дипломатами та представниками правоохоронних органів для розробки стратегій переслідування за воєнні злочини та формування нових протоколів репатріації депортованих осіб.

Ключові слова: міжнародні злочини; Римський статут; Рада Безпеки ООН; мова ворожнечі; примусове переміщення; репатріація дітей; правосуддя перехідного періоду