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## Russian Attack on Kyiv Holocaust Memorial Site a Blatant Violation of International Law

It is particularly painful to watch not only war crimes committed by the Russian assault on the Ukrainian people, but the return in the 21st century of an unjustified attack in a region where civilians have endured a history of ethnic cleansing, mass casualties, and genocide.

By **Walter H. White Jr.** | March 07, 2022



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Babyn Yar in Kyiv is a resplendent ravine in a pastoral setting. Its sense of peace, however, belies its brutal history.

The clues to its past are the beautiful and horrific sculptures that sensitively portray the massacres that took place there in September 1941. Over a two-day period, more than 33,000 Jews were slaughtered at the site, one of the worst mass killings of Jews during WW II by the Nazis. Babyn Yar is a memorial as powerful as Auschwitz, Buchenwald or Dachau. But unlike those Nazi death camps, which are tributes to German efficiency and the industrialization of death, Babyn Yar is elegant in its appearance.

The goal of the massacre was to kill all the Jews in Kyiv. The site was efficacious because the Nazis could stand people on the edge of the ravine and shoot them, they would then fall back into the ravine and it would become a mass grave with relatively minimum effort.

Babyn Yar has been protected like other key Holocaust sites to preserve history, educate the world, and remind future generations to never forget and never permit such genocide to happen again. This critical mission, however, could not withstand the Russian military's attack of the site by missiles during its assault on Kyiv.

In response to this attack, the Auschwitz Memorial in Germany tweeted:

*"[I]t is hard to expect the Russian army to respect the dead if it is not capable of respecting human lives."*

The attack was in violation of international law, specifically, the "Convention for the Protection of Cultural Property in the Event of Armed Conflict; The Hague 14 May 1954," a convention ratified by Russia in 1957.

The desecration of the site of Nazi atrocities is not the only violation of international law perpetrated by Russian troops. According to "Protocol V to the 1980 Convention on Certain Conventional Weapons, 28 November 2003," ratified by the Russian Federation in 2008, it is mandatory that:

*"... parties to an armed conflict shall take all feasible precautions in the territory under their control affected by explosive remnants of war to protect the civilian population, individual civilians and civilian objects from the risks and effects of explosive remnants of war."*

In addition, the attack on the Zaporizhzhia nuclear facility is prohibited by "Article 15 Protection of Works and Installations Containing Dangerous Forces," which includes dams, dykes and nuclear electric generating stations.

Moreover, the neo-fascist effort by President Vladimir Putin raises a deeper issue. Putin claims that his invasion of Ukraine is justified (i) because Ukraine has actually always been a part of Russia, (ii) because of his need to de-Nazify the country, and (iii) to stop genocide against Russian-speaking Ukrainians in the East. Putin is apparently a poor student of Russian history, as each of these claims reflects cynical lies, revisionist history, and are consistent with Holocaust denial.

History teaches that the Kyivan Rus existed in the 9th century as a federation of Slavic, Baltic and Finnish peoples. It is from this "Rus," which peaked somewhere around the beginning of the 11th century, that the Ukraine, Belarus, Russia and the Baltic countries emerged as separate states. There is a lot of other history involving the Mongols, the Ottomans, Poland and the Austrian-

Hungarian Empire, but it was only in 1917 that the Ukrainian Peoples Republic co-founded with Russia the Soviet Union.

Nazis do not govern Ukraine, in fact, it is perhaps the only country outside of Israel which is led in the two senior most political positions by people of predominately Jewish ethnicity.

There is no evidence of genocide against Russian-speaking Ukrainian people.

It is particularly painful, therefore, to watch not only war crimes committed by the Russian assault on the Ukrainian people, but the return in the 21st century of an unjustified attack in a region where civilians have endured a history of ethnic cleansing, mass casualties, and genocide.

It is within this context that we must properly categorize the violence of the Russian military and remind the world that truth and historical facts matter. We must appreciate that there is no room for historical falsehood and certainly not to justify the return of unwarranted violence.

The world is obligated to quell the violence against the Ukrainian people. The U.N. Declaration of Human Rights requires that all people are entitled to be treated with dignity, without exception. If we fail, then our mantra of **NEVER AGAIN** is just talk and we will have learned nothing.

*Walter H. White Jr., a member of the Board of Lawyers Defending American Democracy, is a retired lawyer living in London who has lived and worked in Russia and Ukraine for more than 35 years. He has advised on the cleanup of Chernobyl, and served as chair of the Central Asian American Enterprise Fund appointed by President Bill Clinton. He is the past chair of the American Bar Association Center for Human Rights and was an ABA representative to the Right to Protect, an anti-genocide initiative known as R2P.*