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The Ukrainian Holodomor – Was it a Genocide?

This year marks the 75th anniversary of the Great Famine in Ukraine. Seventy- five years ago this year, Stalin and the Communist Party of the U.S.S.R. initiated a politically orchestrated grain requisition campaign which, according to those familiar with the events, caused the death of up to 10 million Ukrainians due to starvation.

In the 1980s, pioneer researchers like Professor James Mace from Harvard and author Robert Conquest were the first prominent Western scholars to seek to establish that the Great Famine in Ukraine was in fact genocide. It was only after the collapse of the former Soviet Union in 1991, however, that much more evidence of genocide emerged. Thanks to the historical research of people like Ukrainian historian Stanislav Kulchytsky working with the Institute of the History of Ukraine in Kyiv, the pioneering work of Yuri Shapoval and his colleagues in the historical research group Memorial in Ukraine and a whole host of Western scholars, we now have even clearer evidence of genocide.

Even today, 75 years later, however, thanks in part to the denials of the Soviet leadership and others, like New York Times correspondent Walter Duranty a Pulitzer prize winner who falsified the true situation in Ukraine writing instead that there was an abundant harvest, the Ukrainian famine is still doubted and denied in some quarters. Recently, for example, Alexander Solzhenitsyn, the prominent Russian historian and former Soviet dissident who won the Nobel prize for his work revealing the horrors of the Soviet Gulag, attacked those who maintain that Ukraine endured a genocide in 1932-1933 contending that this is a “fairy tale” that was recently invented by anti-Russian forces to discredit the Russians.

Did the events of 1932 – 1933 in Ukraine actually take place and did they amount to “genocide” *in law*? This is what I propose to examine in this article. I have purposefully limited my exploration of this matter to the events of 1932-1933 and do not exclude the possibility that events earlier and later involving the death of millions of Ukrainians in the former U.S.S.R. could also have amounted to genocide.

Legal Framework

Definition of Genocide

According to Article 2 of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, genocide is "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group;

deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; [and] forcibly transferring children of the group to another group."

Actus Reus and Mens Rea

It is clear from the definition and from international law in this area that the crime must involve the *actus reus* or physical aspect of undertaking the deeds and the *mens rea*, that is to say the mental element of the crime.

It should be noted that it is not the motivation, that is to say the reason why, that is important in the *mens rea* of this crime. Further, it is not only the general intent to destroy that matters. It is the specific intent to destroy the targeted group as a group that is the key. Furthermore, as has been pointed out in a recent case reviewing the events in Bosnia viewed under the microscope of the genocide convention, the mere fact that civil war or upheaval took place did not lift the events to the level of genocide, although the existence of civil war or upheaval was a factor that could raise the actions to the point where they became genocidal. The key thing is that the specific intent to destroy the targeted group must at some point in time, even if it is for only a split second, coincide with the *actus reus*. The coincidence of the two elements, the physical act and the mental intention, triggers the characterization of the events as genocide.

Intent

It is an axiomatic fact of international law that intent, since it is a mental ingredient, cannot ever be proven directly. Nobody can look into someone else's mind to determine what their intent was. As a result we must determine the specific intent in this area in one of two ways. Either the offending party must confess the specific intent. Or the specific intent must be found by inference from the circumstances in which the acts took place. To determine intent one must show by clear and convincing evidence that the specific intent to destroy the targeted group was in fact present when the acts leading to the destruction took place. Each of the elements of the offence must be proven by clear and convincing evidence to establish the offence.

Four Basic Elements

The definition of genocide in the Convention as it stands today is based on four constituent parts:

1. A criminal act.
2. With the intention of destroying.
3. A national, ethnic or religious group.
4. Targeted as such.

This then is the legal framework through which we must examine the events in Ukraine in 1932-1933 to determine whether indeed genocide took place. Let us consider each of the elements in turn.

1. A Criminal Act – The *Actus Reus*

As Stanislav Kulchytsky argues the mechanism Stalin and the Communist Party of the USSR employed to deal with the Ukrainian countryside while it was in revolt lifted the events in Ukraine out of the category of merely a famine and into the realm of genocide. To him the essence of the genocide was the requisitioning system employed by the Kremlin leadership. In the fall of 1932, on orders from Moscow, government troops came to villages requisitioning grains to meet Stalin's quotas. At gunpoint they took away grain, even when peasants did not have enough grain to feed themselves. Those peasants who had no grain to deliver were deprived of any other food stocks they had, including garden vegetables and cattle. Those that resisted were shot. When this policy of requisitioning grains at gunpoint was further enforced by sealing off borders and thereby preventing the escape of famished peasants, the result was genocide.

According to Ukraine's President Viktor Yushchenko, and others, 10 million people died in the Ukrainian Holodomor of 1932-1933. Some express doubts about the magnitude of this number, though not about the genocide itself. Making such estimates is no exact science, particularly since the Communist Party of the U.S.S.R. did everything it could to hide what was done. But even when considering the most conservative estimates, such as those of Kulchytsky who estimates 3.5 million people perished in Ukraine, one has to add the three million Ukrainians who also perished outside Ukraine in places like Kuban, the North Caucasus, Russia and Kazakhstan where there were heavy populations of Ukrainians as well. The number of genocide victims outside Ukraine is estimated in the previously mentioned International Commission report, as well as an article recently written by New York attorney and President of the Ukrainian World Congress Askold Lozynsky. Their method was to review the national statistics from two Soviet censuses pre and post the famine of 1932-33 to reach the conclusion that, in addition to the victims in Ukraine, three million died outside Ukraine but within the orbit of the Soviet Union. So the numbers 7 to 10 million appears to be not far off the mark, at least according to most commentators.

These statistics were recognized in a November 7th, 2003 *Statement* signed by twenty-five United Nations member countries issued to the 58th Session of the United Nations' General Assembly and transmitted to the Secretary General of the United Nations by the Permanent Mission of Ukraine to the UN. That *Statement* read in part:

In the former Soviet Union millions of men, women and children fell victims to the cruel actions and policies of the totalitarian regime. The Great Famine of 1932-1933 in Ukraine (*Holodomor*), which took from 7 million to 10 million innocent lives and became a national tragedy for the Ukrainian people. In this regard we note activities in observance of the seventieth anniversary of this Famine, in particular organized by the Government of Ukraine.

Subsequently, fourteen more U.N. member countries signed the statement directly or sent letters of support.

Given the broad-ranged acknowledgement of the physical acts, no matter what the final number of victims was, the *actus reus* quite clearly has been established. It is the *mens rea*, the intent, that we must address more carefully.

2. Intent to Destroy

As already mentioned, in examining genocide we must concern ourselves with two kinds of intent: general intent and specific intent. At this stage we are concerned with the general intent to destroy. We leave the issue of specific intent, that is to say the matter of targeting a specific group, to the discussion below under the fourth element in the definition.

In looking at the issue of general intent to destroy it is helpful to recall the legal concepts of misfeasance and nonfeasance to distinguish between general intent and specific intent. Did the events of 1932-1933 amount to what legally is understood as *misfeasance*, that is to say, did the Soviet leadership in the Kremlin act purposefully to create the famine? Or were the events merely *nonfeasance*, that is to say, events that the Soviet leadership may have known were unfolding but did not bother to act upon to prevent starvation? Proof of nonfeasance (neglect) would be sufficient to meet the requirement of proving 'intent to destroy' but would be insufficient to meet the higher standard of misfeasance (action).

In addition to the U.N. *Statement* there are a host of other authorities that establish that the Kremlin leadership in 1932-1933 had the requisite general intent as set out in the Convention. Robert Conquest's book "Harvest of Sorrow," the Final Congressional Report of the U. S. Commission on the Ukraine Famine and the findings of an International Commission of eminent international jurists convened by the Ukrainian World Congress which rendered its final report in 1990 all concluded there was the requisite intent to destroy.

3. A National, Ethnic or Religious Group.

Since Ukrainians speak a separate language, have their own distinct culture, traditions and common 1000+-year history as well as worship in the Ukrainian Uniate Catholic and Ukrainian Orthodox churches it would be very difficult for anyone to maintain they were not a national or ethnic group in 1933. Even Soviet sources recognized the distinctiveness of the Ukrainian language and culture. No serious historian or legal commentator disputes this element. Anyone who has any doubt on this point should direct their questions to the Government of Ukraine or such institutions as the Harvard Ukrainian Research Institute or the Canadian Institute for Ukrainian Studies at the University of Alberta.

4. Targeted as Such.

It is this fourth element that is critical to establishing misfeasance on the part of the Soviet leadership and the necessary specific intent to target Ukrainians as a group. Was the famine in Ukraine, and other regions of the Soviet Union heavily populated by Ukrainians, the accidental result of collectivization of the peasantry and industrialization of the U.S.S.R., or were those who perished the victims of an intentional genocide targeted at the Ukrainian people?

a. Confessions or Admissions Against Interest

As discussed previously, one means of establishing specific intent is to obtain a confession, or a statement against interest, that in the law of evidence is considered reliable since the declarant makes the statement in circumstances unfavourable to him or

her. In the case of the Ukrainian genocide there are some passages that point in this direction.

Ukrainian peasantry, who were 80 per cent of the population of Ukraine, were always a force to contend with for Stalin. In considering the struggle of the Ukrainian people for statehood and independence and the role of peasants in that regard Stalin, in his article "Marxism and the National-Colonial Question" wrote: "Farmers present by themselves the basic force of the national movement - without farmers there can be no strong national movement. This is what we mean when we say that the national question is, actually, the farmers' question." This is a critical point in considering the issue of specific intent on the part of the leadership of the former U.S.S.R. It discloses that Stalin knew that his efforts to collectivize Ukraine and remove supposed-rich-peasant 'kulaks' and other resisters was at the same time really dealing with the national question and the matter of the Ukrainian nation whose survival ultimately threatened the continued existence of the Soviet Union.

Stalin's intent in pursuing a politically orchestrated famine was to destroy the Ukrainian village, its infrastructure, and the farmers since he knew that by destroying these he would have for the most part destroyed the political aspirations of the Ukrainian nation. For him the class struggle was fused with the national struggle, at least in pronouncements. But careful analysis of what Stalin and the Communist Party of the USSR did reveals that under the guise of a crack down on kulak opportunists wreaking havoc on Soviet efforts to industrialize, not only the Ukrainian village but also the Ukrainian cultural leadership of that time, including figures like writer Ostap Vyshnia, and in fact the entire Ukrainian intelligentsia, were targeted for liquidation. In reality, this anti-Ukrainianism went far beyond class warfare since it decimated millions of Ukrainians regardless of their class in Ukraine or elsewhere.

According to Winston Churchill's History of the Second World War, when he visited Stalin at the Kremlin in August, 1942 he asked: " ... Have the stresses of the war been as bad to you personally as carrying through the policy of the collective farms?" "Oh, no" he (Stalin) said, "the Collective Farm policy was a terrible struggle ... Ten millions," he said, holding up his hands. "It was fearful. Four years it lasted..." Stalin went on to say that apart from a minority that were exiled, the vast majority perished.

Thus, Stalin's equation of farmers with the national question in Ukraine where 80 per cent of the population was peasantry and his admission to Churchill of losing 10 million to the collectivization of farms are both statements made against interest and therefore reliable as evidence pointing towards guilt. Taken alone they may not be enough, but when added to the evidence that follows they assist in establishing the case.

b. Documentary Evidence of Genocide

According to Ukrainian professor Yuri Shapoval, Stalin's concern with Ukraine was clearly stated to Lazar Kaganovich in Stalin's letter of September 11th, 1932 in which he states "at this point the question of Ukraine is the most important. The situation in Ukraine is very bad. If we don't take steps now to improve the situation, we may lose Ukraine. The objective should be to transform Ukraine, in the shortest period of time, into a real fortress of the USSR."

At a November 1933 meeting of the Central Committee of the Communist Party of Ukraine Pavel Postyshev, who was sent to Ukraine and given dictatorial powers to implement Stalin's policies there, reported: "Under the direct leadership and directions of the Central Committee of

the Communist Party and personally of comrade Stalin we smashed the Ukrainian nationalist counter-revolution". In the same report Postyshev says nothing about their success in grain procurement or of the collectivization of the peasantry but instead reports with pride about the victory over the Ukrainian people.

According to Professor Roman Serbyn of the University of Montreal, two other documents which recently came to light further reveal that Stalin's extermination policy was directed specifically against the Ukrainian people.

On 14 December 1932 a joint resolution of the Central Committee of the Communist Party and the Council of Peoples Commissars of the USSR condemned the process of Ukrainization. Until this resolution Ukrainization had been carried out in Ukraine and the Northern Caucasus, especially Kuban. This process grew up in the 1920s and by the 1930s had taken root throughout Ukraine

According to the document, Ukrainization enabled Petliurites (followers of Simon Petliura the head of the former independent Ukrainian National Republic that was smashed by the Red Army in 1922) and Ukrainian bourgeois nationalists to infiltrate local administrations, educational establishments and mass media outlets. The document claimed that these anti-Soviet elements created counterrevolutionary cells, pursued a policy of sabotage and destabilization, and were responsible for the problems in State procurement in these regions.

The resolution also discloses that the solution ordered by the Party/State hierarchy, namely, to put Ukrainization in Ukraine on its original track: to assimilate the Ukrainian people into the Soviet system. Petliurites and Ukrainian bourgeois nationalists were to be removed from Soviet institutions in Ukraine and punished. Among other matters it was decided that all Ukrainian schools were to be Russified. In addition, the inhabitants of many of the Ukrainian stanytsias, settled by descendants of the Ukrainian Zaporozhian cossacks, were to be deported to the north and resettled with loyal Russian peasants from infertile lands.

The second document, which shows Stalin's intent to exterminate at least a part of the Ukrainian nation, was his directive cosigned by Molotov, and sent on January 22nd, 1933 to the authorities in Ukraine and Belarus, and five Russian regional administrations along the Ukrainian borders.

The order blames the OGPU Soviet Secret police for allowing peasants from Ukraine and the Kuban to go north the previous year and insists that they not be allowed to do the same this year. The addressed authorities were ordered to warn peasants against leaving their villages. The authorities were told to take all the necessary means to prevent a peasant exodus. Railways were forbidden to sell tickets to peasants in those regions. Authorities were ordered to arrest all peasants who did not heed the warning and tried to cross the border to leave Ukraine. As a result of this directive, in the ensuing six weeks, the OGPU arrested some 220,000 people, sent about 190,000 back to their starving villages and shot the rest.

c. Circumstantial Evidence of Genocide

In the 1980s in the United States several American immigration attorneys sued the U. S. government because an analysis of the number of immigrants to the United States from various

source countries indicated that there was a bias that resulted in a disproportionate number of immigrants from certain countries like Mexico, China, India and the Philippines while there were too few immigrants coming from other countries like Fiji, Estonia and Poland. The result was the creation of the Diversity Green Card Lottery program in 1986 to balance out the bias in the numbers.

Applying the U.S. Diversity Green Card Lottery rationale to the events in Ukraine in 1932-1933 can be used to infer that Ukrainians in the former Soviet Union were indeed the victims of genocide. The fact that the overwhelming majority of those who perished in 1933 were Ukrainian implies that the famine was not random or natural but rather the result of an intentional policy. The statistics reveal that in 1932-1933 the Soviet Union had an ample grain harvest.

In fact the Soviet leaders were masters of deception when it came to the genocide. For example, in 1933 Moscow exported and sold over 1.5 million tons of grain abroad at reduced prices at least in part to conceal the fact that millions in the Soviet Union were starving to death. Take another example. When, in response to a July 24th, 1933 appeal from the Ukrainian Catholic church in Lviv to help starving Ukraine, the writer's own family sent food, the shipments were returned at the Soviet border as "unneeded." And here's one final example. At night Soviet troops forced starving peasants to dance around bonfires on the Soviet-Polish border in an attempt to deceive those watching on the other side of the border into believing that people were doing well in Ukraine. The implications of this circumstantial evidence are clear.

According to Italian diplomatic and consular dispatches of the time, on May 31st, 1933, in a report from Kharkiv, the Italian Consul General commented on the devastation of the country: "The current disaster will bring about a preponderantly Russian colonization of Ukraine. In a future time, perhaps very soon, one will no longer be able to speak of a Ukraine, or of a Ukrainian people, and thus not even of a Ukrainian problem, because Ukraine will have become a de facto Russian region." The Italian diplomat put into words on paper what was taking place in reality in the Ukrainian countryside.

What is more, according to a recent article published in the Ukrainian Genocide Journal, evidence from the archives of the U.S.S.R. indicates that in addition to massive deaths, the Holodomor also resulted in an economic windfall for the Soviet Union. It is estimated that some 66 tons of gold, 1439 tons of silver as well as a store of diamonds and other precious antiquities were extracted from Ukraine through special Soviet stores that only accepted such precious commodities in exchange for coupons that could be used to buy bread.

That said, it is also a fact that Ukrainians were not the only ones who perished due to famine in 1932-1933 in the USSR. Other national minorities, Poles, Germans, Greeks and even Russians living on Ukrainian and other Soviet territories also died. While there is little doubt, for the reasons given, that the Holodomor of 1932-1933 amounted to genocide of the Ukrainian people, further research into Soviet archives is necessary to establish whether other national minorities in the former U.S.S.R. were also such victims.

Conclusion

To summarize, the target of the politically orchestrated famine was not merely a class of Soviet society but the whole, or at least part, of the Ukrainian nation. Today we can summarize the effects of these policies quite succinctly. Peter Borisow, a Los Angeles Ukrainian community leader whose family members perished in the Ukrainian genocide, provides a good summary. "We know that along the border where there was no food on the Ukrainian side, there was food on the Russian side and Russian armed guards stood in between, with orders to shoot to kill. We know how travelers were searched for food and even a single loaf of bread was seized and the "smugglers" punished ... In effect the entire country of Ukraine was essentially turned into a huge concentration camp policed by soldiers from Moscow so tightly sealed that escape was impossible ... In fact, Ukrainians were so systematically executed, exiled and starved to death that by 1933 entire regions of Ukraine were suddenly without any people at all. Everyone was dead. For miles and miles, travelers reported ghost towns and prairies totally without people."

According to survivors of the genocide the biggest fear of those who perished was that the world would never know how and why they died and would not care. Stalin and others did a good job of employing deception, obfuscation and sanitized language to cover up the evidence. But seventy-five years later, while the why and how of their deaths are still the subject of debate, it is now increasingly accepted that those who perished did so as victims of genocide.

The facts are clear. Stalin forced Ukrainians to surrender their grains and other food while he sealed the borders to prevent their migration. Millions of people died. The Ukrainian nation was decimated. These facts inescapably lead to the conclusion that Stalin knew that the Ukrainian nation would starve to death and he intended that it should. That a debate still persists and that the Russian Duma and prominent people like Alexander Solzhenitsyn continue to dispute this contention do not erase away these facts. They do suggest, however, the need for the creation of a truth and reconciliation commission in Ukraine similar to what was created in South Africa after the fall of *Apartheid*. Such a commission would help Ukrainians and others come to terms with these events including their influence on the post-genocidal Ukrainian psyche. Opponents of such a commission would have nothing to lose since, if as they maintain, there was no genocide, the matter could be finally put to rest.

In the meantime, as Eugenia Dallas, a survivor of the genocide who lost her family in Ukraine in 1933 points out, as difficult as it may be - we can try to forgive, but we can never forget these events and we must inform the world about them.