

Dr. Elisa von Joeden-Forgey
Executive Director,
Lemkin Institute for Genocide Prevention
Evjf@lemkininstitute.com

Speech at the First Meeting of the International Coalition of Countries for the Return of Ukrainian Children, Sponsored by the Office of the Ukrainian Ombudsman, December 8, 2023 in Kyiv, Ukraine

I would like to thank the Office of the Ombudsman of Ukraine for the invitation to speak at this event and all of the people who made my travel to the beautiful city of Kyiv a possibility. It is a great honor to be here and to be part of this important initiative — the return of all stolen Ukrainian children to their homes and to their identity.

The Lemkin Institute for Genocide Prevention has been tracking the genocidal aspects of Russia's invasion of Ukraine since before February 24, 2022. We were placed on alert in particular by Vladimir Putin's denial and therefore his criminalization of the Ukrainian identity in his speeches before the invasion, which signaled to us that he intended to destroy the Ukrainian identity in whole. His accusations against Ukraine — that it was committing genocide against Russians in Donbas — were another red flag, as Putin was employing a very common tactic used by genocidaires, called projection or mirroring, when perpetrators accuse their soon-to-be victims of committing the crime the perpetrator intends to commit.

We noted our concerns about a looming genocide in our first statement on the invasion, from February 26, 2022, and followed up with a statement on genocide in Ukraine on March 20, in which we laid out the evidence of genocide in the first month of the war. Between February 26 and March 20, Russia's actions on the ground signaled that Putin intended to put his publicly stated genocidal intent into action on the ground through the indiscriminate shelling of cities, including hospitals and schools and other buildings that are off-limits in war, through the brutal siege of Mariupol, and through the kidnapping and forced displacement of people in regions it occupied.

Since then, the evidence of genocidal intent has only mounted. In particular, Russia is guilty of specific atrocities, what I have called life force atrocities in my own scholarly work, that are highly correlated with the crime of genocide. These include gang rapes, rapes in front of family members, symbolic mutilations of bodies, symbolic violence against the Ukrainian identity, the separation of families, and, of course, the transfer of children.

The early statements from the Lemkin Institute is what got us involved in writing communications to the ICC on the genocidal intent behind Russia's policy of transferring Ukrainian children to Russia. In April 2022 we were approached by lawyers from the Ukraine-based Regional Center for Human Rights with the proposal that we partner with them on this initiative. They had already been working on the transfer of Ukrainian children from Crimea since 2014 and they immediately recognized the threat posed to Ukraine's children when Russia invaded again in 2022. We welcomed the opportunity to work in solidarity with Ukrainian colleagues and for the benefit of the Ukrainian people. Working in solidarity with threatened groups is the primary moral impetus for the Lemkin Institute's existence.

Russia's policy of separating Ukrainian children from their natal home and transferring them to the Russian nation and Russian identity is one of the clearest indicators of genocidal intent that we have. Its victims are not only the children themselves, who suffer terribly from this violation of their rights, but also families, communities, and the nation, since children are the sacred treasures of collective life and their harm affects ever-widening circles of people. This is one of the reasons that the transfer of children is recognized as an act of genocide in section II.e of the Genocide Convention and is also understood in scholarship as a core feature of genocidal processes. We have seen children transferred to the perpetrator group in many cases of past genocide, including in the settler colonial genocides in North America and Australia, the Armenian genocide from 1915 to 1923, the so-called Dirty War in Argentina, and the ISIS genocide against the Yazidi and Christian communities of Iraq and Syria. The transfer of children was also an integral part of the Nazi's genocidal domination of Eastern Europe in the form of the *Lebensborn* project.

At the Lemkin Institute, we view the transfer of children to be a pattern of genocide in its own right, for it constitutes an assault on the organizing principle of group identity, which is the family. By transferring children, perpetrators simultaneously appropriate the biological resources of the target group, enriching their own group in the process, and destroy the identity of the target group through the immeasurable harm caused by the separation of families and the destruction of communities. The question of genocidal intent within the Russian government has been masterfully dealt with by the lawyers at the Regional Center for Human Rights in the three ICC communications that they developed with us, in which is documented the copious evidence of coordination, planning, and genocidal aims. Russia's efforts to legalize the transfer of children — by, for example, arguing that it has been done to protect the children — are contradicted by its efforts to impose Russian citizenship on them and offer the children up for adoption by Russian families. Protecting children from a war it started would not require these extra efforts. Children do not need to be naturalized and adopted to be protected. All that would be needed would be to guarantee the children and their families or guardians safety and security, that is, to stop the war. The idea that Russian adoption is protection is itself an indicator of genocidal thinking — what are these children being protected from? The only answer is their Ukrainian identity, fostered by their Ukrainian families and Ukrainian caretakers. The discourse in Russia on the adoption of children from the temporarily occupied territories is thoroughly enmeshed with genocidal thinking.

Despite the ubiquity of the transfer of children during genocidal processes, it is a neglected crime within international jurisprudence on genocide, which has focused primarily on killing and mass murder as evidence of genocide, that is, on paragraph 11.a. Of the genocide convention, "killing members of the group." Ukraine's efforts to call attention to this crime, to find justice for this crime, and to bring children home are a positive intervention in international law and will move forward the global understanding of genocide in very productive ways. Sometimes the most critical evidence of genocide is not killing, but efforts to undermine group cohesion, which are covered in paragraph 11.b-e of the convention. These paragraphs, which cover mental harm, the prevention of births, and creating conditions of life designed to destroy a group, in addition to the transfer of children, are sometimes more indicative of genocide than killing, since killing can happen in wars and other types of conflict. The undermining of group cohesion covered in the neglected acts of the genocide convention — if not properly addressed — can exert some of the most damaging long-term destruction on a group by disrupting the very relationships that a group depends on to thrive in our world.

There are precedents for official determinations of genocide related to the transfer of children, but these exist outside of the law — and they include the determinations by governmental commissions in Canada and Australia on the forced removal of indigenous children from their communities to boarding schools.

Because of the very narrow approach to genocide in international law, efforts to obtain official recognition of the transfer of children as an act of genocide will be an uphill battle. I believe it is a battle worth fighting. The implications of ignoring the genocidal intent of Russia's transfer of Ukrainian children are that we all live in a world where one of the most harmful forms of genocidal destruction goes unrecognized and unpunished, granting it impunity by failing to publicly condemn its true nature. International failure to recognize genocidal acts is a form of denial and a means of granting impunity for genocide to current and future genocidaires. We must all continue to build the case for genocide in legal circles, in official circles, and in global public opinion, so that increasing numbers of people begin to see the existential threat to the Ukrainian identity that the transfer of children poses. Justice and healing demand this. Our shared humanity demands this.

Slava Ukraini!