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Master's Thesis

Legality of Transfer and Deportation of Civilians under International
Humanitarian Law and International Criminal Law

*Civilių asmenų perdavimo ir deportacijos teisėtumas pagal
tarptautinę humanitarinę teisę ir tarptautinę baudžiamąją teisę*

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ABSTRACT

English Abstract

This thesis critically examines IHL and ICL tendencies towards the legality of transfers and deportations of civilians. These legal provisions are discussed in a historical context, starting from the early codifications of the two Hague Conventions until the four Geneva Conventions, as well as the four Geneva Conventions and their Additional Protocols. To determine whether these provisions have made these civilians' transfers and deportations legal under the Rome Statute, customary international law, and the other axes of legal analysis. The thesis contains a central analysis concerning how the International Criminal Court (ICC) has understood and practiced these legal standards in cases of forced displacement, such as in the Darfur case and the Rohingya crisis. It then analyses how the jurisdictional limitation to enforcement, political influence, or uptake of particular cases can hinder global compliance with the laws. Therefore, it compares the legal systems – Geneva Conventions, the Rome Statute, and the refugee law – to argue that shelters for such vulnerable groups as women, children, and minorities are not good enough during their transfer and deportation. According to this study, human rights cooperation should formulate an international cooperation framework and humanitarian and refugee law.

Keywords: *Forced displacement, deportation, international law, Geneva Conventions, Rome Statute, political influence, human rights.*

Lithuanian Abstract

Šiame tyrime kritiškai analizuojama civilių perkėlimo ir deportacijos teisėtumas pagal tarptautinę humanitarinę teisę (THT) ir tarptautinę baudžiamąją teisę (TBT). Tyrime nagrinėjamos teisinės nuostatos, pradedant ankstyvaisiais dviejų Hagos konvencijų kodifikavimais ir baigiant keturių Ženevos konvencijų bei jų papildomais protokolais. Siekiant nustatyti šių nuostatų veiksmingumą sprendžiant civilių perkėlimo ir deportacijos teisėtumo klausimus, nagrinėjamas Romos statutas, tarptautinė paprotinė teisė ir kiti tarptautinės teisės šaltiniai. Šiame magistro darbe didžiausias dėmesys skiriamas tam, kaip Tarptautinis baudžiamasis teismas (TBT) supranta ir taiko tarptautinės humanitarinės ir tarptautinės baudžiamosios teisės standartus priverstinio perkėlimo bylose, tokiose kaip Darfūro byla ir rohinjų krizė. Be to, magistro darbe taip pat nagrinėjama, kaip TBT jurisdikcijos apribojimai, politinė įtaka ir selektyvus teisės taikymas daro įtaką tarptautinės teisės aktų ir tarptautinių teismų sprendimų laikymuisi. Lyginant Ženevos konvencijų, Romos statuto ir pabėgėlių teisės pagrindines taisykles, siekiama nustatyti, kokiais atvejais prieglobstis ir jo suteikimo sąlygis pažeidžiamoms grupėms, tokioms kaip moterys, vaikai ir mažumos, gali būti laikomas nepakankamu tokių asmenų perkėlimo ir deportacijos metu. Magistro darbe rekomenduojama integruoti žmogaus teisių teisę su humanitarine ir pabėgėlių teise.

Raktažodžiai: *priverstinis perkėlimas, deportacija, tarptautinė teisė, Ženevos konvencijos, Romos statutas, politinė įtaka, žmogaus teisės.*

TABLE OF CONTENTS

ABSTRACT.....	i
English Abstract.....	i
Lithuanian Abstract.....	ii
INTRODUCTION.....	1
I. LEGAL FRAMEWORKS REGULATING FORCED TRANSFER AND DEPORTATION.....	3
1.1. Historical Development.....	3
1.2. Geneva Conventions and Additional Protocols.....	4
1.3. Rome Statute of the International Criminal Court.....	5
1.4. Customary International Law.....	7
1.5. Comparative Study of Legal Frameworks.....	8
1.5.1. Geneva Conventions vs. Rome Statute.....	8
1.5.2. National vs. International Jurisdiction.....	10
II. UKRAINIAN CHILDREN'S DEPORTATION TO BELARUS CASE.....	13
2.1. Factual Background and Context.....	13
2.2. Humanitarian Impact and Violations of International Law.....	13
2.3. Legal Doctrines and Theories Applicable to the Ukrainian Children's Case.....	15
2.4. Reactions from the International Community.....	16
2.5. Current Status of Investigations.....	18
2.6. Future Implications for International Criminal Law.....	19
III. LEGAL AND PRACTICAL CHALLENGES.....	21
3.1. Jurisdictional Limitations.....	22
3.2. Challenges in Evidence Gathering.....	23
3.3. Political and Practical Barriers to Prosecuting State and Non-State Actors.....	24
3.4. Impact on Accountability and Suggestions for Improvement.....	25

CONCLUSION AND RECOMMENDATIONS.....	26
REFERENCES.....	29
SUMMARIES.....	34
English Summary.....	34
Lithuanian Summary.....	35

INTRODUCTION

The transfer and deportation of civilians during armed conflict pose serious challenges to the protection of fundamental human rights, particularly the rights to life, dignity, and family unity. Whether practising under a military necessity or demographic policy umbrella, these practices tend to cause harm to affected populations. Recognising the development of a large body of International Humanitarian Law (IHL) and International Criminal Law (ICL) legal norms and in the furtherance of their prohibition, instances of unlawful transfer and deportation continue to happen during contemporary conflicts.

This is an important topic because we have seen a resurgence of such practices in recent years, including concerning the war in Ukraine. This brings into question the adequacy of current legal protections against the mistreatment of migrants, mechanisms in place and legal definitions for preventing or punishing violations, and legal standards for identifying what amounts to an authorised population movement versus a criminal act.

The thesis analyses the issue in light of the rules of IHL and ICL on the treatment of civilians in armed conflict. The purpose is to describe when and whether civilian transfers or deportation occur and what such a transfer or deportation means about it being or not being a grave breach or international crime. Taking a new perspective on the international law discourse of one of the most serious incidents of civilian victimization in times of war, this study develops this analysis from the survey of treaty law and case law.

International Humanitarian Law (IHL) regulates the conduct of parties to armed conflict and protects the parties' civilian population from breaches of forcible transfer and deportation. In the Geneva Conventions and their Additional Protocols, most of this was codified as legal safeguards for persons who were not or were no longer in the throes of hostilities. International Criminal Law supplements this, particularly the criminal instruments against them, such as the Rome Statute of the International Criminal Court (ICC), which considers severe violations of international law as criminal responsibility,

including War crimes, Crimes against humanity, and Genocide. Both the forced transfer and deportation of civilians are illegal under legal frameworks because they are considered a grave breach of humanitarian principles.

Legal norms must be implemented and enforced despite such legal norms. For example, unlawful transfers and deportations come up frequently in the prosecution but face problems regarding the collection of reliable evidence in conflict zones, lack of access to victims and witnesses, and a lack of political will among states reluctant to cooperate with international investigations. In addition, divergent state interests and legal obligations might frustrate the emergence of uniform enforcement practices. All of these make it more difficult to ensure accountability and, at the same time, protect people according to the legal protections embodied in IHL and ICL. Yet one of the most serious challenges is the existing gap between what the realities on the ground undermine compliance and what is provided by the legal provisions; repeated violations of the spirit and letter of international law are observed while the actual conditions in the area of conflict are mostly other than its legislation.

This thesis seeks to ascertain whether the transfer and deportation of civilians during an armed conflict are legal under international humanitarian law (IHL) and international criminal law (ICL) and how the two regimes of law are applied and enforced in cases of an armed conflict. To achieve this objective, the thesis will undertake several concrete tasks: it will analyze the relevant provisions of IHL and ICL concerning the protection of civilians from unlawful transfer and deportation, examine both historical and contemporary case studies to understand how these norms have been interpreted and implemented in practice; identify legal and practical challenges that hinder effective enforcement, such as difficulties in evidence collection and jurisdictional issues; evaluate the role and effectiveness of international accountability mechanisms in prosecuting such violations; and propose recommendations aimed at enhancing compliance and strengthening the legal protection of civilians against forced displacement. In particular, it studies IHL (that is, the Geneva Conventions and Additional Protocols), especially in their interaction with ICL instruments such as the Rome Statute and looks for and identifies areas of protection and enforcement

shortcomings. The legal basis for barring the transfer and deportation of civilians and protecting fundamental human rights by prohibiting forced displacement out of International Humanitarian Law and International Criminal Law is investigated. It also envisions possible legal difficulties such as unintelligible treaty language, lack of jurisdiction, and deficiencies and gaps in enforcement institutions, including state compliance and international supervision. Moreover, it examines landmark cases from global and regional courts, including the ICC, the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the European Court of Human Rights (ECHR), to identify trends and 'precedents' as a way of confirming that the Court has arrived at their results. It also analyzes the efficiency and capability of domestic and foreign enforcement tools while analyzing obstacles, including jurisdictional constraints and political interference, and recommendations for legislative and institutional alterations to introduce protections and accountability mechanisms. The research method used in this study is a doctrinal research method that aims to achieve these objectives. It uses primary legal material, such as statutes, case laws, and treaties and secondary material, such as literature written by academic students and reports made by experts. The research analyses the legal analysis of customary law, judicial interpretation, and international treaties regarding the transfer and deportation of civilians. It also involves legal analysis of the different case studies, such as the transfer of Ukrainian children from Ukraine to Belarus, and critical evaluation of mechanisms for enforcing IHL and ICL provisions. These methods constitute a powerful attack on the existing legal and enforcement systems to uncover limitations of jurisdiction cases with political intervention and gaps in existing legal frameworks.

The findings of this thesis would remain applicable to policymakers, legal professionals, and human rights advocates as civilian transfer and deportation continue to be global pressing concerns. It offers practical recommendations to support the institutionalisation of a better legal framework and enforcement mechanisms for preventing unlawful displacement. Analysis of the study of case law and procedural challenges in enforcing international jurisdiction has practical implications for legal practitioners who can utilise them to build their knowledge base of enforcing

international jurisdiction, and human rights defenders may use the same analyses to inform their advocacy efforts towards building accountability mechanisms. It also contributes to the originality of this thesis because of the integrated analysis of IHL and ICL at their interface in the realm of transfer and deportation, which it analyses in particular. Unlike prior academic works that tend to treat these frameworks separately or narrowly focus on specific conflicts, this thesis makes a comparative and holistic case through a historical and contemporary point of the case study. Identifying such gaps in legal enforcement and offering realistic reforms to improve international legal cooperation and accountability against ongoing and emerging challenges in the area of civilian displacement provides new insights.

I. LEGAL FRAMEWORKS REGULATING FORCED TRANSFER AND DEPORTATION

1.1. Historical Development

Civilian transfer and deportation have customarily been the tools of warfare and are as old as history itself. In most of the ancient wars, 'ethnic cleansing' was the order of the day because the conquerors sought to eliminate the conquered peoples to bring total submission or get total mastery, gain vengeance, or extract more resources from impoverished peoples (Talbot, 2009, p. 16). For instance, historical examples include the Assyrian Empire relying on a mass of entire communities to new territories to check rebellion; the Romans used the same tactics to suppress rebellions and obtain a needed labour force (Shaw, 1984, p. 7). In these early ages, such acts were accepted as part of war and were not subjected to moral or legal considerations.

Humanitarian norms were introduced to prevent ethnic groups from being involved in wars as far back as the 19th and 20th centuries. The Hague Conventions 1899 and 1907 proceedings were essential landmarks in this process (Toman, 2005, p. 21). Although mainly concerned with operations, these conventions established guiding principles regarding the civilian population, such as immunity to unnecessary suffering and respect for Private property. Yet they did not contain specific invocations for the forced transshipment and deportation of civilian persons.

World War II raised the standards for forced displacement and led to much more legal recognition of the issues. The Nazis' policy of gassing millions of people, Jews, Poles, and other targeted ethnicities, raised the matter to the top of global discussion (Browning, 2000, p. 208). Actions of this type were considered crimes against humanity during the Nuremberg Trials held in 1945 – 1946 and remain examples of individual responsibility in cases when mass displacement has taken place (Greens, 1999, p. 289). In the same way, the Tokyo trials that were conducted between 1946 and 1948 also gave a way of how forced labor deportation was conducted regarding the Japanese wartime actions, providing legitimacy to the legal norms that were already developing.

These principles were later instituted in international treaties, especially after the end of the post-war era. The Fourth Geneva Convention of 1949 outlaws the deportation or transfer of protected persons from occupied territories subject to a few unavoidable situations in the interest of the war. This was an essential step in placing forced transfers as a violation of humanitarian law. These prohibitions were then reinforced by later treaties such as the Additional Protocol to the Geneva Conventions of 1977 and the Rome Statute of the International Criminal Court of 1998.

1.2. Geneva Conventions and Additional Protocols

The Fourth Geneva Convention of 1949 is one of the most vital cornerstones of international humanitarian law – it aims to protect civilians during armed conflict. Two provisions are particularly critical in addressing forced transfers and deportations: Article 49 and Article 147. It does not matter the ground upon which an individual is fostering transfers or deportations of citizens or groups of citizens since Article 49 prohibits any transfer of people (De Zayas, 1975, p. 208). The article allows evacuations where such will be strictly necessary for the population's safety or for compelling military necessity. Article 147 defines such removals or transfers, when done unlawfully, as serious violations of the Convention and, therefore, form part of the list of war crimes under international law. These provisions are clear, evident, and factual to prove. It depicts a clear intention to shield civilians from displacement and the resulting horrible humanitarian impact.

These protections are not limited only to the parties involved in a dispute. They include

International Armed Conflicts (IACs) and some Non-International Armed Conflicts (NIACs) while being limited as to the extent of their application. Among IACs, the duties of occupying powers are most expressed. Occupying states must protect the rights of occupied civilians and shall not force the civilians to quit their homes or create conditions that will force them to move out willingly (Imseis, 2003, p. 68). The occupying powers can also be liable for offering proper living standards to eliminate indirect compulsion. The Additional Protocols to the Geneva Conventions of 1977 protected these provisions further. Under *Protocol I*, which regulates IACs, practices intended for getting rid of civilians are prohibited unless such movements are required by the need to protect civilians' lives. *Protocol II*, which regulates NIACs, has stipulations similar to those of protecting civilians from forced movements added to the list due to the realization that these principles apply universally.

Despite these robust provisions, significant challenges and ambiguities persist. A central issue is distinguishing forced migration from other forms of displacement. Even where coercion tends to go hand in hand with displacement, the latter does not necessarily mean that there was entitlement or clear evidence that force or coercion was used (Newman and Van Selm, 2003, p. 39). For instance, indirect pressure, like making the dwellings utterly inhospitable, expels people but less unambiguously in violation of international laws against forced eviction. Additionally, specific norms of displacement make it possible to see that those that apply to cases of displacement within armed conflict are clear and well-defined. In contrast, the norms regulating other situations, such as displacement due to development projects or other large-scale violence, are not substantiated by law. This is because the legal treatment and justification for the two scenarios are different.

1.3. Rome Statute of the International Criminal Court

The Rome Statute of the International Criminal Court (ICC), which was signed in 1998, also labels deportation and forcible transfer of civilians as genocide, war crimes, and crimes of humanity. According to Article 7, deportation or forcible transfer of population is a crime against humanity if it was committed as part of a plan or a policy or part of a large-scale and systematic attack against a civilian population and the attacker knew

about the attack (Robinson, 1999, p. 51). This provision takes such actions very seriously as it puts them in the same league as other actions like genocide, enslavement, and torture. Also, under Article 8, the deportations or transfers by an occupying power's authorities of protected persons is a war crime when the deportation or transfer is unlawful, and it is conducted during international or non-international armed conflict. From the above provisions, the Rome Statute also provides that transfer and deportation are both crimes against humanity and war crimes. Transfer of civilians and deportation severely violate several human rights and International Humanitarian Law (IHL).

The implementation of the Rome Statute focuses on establishing mechanisms to punish individuals responsible for illegal deportation and civilian transfers. It is why the ICC hears cases involving persons accused of transfer and deportation crimes enumerated in the Statute and provides justice where impunity has occurred. However, significant jurisdictional barriers limit the capability of the ICC to address deportation and transfer as a crime. For instance, the ICC cannot prosecute deportation crimes committed in the territory of non-members. Similarly, the ICC finds it difficult to try perpetrators with a nationality of a non-member state. In such situations, the ICC can only prosecute deportation crimes when the non-member state consents to its jurisdiction or when the Security Council of the United Nations report the situation to the ICC. It raises concerns over the exercise of jurisdiction over Russian nationals committing war crimes in Ukraine. Even though Russia itself is not a party to the Statute, it is right to investigate and prosecute Russia for transfer crimes in Ukraine in ICC under the principle of territoriality since Ukraine has accepted ICC jurisdiction. The ICC system remains non-universal as leading states including the United States, China, and Russia remain outside the Rome Statute. Such absence thwarts the Court's effort to achieve universal justice and accountability around the globe. More challenges to the ICC include political intrusion, diminishing cooperation from member states, inadequate funding, delays in delivering justice, and challenging the execution of arrest warrants, and convictions (Sarkin, 2020, p. 56).

The Rome Statute contains explicit provisions concerning deportation and forcible

transfer, categorizing them as serious violations of international law and recognizing them as both war crimes and crimes against humanity under specific circumstances. This legal codification represents a significant advancement in the international legal regime's ability to prosecute individuals responsible for grave human rights abuses (Schabas, 2010). However, the practical impact of the Rome Statute as a deterrent remains questionable. In the midst of armed conflict, states often prioritize geopolitical interests over compliance with international legal obligations, thereby undermining the Statute's preventative potential (DeFrancia, 2001, p. 1411). Moreover, the infrequent prosecution and conviction of individuals by the International Criminal Court (ICC) for deportation or forcible transfer reveal underlying procedural challenges. As noted in scholarly analyses, these include the difficulty of gathering admissible evidence in conflict zones and establishing the requisite intent beyond reasonable doubt—an especially high bar in international criminal proceedings (Stahn, 2015; Heller, 2011). Critically, the Rome Statute does not engage with the structural and systemic causes of forced displacement such as state failure, discriminatory governance, or socioeconomic marginalization. This gap reveals a significant divergence between legal codification and effective prevention. As Sarkin (2020, p. 28) argues, the Rome Statute offers a robust prosecutorial framework, but lacks anticipatory mechanisms capable of addressing the root causes of displacement. This deficiency aligns with critiques grounded in critical legal theory, which advocate for a broader lens that encompasses not only individual accountability but also the socio-political structures that facilitate mass displacements. Therefore, while the Rome Statute is vital in post-facto justice, it is insufficient on its own to prevent or address the systemic conditions that lead to the forced movement of civilians.

1.4. Customary International Law

Customary international law is part of the foundation of the international legal system that prohibits forced removals and deportations. Derived from *opinio juris* and state practice, customary international law provides rules that extend beyond treaty law to cover cases of general practice and accountability. Forced transfers and deportation violate the principles applicable during international and non-international armed

conflicts under customary international law. It is recognized universally as an infringement of human rights and humanitarian law. According to the International Committee of the Red Cross (ICRC) through its Customary IHL Database, prohibitions of such conduct persist regardless of a state's adherence to treaties like the Geneva Conventions (ICRC, 2024). This has been evident by the widespread international condemnation of forceful displacement of Rohingya from Myanmar, and Russia's transfer of civilians amid the war with Ukraine. Especially, the case of the deportation of Rohingya from Myanmar. It shows the effective negative attitude of the international community to violations of the International Customary Law and its roles in regulating the transfer and deportation of civilians. Myanmar's military committed systematized abuses against Rohingya people in 2017. Myanmar's war machine killed, tortured, perpetrated sexual violence, burning houses to force more than 27000 Rohingya people to cross the border to Bangladesh (Human Rights Watch, 2016). It is a crisis that provoked widespread condemnation. The United Nations referred to it as a 'textbook example of ethnic cleansing.' International actors have regularly raised customary norms to demand accountability, about forced displacement prohibited by the customary international humanitarian law. The International Court of Justice (ICJ) faced these questions in *The Gambia v. Myanmar (2022)*, where it recognized the Rohingya's rights under the Genocide Convention thus reiterating the peremptory norm against forced eviction.

While customary international law does not replace treaty law, it addresses gaps and ambiguities to supplement it. For example, in conformity with Article 49 of the Fourth Geneva Convention, which prohibits forced transfers, customary international law brings similar responsibilities even to states that have not ratified the Convention. Moreover, customary norms clarify distinctions between 'forced' and 'voluntary' transfers, especially in ambiguous treaty texts. In the Rohingya context, the forced nature of displacement is evident from the systematic campaign of violence and coercion employed by the Myanmar military, showing the clear breach of customary and treaty-based protections. However, applying customary international law entails certain difficulties, which increase in the sphere of judicial practice. An added challenge in the enforcement is that courts demand considerable evidence of state practice and *opinio*

juris to support the rule as customary (Szewczyk 2013). Furthermore, even the usage of 'force' is questionable due to the flexibility that it entails. For example, the Rohingya crisis is a clear case of coercion, while other cases such as the protected evacuations in Syria or Gaza, raise questions as to whether moves are forced or voluntary transfers. These controversies demonstrate that, even now, customary norms remain grounded in legal and practical uncertainty.

1.5. Comparative Study of Legal Frameworks

1.5.1. Geneva Conventions vs. Rome Statute

Even though both documents are considered essential parts of international humanitarian law, the Geneva Conventions and the Rome Statute have different natures, goals, and legal foundations. Whereas the Geneva Conventions predominantly deal with the humanitarian treatment of victims in armed conflict, the Rome Statute provides an architecture for individual criminal accountability for serious violations of international law, including forced transfer and deportation.

Nature of Obligations: State Responsibility and Individual Accountability.

A fundamental distinction lies in obligations imposed by these instruments. Geneva Conventions mainly outline the roles of states whereby a state is required to protect civilians in international and non-international armed conflict (ICRC, 2016). For instance, under Article 49 of the Fourth Geneva Convention, transfer and deportations are prohibited in the occupied territories. Thus, the provision requires states to translate and apply these domestic protections under the supervision of international organizations such as the United Nations. Enforcement entirely depends on the state structures and cooperative international supervision.

On the other hand, the Rome Statute concentrates on individual criminal liability, in which forced transfer and deportation are offenses directly attributed to a person and not to a state. This is following the Generic ICL Framework, which deals with a person's responsibility for serious breaches of international norms. Under Article 7, the Rome Statute criminalizes deportation or forcefully transfer of persons. Under the statute, systemic or large-scale transfer of civilians is a crime against humanity (Roberts and

Stewart, 2019, p. 59). The Rome Statute, at its core, focuses on people, especially elites, to achieve the goal of preventing and punishing violations, especially when the system fails. This divergence underscores the complementary nature of the Geneva Conventions and the Rome Statute: one protects civilians through state commitments, whereas the latter ensures accountabilities for offenders who contributed to violation of rights.

Enforcement Mechanisms

The implementation and enforcement of the Geneva Conventions largely depend on state ratification and cooperation, particularly through domestic legal systems tasked with investigating and prosecuting violations, including unlawful transfers and deportations of civilians. Ideally, when states are unwilling or unable to act, international mechanisms such as the International Criminal Court (ICC) or the referral powers of the United Nations Security Council (UNSC) can be triggered (ICRC, 2016). However, this system often proves ineffective due to geopolitical dynamics. Powerful states and their allies may block or delay investigations that implicate their interests, thus undermining the universality and effectiveness of the Geneva Conventions. The heavy reliance on voluntary state participation introduces a systemic vulnerability in achieving consistent accountability.

The Rome Statute sought to address some of these enforcement limitations by establishing the ICC as a permanent judicial body capable of prosecuting individuals for genocide, war crimes, and crimes against humanity, including forcible transfers and deportations (Bacio Terracino, 2007, p. 428). The ICC operates on the principle of complementarity, stepping in only when national jurisdictions are unwilling or unable to prosecute. Nevertheless, it too faces significant constraints. Jurisdictional limitations restrict the Court's authority to crimes committed on the territory of a state party, by its nationals, or via UNSC referral—conditions that exclude many conflict situations where serious violations occur. Moreover, political interference and a lack of cooperation from both member and non-member states often obstruct investigations, delay proceedings, and compromise justice. These practical limitations expose the gap between legal

ideals and real-world enforcement, illustrating the broader structural weaknesses in the international legal framework tasked with addressing forced civilian displacement.

Each of these frameworks has its own set of problems. The Geneva Conventions employ state mechanisms governed by politics, especially when trying to prosecute states or their allies. Concerning the ICC, while emphasizing persons instead of states as a priority advancement, the institution mirrors numerous drawbacks of the domestic models regarding jurisdictional basis and depending on the state's assistance in enforcement.

Critical Analysis: Distinct Areas of Overlap and Failure.

The Geneva Conventions and the Rome Statute offer complementary approaches, overlapping in governing civilian transfer and deportation. For example, the Geneva Conventions focus on state responsibilities; simultaneously, the Rome Statute punishes individuals for offenses concerning the forcible transfer and deportation of civilians. This approach enables the quest for justice through domestic courts, international courts, and mixed systems. However, the Rome Statute and Geneva Convention become ineffective when mass deportation and civilian transfer cases involve powerful states. In Syria and Ukraine, there remain impediments to implementing the provisions of the Geneva Conventions because key stakeholders, Russia, the United States and other political actors do not fully implement international legal processes (Shamsi, 2016, p. 87). However, the latest ICC arrest warrant issued for President Vladimir Putin shows that international enforcement structures can be activated, although conditionally. Nevertheless, the possibility of ICC recourse to the Security Council or the consent of member states, provided for by the Rome Statute, limits the ICC's jurisdiction and its opportunity to act thoroughly in such a conflict.

1.5.2. National vs. International Jurisdiction

Domestic Prosecutions

Even though some powerful states such as Russia have refused to cooperate in the prosecution of deportation crimes (Amnesty International, 2023), there are national legal systems that have gradually begun to prosecute deportation crimes, particularly

where an international crime like a war crime or crime against humanity has been committed within the domestic jurisdiction or by a citizen of the said jurisdiction. One of the most well-known examples is the prosecution of Syrian people within the German territory through the application of universal jurisdiction. The doctrine enables states to be accused of international crimes regardless of where the crimes were committed. Consider the 2022 case of Anwar Raslan, where the German government accused Raslan, a former Syrian intelligence officer, of forced transfer, torture, and crimes against humanity (The Guardian, 2022). He was subsequently caught by the German Federal Court of Justice and sentenced to life imprisonment in 2022, thus being the first chief Syrian official to be charged with crimes against humanity (Ahdab, 2023, p. 85). This case showed how the domestic court could fill the void and act when the ICC hit the wall with jurisdiction or political constraints.

The German judiciary has already progressed enormously in evidencing alleged perpetrators of war crimes in Syria; it has filled the necessary absences left by the ICC's shortcomings. One of the shortcomings is the ability of the ICC to prosecute crimes committed in states, not signatories to the Rome Statute, such as Syria, unless through a reference by the United Nations Security Council, which is constantly thwarted by political vetoes (Sadat, 2021, p. 294). Instead, by relying on universal jurisdiction, the German courts overcame such hurdles to promote justice, wherein there was no intervention from the international courts. The activity of domestic courts in prosecuting international crimes, including forced deportation, helps assess the effectiveness of international criminal law. These prosecutions help explain the operational symbiosis between national and international jurisdictions. As globalization springs systems to deliver global accountability, the domestic courts can handle cases beyond the jurisdiction of international tribunals such as the ICC, thereby improving the overall delivery of the justice system. Forced deportations and transfer cases require a complex enforcement mechanism. The Raslan case shows the importance of involving national courts to substitute for consistent justice when international systems fail valuably. Domestic prosecutions of forced deportation yield the desired results of ensuring justice for the affected victims. It also emphasizes the need for International Humanitarian Law (IHL) to partner with national and international players. Such

integration is vital to bridging jurisdictional and political divides, bringing the perpetrators of international law violations to book, and, most importantly, protecting civilians in the context of the use of force.

Gaps in Domestic Frameworks

The attempt to prosecute deportation crimes by domestic systems faces some challenges. The first barrier is the commitment to such prosecutions once the accused is a political crony or diplomat. A process by which domestic courts adjudicate such offenses is not beyond political interference, which may influence their ability and willingness to prosecute such crimes. In the same way, legalized understandings like the absence of specific legal provisions in the national criminal laws or difficulties in collecting evidence for deportation crimes committed in foreign states – might also limit the prosecution of deportation crimes (Haynes, 2004, p. 228). Domestic courts can also experience specific problems when working on cases connected with the protection of the witnesses and enforcing international arrest warrants, for example.

Complementarity with International Courts

Complementarity is a cornerstone principle of the Rome Statute of the International Criminal Court (ICC), shaping the interaction between domestic and international jurisdictions in addressing crimes such as forced deportation. It affirms that the ICC functions as a court of last resort, stepping in only when national jurisdictions are unwilling or unable to genuinely prosecute serious international crimes (Hunter, 2014, p. 32). This principle reinforces state sovereignty while also ensuring accountability by obligating states to investigate and prosecute such crimes domestically. It thus facilitates a division of labor that ideally empowers national courts to take primary responsibility for justice, reserving ICC intervention for instances of systemic failure or deliberate inaction. National courts, as first-line responders, play a crucial role in preventing impunity by prosecuting crimes committed by or against their nationals, particularly when international bodies face political or jurisdictional constraints. However, the ICC's intervention in cases such as Libya and Sudan has demonstrated the limits of complementarity, where domestic institutions were deemed unable to conduct

credible prosecutions, justifying international involvement (Hunter, 2014, p. 17).

While complementarity theoretically strengthens the international justice framework, its practical application exposes persistent challenges. These include uneven capacity among national legal systems, lack of political will, and the potential for states to shield perpetrators under the guise of ongoing investigations. Thus, complementarity demands more than procedural deference—it requires robust, impartial, and effective domestic legal systems. The broader significance of complementarity lies not only in the delegation of prosecutorial responsibility but also in the pressure it places on national institutions to align with international standards. Complementarity works when appropriately applied to help in legal reforms, capacity building and a harmonized response to crimes such as forced deportation. This notwithstanding, the difference between what is in principle and what is in practice raises essential questions on the consistency and equity of justice delivery. The complementarity has, therefore, to be assessed in both its normative aspirations and its operational shortcomings within the context of changing international law on criminal matters.

II. UKRAINIAN CHILDREN'S DEPORTATION TO BELARUS CASE

2.1. Factual Background and Context

The war between Russia and Ukraine, which intensified with a Russian invasion in 2022, is the source of the removal of Ukrainian children from Belarus. In 2023, according to DW (2023), 2,400 children aged between 6 and 17 had been taken from the occupied territories of Ukraine to the country against their will, and in Belarus, as they were supposedly provided protection or given humanitarian aid, reported DW. Organisations such as the United Nations High Commissioner for Refugees (UNHCR) and the European Parliament have criticised these actions as being not voluntary and not in the children's best interest (European Parliament 2024, UNHCR). In all likelihood, Russia and Belarus transferred the children for political and military purposes, to damage the Ukrainian state politically and to subvert Ukrainian national values and institutions.

Russian and Belarusian state authorities initiated the transfer of children in Ukraine. The Russian government has managed the evacuations, saying that it wanted to save children from war-torn areas, while Belarus has contributed by supporting them and offering transportation and temporary shelter to children. United Nations' 9799th Meeting held on 4th December 2024 argue that investigations show that Russian and Belarusian officials, at least at the level of ministries and security councils, participated in these transfers. From this evidence, it is deduced that state actors have breached International Humanitarian Law, the Rome Statute, and the Fourth Geneva Convention.

In Euro News, Vakulina (2024) reports that the scale of these deportations is seen with over 19,500 children estimated to have been deported. The said children end up in such a centre within Belarus, and their rights are further denied regarding family unity and cultural identity. Global society has been increasingly concerned with various calls for accountability and the immediate stoppage of such practices. In this way, by providing the factual and contextual matrix of Ukrainian children's deportation, the thesis is intended to critically examine the legal and humanitarian consequences of such actions and to open further reflections in the subsequent parts of the work.

2.2. Humanitarian Impact and Violations of International Law

The removal of thousands of Ukrainian children directly to Belarus has severe humanitarian implications and is a violation of the norms of international law. Such forced removals interfere with the basic human rights of children and violate articles of the convention on the rights of the child. According to the outcome of the 9404th Meeting of the United Nations held in 2023 such rights include the right to family, the right to education, and the right to cultural identification (United Nations 9404th Meeting, 2023). The consequences of the deportation process for children owning the Ukrainian culture are rather severe since they are taken out of their families and placed into institutions where they are likely to either become acculturated or assimilate and become culturally reprogrammed to have no Ukrainian cultural identity. The social effects are not only felt by the children but also by the communities from which they are abducted. The mass deportations detract from social unity, cause long-lasting violations, and erode nationality. Lack of adherence to the principle of non-refoulement undermines the purported humanitarian rationale for these actions. The non-refoulement principle makes it unlawful to move a person with a view of exposing them to harm; this is the basis of international humanitarian law (Khan and Haque, 2014, p. 16). The transfer of children in Ukraine contributes to tearing at Ukraine's long-term demographic and cultural challenges.

According to general humanitarian laws, deportations violate the Fourth Geneva Convention. Article 49 does not allow the deportation of protected persons to the occupied territory, while Article 50 directly prohibits measures that seek to alter the identity or nationality of children. The breaches occur in the sense of these actions being unlawful, exercising force, and subsequently evicting people of their legal homes. Furthermore, deportations to eliminate children's nationality also qualify as genocide under Article II of the Genocide Convention as long as there is evidence of genocide's intent to destroy, in whole or part, a national group (United Nations Office on Genocide Prevention, 2019). In addition, the deportations of children form part of war crimes and crimes against humanity on the principle of the Rome Statute of the International Criminal Court (Rome Statute of the International Criminal Court, 1998). There was no parental permission for the child's deportation, and no one permitted Russia to relocate, re-educate, and assimilate Ukrainian children to state facilities in Belarus. It illustrates

the systematic processes and deliberate malicious activities.

Reports from investigatory agencies, including DW and the European Parliament, have documented instances of children being stripped of their Ukrainian identity and subjected to indoctrination (DW, 2023; European Parliament, 2024). These are violations of international humanitarian law, and the global legal community has urged them to seek accountability urgently. As noted in the UN General Assembly's 2023 resolutions, member states were concerned with protecting children through timely investigation and prosecution during armed conflict situations. Such actions involving Russia and Belarus with Ukrainian children call for state agents to be made to answer for their actions. In addition, state authorities should respect the child's rights in the spirit of international law.

2.3. Legal Doctrines and Theories Applicable to the Ukrainian Children's Case

In IHL, the doctrine of deportation is crystal clear; it is prohibited in occupied territory unless certain conditions are met except under strictly defined circumstances such as imperative military necessity. Article 49 of the Fourth Geneva Convention makes it unlawful to deport or transfer protected persons, including children, from the occupied territory to the territory of the occupying power or any third state, irrespective of the reason. Also, according to the Fourth Geneva Convention, Article 50 focuses on proper care and education of children in the territory occupied as the occupying power ensures protection instead of forcing the transfer of children. Additional Protocol I supplements the Geneva Conventions' provisions, which require the protection of civilian persons and prohibit measures that endanger people's lives and health. The Ukrainian children's case exemplifies these provisions since the transfers take place without any legal basis and are also disproportionate and fail to meet the exceptions provided under IHL. The legal background for analysis of these actions can be discussed concerning the Rome Statute of the International Criminal Court. Article 7 recognizes forced deportation or transfer of a crime against humanity as part of a plan, policy, or systematic attack on a civilian population. In extension, Article 8 of the treaty classes such actions as war crimes in circumstances of armed violence. The cases of transfer of children with the purpose of assimilation can also amount to genocide under Article 6 in case the intent

to destroy, in whole or in part, a national group is proven.

State responsibility is a central concept in assessing the legality of the forced transfer of Ukrainian children to Belarus, particularly under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) and customary international legal accountability frameworks (CILA). Under such instruments, states implicated in such acts may be subject to international legal consequences, that is, the responsibility of ceasing the wrongful act, the obligation to render reparation and accountability for that role in the commission or facilitation of these acts. As Russia and Belarus arguably have legal risks in this context, both are involved. Russia is criminally liable for forcing the transfer of Ukrainian children, but Belarus faces the principal state complicity. The theory of state complicity is a theory of international jurisprudence that states that a state that knows that a state is assisting another state in the performance of an internationally wrongful act shall also be considered responsible for doing so. If the facts and the formation of intent and knowledge were made, however, the assistance provided to Belarus to facilitate or harbour the children transferred from Ukraine would likely result in at least some complicity under the Genocide Convention. This highlights the importance of strong international mechanisms of both investigation and imposing judgments for potential state role in mass atrocities. The Ukrainian case is examined in light of an elaborate examination of legal precedents in the field governing the crimes undergone by the parties involved in the Yugoslav and Rwandan conflicts, adjudicated at the ICTY (International Criminal Tribunal for the Former Yugoslavia) and ICTR (International Criminal Tribunal for Rwanda). In Krstić's (2001) case, the ICTY judgments pronounce forcibly transferring civilians, particularly attempting to target identified groups, as an individually punishable violation of the Geneva Conventions except in instances where destroying a group in part or in whole constitutes genocide. This precedent is directly applied in the characterization of aggression against the Ukrainians, particularly children. In the same manner, ICTR, in the case of *Prosecutor v Akayesu (1998)*, declared that acts directed against ethnic or national groups, such as the removal of children, were genocide when the aim was to erase cultural or national groups. These rulings stress such aspects as the intent and planning of a crime and the systematic commission of a

crime.

In the Ukrainian case, the arrest warrants against Vladimir Putin and Maria Lvova-Belova resemble such precedents. These warrants depict the alleged crimes as systematic and target seniors in contrast with the ICTY and ICTR because of their emphasis on the elite. Similarly, the financial and infrastructural support extended by Belarus conforms with the analysis of ICTY and ICTR cases where political or logistic support was considered complicity, as held in the *Prosecutor v. Duško Tadić (1997)*. The correlations with previous judgments specify that the legal standards establishing state and individual responsibilities compose an unbroken line with the Ukrainian case. The ICC's prosecution of the personal responsibility of Russian officials, including President Vladimir Putin, for the forced transfer of Ukrainian children is based on the jurisprudential development that the ICTY and ICTR have offered. These precedents reaffirm that forcibly moving children is a violation of international law.

2.4. Reactions from the International Community

The forced transfer of Ukrainian children from Ukraine to Belarus has provoked mobilized reactions in the international environment in the form of condemnation and judicial and diplomatic actions. The United Nations, its affiliated bodies, and other prominent international organizations regard the forced transfer of children in Ukraine as a serious violation of international humanitarian and human rights laws. The United Nations Office of the High Commissioner for Human Rights (OHCHR) and Special Rapporteurs for the UN have accused the Russian authorities of forced transfers violating the Fourth Geneva Convention and the Convention on the Rights of the Child (CRC). The United Nations Security Council has also joined in the debate, with many of its member countries demanding an immediate stop to such practices while demanding the return of children to Ukraine. UNICEF has also alerted the psychological and social destruction the children have to endure. It has to call on the public to ensure the affected children reunite with their families because forced evictions not only affect the psychosocial development of children but also violate their right to family and cultural identities.

There are robust legal reactions. International Criminal Court decided to investigate the

deportations under articles 7 and 8 of the Rome Statute while labelling the deportations as a crime against humanity and a war crime. The preliminary results have identified some unalloyed attempts to assimilate the deported Ukrainian children into the Belarusian and Russian societies, which constitute genocide under Article 6 of the Rome Statute. Diplomatic initiatives have also been stepped up to add to the issue. Belarusian officials among the people and groups responsible for these deportations are also concerned about the sanctions explicitly imposed on several EU countries, including Germany, France, and the UK. Other demands for strict monitoring and the independent confirming the scale of deportations while providing the safe evacuation of the children to Ukraine – also come under the influence of international pressure.

The United States and the United Kingdom have condemned the actions and said they would stand with Ukraine to prosecute the perpetrators. Furthermore, the Council of Europe urged state members to collaborate to ensure accountability—organizations for documenting violations and mobilizing the events led by human rights organizations and advocacy groups. However, documents leaked by Human Rights Watch and Amnesty International explain that the orders were so comprehensive that their magnitude and systematic nature are easy to understand. These two organizations have offered substantial proof to international investigative bodies in reporting on the violations of international law. The global legal society has increasingly come to embrace the principle of justice. Eminent jurists and practising lawyers have called for the creation of appropriate courts as the key to overcoming hurdles of the prosecution of such offences. There have also been demands to increase the independence of the ICC's notifying authority and its ability to handle complex cases of forced displacement. Altogether, these global responses depict how the world is trying to respond to the challenges of humanitarian and legal situations, which are likely to be triggered by forced deportations. These efforts adhere to the respect of sovereignty and the provision of justice to the outcomes of such violations in so far as they meet international benchmarks clearly understood by the courts and individuals affected.

2.5. Current Status of Investigations

The inquiry into the removal of Ukrainian children to Belarus remains an estimated and

unanalysed affair with web links in the global and joint operations. That has been done by the ICC, which exercised its authority under Article 15 of the Rome statute to open investigations concerning possible war crimes and crimes against humanity connected to these deportations. The ICC Prosecutor has pointed out the crimes and has sent out teams to investigate the scenes in Ukraine and other adjoining areas (International Criminal Court, 2022). The United Nations has also conducted investigations through the Human Rights Council and the Independent International Commission of Inquiry on Ukraine. These bodies have produced the following background papers, which point to the systematic nature of the deportations and their effects on children and communities. Collected evidence comprises the victim's statement, satellite pictures of transfer routes, and evidence of institutional collaboration by Belarus and Russia.

At the national level of reporting, the Prosecutor General of Ukraine has launched criminal proceedings and, based on cooperation agreements with partner countries, documented cases and tracked down offenders. Currently, Ukrainian authorities, with the assistance of NGOs and advocacy groups, help trace the whereabouts of deported children and, if possible, help them regain their liberty. Conversely, Belarus has not complied with these investigations much since it accuses them of politics (Honstein, 2024). Difficulties of investigation are the access to the materials in occupied territories, the refusal of the implicated States, and the protection of the victims during the collection of testimonies. Nevertheless, some promising results have been revealed during this investigation; for example, the practice of forced acculturation has been described, and forms and consequences of the psychological abuse of the children have been outlined.

They have already borne legal consequences, with three investigations taking different turns. This indicates that arrest warrants have been issued against those policymakers thought to have masterminded the deportations; thus, abortion is being sought. These results are expected to contribute to a better understanding of how international legal standards emerge and evolve, especially those related to protecting children in armed conflicts. At the same time, it must be concluded that constant actions demonstrate the readiness of the international community to combat these violations.

2.6. Future Implications for International Criminal Law

The forcible transfer of Ukrainian children to Belarus marks a new development in the development of international criminal law regarding forced deportation, forced deportation of children, and cultural destruction in armed conflict. Indeed, this case is singular in at least two respects because it focuses on the conjunction of child rights, international humanitarian law (IHL), and international criminal law (ICL). It also reveals the practical and normative failings in the existing legal framework. Specifically, it highlights the inadequacies of existing approaches for addressing the complex and systemic nature of forced child transfers when such involuntary removals from their families and communities are claimed to be at the heart of otherwise broader approaches to cultural erasure or demography manipulation.

This gap in enforcement and specificity of protection measures for children under existing instruments such as the Geneva Conventions, the Rome Statute, and the Ukrainian case are discussed. However, while these instruments criminalize forcible transfer and generally protect civilians, they do not sufficiently tailor them to protect children vulnerable in armed conflicts. For example, war crimes that include the forcible transfer of children are enumerated in Article 6(e) of the Rome Statute, which also may constitute a 'crime against humanity' or an act of genocide under Article 8(2)(b)(viii), but this does not always happen in practice because of difficulties in evidence gathering, jurisdictional constraints, and proving specific intent.

The more robust and specific to a child's needs, the wider catalogue of international criminal law must be provided in response to this situation. Some of these measures might include clearer obligations regarding the identification, tracing and repatriation of unlawfully transferred children; clearer threshold for genocide when cultural identity is targeted; and strengthening of accountability measures that would see those responsible prosecuted at both the individual and the state level.

Furthermore, the Ukrainian case highlights the need to once more draw attention to the uniqueness of the role of cultural genocide, specifically by highlighting the systematic

erasure of a group's language, identity and heritage through child transfer. Although the idea of cultural genocide is still debated and underdeveloped in international law, this case further strengthens scholarly claims for the criminalization of its commission. Future reforms, thus, might endeavour to eliminate this legal lacuna by broadening the interpretative scope of genocide and against humanity crimes by also incorporating the willful attempts at decimating the cultural identity of protected groups, particularly children, using forced assimilation.

From this perspective, the Ukrainian case could be a spur to redefine internationally the legal architecture of child protection and the forced deportation to which it gives rise. This overwhelmingly significant development highlights the resolve that international criminal law has to develop to address the reality of contemporary armed conflicts when children are, too, often direct and symbolic targets of violence.

An example of this would be refining the judicial construction of genocide within the scope of Article II of the Genocide Convention to involve the identification and prosecution of genocidal intent for forced assimilation. Legal precedent would be set by criminal charges of people implicated in the deportations of Ukrainian children. Specifically, the doctrine of command responsibility is used and developed as a potential legal argumentation to show that even state leaders cannot avoid criminal liability for further criminal acts by labelling their humanitarian operations. Under international criminal law, the doctrine of command responsibility results from military or civilian superiors' failure to prevent or punish crimes committed by their subordinates when they know or should have known of those criminal acts. This principle is vital to deal with forced deportations or transfers cloaked by humanitarian intervention to conceal their unlawful character. International legal mechanisms (ILMs) that add to command responsibility stress that an individual in a position of power is unwilling not to be accountable by standing behind it, stating he is ignorant or delegated responsibility. The rule states that exercising authority in whatever manner, implied or explicit, entails corresponding responsibility under international law.

Moreover, this principle extends beyond both individual and state responsibility. It is a

reminder that perpetrators of crimes such as forcible transfers are not just those who physically move people but also those in command structures who aid, ignore, or fail to take appropriate action in the face of these crimes. This way, at both individual and institutional levels, command responsibility enables increased contribution towards accountability frameworks as a deterrent of impunity.

The Genocide Convention also binds states to stop genocide in their territory, prosecute if they can, and compensate the victims. Under international law, the parties to Belarus and Russia face potential international liability claims and other sanctions due to participation in these deportations (Singh, 2023). The international community stands in a concerted manner to address such crimes committed by a state participant, as well as to engage in improving future debates based on stepping up the execution of international conventions protecting children and cultural heritage during conflict. Even the case of Ukrainian children demonstrates why organizations with varying legal levels (global, regional, and domestic) must cooperate for accountability. For instance, the hope exists that the cooperation between the ICC, national jurisdictions, and regional courts is enough in number for the fight against impunity. This cooperation is also evident when gathering becomes easier, as victims get protected and robust judicial systems are situated in cases of this kind (Sainati, 2016, p. 191). Taking command responsibility and other accountability mechanisms a step further can help to bring the evolution of international criminal law (ICL) to fit in better with this kind of emerging conflict dynamics, for example, in hybrid warfare, proxy wars, cyber and transnational involvement in localized conflicts. Current forms of such warfare tend to be less defined regarding the lines between civilian and military targets, state and non-state actors, and direct and indirect participation in hostilities. This begs the question of how ICL should adapt its definitions of command structures and evidentiary standards of accountability for such operations and include nontraditional forms of violence — the systematic deportation or indoctrination of the children, for example — under its jurisdiction.

This evolving context also, more specifically, requires a multilayered legal model, including protecting children's rights as an important part of international justice rather than a peripheral interest. It involves paying specific attention to the special

vulnerabilities of children in armed conflict, increasing the level of codification that establishes stronger protections under the Rome Statute and other relevant instruments, and improving mechanisms for enforcement and remediation. This allows ICL to restart its relevance and effectiveness in dealing with modern warfare's growing complexity and morally raw realities. Therefore, in modern warfare, it becomes easier for international actors to pay attention to the specifications of violations that arise, impose penalties on the offenders, and give justice to every victim.

III. LEGAL AND PRACTICAL CHALLENGES

Forced displacement and deportation of civilians are, however, acknowledged to be the two most complex issues IHL has to deal with concerning punitive qualification and realistic sanctioning (IHL Databases, 2015). Such difficulties stem from formulating some legal provisions, jurisdictional issues, evidentiary issues, and the situations in the field aimed at prosecuting state and nonstate players. Such conditions are exceptionally complex in which perpetrators evade an investigation, prosecution, and punishment, and victims are denied justice. Indeed, the extent to which these challenges are salient is particularly high regarding forced displacement and deportation: in such cases, legal provisions are often unclear or have divergent interpretations. As a result, the words 'deportation' and 'forcible transfer' are undefined in the different legal instruments and can take different scopes when applied under the scope of IHL or ICL. Such interpretive uncertainty is mainly produced between lawful evacuations for security reasons and unlawful population displacements with coercive intent.

Dual jurisdictional claims may also arise when domestic and international courts can assert competence over the same incident, resulting in delays or inconsistent outcomes. This divergence between IHL and ICL can also add confusion because IHL governs conduct in armed conflict. In contrast, ICL is concerned with individual responsibility through different evidentiary and intent standards. Furthermore, the dynamic nature of customary international law, which evolves through state practice and *opinio juris*, introduces additional ambiguity in identifying binding norms applicable to forced displacement.

These legal ambiguities underscore the urgent need for clearer definitions and harmonization of key legal terms and thresholds. Establishing such clarity would promote greater consistency in prosecution efforts and reinforce accountability mechanisms by reducing interpretive loopholes and jurisdictional conflicts. For instance, the term *refoulement* means a decision to remove a person who does not have a right to be present in the country under international law (Duffy, 2008). Despite these, the current definitions under international law almost capture all forms of forced

displacement depending on the state of affairs that forced displacement intends to hide. For instance, the Ukrainian children were relocated to Belarus by calling it a 'humanitarian evacuation'. But, as was shown in Russia designating its aggression against Ukraine as a 'special military operation,' such a label does not change the legal classification of such actions. International law evaluates such behaviour in terms of legal norms and principles while concentrating on the content of the actions and not the words used in their support. At the same time, it is a forced transfer contrary to the internationally agreed law governing the transfer of civilians.

Moreover, the difference between short-and long-term forced and voluntary migration is even more complicated when the states use some strategies or techniques of the narrative and statecraft. Such complication occurs when, for example, states portray forced displacement as voluntary or when forced migration policy has been encased in that which appears to be legally or human rights compliant. Thus, it can go so far that defining the line between the force and the consent and proceeding to legal prosecution and legal action under international law become complicated tasks. And since it's a way of eradicating culture, this fits in cases for the deportation of the victims. The likes of which complicate the implementation of rights under the Fourth Geneva Convention—among other international instruments—given that the whipping nuts will continue to devise ways to dodge entirely fulfilling their accountability obligations. Significant differences exist between legal systems of the jurisdictions and the implementation of the international legal instruments are frequently blocked by procedural intricacy and inconsistencies, which may inadvertently grant offenders impunity. Some states have a strong commitment to international norms, and more specifically, to those specified in the Fourth Geneva Convention that accords civilians with no forced deportation status, while others have a more selective or superficial one. The absence of some uniform application results in legal loopholes and technicalities that the offenders can exploit to escape being held responsible. These discrepancies, therefore, hinder the prosecution of state and non-state actors who have committed violations of the laws of armed conflict and the deterrence effect of international law. An array of interpretative guidelines and a more extensive legal codification of the

norms found in international law do not fully bridge the gap between law and practice when it comes to attaining accountability in forced deportations and transfers.

3.1. Jurisdictional Limitations

An obstacle to achieving — generally — effective prosecution of forced displacement and transfer under international law is the lack of effective jurisdictional restraints. Three general types of limitation can usually be categorized as territorial, personal, and subject matter jurisdiction. This is a court's authority to hear crimes committed within its geographical boundaries. The problem arises when, for instance, crimes of forced deportation are committed outside the territory of states ready or able to prosecute. In contrast, personal jurisdiction is the jurisdiction of a court over individuals considering nationality or domicile. As far as jurisdiction is concerned, for example, where an alleged perpetrator is a national of the state of which the alleged crime was committed and where the state is not party to any relevant treaty like the Rome Statute, then this form of jurisdiction would not exist. Subject-matter jurisdiction, finally, refers to the legal competence of the Court to hear such crimes as war crimes or crimes against humanity. International courts like the ICC are limited to prosecuting specific grave offenses, and there are acts of forced displacement, which are gray areas that make them difficult to classify as unclean offenses within the Court's mandate. Moreover, there may also be an issue of temporal jurisdiction, which means that international courts can only prosecute crimes that transpire after their creation or ratification by the appropriate state. Like overlapping jurisdictional challenges, this leads to significant gaps in the accountability for forced displacement and expulsion crimes and lends to impunity. In contrast, only the ICC has jurisdiction over criminal cases committed in the territory of a state party to the statute (other than Israel) from offenses committed by persons of any nationality; it may only exercise this jurisdiction with that state's consent. This poses several problems if the offenders are state officials or nationals of other non-signatory states, such as Belarus, concerning the deportation of Ukrainian children. Belarus is not a party to the Rome Statute. Therefore, the ICC has no jurisdiction over the case except as referred by the UN Security Council, which has never been a process free of the political influence of some permanent members of the UN Security Council (Duffy, 2008, p. 374). The restriction of international criminal law is, therefore, the measure of the

inability of the ICC to prosecute the crimes of nonsigning states that, thus, negatively affects the powers of the ICC in prosecuting persons charged for deportation planning or persecution.

The attempt to prosecute forced displacement and deportation crimes goes further, however, as the principle of complementarity under the Rome Statute introduces further complications. It is this principle that the International Criminal Court (ICC) acts as a court of last resort, being the only court that can intervene, that is, only when the national jurisdictions are unwilling or unable to conduct genuine investigations or prosecutions into international crimes. For the accountability and the realm of the sovereignty of the national legal system, the model, in theory, achieves. In practice, however, it is usually not effective. However, many states lack the appropriate legal frameworks, institutional capacity, or political will to commence proceedings, as many high-ranking officials or state agents are involved in the crimes (Gates, 2007, p. 24). This means that the perpetrators may be immune *de facto*, and victims are left with no real legal redress.

Natural solutions also run into political quagmire, particularly from states that intend to protect their nationals from international scrutiny. However, the ICC maintains jurisdiction over nationals of states that are non-signatories to the Rome Statute where crimes are committed upon the territory of a party state or if referred to a situation under Chapter VII of the United Nations Charter by the United Nations Security Council.

This legal pathway explains how the ICC was able to issue an arrest warrant for Russian President Vladimir Putin in the context of the Ukraine conflict, despite Russia not being a party to the Rome Statute. The case was based on alleged crimes committed in the territory of Ukraine, which has accepted ICC jurisdiction under Article 12(3) of the Statute. This demonstrates that while complementarity presents practical limitations, it is not absolute and can be overcome under specific legal and procedural conditions. The problem, however, is by no means solved: with weak national systems and no genuine political willingness, complementarity continues to be little more than an abstract principle that allows perpetrators to work in a 'legal no man's land' where there is no justice (Cambridge University Press, 2020).

3.2. Challenges in Evidence Gathering

Prosecuting forced displacement and transfer cases also involves the collection of evidence, which is hard if the collection of evidence occurs in the face of armed conflict and under a repressive authority. As an example, it is all too obvious how to collect evidence to prosecute forced deportation and displacement crimes, as shown by examples of the forced transfer of Ukrainian children to Belarus and the displacement of populations in the Darfur conflict. In these situations, coercion, intent, and evidentiary standards determine the severity with which these situations are punishable. In the case of Ukraine, investigators are dealing with many obstacles to accessing key evidence amid the conflict perpetrated by the state. This is made worse by the fact that the Russian government has made efforts to hide or distort information about the transfer of Ukrainian children via the active pursuit of such (relocation of children to Russia and Belarus under 'the evacuation'). These are challenges that make it very hard indeed for international courts, like the ICC, to put together the evidence necessary to support the allegations of forced deportation or genocide. Besides this, the very nature of armed conflicts often entails the destruction of physical evidence and displacement of potential witnesses as part of the war operations. These issues emphasize the need to find more effective ways of collecting evidence from conflict zones and implicitly broaden the question of which mechanisms of the international legal system can be adapted to respond to this new reality in prosecuting such grave crimes. Such reasons allow the authorities to conceal, alter, or destroy records, leading the documentation processes of key witnesses during the trial to significant gaps. As in the Darfur case, the Sudanese authorities constantly restricted entry into the conflict zone and threatened witnesses (Jori, 2018, p. 9). For the case of Darfur (Human Rights Watch 2004), the ICC relied on satellite images, the reports of humanitarian groups, and the oral evidence of refugees to compile a story of displacements and ethnic cleansing. These methods demonstrate how other evidence is used in hostile surroundings for investigators. The testimonies of victims and witnesses take center stage when investigating forced displacement. In Ukraine's case, the relocated children and their families offer first-hand information about coercion and intent toward their transfer. Likewise, in Darfur, survivors of the Janjaweed militia and Sudanese armed forces

reported acts that displaced them from their homes. However, in both contexts, witnesses face significant barriers, such as trauma, fear of reprisal, and logistical issues in accessing international courts. Victims in Darfur had to live in camps such as refugee camps or dilapidated structures; thus, the investigators could not access credible and safe measures for the testimonial evidence provided by the victims. In both contexts, issues relate to the sufficiency and credibility of the evidence to meet the required legal standards. In the Darfur cases, the ICC faced difficulties supporting one's evidence of time-consuming delay, scattered documentation, and cultural differences in pattern evidence. Likewise, in Ukraine, the investigators have issues with the credibility of the statements containing misinformation resulting from traumatization or due to changes with time, and, as to this, the admissibility of the testimonies in the court is questionable. However, the ICC in the Darfur case constructed a provisional case by blending survivor's and victim's statements, satellite footage of destroyed villages, and expert witness statements that aimed at creating a compelling case against Sudan's Omar al-Bashir and other officials.

3.3. Political and Practical Barriers to Prosecuting State and Non-State Actors

Forced displacement and deportation-related offenses are unbearable to try, both politically and practically, especially when the offenders are either powerful states or politically influential non-state individuals. Even though in its explicit wording of Article 27 of the Rome Statute, immunity for state officials is precluded from making sure that no person can be above the law owing to the position held, in reality, political and diplomatic realities pose tremendous challenges. For example, the situation with Ukrainian children abducted to Belarus shows that humanitarian actors can relatively become entangled in geopolitical struggles and diplomats' hesitance. Belarus and Russia, non-state signatories to the Rome Statute, deny international recognition of the transfer of child crimes and, therefore, protect the criminals from prosecution, increasing the difficulties of those seeking accountability. Internationally, there is still much discussion about dealing with these violations in most countries where politics significantly impacts the operationalisation of international criminal justice. Political interests are critical in enforcing international law and are often anathematic to the existence of a level-playing field, thereby compromising the prosecution of perpetrators

of heinous crimes.

Moreover, political interests often complicate the state's ability to participate in regional or international investigations. States put more value on preserving relationships with other states or not wanting to offend influential states. Therefore, most states refrain from cooperating in investigations or extraditing holders of arrest warrants. It causes accountability mechanisms to stand still, leaving the victims without any opportunity to find compensation. Additional problems arise when dealing with actors such as rebels, separatists, or militias. Most of these groups have a distributed leadership model. An unclear chain of command makes it very difficult to determine command hierarchy or even responsibility. However, it is highly centralized because there are dire challenges, such as the absence of a strong enforcement system in situations where the perpetrators can be easily pinpointed. When the fugitives are held in non-compliant states that lack or hinder international obligations and recognize international commitments, the warrant of arrest, extradition requests, and mutual judicial assistance are often unsuccessful. Still, these are complicating the prosecution of crimes of forced displacement and deportation.

3.4. Impact on Accountability and Suggestions for Improvement

The various jurisdictional limitations, politically imposed impediments, and the other practical constraints discussed above make it practically impossible to fully enforce forced displacement and deportation criminality under international legal frameworks. Among the main legal challenges is jurisdictional reach, in particular, where the International Criminal Court (ICC) and other international tribunals do not have the power to act unless the state has ratified the Rome Statute or unless the case has been referred to the UNSC. The problem is particularly acute when powerful states actively resist coming under international jurisdiction for political or other reasons and exploit legal loopholes that allow the wrongdoers to evade accountability. Furthermore, the lack of some State cooperation and enforcement of arrest warrants contributes to a culture of impunity. Nevertheless, per Article 86 of the Geneva Conventions, all states should prosecute or extradite those who have committed grave breaches of international humanitarian law (IHL), such as forced displacement.

Furthermore, the implementation of extradition agreements is inconsistent and not uniform in the legislative framework of the countries. While the legal principle of universal jurisdiction (state jurisdiction over certain crimes regardless of where they took place) is underutilized as a result of domestic legal limitations or political reluctance, the principle has been chiefly invoked by states in cases when executing individuals has been politically sensitive (for example, rape, torture, extrajudicial executions, and forced disappearances). Such a glaring unevenness in applying the legal principles meant to handle such violations, such as forced displacement, will require a more robust and globally accepted framework.

Command structures of non-state actors, militias, and separatist organizations are also loose, usually making identifying individual perpetrators difficult. According to the Rome Statute, the commanders can be criminally liable for the criminal acts committed by their subordinates, including deportation and forced transfer (Article 28). There are, however, many flaws with legal proceedings, especially where you do not have individuals accountable for the lines and evidence to show why someone is guilty of a crime. To address this, IHL has to evolve to better cope with the complexity of modern conflict and the diversity of the structures of the non-state armed groups. Vital to circumventing these challenges are enhanced mechanisms for tracking chain-of-command responsibilities, which can be more effective in collecting data about perpetrators.

Enforcement of arrest warrants is one critical area that needs improvement. As when Sudanese President Omar al-Bashir was indicted by ICC but evaded arrest because of the lack of international cooperation, political interference is to be seen as proof of the need for stronger countering mechanisms. International sanctions and travel bans could be applied to places that do not comply with the court to pressure them to cooperate with the ICC. Moreover, the setup of more regional courts that will address the gap left by international courts and will make it possible for victims to seek justice in venues that are more accessible could be helpful.

On top of that, international efforts to enhance the gathering of evidence in the context

of conflict zones, including instances of forced deportation, are necessary. At the same time, legal frameworks for collecting evidence under IHL and ICL need to be expanded to incorporate more modern and flexible technologies such as satellite imagery, social media investigations, and forensic investigations. However, this becomes especially pertinent in cases where traditional methods of gathering evidence are difficult or impossible. By strengthening the capacity of international criminal tribunals to collect and preserve evidence efficiently in politically sensitive contexts, they will be able to prosecute crimes.

CONCLUSION AND RECOMMENDATIONS

While IHL and ICL remain the foundations to combat and prevent forced displacement and deportation, the latter continues to challenge both. In the case of a forced transfer of Ukrainian children to Belarus, these acts are the same serious international law violations but also an expose of the persistent structural weaknesses in the global legal architecture that is intended to address such crimes. On the one hand, the law of war, as set out in the Geneva Conventions and Rome Statute, enjoys legally defined protections. However, in practice, the jurisprudence is lacking, and the provisions are not enforceable in politicized systems. For example, the case of Ukrainian children shows how states can present as a covert operation, utilizing humanitarian justification for a coercive action, which complicates efforts to create the criminal intent and prosecute under the international law of deportation or transfer. In addition, several legal and political obstacles to the prosecution have been erected, including the lack of jurisdiction of the International Criminal Court (ICC) over non-party states such as Belarus or the difficulties involved in using the Principle of Complementarity. But Ukraine's acceptance of the ICC's jurisdiction means the ICC can bring to trial crimes committed on its territory, including by non-signatories; however, politically and practically, this is difficult regarding high-level offenders. The challenge faced by international criminal justice is enhanced by the variety of interpretations of key law issues across jurisdictions, leading to gaps in the consistency and predictability of international criminal justice.

In addition, the criminal prosecution of forced displacement and deportation suffers from severe practical constraints about evidence collection and protection of victims and witnesses. Whenever observers attempt to unpick the wrecks of conflict, this may occur in settings where it is impossible for investigators to enter certain areas or to preserve crucial physical evidence or during investigations of conflict settings where digital and satellite technologies, while promising, have not been leveraged or remain unstandardized within the international procedure. Globally, protection for eyewitnesses is also inadequate, and in many cases, the credibility of prosecutions is sullied because witnesses are threatened or intimidated. Missing or present in these legal and practical

gaps, victims cannot pursue redress for perpetrators to act with impunity. Many states' lack of political will to prosecute their nationals or state officials, particularly in countries where those persons are influential, hold power, and are closely linked with the regime, also reflects the enduring discord between state sovereignty and international legal accountability. However, when the problem involves non-state actors, attribution of responsibility is made difficult because of their decentralized command structures. But these crimes of forced transfer and deportation are grave and are proliferating in a way that the international justice system has difficulty in providing effective remedies to the victims. The current situation necessitates reform and greater adherence to the use, application, and enforcement of IHL and ICL before future violations occur and victims are denied justice.

Recommendations

The global legal community should advance towards uniform standards for forced displacement, deportation, and transfer into one term across the Geneva Conventions, Rome Statute, and regional human rights treaties. Such clarification should include that forced transfer is also a result of the creation of intolerable living conditions or psychological pressure, though such an obligation would not be explicit. Second, my juridical limits of the ICC and other tribunals should be considered, especially regarding the non-party states and politically protected people. Body closures: Many of the existing accountability gaps would be closed if universal jurisdiction was strengthened and mechanisms of international cooperation such as extradition treaties or legal assistance were strengthened. Capacity-building programs that bolster the domestic judicial systems in investigating and prosecuting international crimes should be made more effective through complementarity. Part of this includes training judges and prosecutors, establishing specialized units for war crimes, and working on legislative frameworks directed at international standards. In addition, multilateral initiatives might form ad hoc or hybrid tribunals with the limited application of ICC jurisdiction to disallow their foreclosing legal remedies due to political and technical constraints.

Technological development also offers a chance to enhance the prosecution of acts of

forced displacement and deportation. For this reason, satellite imagery, digital forensics, and artificial intelligence should be systematically incorporated into international investigations and the possible documentation and analysis of the violations in real time. What is needed now is to set global standards for using such evidence and make it admissible in court. In addition, victim and witness protection programs must be significantly strengthened. Domestic and international organizations' judicial systems should institutionalize anonymous testimony measures alongside secure relocation programs and psychosocial support services to allow victims a safe means of justice participation. States should receive financial aid, diplomatic support, and legal agreement benefits to make prosecuting crimes related to forced transfer their organizational priority. Legal and political transformations need to adopt victim-oriented principles that centralize child and vulnerable population rights to justice development. The forcible dismantling of Ukrainian children's cultural heritage and family bonding system proves to be both a war crime and a crime against humanity while potentially amounting to genocide. Modern conflicts require law enforcement to develop innovative models that integrate fast accountability measures with programs that help victims toward healing. Such reforms represent the only way for the international community to address their forced displacement crisis while respecting IHL laws so victims achieve justice while deterring future aberrations.

REFERENCES

Case Laws

The Gambia v. Myanmar, Preliminary Objections, 2022 ICJ Rep 477 – 2022

Prosecutor v. Radislav Krstic, Judgment IT-98-33, 2001 ICTY 8 – 2001

Prosecutor v. Akayesu, 37 ILM 1399 – 1998

Prosecutor v. Duško Tadić a/k/a "Dule," Case No. IT-94-1-T, Trial Chamber, Judgment of 7 May 1997

Journals & Articles

Ahdab, D., 2023. The Rebirth of Universal Jurisdiction: How the Syrian Conflict Has Led to the Expansion of the Use of Universal Jurisdiction. *Colum. J. Transnat'l L.: Bulletin*, 61, p.85.

Amnesty International. (2023). *Human rights in Russia*. <https://www.amnesty.org/en/location/europe-and-central-asia/eastern-europe-and-central-asia/russia/report-russia/>

Bacio Terracino, J., 2007. National implementation of ICC crimes: impact on national jurisdictions and the ICC. *Journal of International Criminal Justice*, 5(2), pp.421-440.

Browning, C.R., 2000. *Nazi policy, Jewish workers, German killers*. Cambridge University Press.

Cambridge University Press. (2020). *Globalization, nation-states, and the legal Field: From legal diaspora to legal ecumenism? (Chapter 5) - Toward a new legal common sense*. Cambridge

Core. <https://www.cambridge.org/core/books/abs/toward-a-new-legal-common-sense/globalization-nationstates-and-the-legal-field-from-legal-diaspora-to-legal-ecumenism/C97C20B076EDC246DD33D90EA96121D9>

- De Zayas, A.M., 1975. International law and mass population transfers. *Harv. Int'l. LJ*, 16, p.208.
- DeFrancia, C., 2001. Due process in international criminal courts: why procedure matters. *Virginia Law Review*, pp.1381-1439.
- Di Lellio, A. and Kraja, G., 2021. Sexual violence in the Kosovo conflict: a lesson for Myanmar and other ethnic cleansing campaigns. *International Politics*, 58 (2), pp.148-167.
- Duffy, A., 2008. Expulsion to face torture? Non-refoulement in international law. *International Journal of Refugee Law*, 20 (3), pp.373-390.
- DW. "Ukraine Updates: 2,400 Children Taken to Belarus — Report — DW — 11/17/2023." Dw.com. Last modified November 17, 2023. <https://www.dw.com/en/ukraine-updates-2400-children-taken-to-belarus-report/live-67450984>.
- Edwards, A., 2005. Human rights, refugees, and the right 'to enjoy' asylum. *International Journal of Refugee Law*, 17 (2), pp.293-330.
- European Parliament, January 2024. "Forcible transfer and deportation of Ukrainian children: Responses and accountability measures." European Parliament. [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754442/EXPO_STU\(2024\)754442_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754442/EXPO_STU(2024)754442_EN.pdf).
- Gates, D.R., 2007. *The principle of complementarity: the admissibility of cases before the international criminal court* (Doctoral dissertation, Durham University).
- Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (1949) 75 UNTS 287, Art. 49
- Greens, L.C., 1999. War Crimes, Crimes Against Humanity and Command Responsibility. In *Essays on the Modern Law of War* (pp. 283-328). Brill Nijhoff.
- Haynes, D.F., 2004. Used, abused, arrested and deported: Extending immigration benefits to protect the victims of trafficking and to secure the prosecution of traffickers. *Human Rights Quarterly*, 26 (2), pp.221-272.

- Honstein, E. 2024, November 5. *Belarus*. ICNL. <https://www.icnl.org/resources/civic-freedom-monitor/belarus>
- Human Rights Watch. "Burma: Rohingya Recount Killings, Rape, and Arson-Video Testimony Matches Satellite Images of Attacks." Human Rights Watch. Last modified December 2, 2016. <https://www.hrw.org/news/2016/12/22/burma-rohingya-recount-killings-rape-and-arson>.
- Human Rights Watch. (2024, June 19). "*The Massalit will not come home*". <https://www.hrw.org/report/2024/05/09/massalit-will-not-come-home/ethnic-cleansing-and-crimes-against-humanity-el>
- Hunter, E., 2014. *The International Criminal Court and positive complementarity: the impact of the ICC's admissibility law and practice on domestic jurisdictions* (Doctoral dissertation).
- ICRC. (2024, June 25). *Customary IHL*. International Committee of the Red Cross. <https://www.icrc.org/en/law-and-policy/customary-ihl>
- IHL Databases. (2015). *Practice relating to Rule 129. The Act of Displacement Section A. Forced displacement*. <https://ihl-databases.icrc.org/en/customary-ihl/v2/rule129>
- Imseis, A., 2003. On the Fourth Geneva Convention and the occupied Palestinian territory. *Harv. Int'l LJ*, 44, p.68.
- International Committee of the Red Cross (ICRC). 2016. *The Geneva Conventions of 1949 and their Additional Protocols*. ICRC.
- International Criminal Court (ICC). 2022. *Trying individuals for genocide, war crimes, crimes against humanity, and aggression - ICC Prosecutor Karim A.A. Khan QC announces deployment of forensics and investigative team to Ukraine, welcomes strong cooperation with the Government of the Netherlands*. ICC. <https://www.icc-cpi.int/news/icc-prosecutor-karim-aa-khan-qc-announces-deployment-forensics-and-investigative-team-ukraine>
- International Criminal Court (ICC). *The situation in the People's Republic of Bangladesh/republic of the Union of Myanmar*, Decision Under Article 15 of the

Rome Statute on the Authorization of an Investigation into the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, ICC-01/19-27, 14 November 2019 | Pre-Trial Chamber III | Decision

Jori, D., 2018. *The role of international community in the protection of civil rights and interests in conflict zones: the case of the Darfur region in Sudan (2003-2016)* (Doctoral dissertation).

Khan, A.B.M. and Haque, I., 2014. Human Rights Implications of the Principle of Non-Refoulement: An Overview. *The International Journal of Social Sciences*, 24 (1).

Langford, M. and Du Plessis, J., 2005. Dignity in the rubble? Forced evictions and human rights law. *COHRE Working Paper*.

Newman, E. and Van Selm, J., 2003. Refugees and forced displacement. *International Security, Human Vulnerability, and the State*, UNU Press, Tokyo Japan.

Orr, J.A., 2022. *The International Criminal Court in Self-Referral States: Legitimacy, Reputation, and the Court's Anti-Impunity Mandate* (Doctoral dissertation, University of Saskatchewan).

Pejic, J., 1997. Creating a permanent international criminal court: The obstacles to independence and effectiveness. *Colum. Hum. Rts. L. Rev.*, 29, p.291.

Popovski, V. and Malhotra, A. eds., 2023. *Reimagining the International Legal Order*. Taylor & Francis.

Protocol Additional to the Geneva Conventions of 12 August 1949 – relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977) 1125 UNTS 3

Protocol Additional to the Geneva Conventions of 12 August 1949 – relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977) 1125 UNTS 609.

Roberts, K. and Stewart, J.G., 2019. Delimiting Deportation, Unlawful Transfer, Forcible Transfer and Forcible Displacement in International Criminal Law: A

Jurisprudential History. *AJICJ*, p.59.

Robinson, D., 1999. Defining "crimes against humanity" at the Rome conference. *American Journal of International Law*, 93 (1), pp.43-57.

Rome Statute of the International Criminal Court (1998) 2187 UNTS 90, Art. 8.

Rome Statute of the International Criminal Court. (1998). *Human Rights Instruments: Universal Instrument: Rome Statute of the International Criminal Court*. United Nations. <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court>

Sadat, L., 2021. *The International Criminal Court and the transformation of International Law: justice for the new millenium* (Vol. 31). BRILL.

Sainati, T.E., 2016. Divided we fall: how the International Criminal Court can promote compliance with international law by working with regional courts. *Vand. J. Transnat'l L.*, 49, p.191.

Sarkin, J., 2020. Reforming the International Criminal Court (ICC) to achieve increased state cooperation in investigations and prosecutions of international crimes. *International Human Rights Law Review*, 9 (1), pp.27-61.

Shamsi, N., 2016. The ICC: A political tool? How the Rome Statute is susceptible to the pressures of more power states. *Willamette Journal of International Law and Dispute Resolution*, 24 (1), pp.85-104.

Shaw, B.D., 1984. Bandits in the Roman empire. *Past & Present*, (105), pp.3-52.

Singh, D., 2023. Russian Responses, the Invasion, Sanctions and International Law. In *The Tripartite Realist War: Analysing Russia's Invasion of Ukraine* (pp. 121-207). Cham: Springer Nature Switzerland.

Szewczyk, B.M., 2013. Customary international law and statutory interpretation: an empirical analysis of Federal Court decisions. *Geo. Wash. L. Rev.*, 82, p.1118.

Talbott, S., 2009. *The great experiment: The story of ancient empires, modern states, and the quest for a global nation*. Simon and Schuster.

The Guardian. "German Court Jails Former Syrian Intelligence Officer for Life." The Guardian. Last modified January 13, 2022. <https://www.theguardian.com/world/2022/jan/13/german-court-jails-former-syrian-intelligence-officer-anwar-raslan-for-life>.

Toman, J., 2005. The Hague Convention—A decisive step taken by the international community. *Museum international*, 57(4), pp.7-31.

UNHCR (United Nations High Commissioner for Refugees). 2011. *The 1951 Refugee Convention and its 1967 Protocol*. UNHCR.

UNHCR. "UKRAINE EMERGENCY: CHILDREN FLEEING UKRAINE – THE ADVOCACY AGENDA FOR ACTION: A call for action to protect all children and their families displaced by the war." UNHCR. Accessed December 7, 2024. [https://file:///C:/Users/USER/Downloads/UNHCR-UNICEF%20Joint%20Agenda%20for%20Children%20fleeing%20Ukraine%20\(external\).pdf](https://file:///C:/Users/USER/Downloads/UNHCR-UNICEF%20Joint%20Agenda%20for%20Children%20fleeing%20Ukraine%20(external).pdf).

United Nations 9404th Meeting. 2023. *Deportation, treatment of Ukraine's children by Russian Federation take centre stage by many delegates at Security Council briefing*. United Nations. <https://press.un.org/en/2023/sc15395.doc.htm>

United Nations 9799th Meeting (AM), December 4, 2024. "Russian Federation's War against Ukraine 'Upending Lives of Children', United Nations Agency Head Tells Security Council - Deportations, Illegal Transfers of Children Constitute War Crimes, Violate Fourth Geneva Convention, Says Delegate.". <https://press.un.org/en/2024/sc15922.doc.htm>.

United Nations Office on Genocide Prevention. (2019). *The Convention on the Prevention and Punishment of the Crime of Genocide (1948)*. Welcome to the United Nations. <https://www.un.org/en/genocideprevention/documents/Genocide%20Convention-FactSheet-ENG.pdf>

United States Department of State. 2023, November 16. *Belarus's involvement in*

Russia's systematic relocation of Ukraine's children . <https://www.state.gov/belarus-involvement-in-russias-systematic-relocation-of-ukraines-children/>

Vakulina, S. 2024, November 13. *Ombudsman: Deported Ukrainian children are Russia's future recruits* . euronews. <https://www.euronews.com/my-europe/2024/11/13/russia-deports-ukrainian-children-to-raise-a-new-generation-of-russian-army-ombudsman-says>

Van der Merwe, H.J., 2012. *The transformative value of international criminal law* (Doctoral dissertation, Stellenbosch: Stellenbosch University).

von Arnould, A., 2021. How to illegalize past injustice: Reinterpreting the rules of intertemporality. *European Journal of International Law* ,32 (2), pp.401-432.

Williamson, J.A., 2009. Challenges of twenty-first century conflicts: A look at direct participation in hostilities. *Duke J. Comp. & Int'l L.* ,20 , p.457.

SUMMARIES

English Summary

The thesis *Legal Frameworks and Enforcement of Forced Transfer and Deportation of Civilians in International Law* focuses on the transfer and deportation of civilians from one country to another without following the IHL and ICL doctrines. It analyses the merits and demerits of various international criminal law frameworks, including the Hague Convention, Geneva Conventions, and Rome Statute, where these acts are categorized. Convincing evidence points to various problems in enforcing policies regulating the transfer and deportation of civilians, such as legal jurisdiction, concerns about admissible evidence, and political interference that always prevents the offenders from being brought to book. ICTY, ICTR, and ICC case law are examined, and events such as forced displacement in the former Yugoslavia and Rwanda are used again to demonstrate complexities in holding actors responsible. The thesis analyses deficiencies in international humanitarian, refugee, and human rights law, specifically its failure to protect victims and protection for children and minorities adequately. The conclusion highlights that a single approach cannot solve forced displacement. The main issues should be elaborated for enforcement mechanisms, international cooperation, and the protection of victims. It mandates scientists and activists to work incessantly towards constructing more efficient civilian protection and accountability frameworks internationally.

Lithuanian Summary

Magistro darbe „Priverstinio civilių perkėlimo ir deportacijos teisiniai pagrindai ir vykdymas tarptautinėje teisėje“ nagrinėjamas civilių perkėlimas ir deportacija iš vienos šalies į kitą, nesilaikant THT ir TBT doktrinų. Analizuojami įvairių tarptautinės baudžiamosios teisės sistemų, įskaitant Hagos konvenciją, Ženevos konvencijas ir Romos statutą, privalumai ir trūkumai, kur šie veiksmai yra klasifikuojami. Pateikiami įtikinami įrodymai apie įvairias problemas, kylančias įgyvendinant politiką, reglamentuojančią civilių perkėlimą ir deportaciją, tokias kaip jurisdikciniai apribojimai, su įrodymų priimtinumu susiję klausimai ir politinis kišimasis, kuris dažnai trukdo patraukti kaltuosius atsakomybėn. Nagrinėjama ICTY, ICTR ir TBT teismų praktika, o tokie įvykiai kaip priverstinis gyventojų perkėlimas buvusioje Jugoslavijoje ir Ruandoje dar kartą naudojami siekiant atskleisti sudėtingumą, susijusį su atsakomybės užtikrinimu. Magistro darbe analizuojami tarptautinės humanitarinės, pabėgėlių ir žmogaus teisių teisės trūkumai, ypač jų nesugebėjimas tinkamai apsaugoti aukas, taip pat vaikų ir mažumų apsaugos nepakankamumas. Išvadoje pabrėžiama, kad vieno požiūrio nepakanka priverstinio perkėlimo problemai spręsti. Pagrindiniai klausimai turėtų būti išsamiai nagrinėjami, siekiant tobulinti vykdymo mechanizmus, stiprinti tarptautinį bendradarbiavimą ir užtikrinti aukų apsaugą. Taip pat pabrėžiama būtinybė mokslininkams ir aktyvistams nuolat siekti sukurti efektyvesnes civilių apsaugos ir atsakomybės užtikrinimo sistemas tarptautiniu mastu.