

LEGAL ASSESSMENTS, FINDINGS, AND RESOLUTIONS

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LEGAL ASSESSMENTS, FINDINGS, AND RESOLUTIONS

Introduction

This section begins with an excerpt from the United Nations Genocide Convention, which provides the definition of genocide recognized under international law. Readers may also wish to look at articles 6 and 7 of the Rome Statute of the International Criminal Court, not included in the *Reader*, which define genocide and crimes against humanity.

The section continues with statements by two commissions that studied the famine before the release of many important Soviet archival documents. In 1988 the Commission on the Ukraine Famine reported to the U.S. Congress that “Joseph Stalin and those around him committed genocide against Ukrainians in 1932–1933.” In 1990 the International Commission of Inquiry into the 1932–33 Famine in Ukraine was unable to reach a consensus on the issue of genocide but did state that “in all probability, the grain procurements, collectivization, dekulakization and denationalization pursued a common, if not exclusive, goal and may not be radically disassociated when analyzing the causes of the famine.” Professor Jacob Sundberg, who headed the commission, did find that the Ukrainian famine was genocide.

There follow official resolutions and statements by governmental and international bodies. In 2003, on the seventieth anniversary of the famine, the Ukrainian parliament stated that “the Holodomor of 1932–33 was deliberately organized by the Stalin regime and should be publicly condemned by Ukrainian society and the international community as one of the largest acts of genocide in world history by virtue of the number of its victims,” while the UN joint statement recognized it as “a national tragedy for the Ukrainian people.” The Law of Ukraine of 28 November 2006 declared the Holodomor “an act of genocide against the Ukrainian people resulting from deliberate actions of the repressive totalitarian Stalin regime aimed at the annihilation of part of the Ukrainian people and other peoples of the former USSR.” Partly in response to the Ukrainian law, the Russian Duma declared that the famine “does not and cannot have the internationally established characteristics of genocide and should not be the subject of present-day political speculation.” The Parliamentary Assembly of the Council of Europe noted that Ukraine “suffered the most” of all the regions of the USSR affected by famine.

This section ends with legal assessments of the famine. Raphael Lemkin, who pioneered the concept of genocide, argues that the famine constituted an essential part of “perhaps the classic example of Soviet genocide.” Roman Serbyn, a Canadian historian of Ukrainian origin, analyzes the Holodomor through the prism of the UN Genocide Convention and concludes that it was genocide. Volodymyr Vasylenko, a Ukrainian legal scholar and diplomat, measures the Soviet authorities’ decisions, actions, and failure to act against international criminal law and concludes that “planning the confiscation of excessive quantities of farm produce from the peasants is tantamount to planning the Holodomor.”

Finally, the human-rights activist Yevhen Zakharov argues that until November 1932 the famine in Ukraine was similar to famines in other regions of the USSR. By February 1933, however, “death took on a mass character” in Ukraine. “Mass famine,” he concludes, “was combined with political repression against the intelligentsia and national communists in 1933, as well as with the cessation of the policy of Ukrainization. Death from starvation...and from political repressions should be regarded as a crime against humanity and as the crime of genocide.”

Convention on the Prevention and Punishment of the Crime of Genocide

Text online at <http://www.hrweb.org/legal/genocide.html>.

Adopted by Resolution 260 (III) A of the United Nations General Assembly on 9 December 1948.

Article 1

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article 2

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article 3

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Article 4

Persons committing genocide or any of the other acts enumerated in Article 3 shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article 5

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in Article 3.

Article 6

Persons charged with genocide or any of the other acts enumerated in Article 3 shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction....

“Findings,” in Commission on the Ukraine Famine, *Investigation of the Ukrainian Famine, 1932–1933* (1988), pp. vi–viii.

Based on testimony heard and staff research, the Commission on the Ukraine Famine makes the following findings:

- 1) There is no doubt that large numbers of inhabitants of the Ukrainian SSR and the North Caucasus Territory starved to death in a man-made famine in 1932–33, caused by the seizure of the 1932 crop by Soviet authorities.
- 2) The victims of the Ukrainian Famine numbered in the millions.
- 3) Official Soviet allegations of “kulak sabotage,” upon which all “difficulties” were blamed during the Famine, are false.
- 4) The Famine was not, as is often alleged, related to drought.
- 5) In 1931–32, the official Soviet response to a drought-induced grain shortage outside Ukraine was to send aid to the areas affected and to make a series of concessions to the peasantry.
- 6) In mid-1932, following complaints by officials in the Ukrainian SSR that excessive grain procurements had led to localized outbreaks of famine, Moscow reversed course and took an increasingly hard line toward the peasantry.
- 7) The inability of Soviet authorities in Ukraine to meet the grain procurements quota forced them to introduce increasingly severe measures to extract the maximum quantity of grain from the peasants.
- 8) In the Fall of 1932 Stalin used the resulting “procurements crisis” in Ukraine as an excuse to tighten his control in Ukraine and to intensify grain seizures further.
- 9) The Ukrainian Famine of 1932–33 was caused by the maximum extraction of agricultural produce from the rural population.
- 10) Officials in charge of grain seizures also lived in fear of punishment.
- 11) Stalin knew that people were starving to death in Ukraine by late 1932.
- 12) In January 1933, Stalin used the “laxity” of the Ukrainian authorities in seizing grain to strengthen further his control over the Communist Party of Ukraine and mandated actions which worsened the situation and maximized the loss of life.
- 13) [Pavel] Postyshev had a dual mandate from Moscow: To intensify the grain seizures (and therefore the Famine) in Ukraine and to eliminate such modest national self-assertion as Ukrainians had hitherto been allowed by the USSR.
- 14) While famine also took place during the 1932–33 agricultural year in the Volga Basin and the North Caucasus Territory as a whole, the invasiveness of Stalin’s interventions of both the Fall of 1932 and January 1933 in Ukraine are paralleled only in the ethnically Ukrainian Kuban region of the North Caucasus.
- 15) Attempts were made to prevent the starving from traveling to areas where food was more available.
- 16) Joseph Stalin and those around him committed genocide against Ukrainians in 1932–33.

17) The American government had ample and timely information about the Famine but failed to take any steps which might have ameliorated the situation. Instead, the Administration extended diplomatic recognition to the Soviet government in November 1933, immediately after the Famine.

18) During the Famine certain members of the American press corps cooperated with the Soviet government to deny the existence of the Ukrainian Famine.

19) Recently, scholarship in both the West and, to a lesser extent, the Soviet Union has made substantial progress in dealing with the Famine. Although official Soviet historians and spokesmen have never given a fully accurate or adequate account, significant progress has been made in recent months.

International Commission of Inquiry into the 1932–33 Famine in Ukraine, *Final Report* (Stockholm: International Commission of Inquiry into the 1932–33 Famine in Ukraine, 1990). The Stockholm Institute of Public and International Law, no. 109. Excerpts, pp. 38–43.

...*The Commission is unanimous* in finding the existence of a famine situation in Ukraine between approximately August–September, 1932, and July, 1933. As to the number of famine victims, the Commission agreed that it was unable to choose between one or other figure given by experts in different estimates. However, the Commission arrived at the conclusion that the number of victims in Ukraine was at least 4.5 million....

As causes of the famine, the *Commission majority* has identified (a) the grain procurements; (b) collectivization; (c) dekulakization; and (d) denationalization, and advances the following reasoning:

The Commission majority finds beyond doubt that the immediate cause of the 1932–33 famine lay in the grain procurements imposed upon Ukraine from 1930 onwards. It finds it also indisputable that the dreadful effects of the excessive grain procurements were considerably aggravated by the Soviet authorities trying to carry out the forced collectivization of agriculture, to eliminate the kulaks and to snuff out those centrifugal Ukrainian tendencies which threatened the unity of the Soviet Union. The ensuing disorders magnified the catastrophic consequences of a shortfall of cereals out of all proportions. The famine was certainly man-made in the sense that its immediate origin lies in human behaviour. No decisive evidence of a necessary connection between grain procurements, collectivization, dekulakization, and denationalization was put to the Commission. Nonetheless, it is very likely that these policies, pursued at the same time, were part of the same plan. The Commission believes that, in all probability, the grain procurements, collectivization, dekulakization and denationalization pursued a common, if not exclusive, goal and may not be radically disassociated when analyzing the causes of the famine.

Likewise, the Commission majority found it beyond doubt that the Ukraine was severely hit by famine in 1932–33 and that the Ukrainian and Soviet authorities were aware of the dire food shortages of the population....

The Commission majority observed that the Soviet authorities adopted various legal measures which amplified the disastrous effects of the famine....

However, the Commission majority found itself unable, with the information now at its disposal, to affirm the existence of a preconceived plan to organize a famine in the Ukraine in order to ensure the success of Moscow's policies. The Commission majority believes that the

Soviet authorities, without actively wanting the famine, most likely took advantage of it once it occurred to force the peasants to accept policies which they strongly opposed.

In conclusion, the Commission majority does not believe that the 1932–33 famine was systematically organized to crush the Ukrainian nation once and for all; nonetheless it is of the opinion that the Soviet authorities used the famine voluntarily, when it happened, to crown their new policy of denationalization.

In his dissenting opinion, the President, Prof. [Jacob] *Sundberg*, followed a different line of reasoning. In his opinion, following the paper trail, you arrive at a number of manifest, non-controvertible causes which certainly have contributed to the famine and which allow placing responsibility squarely on the shoulders of particular individuals, but which have not been the only causes....

The Commission majority proceeds by finding that responsibility for the famine almost certainly lies with the authorities of the Soviet Union. The Commission majority has no doubt as to this responsibility; it suffices that the famine occurred and grew worse as the normal outcome of the measures adopted by the authorities....

Attempting to find which persons should bear the brunt of the responsibility for the famine in Ukraine, the Commission majority found itself generally unable to verify allegations referring to particular officials; except that all available materials—testimonies, documents, studies—attribute key responsibility to J. Stalin. So, it is he who first and foremost bears responsibility for the Ukraine famine of 1932–33. The Commission majority finds it reasonable to maintain that this responsibility must be shared by the other members of the Politburo, although the precise role that these other members played cannot easily be determined....

In his dissenting opinion, the President, Prof. *Sundberg*, again followed a different line of reasoning. In his opinion, the evidence shows that the famine situation was well-known in Moscow from the bottom to the top. Very little or nothing was done to provide some relief to the starving masses. On the contrary, a great deal was done to deny the famine, to make it invisible to visitors, and to prevent relief being brought....

In the opinion of Prof. *Sundberg*, industrialization, collectivization and suppression of nationalism were all, essentially, different sides of one and same problem created by the particular philosophy of the Party State. He thus finds the issue to be a matter of *aims within aims*. On the basis of this reasoning, Prof. *Sundberg* arrives at the conclusion that the statutory intent includes an intent to kill, and that this intent covers also major groups of people. On the basis of the same reasoning, Prof. *Sundberg* is inclined to dismiss all objections to the effect that the individuals in question may have been unaware of the conditions that resulted from the grain requisitions, in particular, the massive mortality. He find[s] that the lethal intent was directed at the Ukrainian nation as such—as it was directed at other nations as such within the big multi-nation empire that was the USSR—because this targeting was an aim within the overriding aim of establishing a new world of Socialism/Communism....

The Commission majority—Professors [Joe] Verhoeven, [John P.] Humphrey and [Ricardo] Levene—deems it plausible that the constituent elements of genocide were in existence at the time of the famine although the Genocide Convention was not created until 1948....

Prof. [Covey T.] Oliver does not feel convinced that the Petitioner has made a technical, legal case for genocide under the facts....

Prof. [Georges] Levasseur concurs partly with the statements in the majority opinion, but thinks that a qualification of the facts found should establish crimes against humanity and not genocide....

Prof. Sundberg states that his findings are such as to coincide with what is called genocide in the Genocide Convention.

“Resolution of the Verkhovna Rada of Ukraine no. 789–IV of 15 May 2003 on the Appeal to the Ukrainian People from Participants in the Special Session of the Verkhovna Rada of Ukraine on 14 May 2003 to Honor the Memory of the Victims of the Holodomor of 1932–1993,” *Vidomosti Verkhovnoi Rady Ukraïny* (News of the Verkhovna Rada of Ukraine, Kyiv) 2003, no. 30, p. 262. English translation online at <http://www.artukraine.com/famineart/ukr.speaks.htm>, amended by Bohdan Klid.

...We, the participants in the Special Session of the Verkhovna Rada of Ukraine, guided by the ideals of humanism and social justice, upholding human and civil rights from the standpoint of values common to all humanity, appeal to the Ukrainian people, citizens of Ukraine of all nationalities, in this year of a tragic date in our history—the 70th anniversary of the Holodomor organized by the totalitarian Stalin regime.

The national and international community are commemorating the 70th anniversary of this Ukrainian national catastrophe in which, probably for the first time in human history, confiscation of food products was used by the state as a weapon of mass destruction of its own people for a political aim. The Holodomor of 1932–33, which became an inhuman means of liquidating millions of Ukrainians, confirms the criminal nature of the political regime of that time.

The brutal seizure of the 1932 harvest and its shipment beyond the borders of Ukraine, the confiscation of all food products from every peasant family, the destruction of temples and churches, mass repressions of the Ukrainian intelligentsia and clergy—all this was aimed at undermining the Ukrainian national spirit, eradicating its elite, and liquidating the economic independence of the peasantry.

The total extermination of millions of Ukrainian farmers by means of an artificially created famine was a deliberate terrorist act of the Stalinist political system. The social foundations of the Ukrainian nation, its ancient traditions, were ruined; its spiritual culture and ethnic uniqueness were undermined. For many decades, the tragedy of the Holodomor of 1932–33 in Ukraine was not only suppressed but also officially denied by the ruling political elite of the USSR. Its causes, nature, mechanism of organization, and scale were carefully concealed not only from the international community but also from several generations of our compatriots. But attempts to suppress the truth about the Holodomor of 1932–33 forever and drown it in the flow of time and history failed. The West has known and written about this Ukrainian Catastrophe since 1933. In 1988 the US Congress officially recognized the Holodomor of 1932–33 as genocide of the Ukrainian people, as did the International Commission of Jurists.¹

As for the citizens of Ukraine, the truth about the events of 1932–33 began to be revealed to them on the eve of the collapse of the USSR. It was then that a breakthrough first occurred in the official suppression of these tragic facts of history.

¹ The members of the International Commission of Inquiry were unable to reach a consensus on the question of genocide. See the preceding document. (Editors)

It can now be said with certainty that the first words of truth about the Holodomor of 1932–33 played a notable role in the national renaissance and became one of the important factors contributing to the attainment of the independence of Ukraine.

Concomitantly, we believe that in the conditions of an independent Ukraine the terrible truth about those years must be made public officially by the state, as the Holodomor of 1932–33 was deliberately organized by the Stalin regime and should be publicly condemned by Ukrainian society and the international community as one of the largest acts of genocide in world history by virtue of the number of its victims.

We, the participants in the Special Session of the Verkhovna Rada of Ukraine of May 14, 2003, do so today by recognizing the Holodomor of 1932–33 as an act of genocide against the Ukrainian people by the evil design of the Stalin regime.

We believe that designating this Catastrophe of the Ukrainian nation as genocide is of fundamental significance for stabilizing sociopolitical relations in Ukraine; is an important factor for restoring historical justice and moral healing of several generations from terrible social stress and evidence of the irreversibility of the process of social democratization; and is a severe warning against any attempt to establish a new dictatorship in Ukraine or violating the most basic of human rights—the right to life.

Having considered the question of the Holodomor as an act of genocide at a special session of the Verkhovna Rada of Ukraine, we have to a degree fulfilled our civic and patriotic duty to the memory of millions of people and to younger generations.

At the same time, we are deeply aware that it is only after making an official political and legal assessment of this social Catastrophe in the history of our Fatherland at the highest level of state authority and on behalf of all branches of government in Ukraine, holding an appropriate annual commemoration of its countless victims, and apprising the international community of the fact that this Holodomor was genocide against the Ukrainian people—only after doing this can we call ourselves a full-fledged civilized Nation.

In the name of the future, let us not forget the past!

Joint Statement on the Great Famine of 1932–33 in Ukraine (Holodomor) on Monday, November 10, 2003 at the United Nations in New York. By the delegations of: Azerbaijan, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Canada, Egypt, Georgia, Guatemala, Jamaica, Kazakhstan, Mongolia, Nauru, Pakistan, Qatar, The Republic of Moldova, The Russian Federation, Saudi Arabia, The Sudan, The Syrian Arab Republic, Tajikistan, Timor-Leste, Ukraine, The United Arab Emirates, and The United States of America on the seventieth anniversary of the Great Famine of 1932–33 in Ukraine (Holodomor). Online at <http://www.un.int/ukraine/Ukr-UN/Holodomor/NO360402.pdf>.

In the former Soviet Union millions of men, women and children fell victims to the cruel actions and policies of the totalitarian regime. The Great Famine of 1932–33 in Ukraine (Holodomor), which took from 7 million to 10 million innocent lives and became a national tragedy for the Ukrainian people. In this regard we note activities in observance of the seventieth anniversary of this Famine, in particular organized by the Government of Ukraine.

Honouring the seventieth anniversary of the Ukrainian tragedy, we also commemorate the memory of millions of Russians, Kazakhs and representatives of other nationalities who died of starvation in the Volga River region, Northern Caucasus, Kazakhstan and in other parts of the

former Soviet Union, as a result of civil war and forced collectivization, leaving deep scars in the consciousness of future generations.

Expressing sympathy to the victims of the Great Famine, we call upon all Member States, the United Nations and its special agencies, international and regional organizations, as well as non-governmental organizations, foundations and associations to pay tribute to the memory of those who perished during that tragic period of history.

Recognizing the importance of raising public awareness on the tragic events in the history of mankind for their prevention in future, we deplore the acts and policies that brought about mass starvation and death of millions of people. We do not want to settle scores with the past, it could not be changed, but we are convinced that exposing violations of human rights, preserving historical records and restoring the dignity of victims through acknowledgement of their suffering, will guide future societies and help to avoid similar catastrophes in the future. We need that as many people as possible learn about this tragedy and consider that this knowledge will strengthen effectiveness of the rule of law and enhance respect for human rights and fundamental freedoms.

Law of Ukraine “On the Holodomor of 1932–33 in Ukraine” no. 376–V of 28 November 2006, *Vidomosti Verkhovnoi Rady Ukraïny* (News of the Verkhovna Rada of Ukraine) 2006, no. 50, p. 504. Unofficial translation online at <http://www.ukremb/canada/en/26651.htm>, amended by Bohdan Klid.

The Verkhovna Rada of Ukraine resolves:

Honoring the memory of millions of compatriots who became victims of the Holodomor of 1932–33 in Ukraine and of its consequences;

Respecting all citizens who endured this terrible tragedy in the history of the Ukrainian people;

Realizing its moral duty to past and future generations of Ukrainians and recognizing the need to restore historical justice and affirm the unacceptability of manifestations of violence in society;

Noting that for many decades the tragedy of the Holodomor of 1932–33 in Ukraine was officially denied by the authorities of the USSR;

Condemning the criminal acts of the totalitarian regime of the USSR directed toward organizing the Holodomor, which resulted in the annihilation of millions of people and the destruction of the social foundations of the Ukrainian people and of its centuries-old traditions, spiritual culture, and ethnic distinctiveness;

Sympathizing with the other peoples of the former USSR who sustained losses as a result of the Holodomor;

Highly valuing the solidarity and support of the international community in condemning the Holodomor of 1932–33 in Ukraine....

Proceeding from the Recommendations of parliamentary hearings on honoring the memory of the victims of the Holodomor of 1932–33, approved by Resolution no. 607–IV of 6 March 2003 of the Verkhovna Rada of Ukraine, as well as from the Appeal to the Ukrainian People from Participants in the Special Session of the Verkhovna Rada of Ukraine on 14 May 2003 to Honor the Memory of the Victims of the Holodomor of 1932–33, approved by Resolution no. 789–V of 15 May 2003 of the Verkhovna Rada of Ukraine, in which the Holodomor was recognized as an act of genocide against the Ukrainian people resulting from

deliberate actions of the repressive totalitarian Stalin regime aimed at the annihilation of part of the Ukrainian people and other peoples of the former USSR;

Recognizing, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, the Holodomor of 1932–33 in Ukraine as an intentional act of mass destruction of people, hereby adopts this Law.

Article 1. The Holodomor of 1932–33 in Ukraine is genocide of the Ukrainian people.

Article 2. Public denial of the Holodomor of 1932–33 in Ukraine shall be regarded as desecration of the memory of the millions of victims of the Holodomor and denigration of the dignity of the Ukrainian people, and shall be unlawful.

Article 3. Organs of the national government and local authorities shall undertake, according to their competence:

to take part in the formation and realization of government policy in the sphere of restoring and preserving the national memory of the Ukrainian people; to promote the consolidation and development of the Ukrainian nation, its historical consciousness and culture, dissemination of information about the Holodomor of 1932–33 in Ukraine among citizens of Ukraine and the international community; to provide for study of the tragedy of the Holodomor in the educational institutions of Ukraine; to take measures to perpetuate the memory of the victims and casualties of the Holodomor of 1932–33 in Ukraine, including the erection in populated areas of memorials and the installation of commemorative plaques to the victims of the Holodomor; to facilitate, according to established procedure, the access of scholarly and public institutions and organizations, scholars, and individuals studying problems of the Holodomor of 1932–33 in Ukraine and its aftermath to archival and other materials on questions regarding the Holodomor.

Article 4. The state shall ensure conditions for research on the Holodomor of 1932–33 in Ukraine and the commemoration of its victims on the basis of an appropriate national program, making annual provision for its financing from the state budget of Ukraine.

Article 5. Final provisions

1. This Law shall take effect on the date of its publication.

2. The Cabinet of Ministers of Ukraine shall:

1) determine the status and functions of the Ukrainian Institute of National Memory and provide for its financing from the state budget as a specially authorized central executive body in the sphere of the restoration and preservation of the national memory of the Ukrainian people;

2) within three months of the effective date of this Law:

submit proposals for consideration by the Verkhovna Rada of Ukraine on the harmonization of legislative acts of Ukraine with this Law;

harmonize its normative and legal acts with this Law;

ensure the revision and cancellation by executive organs of their normative and legal acts that do not conform to this Law;

3) resolve according to established procedure, together with the Kyiv Municipal State Administration, the issue of erecting in the city of Kyiv a Memorial to the victims of holodomors in Ukraine by the 75th Anniversary of the Holodomor of 1932–33 in Ukraine.

President of Ukraine
V[iktor] Yushchenko

**State Duma of the Federal Assembly of the Russian Federation, Fifth Convocation.
Declaration of 2 April 2008 “In Memory of the Victims of the Famine of the [19]30s on the
Territory of the USSR.” Online at
<http://ntc.duma.gov.ru/bpa/searchrun.phtml?idb=1&ogu1=&nm=262-5+%C3%C4&sort=1>. Translated by Bohdan Klid.**

The State Duma of the Federal Assembly of the Russian Federation shares the sorrow of the peoples of the former USSR on the occasion of the 75th anniversary of a terrible tragedy—the famine of the 1930s—that encompassed a considerable portion of the territory of the Soviet Union.

Archival documents studied by modern historians reveal not only the scope of the tragedy but also its causes. Extraordinary methods were used to attain the following aims: to destroy small property owners, carry out the forced collectivization of agriculture, and drive peasants from the village in order to obtain an army of workers for the rapid industrialization of the country.

As a result of the famine brought about by forced collectivization, there was suffering in many regions of the Russian SFSR (the Volga region, the Central Black Earth region, the North Caucasus, the Urals, the Crimea, part of Western Siberia), Kazakhstan, Ukraine, and Belarus. About seven million people died there in 1932–33 from starvation and diseases related to malnutrition.

The peoples of the USSR paid a heavy price for industrialization—for the huge economic breakthrough that occurred in those years. The Dniprohes, the Magnitogorsk and Kuznetsk metallurgical combines; the metallurgical giants of Ukraine: Zaporizhstal, Azovstal, and Kryvorizhstal; the large coal mines of the Donbas, Kuzbas, Karaganda, the Kharkiv Tractor Plant, the Moscow and Gorky automobile factories—in total, more than 1,500 industrial enterprises, many of which provide even now for the economic development of the independent states on the territory of the former Soviet Union—stand as an eternal monument to the heroes and victims of the thirties.

In an effort to resolve at any price problems of food supply to the rapidly growing industrial centers, the leadership of the USSR and the Soviet republics used repressive measures to secure grain requisitions, greatly aggravating the severe consequences of the poor harvest of 1932. However, there is no historical evidence that the famine was organized along ethnic lines. Its victims were million of citizens of the USSR representing different peoples and nationalities living largely in agricultural areas of the country. This tragedy does not and cannot have the internationally established characteristics of genocide and should not be the subject of present-day political speculation.

The State Duma confirms its commitment to the assertions of a joint statement of delegations of a number of UN member states adopted at the 58th session of the UN General Assembly in 2003 expressing sympathy for the millions of victims of the tragedy, irrespective of nationality.

The deputies of the State Duma, paying tribute to the victims of the famine of the 1930s on the territory of the USSR, resolutely condemn the regime that disregarded people’s lives for the sake of achieving economic and political goals and declare as unacceptable in the states formerly part of the USSR any attempts at a revival of totalitarian regimes disregarding the rights and lives of their citizens.

**Commemorating the victims of the Great Famine (*Holodomor*) in the former USSR.
Resolution 1723 of the Parliamentary Assembly of the Council of Europe. Adopted on 28
April 2010. Online at
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/ERES1723.htm>.**

...3. One of the most tragic pages in the history of the peoples of the former Soviet Union was the mass famine in grain-growing areas of the country which started in the late 1920s and culminated in 1932–33.

4. Millions of innocent people in Belarus, Kazakhstan, Moldova, Russia and Ukraine, which were parts of the Soviet Union, lost their lives as a result of mass starvation caused by the cruel and deliberate actions and policies of the Soviet regime.

5. In Ukraine, which suffered the most, the peasantry was particularly hit by the Great Famine, and millions of individual farmers and members of their families died of hunger following forced “collectivisation,” a ban on departures from the affected areas and confiscation of grain and other food. These tragic events are referred to as *Holodomor* (politically-motivated famine) and are recognised by Ukrainian law as an act of genocide against Ukrainians.

6. In Kazakhstan, too, millions fell victim to the mass famine, and the ratio of the dead to the whole population is believed to be the highest among all peoples of the former Soviet Union. Traditionally nomads, the cattle-raising Kazakhs were forced to settle down and were deprived of livestock. The Great Famine is remembered as the greatest tragedy of the Kazakh people.

7. In the grain-producing areas of Russia (the Middle and Lower Volga, the North Caucasus, the Central Black Soil region, the Southern Urals, Western Siberia and some other regions), the famine caused by “collectivisation” and dispossession of individual farmers took millions of lives in rural and urban areas. In absolute figures, it is estimated that the population of Russia had the heaviest death toll as a result of the Soviet agricultural policies.

8. Hundreds of thousands of farmers also died in Belarus and the Republic of Moldova.

9. While these events may have had particularities in various regions, the results were the same everywhere: millions of human lives were mercilessly sacrificed to the fulfilment of the policies and plans of the Stalin regime.

10. The Assembly honours the memory of all those who perished in this unprecedented human disaster, and recognises them as victims of a cruel crime of the Soviet regime against its own people.

11. It strongly condemns the cruel policies pursued by the Stalin regime, which resulted in the death of millions of innocent people, as a crime against humanity. It resolutely rejects any attempts to justify these deadly policies, by whatever purposes, and recalls that the right to life is non-derogable.

12. It welcomes the efforts aimed at revealing the historical truth about, and at raising the public awareness of, these tragic events of the past. Such efforts should seek to unite, not divide peoples.

13. The Assembly welcomes the important work already done in Belarus, Kazakhstan, the Republic of Moldova, Russia and in particular in Ukraine in order to ease access to archives, and calls on the competent authorities of these countries to open up all their archives and facilitate access thereto to all researchers, including from other states.

14. It further calls on other Council of Europe member states to make their national archives open and accessible.

15. The Assembly calls on historians of all countries of the former Soviet Union which suffered during the Great Famine, as well as historians from other countries, to conduct joint independent research programmes in order to establish the full, unbiased and unpoliticised truth about this human tragedy, and to make it public.

16. It urges the politicians in all Council of Europe member states to abstain from any attempts to exert political influence on historians and prejudge the outcome of independent scientific research.

17. It welcomes the decision by the Ukrainian authorities to establish a national day of commemoration of the victims of the Great Famine (*Holodomor*) in Ukraine, and encourages the authorities of other countries which also suffered to do the same with regard to their own victims.

18. It furthermore encourages the authorities of all these countries to agree on joint activities aimed at commemorating the victims of the Great Famine, regardless of their nationality.

Raphael Lemkin, “Soviet Genocide in Ukraine,” *Journal of International Criminal Justice* 7 (2009): 123–30. Excerpts.

Raphael Lemkin (1900–1959) was a Polish-Jewish scholar who coined the term “genocide” and played a large role in the adoption of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide. He was the author of *Axis Rule in Occupied Europe: Laws of Occupation – Analysis of Government – Proposals for Redress* (1944), where the word “genocide” first appeared in print. The text excerpted here is an address that he delivered at the Ukrainian Famine commemoration in New York in 1953.

The mass murder of peoples and of nations that has characterized the advance of the Soviet Union into Europe is not a new feature of their policy of expansionism, it is not an innovation devised simply to bring uniformity out of the diversity of Poles, Hungarians, Balts, Romanians—presently disappearing into the fringes of their empire. Instead, it has been a long-term characteristic even of the internal policy of the Kremlin—one which the present masters had ample precedent for in the operations of Tsarist Russia. It is indeed an indispensable step in the process of “union” that the Soviet leaders fondly hope will produce the “Soviet Man,” the

“Soviet Nation” and to achieve that goal, that unified nation, the leaders of the Kremlin will gladly destroy the nations and the cultures that have long inhabited Eastern Europe.

What I want to speak about is perhaps the classic example of Soviet genocide, its longest and broadest experiment in Russification—the destruction of the Ukrainian nation....

As long as Ukraine retains its national unity, as long as its people continue to think of themselves as Ukrainians and to seek independence, so long Ukraine poses a serious threat to the very heart of Sovietism. It is no wonder that the Communist leaders have attached the greatest importance to the Russification of this independent member of their “Union of Republics,” have determined to remake it to fit their pattern of one Russian nation. For the Ukrainian is not and has never been, a Russian. His culture, his temperament, his language, his religion—all are different. At the side door to Moscow, he has refused to be collectivized, accepting deportation, even death. And so it is peculiarly important that the Ukrainian be fitted into the Procrustean pattern of the ideal Soviet man.

Ukraine is highly susceptible to racial murder by select parts and so the Communist tactics there have not followed the pattern taken by the German attacks against the Jews. The nation is too populous to be exterminated completely with any efficiency. However, its leadership, religious, intellectual, political, its select and determining parts, are quite small and therefore easily eliminated, and so it is upon these groups particularly that the full force of the Soviet axe has fallen, with its familiar tools of mass murder, deportation and forced labour, exile and starvation.

The attack has manifested a systematic pattern, with the whole process repeated again and again to meet fresh outbursts of national spirit. The first blow is aimed at the intelligentsia, the national brain, so as to paralyse the rest of the body. In 1920, 1926 and again in 1930–33, teachers, writers, artists, thinkers, political leaders, were liquidated, imprisoned or deported....

Going along with this attack on the intelligentsia was an offensive against the churches, priests and hierarchy, the “soul” of Ukraine. Between 1926 and 1932, the Ukrainian Orthodox Autocephalous Church, its Metropolitan ([Vasyl] Lypkivsky) and 10,000 clergy were liquidated. In 1945, when the Soviets established themselves in Western Ukraine, a similar fate was meted out to the Ukrainian Catholic Church. That Russification was the only issue involved is clearly demonstrated by the fact that before its liquidation, the Church was offered the opportunity to join the Russian Patriarch at Moscow, the Kremlin’s political tool....

These attacks on the Soul have also had and will continue to have a serious effect on the Brain of Ukraine, for it is the families of the clergy that have traditionally supplied a large part of the intellectuals, while the priests themselves have been the leaders of the villages, their wives the heads of the charitable organizations. The religious orders ran schools, and took care of much of the organized charities.

The third prong of the Soviet plan was aimed at the farmers, the large mass of independent peasants who are the repository of the tradition, folklore and music, the national language and literature, the national spirit, of Ukraine. The weapon used against this body is perhaps the most terrible of all—starvation. Between 1932 and 1933, 5,000,000 Ukrainians starved to death, an inhumanity which the 73rd Congress decried on 28 May 1934.... The method used in this part of the plan was not at all restricted to any particular group. All suffered—men, women and children. The crop that year was ample to feed the people and livestock of Ukraine, though it had fallen off somewhat from the previous year, a decrease probably due in large measure to the struggle over collectivization. But a famine was necessary for the Soviet and so they got one to order, by plan, through an unusually high grain allotment to the state as taxes....

The fourth step in the process consisted in the fragmentation of the Ukrainian people at once by the addition to the Ukraine of foreign peoples and by the dispersion of the Ukrainians throughout Eastern Europe. In this way, ethnic unity would be destroyed and nationalities mixed. Between 1920 and 1939, the population of Ukraine changed from 80% Ukrainian to only 63%. In the face of famine and deportation, the Ukrainian population had declined absolutely from 23.2 million to 19.6 million, while the non-Ukrainian population had increased by 5.6 million. When we consider that Ukraine once had the highest rate of population increase in Europe, around 800,000 per year, it is easy to see that the Russian policy has been accomplished.

These have been the chief steps in the systematic destruction of the Ukrainian nation, in its progressive absorption within the new Soviet nation. Notably, there have been no attempts at complete annihilation, such as was the method of the German attack on the Jews. And yet, if the Soviet programme succeeds completely, if the intelligentsia, the priests and the peasants can be eliminated, Ukraine will be as dead as if every Ukrainian were killed, for it will have lost that part of it which has kept and developed its culture, its beliefs, its common ideas, which have guided it and given it a soul, which, in short, made it a nation rather than a mass of people.

The mass, indiscriminate murders have not, however, been lacking—they have simply not been integral parts of the plan, but only chance variations. Thousands have been executed, untold thousands have disappeared into the certain death of Siberian labour camps....

What we have seen here is not confined to Ukraine. The plan that the Soviets used there has been and is being repeated. It is an essential part of the Soviet programme for expansion, for it offers the quick way of bringing unity out of the diversity of cultures and nations that constitute the Soviet Empire. That this method brings with it indescribable suffering for millions of people has not turned them from their path. If for no other reason than this human suffering, we would have to condemn this road to unity as criminal. But there is more to it than that. This is not simply a case of mass murder. It is a case of genocide, of destruction, not of individuals only, but of a culture and a nation....

Roman Serbyn, “The Ukrainian Famine of 1932–1933 and the United Nations Convention on Genocide,” in *Famine in Ukraine 1932–1933: Genocide by Other Means*, ed. Taras Hunczak and Roman Serbyn (New York: Shevchenko Scientific Society, USA, 2007). Excerpts, pp. 34–35, 37–44. Online at <http://www.holodomorsurvivors.ca/Roman%20Serbyn.html>.

Roman Serbyn (b. 1939) is a Ukrainian-Canadian historian specializing in nineteenth- and twentieth-century Ukrainian history. He served as associate professor of history at the University of Quebec (Montreal). He is the editor of the journal *Holodomor Studies* and coeditor of *Famine in Ukraine, 1932–1933* (1986) and *Famine in Ukraine 1932–1933: Genocide by Other Means* (2007).

The historicity of the Ukrainian famine of 1932–33 is no longer challenged. What is still disputed is the number of victims, the reasons for the catastrophe, and its nature.... The question of the Ukrainian famine has always had academic and political dimensions. And today, it still elicits partisan feelings among scholars and politicians.

The Ukrainian famine has not yet been recognized as genocide by the United Nations. When the 70th anniversary of the event was commemorated in November 2003 by the UN General Assembly, a declaration signed by some 60 countries stated that “the Great Famine of

1932–33 in Ukraine” took seven to ten million innocent lives, and explained that these people were victims of “the cruel actions and policies of the totalitarian regime.” The catastrophe was called “a national tragedy for the Ukrainian people,” but there was no allusion to genocide. The declaration erroneously attributed the cause of the famine to “civil war and forced collectivization” and misleadingly merged the Ukrainian catastrophe with the “millions of Russians, Kazakhs and representatives of other nationalities who died of starvation in the Volga River region, North Caucasus, Kazakhstan and in other parts of the former Soviet Union.” The Ukrainian delegation agreed to this watered-down version out of fear that Russia would block a more strongly worded declaration. Ambassador Valerii Kuchynsky of the Ukrainian Mission to the UN later stated that it was, nevertheless, “an official document of the General Assembly” whose importance resided in the fact that “for the first time in the history of the UN, the Holodomor was officially recognized as a national tragedy of the Ukrainian people caused by the cruel actions and policies of a totalitarian regime.” The recognition did constitute a precedent, and the Ukrainian Ambassador took advantage of it to return to the famine two years later. During the General Assembly discussion of the resolution on the International Holocaust Day, Kuchynsky recalled the Holodomor and urged the audience that it was “high time that the international community recognized that crime as an act of genocide against the Ukrainian nation.”....

Generally speaking, opponents of the Ukrainian genocide thesis have a tendency to fall back on the UN Convention in their denial of the genocidal nature of the Ukrainian famine....

Advocates of the recognition of the Ukrainian famine have not yet succeeded in convincing the international community of the justice of their claim. Yet Andrea Graziosi, a recognized expert in the field, has come to the conclusion that this will happen, due to new information revealed by new documents. What the Italian historian does not say is whether he believes that this claim can be made on the basis of the UN Convention. I think it can. In this paper I shall argue the following three points:

1. The Ukrainian famine was genocide.
2. Documents show that deliberate starvation was directed against Ukrainians.
3. The evidence meets the criteria set by the 1948 UN Convention on Genocide.

The UN Convention on Genocide

The Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the UN General Assembly on 9 December 1948 and came into force on 12 January 1951. Soviet Ukraine became a signatory of the Convention on 16 June 1949 and ratified it on 15 November 1954. Independent Ukraine continues to respect the international Convention and has inscribed “Article 442. Genocide” into its own Code of Criminal Law.

The term “genocide” was coined in 1943 by Raphael Lemkin (1900–1959) “from the ancient Greek word *genos* (race, tribe) and the Latin *cidere* (to kill). In its composition it thus corresponds to such words as tyrannicide, homicide and infanticide.” A Polish Jew born in what today is Lithuania, Lemkin studied law at the University of Lviv, where he became interested in crimes against groups and, in particular, the Armenian massacres during the First World War. In October 1933, as lecturer on comparative law at the Institute of Criminology of the Free University of Poland and Deputy Prosecutor of the District Court of Warsaw, he was invited to give a special report at the 5th Conference for the Unification of Penal Law in Madrid. In his report, Lemkin proposed the creation of a multilateral convention making the extermination of human groups, which he called “acts of barbarity,” an international crime.

Ten years later, Lemkin wrote a seminal book on the notion of genocide. The author's approach was much broader than the one later adopted by the UN, as the following excerpt from his book shows: "Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups."

The annihilation of a national group did not necessarily imply physical extermination of the whole group; the killing of individual members of the group and the destruction of the group's national foundations were sufficient to constitute genocide. Lemkin's book became a guiding light for the framers of the UN Convention on Genocide.

The Convention voted by the UN General Assembly contains 19 articles, dealing mainly with the problems of the prevention and punishment of genocidal activity. Most relevant to our discussion is the preamble and the first two articles. The preamble acknowledges that "at all periods of history genocide has inflicted great losses on humanity," while the first article declares that genocide is a crime under international law "whether committed in time of peace or in time of war." The all-important definition of genocide is contained in Article II: "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." The delegates of various countries who sat on the drafting committees arrived at this definition after much discussion. It was a compromise, which satisfied few people and continues to be criticized by legal experts, politicians and academics. However, it remains the only legal definition sanctioned by the UN General Assembly and operative in international courts.

A major objection to the definition is the restricted number of recognized genocide target groups. Coming in the wake of the Second World War and informed by Lemkin's work and the evidence of the Nazi concentration camps, the definition was necessarily tailored to the Jewish Holocaust. Jews fit all four categories: national, ethnic, racial and religious. They did not form a distinct political or social group, but this was not the reason for the exclusion of the two categories, which, after all, were part of Lemkin's concern. The exclusion of social and political groups from the Convention... was the result of the Soviet delegation's intervention. Today, the limitation of the definition to the four categories of victims implies that one cannot argue for the recognition of a specific Ukrainian genocide if its victims are identified only as peasants. Since it is clear that of the four human groups listed by the Convention, the Ukrainians did not become victims of the famine because of their religious or racial traits, this leaves the two other categories, "national" and "ethnic(al)," on which the case for genocide must be built.

There has always been a certain ambiguity about the distinction between the two groups labeled "national" and "ethnic(al)" by the Convention. William Schabas, internationally recognized legal expert on genocide, believes that all four categories overlap, since originally they were meant to protect minorities. He argues that "national minorities" is the more common expression in Central and Eastern Europe, while "ethnic minorities" prevails in the West. But if both terms were used to designate the same group then there would be redundancy, a fact that Schabas fails to account for.

A recent court case cited by Schabas provides, in my opinion, a more appropriate interpretation of “national group”: “According to the International Criminal Tribunal for Rwanda, the term ‘national group’ refers to ‘a collection of people who are perceived to share a legal bond based on common citizenship, coupled with reciprocity of rights and duties.’” What we have here is a “civic nation” formed by all the citizens of a given state, regardless of their ethnic, racial or other differentiation, as distinct from “ethnic nation,” or people belonging to the same ethnic community, who may or may not live within the same state. Relevant to this discussion is a statement made in 1992 by a Commission of Experts, applying the Genocide Convention to Yugoslavia: “a given group can be defined on the basis of its regional existence...all Bosnians in Sarajevo, irrespective of ethnicity or religion, could constitute a protected group.” The “regional” group is thus analogous to a civic nation. Such a clarification of the terms “national” and “ethnic” in reference to the term “group” used by the UN document removes all ambiguity and redundancy in the Convention. It also helps our understanding of the role of the government-induced starvation during the Ukrainian genocide, a policy directed against the Ukrainian peasants as citizens of the Ukrainian SSR and a specific ethnic group in the UkrSSR and RSFSR.

According to the UN Convention, the decisive element in the crime of genocide is the perpetrator’s intent to destroy a human group identified by one of the four traits mentioned above. When applying this notion in concrete cases, certain aspects of the question of intent must be taken into consideration. First, it is not an easy task to document intent, for, as Leo Kuper pointedly remarked, “governments hardly declare and document genocidal plans in the manner of the Nazis.” This is particularly true with reference to the totalitarian Communist regime. Yet, documents, which directly reveal Stalin’s criminal intent, have survived in Soviet archives and are now available; furthermore, there is also a large body of circumstantial evidence which points in the same direction.

Secondly, contrary to a common misapprehension, the Convention’s definition of genocide is not predicated on the intent to destroy the whole group; it is sufficient that the desire to eliminate concern only a part of the group. The Convention thus implies the possibility of victim selection within the designated group. Practical application to the Ukrainian case would mean the recognition of the probability that the choice of victims was limited to a sizable portion of the Ukrainian peasants and the more nationally conscious elements of the Ukrainian cultural and political elites, both in Ukraine and in the RSFSR. Most of the victims of the genocide were starved to death, but others were executed or perished in the Gulag.

Thirdly, the Convention (Article II) lists five ways in which the crime is executed:

1. Killing members of the group;
2. Causing serious bodily or mental harm to the members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group.

It should be noted that while the first and the third points specify physical annihilation, the other three speak of weakening the group, or what Lemkin referred to as the destruction of essential foundations of the life of the national group. All of these acts can be documented in the Ukrainian experience.

Fourthly, the Convention does not demand the establishment of the motive behind the crime, even though knowing the reasons for a crime can help to establish the criminal’s intent.

The Soviet delegate contested this omission during the framing of the Convention, arguing that “a crime against a human group became a crime of genocide when that group was destroyed for national, racial, or religious motives.” A compromise was found, and to the enumeration of the four victim groups the committee added the qualifier “as such.” The lack of precision was convenient, for it allowed each country to give its own interpretation to the clause. The Soviet side explained this addition as recognition that “in cases of genocide, the members of a group would be exterminated solely because they belonged to that group.” This interpretation became part of the Soviet definition of genocide and has persisted in post-Soviet Ukraine until the present day. The online *Great Ukrainian Dictionary* defines genocide as “destruction of distinct groups of population for racial, national or religious motives.” This explains why Ukrainian scholars today focus on the question “*why* Stalin destroyed?”, while the Convention demands proof of Stalin’s *intent* to destroy.

The analysis offered by Schabas is close to that of the old Soviet position. While admitting that “there is no explicit reference to motive in article II of the Genocide Convention” and pointing out that “intent and motive are not interchangeable notions,” Schabas nevertheless focuses on the expression “as such,” and insists that the crime of genocide must be “motivated by hatred of the group.” To a large extent this is so. With the help of a criminal ideology, perpetrators of genocide can transform a targeted group into an object of blind hate, which then, in itself, becomes a motive for total or selective destruction of members of that group. In other words, members of a group “X” become singled out for destruction because they are members of that group. As Lemkin wrote: “Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group.”...

Two Canadian scholars with long experience in genocidal studies have divided genocides into four groups according to the objectives of the perpetrators:

1. To eliminate a real or potential threat;
2. To spread terror among real or potential enemies;
3. To acquire economic wealth; or
4. To implement a belief, a theory or an ideology.

All these aims were present in the Ukrainian genocide: a) to avert the threat to the integrity of the Soviet empire from the Ukrainian national revival; b) to terrorize the Ukrainian people into submission to Stalin’s will; c) to seize Ukrainian grain to feed Soviet industrial centers and export abroad; d) to eradicate the vestiges of capitalist economy and consolidate socialism....

Volodymyr Vasylenko, *The Ukrainian Holodomor of 1932–33 as a Crime of Genocide: A Legal Assessment* (Kyiv: Olena Teliha Publishing House, 2009). Excerpts, pp. 5–8, 10–15, 39–44.

Volodymyr Vasylenko (b. 1937) is a Ukrainian legal scholar, jurist, and diplomat. A professor of international law at the Taras Shevchenko National University of Kyiv and the Kyiv Mohyla Academy National University, he has served as ambassador to the Benelux countries, the United Kingdom, and Ireland; as representative of Ukraine to the European Union, the North Atlantic Co-operation Council, the International Maritime Organization, and the UN Commission on Human Rights; and as judge ad litem of the International Criminal Tribunal for the former Yugoslavia.

Distinctive Features of Genocide

...Some researchers of the Holodomor often criticize the legal definition of genocide for its imperfection, and the 1948 Convention for its drawbacks.... Moreover, some of them conclude that only the Holocaust meets the Convention's legal criteria and that such criteria still "do not provide a 100 percent guarantee that all cases of mass destruction of people will be identified as genocide".... Such assessments of the 1948 Convention are erroneous from at least two perspectives.

First, the legal criteria of the Convention were not designed to qualify *all* cases of the mass destruction of people as genocide. Pursuant to article II of the Convention, the term genocide means certain criminal acts committed against any national, ethnic, racial or religious group as such, and not simply cases of mass destruction of people....

Secondly, while the criteria of the 1948 Convention were formulated under the impact of the tragic events of World War II, they remain the rules of general international law. Thus, this document and only this document may be used to determine whether certain criminal acts meet the legal definition of genocide.

The Convention on the Prevention and Punishment of the Crime of Genocide reflects the historical context in which it was elaborated. Whether or not one likes the final version of the Convention signed on 9 December 1948, it remains an authentic and legally valid instrument of international law. No state [n]or the international community as a whole has challenged the authority of the 1948 Convention, as was convincingly confirmed fifty years later when article II, which defines the *corpus delicti* of genocide, was repeated word for word in article 6 of the Rome Statute of the International Criminal Court.

In light of the above, any attempt to interpret the provisions of the 1948 Convention in order to "improve" it or adapt it to the specifics of "Soviet genocide" would be counterproductive. The researchers who take such an approach present theses which, from a legal point of view and contrary to their good intentions, provide grounds for denying the genocidal nature of the Holodomor.

On the other hand, attempts by researchers, politicians and political scientists of certain countries to deny the genocidal nature of the Holodomor by consciously distorting the provisions of the 1948 Convention are inadmissible.

In accordance with the principles of the law of international treaties, the 1948 Convention should be accepted just as it is and applied to qualify criminal acts as genocide in strict conformity to the *corpus delicti* set forth exclusively by the Convention, and not to arbitrarily selected criteria for the sake of convenience.

The essence of the crime of genocide is defined in the introductory part of article II of the 1948 Convention as "...acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." It is well recognized in the theory of international law and confirmed by practice that for a criminal act to constitute genocide, one must prove that the perpetrator had a special intent (*dolus specialis*) to destroy a group specified in the Convention, and that the criminal behavior was committed against the defined group as such.

Actions that lack both of the aforementioned essential elements do not constitute an act of genocide even if they resulted in a group's extermination. Genocide differs from other crimes against humanity, first, in the nature of the intent rather than the number of victims. Secondly, it is committed, not against people in general, but against a clearly defined group. Thirdly, genocide is not directed just against individual members of the group but primarily against the group as such.

In other words, a distinctive feature of genocide is that members of the groups defined in the 1948 Convention—national, ethnic, racial or religious—are exterminated, in whole or in part, because of their very affiliation to a respective group.

A decisive factor in qualifying certain behavior as the crime of genocide is the proof of a special intent to destroy a particular national, ethnic, racial or religious group and demonstrating that this intent specifically related to that group, rather than asking why, when and where was the crime committed or concentrating on the so-called quantitative threshold, that is, the number of victims....

Proof of Intent to Organize the Holodomor

To prove the genocidal nature of the Holodomor, it is first of all necessary to demonstrate that Stalin's totalitarian communist regime intended to organize the man-made famine in Ukraine. Those who deny that the Holodomor was an act of genocide ask whether this intent was documented and whether there existed a premeditated plan as evidence of this intent....

Given the above, it should be emphasized that the 1948 Convention does not require a document to be produced as evidence of the existence of a criminal plan or the intent to commit a crime: it only requires that such intent be proven.

Moreover, it is highly unlikely that a document containing a plan for the destruction by starvation of the Ukrainian peasantry will ever be found. Given the proclivity to secrecy instilled in the minds of Bolshevik leaders and their desire to cover up a horrifically criminal and inhuman act, the existence of such a document is problematic in principle. Even in Nazi Germany with its officially approved racist policy, the genocide committed against the Jews was implemented under the guise of a "final solution to the Jewish question."

Today those who deny that the Ukrainian Holodomor was an act of genocide agree that the famine in Ukraine and elsewhere in the USSR was precipitated by the arbitrary confiscation of grain and other produce grown by the peasants, in compliance with the government's excessive grain procurement plans as ordered by higher Party organs. The implementation of such plans doomed the inhabitants of rural areas to an inevitable death by starvation. Hence, planning the confiscation of excessive quantities of farm produce from the peasants is tantamount to planning the Holodomor. It can therefore be said that the plan for exterminating Ukrainian peasants was disguised in the form of the state's excessive grain procurements.

All of the plans for excessive grain procurements served criminal purposes but only the grain procurement plans of 1932 and 1933 became plans for the genocidal extermination of the Ukrainian peasantry....

There can be no doubt that the Bolshevik leaders fully understood that the continuous practice of such procurement plans would precipitate a large-scale famine and doom millions of peasants to death by starvation....

Thus, the Ukrainian Holodomor planned by Stalin's regime commenced with the implementation of the 1932 plan for grain procurement. In light of this, it is erroneous to assert that the Holodomor-genocide started in Ukraine in 1933. Such a conclusion is based upon the presumption that the crime of genocide requires a certain quantitative threshold related to the number of victims. This is clearly incorrect, as the 1948 Convention does not make the number of victims a legal element of the crime. It is not difficult to imagine instances where the number of victims of genocide could be quite limited, involving not even thousands of people, but only hundreds, as in the destruction of a small tribe or ethnic minority.

Killing by starvation occurred in Ukraine and the Kuban both before and during 1933. The difference between the two periods consisted only in the quantitative scale of the crime. While in 1932 hundreds of thousands of people were starved to death, the death toll in 1933 was already in the millions. However, the famine of 1932–33 in both Ukraine and the Kuban—unlike in other regions of the USSR, where many also perished of hunger—was an act of genocide because it was deliberately directed against the Ukrainian nation as such.

In the critical situation that developed in Ukraine, a civilized solution to the crisis would have been to drastically reduce the excessive grain procurement plans, stop the barbarian plundering of rural areas, declare the famine-struck areas as zones of humanitarian catastrophe, and immediately provide large-scale assistance.

Instead, Stalin's totalitarian communist regime continued to implement excessive grain procurement plans and, to ensure their unconditional fulfillment, also undertook unprecedented repressive measures against the Ukrainian peasants, accompanied by the confiscation of all food products....

The strict and widespread application of exceedingly cruel and repressive measures in order to fulfill the excessive grain procurement plans, such as the arbitrary confiscation of all food supplies, should be convincing proof of the intent of the totalitarian regime to precipitate a famine in Ukraine as the instrument for the premeditated extermination of the Ukrainian peasantry *as part of the Ukrainian nation*.

An analysis of the behavior of the communist leaders reveals a body of circumstantial or indirect evidence that convincingly proves the existence of the special intent required for the crime of genocide.

First, at the height of the Holodomor Ukrainian peasants were prohibited from leaving Ukraine.... This restriction deliberately deprived starving peasants of access to life-saving food beyond the borders of famine-struck Ukraine, thereby condemning them to death.

Second, Party and Soviet leaders at all levels who disagreed with the excessive grain procurement plans and who wished to help the starving peasants with collective-farm produce reserves were systematically and ruthlessly repressed.

Third, the sizable quantities of grain that had been accumulated in the state reserves of both the Inviolable and Mobilization Funds were not used to help Ukraine....

Fourth, while millions of Ukrainian peasants were starving to death, large quantities of grain and other Ukrainian food products were being exported to other regions of the USSR and abroad....

Fifth, Stalin's regime denied the existence of a famine in Ukraine and therefore refused to accept the aid offered by many foreign non-governmental organizations and, in particular, by the Ukrainian communities abroad. Such assistance would have substantially reduced the scale of the tragedy, if not preventing it altogether. This policy of denial and the refusal of international humanitarian aid is additional convincing evidence of the regime's intention to use famine for exterminating the Ukrainian peasantry *as part of the Ukrainian nation*.

Hence, the communist regime had sufficient resources to prevent both the Holodomor in Ukraine and starvation in other regions of the USSR. However, instead of using these resources, a well-devised system of repressive measures was deliberately implemented to deprive the peasants of all food because Kremlin leaders intended to use a man-made famine as an instrument of genocidal extermination.

The regime's obvious ability to "control" the famine in 1932–33 confirmed the artificial nature of the Ukrainian Holodomor and its deliberate use for killing the Ukrainian peasants. By

the middle of 1933 the mortality rate due to starvation began to drop in Ukraine. In the following year the famine actually ended, even though the 1934 harvest was a mere 12.3 million tonnes and much smaller than the harvests of 1932 and 1933, which totaled 36.9 million tonnes....

The regime's "efficiency" in both organizing and ending the Holodomor is evidence of the fact that the intent to exterminate the Ukrainian peasants was implemented within the strict time limits that the regime had set for itself....

Guilt and Healing

Qualifying the Holodomor of 1932–33 as the crime of genocide also raises the issue of responsibility. From a legal point of view, this responsibility rests with the USSR as the Party state, and with all persons who participated in organizing and committing this crime, regardless of their position, status, or ethnic origin.

The Party state ceased to exist with the collapse of the USSR. All of the former union republics had become its successor states. However, the Russian Federation, contrary to international law, has declared itself to be the "state continuator of the USSR." In any case, Ukraine has repeatedly stated that it does not link recognition of the Holodomor as genocide with the international responsibility of the Russian Federation. Ukraine will therefore make no claims in that regard. Of course, this does not preclude individuals—the descendants of Holodomor victims—from claiming against the Russian Federation, as it considers itself the state continuator of the USSR. However, in practical terms the successful realization of such claims would be problematic.

The terrible circumstances of the crime make it impossible to state the exact number of victims and, in many cases, to determine their identities. It would also be very difficult to find witnesses for concrete cases, as the crime was committed several decades ago. Finally, one should also take into account the jurisdictional difficulties associated with the fact that perpetrators of the crime at the republic level were officials of the UkrSSR, who in many cases acted on their own initiative and in compliance with the republic's legislative and regulatory acts. However, it must be remembered that the UkrSSR, as a constituent republic of the USSR, was subordinated to the "Party state" dictatorship.

It is relatively simpler to establish the responsibility of the main organizers and perpetrators of the crime at both the union and republic levels. However, their punishment would be impossible because some of them—in particular, [Joseph] Stalin, [Lazar] Kaganovich, and [Viacheslav] Molotov—died natural deaths. By far the larger part—among them [Stanislav] Kosior, [Vlas] Chubar, [Pavel] Postyshev, [Vsevolod] Balytsky, [Stanislav] Redens, and [Mendel] Khataevich, and heads of all regional committees of the CP(B)U—were eliminated during Stalin's purges. It is rather ironic that this larger group was punished, but not for their participation in the Holodomor.

It should be noted that the various ethnic affiliations of the ideologists, organizers, participants, perpetrators and accomplices of the Holodomor cannot, of course, be used to accuse their respective peoples—Georgians, Russians, Jews, Poles, Latvians and others—of having a role in the crime.

In political terms, responsibility for the Holodomor-genocide in Ukraine and the extermination of peasants by famine elsewhere in the USSR should rest with Stalin's communist regime. This explains why representatives and followers of the Communist Party of Ukraine, which is the ideological successor to the All-Union CP(B) and then CPSU, attempt to deny the

genocidal nature of the Ukrainian Holodomor, and often deny that there was even famine in the former USSR.

Russian Federation officials have actively opposed international recognition of the Ukrainian Holodomor as the crime of genocide. This is not surprising, given that the principal organizer of the crime, Stalin, is regarded today by Russia's ruling elite as a "strong politician" and "successful manager." What is surprising and incomprehensible, however, is that recognition of the Holodomor as genocide is viewed by various officials of the Russian Ministry of Foreign Affairs as an insult to the memory of the victims in other regions of the former USSR.

Qualifying the Ukrainian Holodomor as a crime of genocide should not be taken as a denial of the criminal nature of the actions of Stalin's regime against the peasants of Russia, Belarus, Kazakhstan, Bashkortostan and others. Ukraine does not oppose honoring the memory of those victims, nor is it against condemning the other crimes of Stalinism. In fact, the real insult to the memory of those victims is not the position taken by Ukraine, but the glorification of the person most responsible for the crimes of the communist regime.

The Russian political establishment's hysterical reaction to historical truth can be easily explained. The revelation about the causes of the Holodomor and its consequences undermines the position of anti-Ukrainian elements in both Ukraine and abroad, and calls for action aimed at strengthening national statehood, developing democratic institutions, and moving further towards Ukraine's integration into European and Euro-Atlantic structures.

The majority of the Russian political establishment still regards Ukraine as a part of Russia, sharing with it a common history and fate. Hence, the Russian leadership wishes to impose on Ukraine and the world its own version of Ukrainian history. Denying Ukraine the right to its own history is a covert form of denying its right to independence.

It is now obvious that the underlying causes of the Holodomor were rooted in Ukraine's loss of independence and its domination by a regime subordinated to the Kremlin leadership and hostile to its nationhood. This fact alone should expressly warn Ukraine about the deadly threat to its statehood by neo-imperialistic plans for the restoration of a "Unified Greater Russia" that includes Ukraine....

The tragedy of the Holodomor should compel one to resolutely oppose the Kremlin's neo-imperialistic plans. This may also explain why the revelation and dissemination of the historical truth about the Ukrainian Holodomor has met with such rejection and opposition on the part of official Russia.

James Mace concluded that the Holodomor left Ukrainian society in a state of post-genocidal trauma. To a considerable degree, this remains true today. Therefore the immediate task is to politically condemn the crimes of Stalin's totalitarian communist regime. This should be accompanied by an official legal assessment of the Holodomor, a systematic study of its devastating consequences, and the undertaking of comprehensive measures for the revival of the Ukrainian nation, the rehabilitation of Ukrainian society, and the democratic development of an independent Ukrainian state....

A comprehensive investigation into all of the circumstances of the Holodomor and its official qualification in Ukraine will create a convincing and solid legal and factual basis for wide international recognition and condemnation of the genocidal nature of this terrible crime.

Yevhen Zakharov, "Pravova kvalifikatsiia Holodomoru 1932–1933 rokiv v Ukraïni ta na Kubani iak zlochynu proty liudianosti ta henotsydu" (Opinion: Legal Classification of the Holodomor of 1932–33 in Ukraine and in the Kuban as a Crime against Humanity and

Genocide). Online at <http://khpg.org.ua/en/index.php?id=1221299499>. Translated by the Kharkiv Human Rights Protection Group and Alexander J. Motyl.

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This Opinion attempts to demonstrate that the Holodomor of 1932–33 in Ukraine and the Kuban has the features of a crime against humanity in accordance with the Rome Statute of the International Criminal Court (hereafter RC ICC), adopted on 17 July 1998, and of genocide according to the Convention on the Prevention and Punishment of the Crime of Genocide (hereafter the Convention), adopted on 9 December 1948....

When speaking of the famine of 1932–33, it is necessary to differentiate among three different types of hunger, each of which has, in addition to common features, its own specific causes, characteristics, and consequences that vary in scale. The famine of the first half of 1932 was caused by nonfulfillment of the grain-requisition quotas for the 1931 harvest and the Kremlin's policy toward rural areas in connection with this nonfulfillment. That famine was stopped by the return from ports of some of the grain intended for export, as well as by the purchase of grain from abroad. In the third quarter of 1932, famine occurred again as a result of the nonfulfillment of the grain-requisition quotas for the 1932 harvest. It must be stressed that the nature of the famine in Ukraine up to November 1932 was the same as in other agricultural regions of the USSR. **Starvation during the famine of the first and second periods should be considered a crime against humanity.**

The third type of famine was caused by the confiscation of bread and all other food products, which was carried out only in the rural areas of Ukraine and the Kuban. Confiscation was partial in November–December 1932 and total in January 1933. Moreover, owing to measures adopted by the Party and state leadership of the USSR and the Ukrainian SSR, people were prohibited from leaving in search of food or from receiving it from outside. Left without any food, the peasants died of starvation. From February 1933, death took on a mass character: from February to August millions of peasants died of starvation in Ukraine, and hundreds of thousands in the Kuban. According to demographic statistics, the direct losses to Ukraine from the famine of 1932–33 constituted 3–3.8 million according to some data and 4–4.8 million according to other data. Mass famine was combined with political repression against the intelligentsia and national communists in 1933, as well as with the cessation of the policy of Ukrainization. **Death from starvation during the famine of the third type and from political repressions should be regarded as a crime against humanity and as the crime of genocide.**

Death from starvation during the period from January to October 1932—a crime against humanity

...[T]he grain-requisition quota for 1930 was already excessive, but the Soviet leadership increased it still further from 440 to 490 million poods; moreover, the 1930 quota was fulfilled only in the spring of 1931 by taking away all grain reserves.... The grain-requisition quota for 1931...again significantly exceeded Ukraine's capacity, amounting to 510 million poods. At the end of the year the quota had been met by 79 percent. To fulfill the "first commandment"—first meet the quota and only then pay people for their labor—on Molotov's instructions, grain began

to be confiscated in January 1932, which led to famine in the first half of 1932. As a result of the grain confiscations, 144,000 peasants in Ukraine died of starvation during this period. It was only at the end of April 1932 that the state began providing food aid to the starving.

...[T]he Soviet leadership had a purely functional attitude to the villages, seeing them as only a source of grain supplies for accelerating industrialization. Furthermore, the food produced on collective farms was considered just as much state property as the products of state farms. But state-farm employees received wages, while collective-farm workers were supposed to be paid in kind for their labor. Since all the grain had been handed over to the state to meet the quota, and almost nothing remained, the collective-farm workers were working for nothing. According to Stanislaw Kosior, half of Ukraine's collective farms paid people nothing for their labor in 1931.

In their letters to Stalin and Molotov at the beginning of June, Hryhorii Petrovsky and Vlas Chubar wrote of famine in the villages resulting from the impossibility of meeting an unrealistic quota and the need to increase food aid. The response was an irritated reaction from Stalin and the cessation of food imports into Ukraine. Despite the Ukrainian Party organization's request that the grain-requisition quota for 1932 be decreased and the presentation at the Third All-Ukrainian Party Conference on 6–7 July of graphic accounts of cases of starvation and criticism of policy in the villages, Molotov and Kaganovich forced the conference to adopt the Kremlin's unrealistic quota....

Stalin and Kaganovich stopped food aid and initiated the draconian “five ears of corn law”—the resolution “On the protection of property of state enterprises, collective farms, and cooperatives, and the consolidation of socialist property”—according to which theft of collective-farm and cooperative property carried the death penalty and the confiscation of all property, with the possibility of commuting this to a prison term of no fewer than ten years in the presence of mitigating circumstances.

One may conclude that Stalin's policy in the villages amounted to deliberately depriving collective-farm workers and independent farmers of access to the grain they had grown in case they failed to fulfill the grain-requisition quota, which led part of the population to die of starvation. This part of the population was destroyed as a result of the conscious policy of the Soviet state. **The death of part of the population thus took place as a result of their knowingly being deprived of access to food products, which constitutes a crime against humanity.** The state policy of grain requisitions applied to all rural regions of the USSR; therefore this conclusion relates to all those who died of starvation on the territory of the USSR during that period.

The Holodomor of 1932–33—a crime of genocide

An analysis of demographic statistics undertaken by Ukrainian and foreign researchers indicates that the direct losses to the Ukrainian people as a result of the Holodomor of 1932–33 constitute 3–3.8 million people according to some data and 4–4.8 million according to other data. The largest number of deaths took place during the period under consideration (November 1932–August 1933), while tens of thousands died of starvation during the period from January to October 1932. In any case, the number of people who died of starvation during the period in question is not less than 10 percent (according to other figures, 15 percent) of the total population of Ukraine. This portion of the Ukrainian people is considerable and can be considered the object of the crime of genocide according to the 1948 Convention on Genocide.

It should be stressed that the secret resolutions of the Central Committee of the All-Union Communist Party (Bolshevik) of 14–15 December 1932 totally changed the policy of

Ukrainization and placed responsibility for the food crisis on both the peasants and the leaders of Ukrainization, marking the beginning of the elimination of Ukrainian national communists. The many representatives of the cultural, economic, and political elite who were repressed at this time were of great importance to the development of the Ukrainian people. That is why it is necessary to supplement the peasants who died of starvation with those who died as victims of political repression....

...[T]he Ukrainians of the Kuban...[also] became the object of the crime of genocide....

The Ukrainization of territories with compact settlements of ethnic Ukrainians had been the official policy of the USSR. According to the all-Union census of 1926 there were 915,000 Ukrainians in the Kuban, or 62 percent of the total population. They had generally retained their language and culture: 729,000 said that Ukrainian was their native language. In some areas of the Kuban Ukrainians made up 80 or even 90 percent of the population, while overall in the North Caucasus there lived 3,106,000 Ukrainians.

The policy of Ukrainization was supported by the Ukrainian population of the North Caucasus.... However, the secret resolution of the Central Committee of the All-Union Communist Party (Bolshevik) of 14 December 1932 put an end to the policy of Ukrainization. Ukrainian cultural life in the Kuban was repressed.... Another secret resolution of the Central Committee of the All-Union Communist Party (Bolshevik) of 15 December also put an end to Ukrainization in other regions where there were compact settlements of Ukrainians.

The elements of the crime of genocide

The mass death from starvation of millions of Ukrainian peasants, as well as hundreds of thousands of peasants in the Kuban, was caused by the following actions of the Party-Soviet-economic leadership of the USSR:

1. The deliberate forced imposition of an unrealistic grain-requisition quota on the 1932 harvest, despite the protests of Ukrainian leaders.
2. The passing on 7 August 1932 by the Central Executive Committee and the Council of People's Commissars of the USSR of the resolution "On the protection of property of state enterprises, collective farms, and cooperatives, and the consolidation of socialist property."
3. The directive of 29 October adopted by the Central Committee of the Communist Party (Bolshevik) of Ukraine at the initiative of Molotov and the telegram of 5 November from Molotov and Khataevich on intensifying repressive measures.
4. The resolutions of the Central Committee of the Communist Party (Bolshevik) of Ukraine of 18 November and of the Council of People's Commissars of the Ukrainian SSR of 20 November "On measures to increase grain requisitions," prepared by the Molotov Commission, and the resolutions of the Bureau of the North Caucasus Territory Committee of the All-Union Communist Party (Bolshevik) of Russia, prepared by the Kaganovich Commission, which ordered the confiscation of previously distributed grain and the introduction of fines in kind.
5. The creation of "troikas" and Special Commissions, which were given the power to carry out accelerated examinations of "grain cases" and to apply the death penalty.
6. The practice of placing villages and collective farms on "blacklists" at Kaganovich's initiative, first in the Kuban (by means of a resolution of the Bureau of the North Caucasus Territory of the Communist Party (Bolshevik) of Russia of 4 November, and then in Ukraine (by means of a resolution of the All-Ukrainian Central Executive Committee and the Council of People's Commissars of the Ukrainian SSR of 6 December).

7. Blanket searches of peasant farmsteads in December 1932 in order to find “squandered and stolen grain” on the basis of the resolutions of 18 and 20 November 1932, and the intensification of repression over “grain cases” in Ukraine and the Kuban.
8. The secret resolutions of the Central Committee of the All-Union Communist Party (Bolshevik) of 14 and 15 December on intensifying repression against “saboteurs with Party tickets in their pockets” and ending Ukrainization in the Kuban and other regions of the USSR with compact Ukrainian settlements. These resolutions set in motion the repression of national communists.
9. Deportations to the north of more than 62,000 Kuban peasants for “sabotage.”
10. The decision of 29 December 1932 of the Central Committee of the Communist Party (Bolshevik) of Ukraine on confiscating seed funds, passed under pressure from Lazar Kaganovich.
11. Stalin’s telegram of 1 January 1933, which demanded that grain be handed over and threatened to repress whoever did not comply.
12. The directive of 22 January of the USSR Council of People’s Commissars and the Central Committee of the All-Union Communist Party (Bolshevik) imposing a blockade on those starving in Ukraine and the Kuban and introducing patrol units at railway stations and roads.
13. A government resolution of 17 February 1933, initiated by Mendel Khataevich and Pavel Postyshev, which stipulated that the collection of seeds be carried out by means of grain requisitions, and that the grain confiscators be given part of what they collected.
14. A resolution of the Central Committee of the All-Union Communist Party (Bolshevik) of 31 March 1933, initiated by Postyshev, which stipulated that food aid be provided to those capable of working.
15. The political repressions of 1933 against the intelligentsia and the national communists, initiated by Pavel Postyshev, and the campaign against “Skrypnykism” [so-called national deviations associated with Commissar of Education Mykola Skrypnyk, a key figure in Ukrainization].
16. The total destruction of all ethnocultural forms of existence of Ukrainians in the Kuban.

In their totality, the actions listed here amounted to **deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in part, which constitutes the crime of genocide** (Article II (c) of the Convention)....

The presence of intent to destroy is also proven by the continuation of grain exports, even though the USSR leadership was fully aware of the extent of the famine, as well as by the storing of grain reserves (they would have sufficed to save the starving) and the refusal to accept international assistance. Another indicator of intent is the rapidity with which the famine was ended in the second half of 1933, after the “crushing blow” had been delivered....

General conclusions

1. The death from starvation of close to 150,000 people in Ukraine from January to October 1932 was the result of a crime against humanity organized by the Party-Soviet leadership of the USSR. This conclusion applies to all those who died of starvation on the territory of the USSR in this period.
2. The death from starvation of millions of people in Ukraine and the political repressions during the period from November 1932 to August 1933 correspond to the definition of the crime of

genocide as per the UN Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948, in particular Article II (c): “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”

3. The death from starvation of hundreds of thousands of people and the political repressions in the Kuban during the period from November 1932 to August 1933 correspond to the definition of genocide in the UN Convention of 9 December 1948 as per Article II (c): “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” and (e) “forcibly transferring children of the group to another group.”

4. The Holodomor was the result of the totalitarian Soviet regime’s deliberate and systematic actions for which there is historical and documentary evidence and which, in James Mace’s words, were aimed at “the destruction of the Ukrainian people as a political factor and as a social organism.”

5. The horrible consequences of the Holodomor of 1932–33 require that the Holodomor be legally classified as a crime of the totalitarian regime of the USSR.

6. Some researchers consider it possible to apply the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide toward a legal classification of the Holodomor of 1932–33 as a crime of genocide, while others deny this. In the author’s opinion, such a classification will be appropriate if Article 58 of the Constitution of Ukraine is amended in accordance with Article 7 of the 1950 European Convention on the Defense of Human Rights and Fundamental Freedoms.

7. In order to establish the legal classification of the Holodomor as a crime, it is also proposed that an International Tribunal be established to adopt a legal classification of the famine of 1932–33 as a crime of the totalitarian regime of the USSR. The decision to create such a tribunal could be approved by inter-state organizations—the UN, the Council of Europe, and the Organization for Security and Co-operation in Europe.