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## Zelenskyy tries to build a case at UN

Ukrainian leader's criticism of Russian privilege gets warm reception, but change isn't likely

Allan Woods Special to the Star

A stark accounting, a plea for peace and a challenge to an international body that, once again, finds itself unable to fulfil its primary task.

The United Nations Security Council was confronted Tuesday by Ukrainian President Volodymyr Zelenskyy. Fresh from a visit to the Kyiv suburb of Bucha, the site of alleged atrocities by now-withdrawn Russian forces, he called upon the world to summon its outrage and impose peace upon his broken country.

"We need peace. Ukraine needs peace. Europe needs peace. And the world needs peace," Zelenskyy said in a televised address to the council.

He has made speeches to various foreign parliaments and bodies since Russian forces invaded Ukraine in late February. Each time, he has tailored his message as he sought out support and aid for his country in its time of need.

Tuesday's speech had four clear goals: to lay out the budding war-crimes case against Russia; to blunt Russian arguments meant to discredit and cast doubt

on the apparent killing of unarmed civilians; to call for the world's intervention and protection; and to reform an outdated and dysfunctional United Nations system.

The Star asked several international experts to assess what Zelenskyy put forward in his address, as his nation fights for its survival.

Zelenskyy: "The Russian military searched for and purposefully killed anyone who served our country. They shot and killed women outside their houses. They killed entire families - adults and children - and they tried to burn their bodies... They pursue consistent policies of destroying ethnic and religious diversity. They inflame wars and deliberately lead them in such a way as to kill as many regular civilians and citizens, as to leave the country where they deploy their troops in ruins and filled with mass graves. You all see that."

Valerie Oosterveld, a professor at Western Law in London and an expert on international criminal justice, saw these comments as akin to those of a prosecutor.

Ukrainian President Volodymyr Zelenskyy addresses the UN Security Council on Tuesday. His moral shaming of the body was deemed appropriate by one expert, but his proposed reforms have no prospect of success. The reason: realpolitik. TIMOTHY A. CLARY AFP via GETTY IMAGES

"I think he is definitely trying to build a case that Russian troops have committed war crimes and crimes against humanity and, as he has argued in the last few days, genocide," Oosterveld said.

"Since the start of the war, there have been reports that have raised real possibilities of extremely serious war crimes across the country, beginning with indiscriminate attacks and intentionally directing attacks against civilians - those are both war crimes - and crimes against humanity, which are widespread or systematic attacks directed at civilian populations."

Russian shelling of schools, hospitals and residential areas, as well as the targeting of civilians, are illegal under international law.

The crime of genocide is the most egregious under international law and has the highest burden of proof.

"Certain acts need to have been committed with the intent to destroy in whole or in part a national ethnic or religious group," Oosterveld said. "Certainly there are warning signs of potential genocide."

Claims that the Russian military specifically targeted teenage boys and men of fighting age, if substantiated, could lead to charges of genocide. So could Russian President Vladimir Putin's comments questioning the legitimacy of the Ukrainian state, culture and national identity.

"We need to see what evidence emerges from the areas that have been liberated from the Russian forces," Oosterveld said.

Zelenskyy: "I know and you know perfectly well what the representatives of Russia will say in response to the accusations of these crimes... They will blame everyone just to justify their own actions. They will say that there are various different versions (of events) and it is impossible to establish which one of those versions is true. They will even say that the bodies of those killed were allegedly thrown away and all the videos are staged."

Just as predicted, Vasily Nebenzya, Russia's permanent representative to the Security Council, scolded Zelenskyy when his turn came to speak Tuesday.

"We place on your conscience the ungrounded accusations against the Russian military, which are not confirmed by any eyewitnesses," he said, calling the images out of Bucha "blatant criminally staged events."

"I understand that you saw corpses and heard testimonials, but you only saw

what they showed you. You can't ignore the flagrant inconsistencies in the version of events that are being promoted by Ukrainian and western media."

Nebenzya claimed the civilians were killed by "Ukrainian radicals" despite the fact that satellite imagery has shown at least some of the bodies appeared in the streets of Bucha when the town was under Russian occupation.

Zelenskyy: "We are dealing with a state (Russia) that is turning its veto over the Security Council into the right to kill. This undermines the whole architecture of global security. It allows them to go unpunished... If this continues, countries will rely only on the power of their own arms to ensure their own security and not on international law."

There are many problems with the constitution and functioning of the Security Council, among them the "grave offence" that any of the permanent members - the United States, Russia, China, France and the United Kingdom - can block any decisions it does not agree with, said Allan Rock, a law professor at the University of Ottawa, a former justice minister and Canadian ambassador to the United Nations.

"(Zelenskyy) is putting it in such sharp focus and laying bare the fundamental flaw in what's supposed to be the last refuge for international peace and security," Rock said.

"It's anything but."

France and the U.K. do not to use their veto powers to block council decisions relating to mass atrocities or in matters directly related to their national interests, Rock said.

But Security Council resolutions related to the war in Syria, repression in Myanmar and the ongoing conflict in Yemen have all been vetoed.

In 2011, the council voted unanimously to send UN peacekeepers to Ivory Coast and to intervene in Libya.

"There have been occasions when the council can act in concert, but you'll notice that it's only in situations where the (permanent members) don't have a horse in the race," Rock said.

"It's a council that's paralyzed and incapable of acting as intended. This is perhaps the most blatant and unvarnished demonstration of aggression since the Second World War by a major power and yet (Russia) is sitting in a position that enables them to block any Security Council responses to what they're doing. Zelenskyy is voicing that."

Zelenskyy: "We must do everything in our power to pass on to the next generation an effective UN with the ability to respond preventatively to challenges and thus guarantee peace, to prevent aggression and force aggressors to peace, to have the determination to punish if the principles of peace are violated. There can be no more exceptions or privileges. Everybody must be equal - all participants of international relations, regardless of economic strength, geographical area or individual ambitions."

Janice Stein, a professor of political science in the Munk School of Global Affairs, said she "understood entirely" why Zelenskyy would deliver the speech he did.

"It is moral shaming, which is completely appropriate. It induces guilt, which is completely appropriate. It probably

moves some countries to do things for Ukraine which they otherwise would not do - and that's completely appropriate. But if you're asking me is there any prospect of the reforms he proposed succeeding, I would tell you 'No.'"

The problem is rooted in realpolitik. Every country will speak in favour of modernization and power sharing - unless it implies giving up some of their own powers.

The precursor to the United Nations - the League of Nations - failed because there were no special privileges or protections for the world's biggest powers, Stein said. As a result, the United States refused to become a member.

"The big lesson... was that big powers are different. If you want the international community to work, you have to give them different rules," Stein said, adding that there have been "umpteenth rounds" of attempted UN Security Council reforms and yet it has remained dominated by the same five powers for nearly 80 years. "Not a single reform attempt at the Security Council has succeeded because you have the stakeholders who are not willing to share powers."

Zelenskyy: "Now we need decisions from the Security Council for peace in Ukraine. If you do not know how to make this decision, you can do two things. Remove Russia as an aggressor and a source of war so that it cannot block decisions about its own aggression and its own war, and then do everything that we can do to establish peace. The other option is to show how we can reform or change and work for peace... If there is no alternative and no option, then the next option would be to dis-

solve yourself altogether."

There is no mechanism to remove Russia from the Security Council. The permanent designation granted in 1945 was intended to last forever. It is, however, possible to expel a member state outright from the United Nations.

Under Article 6 of the UN charter, a member can be expelled for persistent violation of the rules, but only upon the recommendation of the Security Council.

No member state has ever faced this sanction. And even if Russia's expulsion were proposed, it would seem doomed to failure given its Security Council veto power.