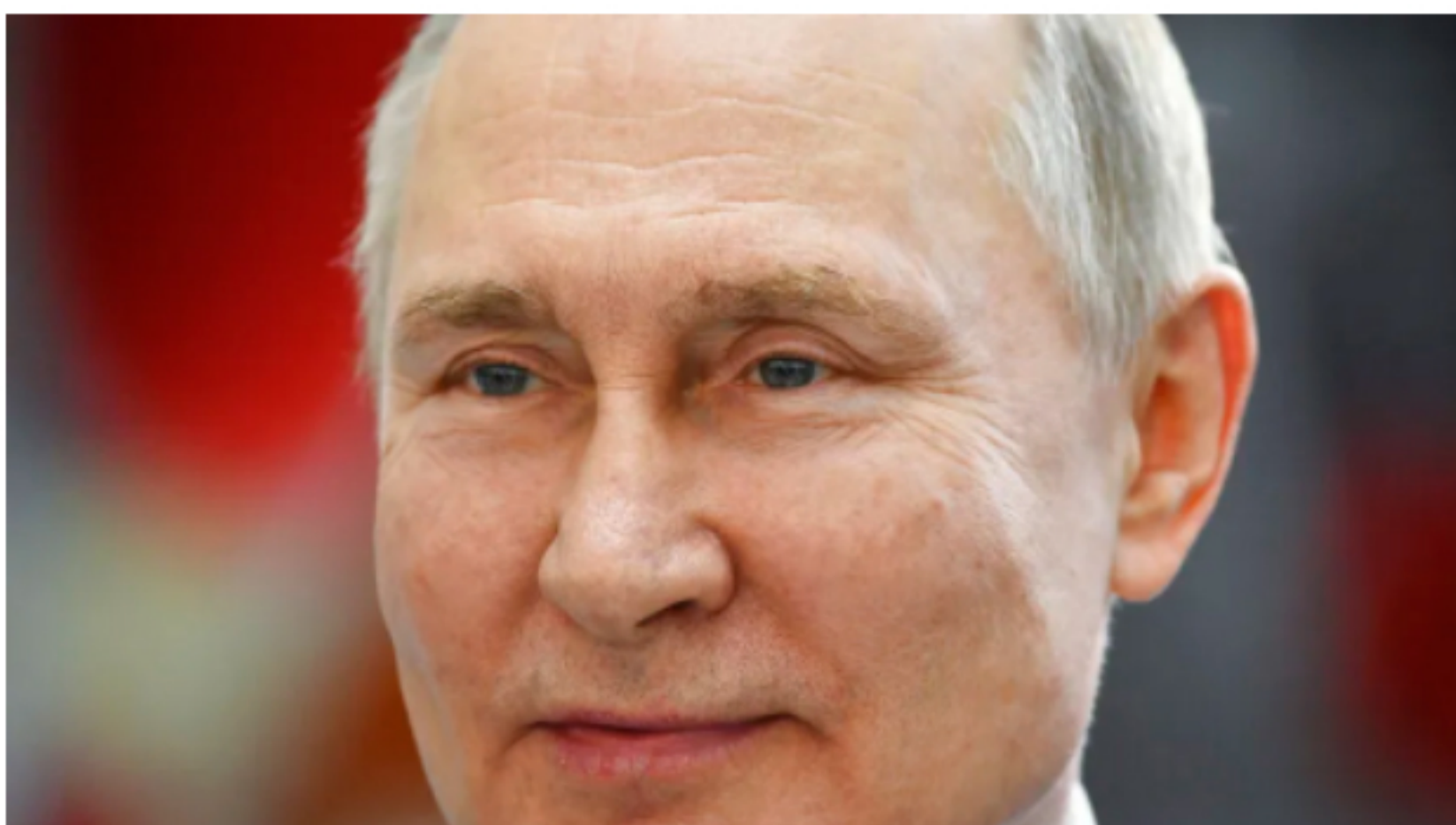


When a CEO becomes a war criminal | Column

Exposure of corporate complicity to war crimes, combined with human rights activism and moral condemnation by American citizens, could potentially persuade CEOs to reevaluate their Russian operations.



Russian President Vladimir Putin [EVGENY BIYATOV | AP]

While large corporations do business around the world with many murderous and unsavory governments, Vladimir Putin's unprovoked war of aggression in Ukraine presents distinct legal and moral issues. Foreign companies operating in Russia today help Putin consolidate his power.

The net impact of these corporate profit-making operations is to cushion and safeguard the Russian economy. This commerce protects Russia from experiencing the full negative impacts of the economic sanctions implemented by the global community after its invasion of Ukraine. Does this de facto support of the Putin regime represent criminal behavior? Have these companies CEO's committed war crimes?

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William Felice
[UNKNOWN | Photo: Courtesy]

Yale scholars Jeffrey Sonnenfeld and Steven Tian document that at least 253 companies, including Alcoa, Delta, eBay, Reebok and Uber, have made a "clean break from Russia, leaving behind essentially no operational footprint." Many of these companies are taking a financial hit and forfeiting profits in order to do the right thing. Another 248 companies have temporarily suspended their corporate operations in Russia, but left the door open to return; 75 additional companies have scaled back their Russian business, while 96 more have publicly announced that they are pausing new investments.

Yet, more than 160 companies, including Acer, Alibaba, Asus, Cloudflare, International Paper and Lenovo, are "staying the course" and have not significantly changed their operations or investments in Russia. Does this corporate support for the Russian economy and Putin's government during the vicious war in Ukraine violate global legal norms? The Nuremberg Tribunal of leading Nazi's following World War II provides some clarity on these issues.

In the 1930s two huge German firms, I.G. Farben and Krupp, provided financial and moral support to the Nazi Party. The leaders of these companies were among the civilians charged and convicted of war crimes at the Nuremberg Tribunals after World War II. Farben and Krupp worked with other businesses to bolster the German economy during the war years. In his opening remarks to the tribunal, U.S. prosecutor Telford Taylor stated: "The indictment accuses these men of major responsibility for visiting upon mankind the most searing and catastrophic war in human history." These businesses provided the economic mobilization without which no war would have been possible. Additional leaders of the German economy prosecuted at Nuremberg included former Reichsbank president Hjalmar Schacht and economic planners Albert Speer and Walther Funk.

David Scheffer, former U.S. ambassador at large for war crimes issues, recently argued that corporate perpetration of genocide, crimes against humanity and war crimes could be investigated and prosecuted before the International Criminal Court. CEOs and other corporate officers could be held responsible for the company's criminal conduct. The ICC is currently examining corporate activity by companies operating in eight separate countries, including Uganda, Kenya, and Georgia. Scheffer writes, "Atrocity crimes arising as a consequence of corporate operations or complicity in government commission of atrocity crimes to facility corporate investments might trigger the jurisdiction of the ICC."

Oleg Ustenko, an economic adviser to President Volodymyr Zelenskyy, clarified the moral case against these corporations: "If somebody is committing a war crime and a third party is giving money to the war criminal, then, for us in Ukraine, this third party is also in the cycle of committing the same war crime ...Because the third party, with his money, is in the position of supporting the aggression."

Some of the companies that continue to do business in Russia have given token statements criticizing the invasion of Ukraine. But, through their actions, these companies demonstrate a remarkable indifference to the bloodshed of innocent civilians and refuse to disinvest. Sonnenfeld and Tian call on Americans sickened by this business indifference to make their voices heard: "If the companies won't boycott Russia, boycott the companies."

Exposure of corporate complicity to war crimes, combined with human rights activism and moral condemnation by American citizens, could potentially persuade CEOs to reevaluate their Russian operations. In the 1980s citizen pressure was critical in pressuring around 200 American companies to withdraw from South Africa to protest against the apartheid system. These corporate actions contributed significantly to the demise of that racist, repressive government.

Public pressure today can similarly shame the corporations that continue to operate in Russia. For example, large and small investors in International Paper could divest and move their funds to companies that have pulled out of Russia. Such human rights activism in support of the Ukrainian people could push these multinational companies to end their profit-making activities which benefit Putin's blood-stained regime.

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