

POLICY REPORT

Myths and Ways Forward

Transitional Justice for Ukraine

May 2026



Cover Image: Residents prepare to launch balloons to mark the Day of the National Flag of Ukraine on the outskirts of the government-held town of Avdiivka, in the Donetsk region, on August 23, 2018. (Anatolii Stepanov/AFP via Getty Images)

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Kateryna Busol

This publication is inspired by the resilient light of the Ukrainian people.

It is for the survivors of unimaginable atrocities, service persons, volunteers, and extraordinary “ordinary” civilians who keep doing their jobs—educating children, saving lives at hospitals, rebuilding savaged heating and electricity after shelling, publishing books, cleaning streets, organizing fundraisers, reporting the truth—and thus, keep the country running amid daily attacks on our national identity and our very right to exist.

It is because of these people that Ukraine has withstood many renditions of Russia’s aggression throughout history, just as it will undoubtedly withstand the current one.

This report is dedicated to them.

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About ICTJ

The International Center for Transitional Justice (ICTJ) works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit www.ictj.org

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ABBREVIATIONS

CRSV	Conflict-related sexual violence
EU	European Union
EUAM	European Union Advisory Mission
ICC	International Criminal Court
IDP	Internally displaced person
JEP	Colombia's Special Jurisdiction for Peace
NGO	Non-governmental organization
OHCHR	Office of the UN High Commissioner for Human Rights
OTP	Office of the Prosecutor
UN	United Nations
UN Commission of Inquiry	Independent International Commission of Inquiry on Ukraine
UNGA	United Nations General Assembly
USSR	Union of the Soviet Socialist Republics

Executive Summary

Transitional justice is a system of mutually complementary measures, such as criminal accountability, truth seeking, reparations, institutional reforms, memorialization, guarantees of non-repetition, and others. War- and atrocity-affected societies employ these measures to address massive human rights violations and pave a visionary, resilient, and unified way forward.¹

In this respect, a holistic transitional justice framework for Ukraine would:

- clearly mark the beginning of Russia's current aggression as 2014, while also explaining its historical antecedents;
- promote all dimensions of justice equally by truly prioritizing survivors and their needs (rather than focusing exclusively on prosecutions);
- map out a vision for the country's rule-of-law-centered future, even amid the ongoing armed conflict.

The Ukrainian government and civil society have led numerous accountability initiatives since 2014, and there have been attempts to formalize a national transitional justice vision for the country in 2019 and 2021. Despite these efforts, however, Ukraine remains overly cautious about the endorsement of a holistic transitional justice policy. Many of the reservations seem to be shaped by myths, surfacing in Ukraine and globally, about the nature and timing of transitional justice, as well as the contexts in which it can apply.

This policy report provides a robust two-part substantiation of why Ukraine should revive its holistic transitional justice policymaking.

The first part debunks five of the most prevalent myths affecting Ukraine's transitional justice path, with references to the law and most recent state practice:

- *Myth 1: Transitional justice is not applicable in cases of external aggression.* While in recent history, internal armed conflicts have been most prevalent, transitional justice has been applied in interstate settings such as East Timor/Indonesia and Central and Eastern European recovery from Soviet rule. Also, many quintessentially domestic transitions have been regionally or internationally facilitated. Therefore, even if international settings are not dominant among transitional justice contexts, the approach is not without precedent. The current UN Special

¹ Report of the UN Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* (New York: S/2004/616, 2004), para. 8.

Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence not only recognizes the relevance of a transitional justice toolkit for interstate contexts but has prioritized this area for his current work.²

- *Myth 2: Transitional justice is implemented only after the fall of an autocratic regime and/or a peace agreement is reached.* International law prioritizes redress for survivors as early as possible. Technological advancement has enhanced early documentation of atrocities and allowed for action toward justice long before full solidification of democratic rule or peace. Situations such as Syria and Ukraine persuasively demonstrate this.
- *Myth 3: Transitional justice would undermine criminal accountability.* On the contrary, every transitional justice measure is an equal, mutually catalyzing part of one system. For example, truth commissions (such as Argentina’s pioneering National Commission on the Disappearance of Persons) can recommend trials and even hand over materials for prosecution. Challenges to trials stem not from the existence of other transitional justice measures, but from political considerations that aim to avoid backsliding into war or authoritarianism by shortsighted means.
- *Myth 4: Transitional justice in Ukraine would risk painting the ongoing armed conflict as an internal one.* This concern was valid during the first phase of Russia’s aggression against Ukraine from 2014 to 2021, when many international stakeholders refused to acknowledge Russia’s presence in Crimea and Donbas. Today, the rulings of a Dutch court and the European Court of Human Rights on Moscow’s occupation since 2014 and the unambiguous horrors of the full-scale invasion of 2022 render impossible any minimization of the key role of the Kremlin in the ongoing aggression.
- *Myth 5: Transitional justice in Ukraine would escalate aggression from Russia.* First, as clearly articulated by its president, Russia’s aggression is premised on the conviction that Ukraine is not a sovereign nation and that it should return to Russia’s sphere of influence. Any references to Ukraine’s justice or other initiatives are mere pretext for continuing the attempted conquest. Moreover, both Ukraine and other law-abiding nations have a duty to prosecute international crimes and provide redress to survivors. This human-centered obligation cannot be modified by political considerations.

Drawing from Ukraine’s existing and multifaceted justice initiatives, the second part presents key legal, policy, and survivor-centered arguments for Kyiv to revive a comprehensive transitional justice vision. The government has indicated that 2026 may be the year for such a revitalization.³ The following rationales further support this step:

- Ukrainian society, society, including survivors, have been demanding holistic justice since 2014, and especially since Russia’s full-scale invasion in 2022.
- A just and sustainable peace can only be achieved by including justice principles in the peace process.
- Despite the ongoing aggression, crucial aspects of Ukraine’s transition have already occurred. These include the country’s post-Soviet transformation in the 1990s and the people’s choice

² UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, “Approach to Mandate and Areas of Engagement with the General Assembly,” July 18, 2024 (A/79/180), paras. 48-54.

³ Ministry for Development of Communities and Territories of Ukraine, “Ukraine Will Learn from the Swiss Experience of Developing a Transitional Justice Policy,” March 3, 2026.

of the pro-European Union (EU) and pro-Western path during the Revolution of Dignity in 2014.

- A holistic transitional justice policy will clearly mark the beginning of Russia's aggression as 2014 and ensure that survivors from Crimea and Donbas are equally entitled to redress.
- The many transitional justice initiatives already underway in Ukraine require a unifying guiding framework.
- An overarching transitional justice policy will define key concepts for victim-centered justice, such as gender justice, best interests of the child, and intersectionality.
- Even the most well-functioning criminal justice system would not be able to effectively address 219,000+ atrocity-related proceedings on a case-by-case basis.
- Certain socially delicate issues, such as support for children born out of conflict-related sexual violence, will be best addressed via transitional justice mechanisms.
- International institutions and Kyiv's key international partners support transitional justice for Ukraine.
- Transitional justice is a crucial component of Ukraine's EU accession.
- Ukraine's transitional justice process could catalyze transitions in Belarus and Russia and help counter Russia's pervasive propaganda machine.
- Transitional justice is a meaningful area for Ukraine's constructive engagement with the Global Majority nations.
- Transitional justice in Ukraine will inform a global reframing of the field, especially regarding early implementation of transitional justice measures and their applicability to interstate and transnational contexts.

Any holistic justice framework endorsed amid Russia's ongoing aggression, which is still in a very active, destructive, and dynamic phase, would inevitably require sharpening at crucial points such as a ceasefire or wider settlement. If gradually activated now, Ukraine's transitional justice process will nevertheless be pivotal for the war-affected nation, the post-Soviet region, and wider international law. Regionally, it would catalyze any future reckoning and transitions in Russia, Belarus, and other post-Soviet nations within the Kremlin's sphere of influence. Internationally, it would reshape and expand the very conception of the transitional justice field and its potential.

Introduction

Transitional justice encompasses a set of measures, which include but are not limited to criminal prosecutions, reparations, truth seeking, institutional reforms, and memorialization. These measures are mutually complementary in nature and transformative in purpose. They help war- and atrocity-affected societies address legacies of largescale human rights violations and gradually solidify a more united and resilient vision of the future.¹

Pablo de Greiff, the first UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, has often explained why the title of the mandate is so long and does not expressly mention “transitional justice.” The choice of wording emphasizes not a particular name for the framework, but rather the core constituent elements for holistic, transformative change.²

Ukraine’s government and civil society started addressing conflict-related atrocities immediately following Russia’s initial aggression in 2014. The early responses pertained predominantly to the domain of criminal accountability, including extensive documentation of war crimes, complex domestic prosecutions, and submissions to the International Criminal Court (ICC). With time, Ukrainians increasingly came to realize that the mental, physical, financial, and wider societal wounds of the ongoing invasion could not be remedied through prosecutions alone. In 2019, Ukraine began to develop a holistic transitional justice policy. However, with Russia’s full-scale invasion in 2022, the development of the framework was stalled. Given the increased intensity of the armed conflict, diversifying crime patterns, new dynamics in victimhood, and population displacement, Ukraine’s transitional justice vision should be revived.

This policy report offers a robust two-part substantiation of why Ukraine should reactivate its holistic transitional justice policymaking. The first part engages with—and debunks—prevalent myths that are affecting Ukraine’s openness to transitional justice, with references to international law and recent state practice.³ The second part draws from Ukraine’s existing and multifaceted accountability initiatives to present key legal, policy, and victim-centered rationales for Kyiv to advance a comprehensive transitional justice vision. The report concludes that concerted transitional justice action in Ukraine would provide holistic and timely redress to the war-

1 Report of the Secretary-General, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” para. 8.

2 “Lecture on Transitional Justice by UN Special Rapporteur Pablo de Greiff,” October 20, 2017, posted October 23, 2017, by the Ministry of Foreign Affairs - Sri Lanka, YouTube, 11:06-14:53, www.youtube.com/watch?v=wHcbowzCm1g&t=2736s

3 This approach is inspired, among other things, by two impactful Chatham House myth-buster publications on Ukraine and Russia: Chatham House, “How to End Russia’s War on Ukraine,” June 27, 2023, and Chatham House, “Myths and Misconceptions in the Debate on Russia,” May 13, 2021.

affected society, set an example for the post-Soviet region, and expand the established frontiers of transitional justice globally.

This report does not provide a detailed roadmap for every element of transitional justice in Ukraine. While it recognizes the need for such sector-specific guidance, the present analysis focuses on the urgent and foundational importance of an overarching transitional justice policy for the country. Once such a strategic instrument has been adopted, the development of implementing guidelines for each component of transitional justice and their coordination should be the next step.

One terminological clarification due at the outset regards the use of the words “victims” and “survivors.” The report prefers “survivors,” as it asserts the exceptional resilience of persons who withstood unimaginable atrocities and, despite everything, pursue justice for themselves and others. Sadly, however, not all atrocity victims survive. Furthermore, certain frameworks—for instance, the ICC’s Trust Fund for Victims—dictate a specific word use.⁴ Therefore, where possible, the report speaks about “survivors,” unless required to use “victims” by a particular legal framework or factual reality.

⁴ “Victim” is also ICTJ’s term of choice, because of the existing normative framework. Elena Naughton, ICTJ, “Achieving a Delicate Balance: Victim Participation in International and Domestic Criminal Proceedings,” August 11, 2022.

Myths

Myth 1: Transitional Justice Is Not Applicable to Cases of External Aggression

One of the most widespread misconceptions about transitional justice is its alleged application only to internal situations such as transformations from authoritarian regimes to democratic governance or in the aftermath of internal armed conflicts.

This fallacy has deep roots. Historically, most of the original contexts in which transitional justice was applied were internal. From Latin American transitions from military juntas to democracies to post-apartheid South Africa, transitional justice's tenets were developed and tested in internal settings. Due to a constellation of sociopolitical reasons, it was easier to propose, design, and implement steps toward truth seeking, reparations, prosecutions, memorialization, and guarantees of non-recurrence in domestic contexts. Quantitatively, since the end of the Cold War through today, internal armed conflicts have prevailed.⁵ This means that domestic situations have received greater analysis, address, and exposure of their intricacies, justice legacies, and dilemmas. Correspondingly, examples of transitional justice in international armed conflicts, including occupations, are known less both because these contexts are less prevalent and because their international elements oftentimes blur or misconstrue the peace and justice paradigm. This was the case with Russia's presence in Ukraine's Donbas region in 2014–2021.

Despite the numerical dominance of internal armed conflicts, transitional justice has been applied in interstate settings. The Nuremberg and Tokyo tribunals set precedents of international prosecutions of high-ranking perpetrators of international crimes and paved the way to reparations programs, domestic atrocity proceedings, and vetting procedures even before the overarching term “transitional justice” emerged.⁶ East Timor's truth-seeking and other judicial and non-judicial processes in the aftermath of the Indonesian occupation might be the most apparent example.⁷ Central and Eastern European transitions and transformations within unified Germany

5 For instance, as of March 2026, the Geneva Academy's War Watch portal had registered 66 internal armed conflicts and 19 international armed conflicts for the period 2024–26, of which six involve military occupation. Geneva Academy of International Law and Human Rights, “War Watch: World Assessment and Tracking of Civilian Harm,” <https://warwatch.ch/explore/>; Congressional Resource Service, “Armed Conflicts in the World Since the End of the Cold War (1989 - Present),” 2002, 6-11; Lotta Harbom and Peter Wallensteen, “Appendix 2A: Patterns of Major Armed Conflicts, 1990-2005,” in *SIPRI Yearbook 2006: Armaments, Disarmament and International Security* (Oxford: Oxford University Press, 2006), 108.

6 Sanya Romeike, International Nuremberg Principles Academy, “Transitional Justice in Germany After 1945 and After 1991,” 2016, 11-41; International Law Commission, “Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal,” *Yearbook of the International Law Commission*, 1950, vol. II; Madoka Futamura, *War Crimes Tribunals and Transitional Justice: The Tokyo Trial and the Nuremberg Legacy* (Routledge, 2008).

7 International Center for Transitional Justice (ICTJ) Website, “Timor-Leste,” www.ictj.org/where-we-work/timor-leste

addressed the consequences of the totalitarian Soviet rule headquartered in Moscow.⁸ Even the quintessentially domestic transitions in Latin America shed light on how abuses were regionally and internationally facilitated.⁹ The same is true for Cambodia, in the Asian context, and Liberia, in the African setting.¹⁰ Therefore, both historically and presently, even if international settings are not predominant for transitional justice, they are also not without precedent.

Respecting the diversity and complexity of factual realities, international hard and soft law also agrees that transitional justice is not constrained to purely domestic developments. The UN Secretary-General's authoritative reading of transitional justice focuses on the aim of its measures—to provide comprehensive redress for atrocities—rather than on contextual particularities.¹¹ The UN Convention Against Torture enshrines victims' right to remedy regardless of the circumstances of abuse.¹² Similarly, the International Convention Against Enforced Disappearances does not connect victims' rights to remedy and truth to the type of situation or armed conflict in which the violations occurred.¹³ UN guidelines on reparations define victims as individuals who have suffered any gross human rights or serious humanitarian law violation—again, without the specification of context.¹⁴ The EU's Policy Framework on Support to Transitional Justice focuses on the principles and measures that are most effective to address widespread atrocities and deep-rooted grievances in a context-specific but not context-limiting manner.¹⁵

Finally, the current UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence not only recognizes the relevance of a transitional justice processes for interstate contexts but has also prioritized this area in his current work.¹⁶ Affected by one of the major contemporary instances of military aggression, Ukraine has the potential, in many ways, to inform the Special Rapporteur's, and indeed, the global, understanding of how transitional justice instruments can help remedy the harm to victims—and affected societies—of international armed conflicts.

Myth 2: Transitional Justice Is Implemented Only After the Fall of an Autocratic Regime and/or a Peace Agreement Is Reached

The very wording “transitional justice” contains within itself a mysterious, mutually contradicting combination of completion and continuity. On one hand, “transition” signals the finalization of a big shift, where a new beginning has started. On the other, “transition” can unfold over time, making the boundaries of connected transformations hard to demarcate. The first Special Rapporteur, Pablo de Greiff, who helped shape the mandate's conceptual depth and horizons,

8 Lavinia Stan, “Limited Reckoning in the Former Soviet Union. Some Possible Explanations,” in *Transitional Justice and the Former Soviet Union* (Cambridge University Press, 2018), 10-30; Romeike, “Transitional Justice in Germany After 1945 and After 1991,” 65-67.

9 Giles Tremlett, “Operation Condor: The Cold War Conspiracy that Terrorised South America,” *The Guardian*, September 3, 2020.

10 ICTJ Website, Cambodia, www.ictj.org/where-we-work/cambodia; ICTJ Website, Liberia, www.ictj.org/where-we-work/liberia

11 Report of the Secretary-General, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” para. 8.

12 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1465 U.N.T.S. 85, December 10, 1984), art. 14.

13 International Convention for the Protection of All Persons from Enforced Disappearance (2716 U.N.T.S. 3, December 20, 2006), arts. 3, 8.2, 12.

14 UN General Assembly (UNGA), *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, A/RES/60/147, March 21, 2006, paras. 3(c), 4.

15 The EU's Policy Framework on Support to Transitional Justice, 2.

16 UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, “Approach to Mandate and Areas of Engagement with the General Assembly,” paras. 48-54.

agrees that trying to identify a beginning and an end of transitions can be a challenging, often counterproductive endeavor.¹⁷

Historically, transitions to democratic governance or peaceful resolution were more definitive. They served as both prerequisite and trigger for a spectrum of truth-seeking, prosecutorial, reparations, institutional reform, and memorialization initiatives. While these initiatives varied in their intersections, sequencing, and duration, they had one shared temporal denominator in the wider political or post-conflict transition that enabled their initiation.

While the described dynamic initially dominated, it was by no means an exclusive one. Even in the field-shaping cases of Argentina and Chile, civil society-led documentation efforts and calls for justice emerged long before changes in the respective regimes.¹⁸ Colombia developed various accountability efforts before they matured into the comprehensive transitional justice mechanisms included in the 2016 peace agreement.¹⁹ Contemporary armed conflicts and atrocity situations increasingly prove that transitional justice measures can, and indeed should, be introduced before a “definitive” transition.

Normatively, the UN recognizes that the elaboration of transitional justice can be parallel to reaching peace. As an example, the relevant UN Secretary-General’s report is entitled “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies.”²⁰ In the same vein, the UN High Commissioner for Human Rights urges an immediate and comprehensive justice response to sexual and gender-based violence in both conflict and post-conflict settings.²¹ The Independent International Commission of Inquiry on Ukraine (UN Commission of Inquiry) has also highlighted that states should implement at least elements of criminal accountability, truth, reparation, and guarantees of non-repetition even before the armed conflict is finished.²²

It is not only normative or aspirational lenses that invite the activation of justice measures as early as possible. Technological developments and survivors’ awareness, interests, and preferences are also major catalysts. The proliferation of technology, from smartphones in the hands of first responders to open-source intelligence investigations, has contributed to the accumulation and analysis of evidence of international crimes and serious human rights violations much earlier than in previous armed conflicts. The expertise and advocacy of domestic non-governmental organizations (NGOs) and survivor groups are increasing, even amid ongoing warfare or an abusive regime. These processes prepare the foundation for justice action and expedite it, internationally and, where possible, domestically. Crucially, such early initiatives nourish domestic expertise and legitimate expectations for future remedies and change, even when a full transition is still far away.

Syria is an illustrative example of the above. The documentation of horrendous atrocities by the Assad regime started long before any accountability measures were a viable possibility. Gradually, the efforts of survivors and Syrian and international human rights groups provided conscientious

17 Pablo de Greiff, “Failing Justice: Beyond the Failed State – Q&A Time,” January 8, 2019, posted February 20, 2019, by Lawyers for Justice Libya, YouTube, 19:42-21:05, www.youtube.com/watch?v=WwDnB2qnmYM&ab_channel=LFJL

18 Juan Méndez, Americas Watch, “Truth and Partial Justice in Argentina: An Update,” 1991, 17; José Zalaquett, “The Mathew O. Tobriner Memorial Lecture: Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations,” *Hastings Law Journal* 43, no. 6 (1992), 1434.

19 Colombian Peace Agreement, *Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace*, November 24, 2016, 137.

20 Report of the Secretary-General, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies.”

21 Office of the UN High Commissioner for Human Rights (OHCHR), “Analytical Study Focusing on Gender-Based and Sexual Violence in Relation to Transitional Justice,” A/HRC/27/21, June 30, 2014, paras. 1, 5.

22 “Conference Room Paper of the Independent International Commission of Inquiry on Ukraine,” A/HRC/52/CRP.4, August 29, 2023, para. 947.

prosecutors globally with a non-dismissible body of evidence.²³ This further developed into novel universal jurisdiction proceedings, giving hope to Assad's victims and also inspiring the expansion of domestic action on atrocity crimes committed internationally.²⁴ The vision and advocacy of Syrian civil society and its partners contributed to groundbreaking International Court of Justice proceedings, brought by Canada and The Netherlands to allege the violation of the Convention Against Torture by Assad-ruled Syria.²⁵ Conscious of the cycles of armed conflicts and international attention to them, Syrians remained proactive in their international advocacy and,²⁶ despite their own turmoil, empathetic to the suffering of others. Syrian civil society engaged with other survivors; they also visited Ukraine and witnessed the Russian-brought devastation and the nation's resilience firsthand.²⁷ Beyond empathy, Syrian professionals collaborated with Ukrainian colleagues to expose murderous tactics such as double-tap attacks, which Russia employed in both contexts.²⁸

These and other judicial and non-judicial initiatives did not and could not ensure comprehensive redress while the Assad regime was still in power. And yet, these efforts have been foundational for Syria's 2025 transition, its immediate priorities, and the potential to implement them. The expertise and volumes of evidence accumulated over years enabled the impressively quick establishment in May 2025 of two formalized transitional justice authorities: the National Commission for Transitional Justice and the National Commission for the Missing.²⁹ There are understandable concerns about both initiatives,³⁰ as well as some foundational aspects of Syria's post-Assad rebuilding.³¹ And yet, with all critiques, these steps anchor the Syrian transition on the victims' right to redress and would not have been possible—after the change of government—without all the previous endeavors painstakingly implemented over the years.

In addition to transitional justice for interstate armed conflicts, the current special rapporteur has also focused attention on the implementation of transitional justice in “early stages of transition.”³² Like Syria, Ukraine started implementing countless documentation, prosecutorial, reparative, and truth-seeking initiatives long before the end of armed conflict was in sight. Ukraine has even gone one step further in that it already started the development of a holistic transitional justice framework during Russia's initial invasion, long before the cessation of Russian aggression.³³ It is

23 Syria Justice and Accountability Centre Website, “Documentation,” syriaaccountability.org/documentation/; Syrian Archive Website, “About,” syrianarchive.org/en/about; OHCHR Website, “Independent International Commission of Inquiry on the Syrian Arab Republic,” www.ohchr.org/en/hr-bodies/hrc/iici-syria/documentation.

24 International Commission of Jurists, “Syria: German Court's Decision a Momentous Step in the Fight Against Impunity,” January 13, 2022.

25 Application of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic).

26 Among other achievements, this advocacy led to the establishment of the International Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 (IIIM) and the Independent Institution on Missing Persons in the Syrian Arab Republic (IIMP). UN General Assembly, Resolution 71/248, International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, A/RES/71/248 (December 21, 2016); UN General Assembly, Resolution 77/L.79, Independent Institution on Missing Persons in the Syrian Arab Republic, A/77/L.79 (June 26, 2023).

27 Syrian British Consortium, “Members of Syrian Civil Society Engage High Level Ukrainian Officials,” August 25, 2023.

28 Truth Hounds and The White Helmets, “Statement on an International Investigation of Russia's Double-Tap Strikes on Civilians in Ukraine and Syria,” *Truth Hounds*, October 31, 2024.

29 Syria Justice and Accountability Centre, “A First Step Towards Transitional Justice in Syria,” May 29, 2025.

30 ICTJ, “ICTJ Welcomes Establishment of Syria's New National Commissions for Transitional Justice and Missing Persons,” May 22, 2025.

31 Syrian Network for Human Rights, “On International Women's Day: Women Must Be Part of the Transitional Process After Over 13 Years of Struggle and Sacrifices,” March 8, 2025.

32 Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, “Approach to Mandate and Areas of Engagement with the General Assembly,” paras. 55-59.

33 European Commission for Democracy Through Law (Venice Commission), “Opinion on the Draft Law ‘On the Principles of State Policy of the Transition Period,’” Opinion No. 1046/2021, October 18, 2021, para. 50; Kateryna Busol, “Mariupol and

important for Ukraine to continue to revitalize and finalize its transitional justice vision. This will inform the global understanding of the early inauguration of the required and relevant processes. Crucially, Ukraine's formalization of its transitional justice vision as early as possible is also the foundational minimum it can and should offer to those most affected: victims and survivors.

Myth 3: Transitional Justice Would Undermine Criminal Accountability

The obligation to prosecute international crimes and serious human rights violations is well established in international law and jurisprudence.³⁴ The impermissibility of amnesties and the non-applicability of the statute of limitations for international crimes further emphasize the necessity to investigate them, even decades after commission.³⁵

Transitional justice measures, of which trials are an inherent part, are equal and mutually catalyzing. Indeed, one of the first reports issued by the Special Rapporteur on promotion of truth, justice, reparation and guarantees of non-recurrence was dedicated to prosecutorial strategies. The report underscored the importance of domestic and international criminal accountability measures, but it also recognized their natural limitations in weakly institutionalized contexts given the immense volume of atrocities and wider pressing needs of survivors.³⁶ In a remarkable stance on what could be called “reparative complementarity,”³⁷ the ICC Office of the Prosecutor (OTP) has acknowledged the complementary role of both domestic trials *and* other transitional justice measures.³⁸ The OTP has committed to “seek to work with those engaged in the variety of justice mechanisms, [...] ensuring that all efforts are as complementary as possible in developing a comprehensive approach.”³⁹

Non-judicial transitional justice mechanisms often interact with prosecutions. For instance, the Argentinian National Commission on the Disappearance of Persons (known as CONADEP) recommended further investigations and handed over its materials to the pioneering Trial of the Juntas.⁴⁰ Prosecutions also fill in certain gaps that only they can address. For example, truth commissions have often been criticized for “naming names” of alleged perpetrators, without the usual guarantees of due process.⁴¹ Fair trials, with the established rights to defense and appeal, have stronger legitimacy to make pronouncements about individual accountability. At the same time, there are certain aspects which prosecutions are less well-positioned to tackle. Both the UN and state practice, including Ukraine's, indicate that procedurally unburdened administrative

the Origins and Avenues of Ukraine's Transitional Justice Process,” *Just Security*, June 1, 2022.

34 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (973 U.N.T.S 75, Aug. 12, 1949), art. 147; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 7; Convention on the Non-Applicability of Statutory Limitation to War Crimes and Crimes against Humanity; European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes; International Committee of the Red Cross (ICRC), IHL Databases, Customary IHL, “Rule 159. Amnesty,” ICRC, IHL Databases, Customary IHL, “Rule 158. Persecution of War Crimes.”

35 Inter-American Court of Human Rights, “Chile Is Responsible for the Violation of the Rights to Judicial Guarantees, Judicial Protection and Personal Integrity for the Application of the ‘Half Statute of Limitations’ to Criminal Sentences Related to Crimes Against Humanity,” September 26, 2024.

36 Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, “Prosecutorial Prioritization Strategies in the Aftermath of Gross Human Rights Violations and Serious Violations of International Humanitarian Law,” A/HRC/27/56, August 27, 2014.

37 Luke Moffett, “Reparative Complementarity: Ensuring an Effective Remedy for Victims in the Reparation Regime of the International Criminal Court,” *The International Journal of Human Rights* 17 (2013), 368.

38 ICC OTP, “Policy on the Interests of Justice,” 2007, 8.

39 ICC OTP, “Policy on Complementarity,” 2024, 117.

40 CONADEP (National Commission on the Disappearance of Persons), “Part IV. Recommendations and Conclusions,” in *Nunca Más (Never Again)*, 1984. Amnesty International, “Commissioning Justice: Truth Commissions and Criminal Justice,” 2010, 17.

41 Zalaquett, “The Mathew O. Tobriner Memorial Lecture,” 1435.

reparations are more effective and preferred by survivors as opposed to reparations conditioned on convictions in lengthy and complex criminal proceedings.⁴²

Trials are often challenged in transitional contexts. However, such impediments stem not from other transitional justice measures, but from shortsighted political considerations aiming to avoid retaliation during a regime change or to solidify a ceasefire by wrong means. The groundbreaking Trial of the Juntas was later followed by two amnesty laws, both of which were eventually overturned by the Argentinian Supreme Court. The Inter-American Court of Human Rights invalidated domestic *de jure* and *de facto* amnesties attempted in other contexts. Recently, Peru's Constitutional Court endorsed the statute of limitations for crimes against humanity in breach of international law and to the condemnation of UN experts.⁴³ Russia demanded the discontinuation of atrocity prosecutions during its initial invasion of Ukraine in 2014–2021,⁴⁴ and these requests have resurfaced in the ongoing peace process.⁴⁵

Complicated, lengthy, and costly trials of international crimes and mass human rights violations can also be affected by waning funding. However, cutting support from other transitional justice initiatives would be a shortsighted solution. A sound response should entail sharpening prosecutorial strategies; prioritizing emblematic crime patterns, perpetrators, and victims; and harmonizing such proceedings with the wider web of accountability and redress measures.

Myth 4: Transitional Justice in Ukraine Would Risk Painting the Ongoing Armed Conflict as an Internal One

This fallacy relates to Myth 1, which alleges that transitional justice is relevant exclusively for domestic settings and internal armed conflicts.

Russia consistently denied its role in the armed conflict in eastern Ukraine's Donbas province during its first phase of aggression in 2014–2021. The Kremlin's powerful media arsenal consistently painted hostilities in Donbas as an internal Ukrainian "separatist" issue, of which it was allegedly not a party, just a good-willing mediator. In contrast to the exceptional response to the full-scale 2022 invasion, international diplomatic, military, legal, scholarly, and media attention was not as focused on—and, thus, not understanding of all the nuances of—Russia's initial aggression. The first findings of the ICC OTP about the possible Russian presence in Donbas were cautious.⁴⁶ It was not until the 2022 rulings of a Dutch court in a case regarding the downing of the MH-17 flight and the European Court of Human Rights that Russia's principal role in fueling the armed conflict in eastern Ukraine since 2014 has been recognized internationally.⁴⁷

The misinformed connection of transitional justice processes with domestic or post-internal armed conflict transitions persists globally. Therefore, it is not surprising that some Ukrainian stakeholders have been concerned about using the wording of transitional justice in the context of Russia's aggression. Such concerns were, to a certain extent, understandable in 2014–2021, when

42 Guidance Note of the Secretary-General, "Reparations for Conflict-Related Sexual Violence," 2014, 6; Global Survivors Fund, "Ukraine's Urgent Interim Reparations: Historic Milestone Must Become Reality for All Survivors of Conflict-Related Sexual Violence," September 24, 2025.

43 OHCHR, "Peru: UN Experts Concerned About Constitutional Court Ruling on 'Impunity Law,'" December 19, 2025.

44 Elena Teslova, "Moscow Urges Kiev to Offer Amnesty to Separatists," AA, April 30, 2020.

45 Ben Hall, "Annotated: The Full Text of Donald Trump's 28-Point Ukraine-Russia Peace Plan," *The Financial Times*, November 21, 2025; Botschaft der Russischen Föderation in der Bundesrepublik Deutschland, "Foreign Minister Sergey Lavrov's interview with Director General of Rossiya Segodnya International Information Agency Dmitry Kiselev," April 29, 2021.

46 Case 09-748006/19 (First Instance) District Court of The Hague, November 17, 2022.

47 Decision, *Ukraine and The Netherlands v. Russia*, Applications 8019/16, 43800/14 and 28525/20, November 20, 2022, para. 695.

the international understanding of Russia's true motives and actions in Ukraine was limited. However, with the full-scale invasion, Russia's conduct of hostilities by means of atrocities, creeping occupation, and undisguised regional dominance strategy have left little room for misinterpreting the parties to the armed conflict and their aims. Despite Russia's powerful propaganda machine, it is impossible to cover up or dilute its occupation and commission of atrocities in Ukraine.⁴⁸

Even despite transitional justice's historical association with internal settings, its application in Ukraine would not risk diluting the interstate nature of the aggression or the Kremlin's regional dominance strategy given the well-documented scope of Russia's criminality. All relevant stakeholders, from the Government of Ukraine to human rights groups, survivor associations, and international partners, should, however, ensure that their conceptualization of Russia's invasion and respective redress encompasses the whole spectrum of events since 2014, not just since 2022.

Myth 5: Transitional Justice in Ukraine Would Escalate Aggression from Russia

Since the first phase of aggression in 2014–2021, the Kremlin has consistently positioned Ukraine's accountability and wider transitional justice efforts as hindrances to the prospect of reaching peace. Initially, Moscow claimed that the controversial Minsk Agreements—ostensibly designed to end hostilities in Donbas—provided blanket amnesties to perpetrators of all crimes, including war crimes.⁴⁹ Gradually, Russia has extended its dismissive rhetoric to the whole concept of transitional justice.⁵⁰ In late 2021, Moscow went as far as to say that Ukraine's adoption of transitional justice legislation would be considered as Kyiv's withdrawal from the Minsk Agreements.⁵¹ Ultimately, Ukraine's two comprehensive draft transitional justice policies of 2020 and 2021 were not adopted, albeit for other reasons.⁵² And yet, predictably, this did not prevent Russia's full-scale invasion in 2022.

Russia's opposition to justice for its barbarity contravenes not only international law envisaging accountability for core international crimes and reparations for survivors, but also Ukraine's (and its own) obligations in this regard.⁵³ Numerous international and regional actors, including the UN Commission of Inquiry on Ukraine, the UN Special Rapporteur on Torture, and the Council of Europe's Commissioner for Human Rights, have consistently stressed that peace may not be reached by compromising layered justice for atrocity victims.⁵⁴ Furthermore, unaccustomed to considering individuals' genuine voices, Moscow fundamentally dismisses the fact that justice

48 Aisha Down, "Hundreds of English-Language Websites Link to Pro-Kremlin Propaganda," *The Guardian*, November 21, 2025; Reporters Without Borders, "The Propaganda Monitor: RSF Releases New Report on the Geopolitics of Kremlin Propaganda," September 25, 2025.

49 Duncan Allan and Kataryna Wolczuk, Chatham House, "Why Minsk-2 Cannot Solve the Ukraine Crisis," February 16, 2022, Botschaft der Russischen Föderation in der Bundesrepublik Deutschland, "Foreign Minister Sergey Lavrov's interview with Director General of Rossiya Segodnya International Information Agency Dmitry Kiselev."

50 Ibid.

51 Ivan Muzyka, "Lavrov Has Threatened Ukraine Because of the Draft Law on Transition Period (Лавров пригрозив Україні через закон про перехідний період)," *LB.ua*, November 12, 2021.

52 Busol, "Mariupol and the Origins and Avenues of Ukraine's Transitional Justice Process."

53 The right to effective remedy is enshrined in numerous international treaties to which both Ukraine and Russia are parties, such as the Geneva Conventions and their Additional Protocols, Convention on the Prevention and Punishment of the Crime of Genocide, International Covenant on Civil and Political Rights, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women and the Convention Against Torture and Other Cruel, Unhuman or Degrading Treatment or Punishment. For more details see: "Conference Room Paper of the Independent International Commission of Inquiry on Ukraine," para. 952; Amal Nassar, Kateryna Busol, and Alexa Sydor-Czartorysky, Global Survivors Fund, "Ukraine Study on the Status of and Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence," May 2022, 55-58.

54 UN Commission of Inquiry, "Statement on the Third-Year Mark of Russia's Full-Scale Invasion of Ukraine," February 26, 2025; Council of Europe Commissioner for Human Rights, "Human Rights Should Be an Integral Part of Any Peace Talks on Ukraine," March 11, 2025; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, "Trends and Developments in the Global Struggle to End Torture," A/80/137, July 11, 2025, para. 38.

and reparations demands come directly from the Ukrainian people, including survivors.⁵⁵ Finally, the Kremlin refuses to see that transitional justice is not contemplated by Ukraine as an opt-out option for the future. To different degrees of coherence, its implementation already started in 2014.

The only actor who can definitively stop the escalation of Russia's aggression and put an end to it altogether is Russia itself. Moscow's demands regarding justice matters have nothing to do with peace. The Kremlin has been expanding its aggression since 2014, not because it is concerned about accountability but because it is implementing its neo-imperial aim to subjugate Ukraine and destroy Ukrainian national identity and statehood, as clearly articulated by President Vladimir Putin.⁵⁶

Moscow has used the back-and-forth about justice, as well as other issues, during the Minsk Process and since 2022 to gain time for a military scale-up.⁵⁷ Ukraine and its partners would benefit from recognizing the reality of Russia's strategy. Kyiv cannot afford to be misled into pausing its accountability and wider transitional justice steps. Doing so would contravene international law and, crucially, the demands of the Ukrainian people.⁵⁸

55 Human Rights Centre ZMINA, "The Attitudes of Ukrainians to Transitional Justice: A Sociological Survey (Як українці ставляться до перехідного правосуддя – соціологічне дослідження)," March 17, 2021; Human Rights Centre ZMIMA, "Half of Ukrainians Support the Re-Establishment of Relations with Uncontrolled Territories (Половина українців за відновлення зв'язків із невідконтрольними територіями – опитування)," August 10, 2020; Rating Group, "Justice in the Context of Russian Armed Aggression," August 13, 2024.

56 Atlantic Council, "Our Experts Decode the Putin Speech That Launched Russia's Invasion of Ukraine," February 22, 2023.

57 Mathieu Boulègue, Chatham House, "Russia's Struggle to Modernize Its Military Industry," July 21, 2025; Allan and Wolczuk, "Why Minsk-2 Cannot Solve the Ukraine Crisis."

58 Kateryna Busol, "History and International Law Proscribe Amnesties for Russia War Crimes," *Just Security*, December 11, 2025.

Transitional Justice for Ukraine

Ukraine's Transitional Justice Path Before the Full-Scale Invasion

The Kremlin's occupation of Crimea and hostilities in parts of Ukraine's eastern Donbas provinces drew little attention and modest responses internationally.⁵⁹ Russia was proactive in painting the armed conflict in eastern Ukraine as an internal one, downplaying its role in planning, logistics, and on-the-ground operations.⁶⁰ Given these factors, plus emergent accounts about atrocities from survivors, Ukrainian government and civil society actors realized that early transitional justice responses would have to come from within. Initial measures included multiple atrocity documentation initiatives; collaboration between Ukrainian prosecutorial authorities and international law specialists from civil society and academia to develop complex conflict-related proceedings; submissions to the ICC; and the establishment of the War Crimes Unit within the Office of the Prosecutor General.⁶¹ Ukraine also turned to all available regional and international courts to adjudicate on aspects of Russian violations falling within their respective jurisdictions.

Already in this period from 2014 to 2021, Ukraine's responses went beyond criminal justice. For example, policies for internally displaced persons (IDPs) were being developed, and reparations discussions were solidifying.⁶² The government inaugurated compensation programs for victims of unlawful detention and torture,⁶³ and civil society and survivor groups conducted studies regarding survivors' reparative needs and preferences.⁶⁴

59 Iryna Marchuk, "No Crimes against Humanity During the Maydan Protests in Ukraine? Or the ICC Prosecutor's Flawed Interpretation of Crimes against Humanity?" *Boston University International Law Journal* 39 (2017): 67-68.

60 "Putin Reveals Secrets of Russia's Crimea Takeover Plot," *BBC*, March 9, 2015.

61 Prosecutor's Office of the Autonomous Republic of Crimea and Sevastopol City, "The Strategy of the Development of the Prosecutor's Office of the Autonomous Republic of Crimea During the Temporary Occupation for 2019-2021 Has Been Approved," October 10, 2018; Media Initiative for Human Rights, "Female Face of Donbas Hostages," 2021; Iryna Marchuk and Aloka Wanigasuriya, "Venturing East: The Involvement of the International Criminal Court in Post-Soviet Countries and Its Impact on Domestic Processes," *Fordham International Law Journal* 44 (2021): 763-766; Sergey Sayapin, "A Curious Aggression Trial in Ukraine: Some Reflections on the *Alexandrov and Yerofeyev Case*," *Journal of International Criminal Justice* 16.5 (2018): 1093-1104; Gaiane Nuridzhanian, "Ukraine vs. Russia in International Courts and Tribunals," *EJIL: Talk!* March 9, 2016; Kateryna Busol, "If Ukraine's Fate Is Not a Menu à la Carte, Then Ukrainian Voices Must Be Heard," *EJIL: Talk!* June 20, 2022.

62 Law of Ukraine on Ensuring Rights and Freedoms of Internally Displaced Persons, 1706-VII, October 20, 2014.

63 *Regulation of the Cabinet of Ministers of Ukraine on Certain Issues of Social and Legal Protection of Persons Deprived of Liberty as a Result of the Armed Aggression Against Ukraine, After Their Release*, no. 1122, December 11, 2019; Nassar et al., "Ukraine Study on the Status of and Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence," 60-62.

64 Nassar et al., "Ukraine Study on the Status of and Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence,"; Eastern Ukrainian Centre for Civic Initiatives, "War Without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine," 2017, 106-111.

These vital measures required a unifying guiding policy framework. Ukrainian civil society representatives, academics, and the ombudsperson catalyzed discussions about a holistic transitional justice framework in 2016-2017.⁶⁵ Its elaboration began in 2019, when President Zelenskyy created the Working Group on the Reintegration of the Temporarily Occupied Territories under the Law Reform Commission.⁶⁶ The Working Group was asked to elaborate a transitional justice roadmap for Ukraine, which would then be approved by presidential decree and subsequently implemented in accordance with a government action plan. The roadmap was intended to be a foundational instrument that enumerated various transitional justice elements and guiding principles. The Working Group's composition itself indicated a major shift toward multi-sector collaboration: it united state officials, human rights practitioners, and relevant academics and facilitated engagement among them. Such genuine state and civil society collaboration departed significantly from Soviet and early post-Soviet models of vertically structured governance. A non-public draft of the roadmap was submitted for presidential approval in mid-2021, a crucial first step toward implementation. However, the draft remains unenacted, and government authorities have yet to explain this delay.

In a parallel process, the Ministry for the Reintegration of the Temporarily Occupied Territories developed the Draft Law on the State Policy of the Transition Period, which included a section on transitional justice. In late 2020, the ministry presented the draft for public discussion. While commendable, the initiative aimed to address too many issues and failed to explain its alignment with the roadmap. Ukraine's civil society, the Office of the UN High Commissioner for Human Rights (OHCHR), and the Venice Commission have expressed concerns about various aspects of the draft.⁶⁷ Crucially, however, none of those actors spoke against Ukraine's action on transitional justice in general amid the ongoing armed conflict. By contrast, Russia strongly criticized the draft law and the broader transitional justice vision for Ukraine. While the draft was registered with parliament, it was eventually withdrawn amid the unprecedented build-up of Russian troops along the Ukrainian border. The elaboration of a framework transitional justice policy has been stalled since the full-scale invasion in 2022.

Rationales for Reactivating Ukraine's Transitional Justice Policymaking

Russia's all-out invasion in 2022 has brought about a totally new set of challenges, including increased intensity of hostilities, diversifying crime patterns, and new dynamics in victimhood and population displacement within and outside the country. The multiple and multiplying traumatic experiences and needs on the ground clearly signal that Ukraine's holistic transitional justice policymaking needs a revival (adapted to the new realities) and urgent implementation. Several societal, legal, and geopolitical considerations support this stance.

1. Ukrainian Society, Including Survivors, Demand Holistic Justice

Justice has been a priority for atrocity survivors and wider Ukrainian society since the onset of Russian aggression in 2014, including during some of the conflict's most challenging periods. The majority of Ukrainians might not know the term "transitional justice." Yet, many Ukrainians

65 "Post-Conflict Justice in Ukraine," materials presented at the Joint Conference of Ukrainian Helsinki Union for Human Rights, European Society of International Law, and Ukrainian Association of International Law, Kyiv, May 25-27, 2017.

66 Order of the President of Ukraine on the Law Reform Commission 584/2019, August 7, 2019.

67 Venice Commission, "Opinion on the Draft Law 'On the Principles of State Policy of the Transition Period,'" paras. 17, 65, 105; OHCHR, "Report on the Human Rights Situation in Ukraine (1 August 2020 – 31 January 2021)," footnote 12; Human Rights Centre ZMINA et al., "Analysis of the Draft Law of Ukraine 'On the State Policy of the Transition Period,'" February 2021.

seem to embrace its essence, by prioritizing multiple forms of accountability, from criminal trials to truth-seeking initiatives, vetting, and reparations.

In a 2021 poll, 54 percent of respondents from across the country supported the development of a holistic transitional justice policy as early as possible amid the war to have better strategies for the de-occupation.⁶⁸ In contrast, only 13.7 percent believed that such a policy should be designed after a peace agreement.⁶⁹ Accountability for perpetrators of atrocities in occupied territories was the highest priority for respondents (37.2 percent). The second and third most commonly cited priorities were the rebuilding of infrastructure and housing (34.2 percent) and the renewal of the work of state authorities (28 percent), respectively.⁷⁰ Already before the full-scale invasion, Ukrainians considered the residents of the temporarily occupied territories to be victims and supported state policies maintaining the connection to those under occupation.⁷¹

Despite the increased suffering across the country inflicted by the 2022 invasion, Ukrainians' demands for justice have both solidified and diversified. A 2024 study found that 90 percent of surveyed individuals believe that prosecutions should be supplemented with other accountability avenues.⁷² Another poll showed that 75 percent of respondents to a national survey view various transitional justice measures as “very important.”⁷³ Highest priority is accorded to the search for missing persons (94 percent), reparations (90 percent), and memorialization (89 percent).⁷⁴ For nearly all Ukrainians surveyed (95 percent), regular and informed communication about conflict-related trials is essential. When an alleged proposal to provide amnesty for Russian crimes leaked in November 2025, it received strong criticism within Ukraine, including from prominent civil society actors.⁷⁵

With such a continuous commitment to multifaceted redress, Ukrainian survivors and the wider society deserve comprehensive transitional justice measures domestically and their robust safeguarding internationally. Moreover, given that a strong majority of Ukrainians agree on the importance of implementing transitional justice measures without delay, failure to deliver a comprehensive process would likely be met with widespread frustration and weakened trust in government institutions.

2. A Just and Sustainable Peace Can Only Be Achieved by Including Justice Principles in the Peace Process

Differentiated justice measures for survivors and the wider Ukrainian society are a prerequisite for durable peace. International law is clear on the duty—of Ukraine, Russia, and third states—to prosecute and redress international crimes and serious human rights violations perpetrated since Russia's initial invasion of Crimea in 2014.⁷⁶

68 Mykola Myrnyi, Human Rights Centre ZMINA, “How Ukrainians View Transitional Justice: Sociological Research,” March 17, 2021.

69 Ibid.

70 Ibid.

71 Ibid.

72 Rating Group, “Justice in the Context of Russian Armed Aggression.”

73 Georgetown Law Center for National Security et al., “Ukraine Justice & Accountability Survey 2024 (Data from November 2023),” 13.

74 Ibid.

75 Dan Sabbagh, “US Deal Must Punish Russia War Crimes, Says Ukraine's Nobel Peace Prize Winner,” *The Guardian*, November 27, 2025; Ivan Horodysky, Atlantic Council, “Ukraine Peace Plan Must Not Include Amnesty for Russian War Crimes,” December 2, 2025; Gyunduz Mamedov, “Russia Must Get No Amnesty in Any Peace Deal for Ukraine,” *The Economist*, November 24, 2025.

76 Geneva Convention Relative to the Treatment of Prisoners of War (75 U.N.T.S. 135, Aug. 12, 1949), arts. 129, 130; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, art. 147; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 7; ICRC, IHL Databases, Customary IHL, “Rule 159. Amnesty;” ICRC, IHL Databases, Customary IHL, “Rule 158. Persecution of War Crimes; Andrew Clapham, “We Need to Talk About

Leading international actors have underscored the absolute need for justice in the peace process for Ukraine. According to the UN Commission of Inquiry, to be viable, peace efforts should avoid impunity, meaningfully incorporate judicial and non-judicial accountability, ensure perpetrators are held responsible, and be truly domestically owned.⁷⁷ The Human Rights Commissioner of the Council of Europe has underscored the centrality of human rights in the Ukraine-Russia peace negotiations and stated that “[p]roviding reparations is crucial for a sustainable peace anchored in human rights.”⁷⁸ Reflecting on Russia’s widespread and systematic torture of Ukrainians, the UN Special Rapporteur on Torture has urged “all those involved in peace efforts to make sure that justice and rehabilitation for victims and survivors are embedded in any peace deal.”⁷⁹ The UN-Ukraine framework on countering conflict-related sexual violence (CRSV) in Russia’s aggression stipulates that CRSV responses should be enshrined in any peace agreement, including in its provisions on security and transitional justice.⁸⁰

Transitional justice measures are vital not only for the maintenance of a durable human rights-centered peace in Ukraine, but also for its nuanced design.⁸¹ Inclusive consultations assist with peacebuilding, and transitional justice frameworks are well placed to organize them. From Liberia to Colombia, engagement with various societal groups, including survivors of underreported crimes, indigenous communities, displaced persons, and the diaspora, has informed the modalities of eventual peace accords.⁸² Colombia even made it possible for civil society organizations and victims’ groups to submit written proposals to negotiators and for victims to be seated at the negotiating table.⁸³

Ukraine’s peace negotiation teams must include women and consistently engage with survivors and other civil society groups.⁸⁴ By doing so, in stark contrast to Russia, Kyiv would demonstrate that its vision of peace is nourished by victims’ demands for holistic justice, anchored in human rights considerations (including for those under occupation), and representative of the wider society.

3. Despite the Ongoing Aggression, Crucial Aspects of Ukraine’s Transition Have Already Occurred

Ukraine’s foundational transition has already happened, with two notable milestones. The first took place in the 1990s and early 2000s, when the nation was reinventing itself upon regaining its independence from the collapsed Union of the Soviet Socialist Republics (USSR). The second prong of the transition was the 2013–2014 Revolution of Dignity, when the nation confirmed its pro-European Union (EU) integration path. The geopolitical significance of Ukraine’s decision

Grave Breaches of the Geneva Conventions,” *Opinio Juris*, April 25, 2023; Trial International et al., “Universal Jurisdiction Review 2025,” 6, 10-11; UNGA, *Basic Principles and Guidelines on Remedy and Reparation*, preamble and paras. 3(C), 4, 5, 16.

77 UN Commission of Inquiry: Statement on the Third-Year Mark of Russia’s Full-Scale Invasion of Ukraine; Statement by the Chair of the Independent International Commission of Inquiry on Ukraine, Eric Møse, September 22, 2025.

78 Council of Europe Commissioner for Human Rights, “Human Rights Should Be an Integral Part of Any Peace Talks on Ukraine;” Council of Europe Commissioner for Human Rights, “Report from the High-Level Meeting on Human Rights and the Pathway to Peace in Ukraine,” December 11, 2025, para. 21.

79 Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, “Trends and Developments in the Global Struggle to End Torture,” para. 38.

80 “Framework on Cooperation Between the Government of Ukraine and the UN Prevention and Response to Conflict-Related Sexual Violence,” May 2022, para. X.

81 Priscilla Hayner, “Transitional Justice in Peace Processes: United Nations Policy and Challenges in Practice,” 2022, 11-12.

82 Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, “National Consultations Concerning the Design and Implementation of Transitional Justice Measures,” A/71/567, October 25, 2016, paras. 22, 46.

83 Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, “Participation of Victims in Transitional Justice Measures,” A/HRC/34/62, December 27, 2016, para. 38(d).

84 As of February 2026, most of Kyiv’s delegations have been all-male or predominantly male-led. “Zelenskyy Announces Members of Ukraine’s Delegation to Meeting with Trump in Florida,” *Ukrainska Pravda*, December 20, 2025; “Trilateral Negotiations in Geneva: Zelenskyy Has Appointed Members of Ukraine’s Delegation,” *Ukrinform*, February 13, 2026.

to follow this path cannot be overestimated. It was confirmed by the Kremlin itself: disturbed by protestors' unequivocal ouster of pro-Russian President Viktor Yanukovich, Russia invaded Ukraine in early 2014, occupying Crimea and commencing hostilities in Donbas.⁸⁵

Ukraine may still be grappling with ongoing violence, but the nation has managed to withstand the double onslaught of Russian aggression since 2014 with functioning state institutions, a robust civil society, and, crucially, a vision of a democratic, human rights-centered future worth fighting for.⁸⁶ The vast majority of Ukrainians do not require a post-war transition to see themselves as rights-holders; they already do. Rather, this self-conception will gain new layers with full redress from Russia for the individual, community, and national harms caused and global recognition of Russia's ongoing aspirations for regional dominance.

4. A Holistic Transitional Justice Policy Will Clearly Mark the Beginning of Russia's Aggression as 2014 and Ensure that Survivors from Crimea and Donbas Are Equally Entitled to Redress

Russia's initial aggression against Ukraine in 2014 was tolerated by many international stakeholders, strategically or unintentionally. This is despite the reality that the occupation of Crimea and invasion of Donbas were inextricably linked to the "subjugate or eliminate" strategy fueling Russia's 2022 incursion.⁸⁷ The 2014–2021 phase was largely marked by the same atrocities as the current one, many of which remain unaddressed and now compounded by new, post-2022 violations.

War-affected Crimea and Donbas experienced wide-ranging violations, including unlawful, prolonged, and incommunicado detentions; torture; rape and other forms of sexual violence; enforced disappearances; killings; sham trials; militarization of school curricula and indoctrination of children under occupation; forced conscription; destruction and looting of cultural heritage; indiscriminate attacks on civilian objects; forced passportization (or mass conferral of Russian citizenship); and massive appropriation of property, among others. These violations were well-documented and yet minimally acted upon.⁸⁸ Survivors from Crimea and Donbas, including of highly sensitive crimes like CRSV, were the first to engage in domestic and international advocacy efforts, demanding both reparations and prosecution of Russian perpetrators.⁸⁹

International solidarity with Ukraine has been unparalleled since the all-out invasion in 2022. However, due to the underwhelming response to the initial phase of aggression, as well as other geopolitical realities, several important redress initiatives established post-2022 are currently not available to survivors from Crimea and Donbas.⁹⁰ The differentiation between these two sets of survivors is extremely unfortunate. It contravenes survivors' rights to justice and reparation;

85 Vlad Mykhenenko, "Expert Comment: Putin's War—How Did We Get Here?...Ukraine 2014," *University of Oxford, News and Events*, March 15, 2022.

86 World Bank Website, "Worldwide Governance Indicators, Ukraine," www.worldbank.org/en/publication/worldwide-governance-indicators/interactive-data-access; European Commission, "Ukraine 2023 Report," November 8, 2023, 19.

87 Atlantic Council, "Our Experts Decode the Putin Speech That Launched Russia's Invasion of Ukraine; Mariia Kravchenko, "What Russia Should Do with Ukraine [Translation of a propaganda article by a Russian publication]," *Medium*, April 4, 2022; Timothy Snyder, "Russia's Genocide Handbook," *Substack*, April 8, 2022.

88 ICC OTP, "Report on Preliminary Examination Activities (2018)," December 5, 2018, paras. 75-93.

89 Nassar et al., "Ukraine Study on the Status of and Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence," 52.

90 Council of Europe, Committee of Ministers, *Resolution Establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine*, CM/Res(2023)3, May 12, 2023, Art. 1.1; *Law of Ukraine "On the Compensation for Damaging or Destroying Some Categories of Immovable Property Resulting from Hostilities, Terrorist Acts, Sabotage Acts Caused by the Armed Aggression of the Russian Federation against Ukraine, and the State Registry of Property Damaged or Destroyed as a Result of Hostilities, Terrorist Acts, Sabotage Acts Caused by the Armed Aggression of the Russian Federation against Ukraine"* N 2923-IX, February 23, 2023, preamble; "Statement by Ukrainian Survivor Groups Regarding the International Compensation Mechanism for Victims of Russian Aggression and Its Temporal Scope," December 16, 2025.

unhelpfully separates the devastating consequences emanating from the same source (Russia's aggression); and creates a dangerous environment for possible painful divisions among victim groups and wider social ruptures.

A holistic transitional justice policy in Ukraine would help address this matter. It could clearly state the beginning of Russia's aggression to be 2014, emphasize the equal status of all affected, and prescribe that all justice measures be available to all survivors since 2014. Such a policy indication might not immediately change the scope of post-2022 instruments, but it could guide Kyiv's domestic action and international commitments toward an inclusive and human-centered approach rooted in international law. Emphasizing the suffering of survivors from 2014–2021 in the key umbrella framework on comprehensive justice would also make it more difficult to pressure Kyiv into making concessions, territorial or otherwise, regarding Crimea or Donbas.

5. The Many Transitional Justice Initiatives Already Underway Require a Unifying Guiding Framework

Since 2021, Ukraine has paused its holistic transitional justice policymaking and remained largely silent about a timeline for relaunching this work. Nevertheless, there have been some indications of Kyiv's transitional justice vision along two paths.

The first is through Ukraine's secondary legislation and strategic soft law instruments. Several documents from before and since the full-scale invasion expressly mention transitional justice and prescribe that Ukraine's response to conflict-related atrocities should reflect the field's holistic, mutually-catalyzing, and survivor-centered ethos. These include the following:

- 2025 Draft Activities Plan for the National Action Plan on the Implementation of the UN Security Council Resolution 1325 on Women, Peace and Security for 2026-2030⁹¹
- 2023 Strategic Plan on the Implementation of Powers of the General Prosecutor's Office in the Area of Prosecution for International Crimes for 2023-2025⁹²
- 2022 Framework of Cooperation Between the Government of Ukraine and the UN on Prevention and Response to Conflict-Related Sexual Violence⁹³
- 2021 Crimea De-Occupation and Reintegration Strategy⁹⁴
- 2021 National Human Rights Strategy⁹⁵
- 2020 National Action Plan on the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security until 2025⁹⁶

⁹¹ Draft Activities Plan for the National Action Plan on the Implementation of the UN Security Council Resolution 1325 on Women, Peace and Security for 2026-2030, 2025, section 28.3.

⁹² The Strategic Plan for the Exercise of the Powers of the Prosecutor's Office in the Field of Criminal Prosecution for International Crimes for 2023-2025, 2023.

⁹³ "Framework of Cooperation Between the Government of Ukraine and the UN Prevention and Response to Conflict-Related Sexual Violence," para. X.

⁹⁴ *Order of the President of Ukraine on the Decision of the National Security and Defense Council of Ukraine of 11 March 2021 on the Strategy on the De-Occupation and Reintegration of the Temporary Occupied Territory of the Autonomous Republic of Crimea and the City of Sevastopol* 117/2021, March 24, 2021.

⁹⁵ *Order of the President of Ukraine on the National Human Rights Strategy* 119/2021, March 24, 2021. Both this and the Crimea De-Occupation and Reintegration Strategy were symbolically enacted by the president on the same day to emphasize that restoring control over Crimea and addressing atrocities perpetrated by the occupying authorities there are indispensable to Ukraine's wider thinking on rule of law and human rights.

⁹⁶ The National Action Plan specifies its support for transitional justice, which is to be implemented on the basis of equal rights and opportunities for women and men. *Order of the Cabinet of Ministers of Ukraine on the Approval of the National Action Plan on the Implementation of the UN Security Council Resolution 1325 on Women, Peace, and Security for the period until 2025* 1544-r, October 28, 2020, General Issues, Strategic Goal 3.

The second path is through Ukraine's solidifying reparations framework. Government actors, civil society organizations, and survivor groups have worked together to develop reparations programs that complement existing truth-seeking and memorialization initiatives (both largely civil society-led) in expanding Ukraine's responses to atrocities beyond the criminal justice domain. Kyiv's urgent interim reparations for CRSV survivors have helped alleviate some of survivors' most pressing trauma-related issues.⁹⁷ While the scheme can currently only offer a one-time and relatively modest compensation sum of EUR 3,000, the victim-sensitive application process and immediate tangibility of the support it offers have made the program truly meaningful for survivors.⁹⁸ Ukraine and the Council of Europe also launched the Register of Damage to record various harms caused by Russia's aggression and the Claims Commission, which, when fully operational, will assess and redress injuries, including those suffered by individuals.⁹⁹ These and other mechanisms have enabled Ukrainian survivors to start exercising their right to reparation—an inherent component of transitional justice.

6. Ukraine Already Has Solid Expertise in Transitional Justice

Ukraine's proactive civil society and certain state authorities have consistently worked on various matters of transitional justice since the early years of Russia's initial invasion. As mentioned, Ukrainian human rights lawyers and academics activated the calls for a more diverse approach to conflict-related matters both domestically and in their interaction with international partners.¹⁰⁰ NGO lawyers who have consistently worked with atrocity survivors, prosecutors developing conflict-related proceedings, visionary state officials, and legal scholars were the driving force behind the draft Transitional Justice Roadmap.¹⁰¹ All instruments mentioning transitional justice discussed in the section above have been developed through similar multi-stakeholder collaboration. Human rights NGOs and victim groups have been the principled and determined advocates for urgent interim reparations for CRSV survivors and for the more sustainable funding of wider reparations.¹⁰²

Ukraine possesses rich expertise in transitional justice, which is amplified by national actors' unique intimate knowledge of the local context and commitment to making a meaningful, human-centric, and sustainable change there. Any action by Kyiv to revitalize transitional justice policymaking and respective international support should engage with this ample domestic expertise.

7. An Overarching Transitional Justice Policy Will Define Key Concepts for Victim-Centered Justice

Victim centricity is a foundational aspect of any comprehensive transitional justice policy. For transitional justice initiatives to operate transparently, legitimately, and effectively, victims must be empowered to meaningfully participate in all stages of their design and implementation.¹⁰³ Otherwise, these initiatives will neither accurately reflect nor adequately respond to victims' needs and demands. Moreover, involving victims throughout the transitional justice process could help Ukraine on its journey to consolidate a democratic, pluralistic, and inclusive society.

97 Ukraine Government Portal, "United for Justice: Ukraine Summarises its Presidency of the International Alliance on Preventing Sexual Violence in Conflict," November 26, 2025.

98 UN Women Ukraine, "Daria Zymenko: For Me, Interim Reparations Are Primarily About Restoring Trust," April 9, 2025.

99 *Ad Hoc Committee on the Establishment of an International Claims Commission for Ukraine (CAHEC) – Draft Convention Establishing an International Claims Commission for Ukraine*, October 22, 2025.

100 Alina Pavliuk, "Transitional Justice: Practice for Ukrainian Jurists," *Yurydychna Hazeta*, June 7, 2017.

101 Order of the President of Ukraine on the Law Reform Commission 584/2019, August 7, 2019.

102 Ukrainian Women Lawyers Association "JurFem," "Public Consultations on Draft Law No. 10132 on Urgent Interim Reparations for Survivors of CRSV," May 21, 2024.

103 Kelli Muddell and Anna Myriam Roccatello, ICTJ, "Reflections on Victim-Centered Accountability in Ukraine," February 2023, 12.

Different prongs of Ukraine's response to aggression-related harms thus far have demonstrated varying degrees of maturity and victim centricity. State and civil society collaborations have been particularly strong in documenting atrocities, building domestic prosecutions, making submissions to the ICC and other countries (for universal jurisdiction proceedings), and elaborating reparations. Responses to CRSV through prosecutions, reparations, and public outreach have been particularly well thought, as they have been developed with strong engagement from survivors.

A sense of urgency and the multi-stakeholder nature of these initiatives were integral to ensuring a high degree of victim centeredness and close adherence to foundational international legal standards and best practices. Unfortunately, many other important initiatives, especially those concerning truth seeking, memorialization, institutional reforms, and guarantees of non-repetition, are yet to demonstrate similar sensitivity.

The very ethos of victim centricity calls for a concerted and harmonized approach across all accountability initiatives. A holistic transitional justice policy would list and define the foundational principles and concepts that should inform any accountability response to conflict-related suffering, regardless of the modality (prosecutions, truth seeking, etc.), type of atrocity, or level of implementation (state, regional, or local). At the very least, Ukraine's transitional justice policy should define and underscore the importance of the following concepts:

- victim centricity
- gender competence
- trauma-informed approach
- best interests of the child
- disability sensitivity
- intersectionality

A uniform approach to such foundational principles in a national transitional justice policy would ensure their coherent consideration across justice measures, rendering them more victim-centered and effective.

8. Even the Most Well-Functioning Criminal Justice System Would Not Be Able to Effectively Address 219,000+ Atrocity-Related Proceedings on a Case-by-Case Basis¹⁰⁴

No single transitional justice measure—be it truth seeking, vetting, prosecutions, reparations, or memorialization—could ever individually address the entire spectrum of atrocities in a particular situation.¹⁰⁵ The very complex nature of most, if not all, transitional justice contexts calls for a concerted and multipronged response.

Ukrainian criminal justice professionals have been exceptional in their willingness to advance, as much as possible, war crime prosecutions amid constant shelling, electricity disruptions, daily existential strain, and the inaccessibility of major evidence in the temporarily occupied territories. However, the sheer number and complexity of the crimes in question, along with

¹⁰⁴ As of March 2026. Please see regular official updates on the number of conflict-related proceedings on the website of the Office of the Prosecutor General of Ukraine, <https://gp.gov.ua/en>.

¹⁰⁵ "Lecture on Transitional Justice by UN Special Rapporteur Pablo de Greiff."

factors such as the length of proceedings, victims' overcautiousness about engaging with criminal justice professionals, and, importantly, the pressing needs of survivors regarding health care, truth seeking, housing, education, and professional opportunities, call for a more holistic approach.

The acute mental and physical harms experienced by survivors of torture and CRSV in Russian detention or under occupation require immediate support through urgent interim reparations, which should be parallel to, not conditioned upon, criminal proceedings. A layered truth-seeking strategy will help bring to the fore the more intricate stories of life, resistance, and survival under occupation, as well as of the unique plights of families of servicepersons and the disappeared, among others. The complexity of these sorts of patterns, themes, and stories demands greater treatment than criminal proceedings alone can provide. Approaching these matters with a complementary set of non-judicial measures will provide stronger, more timely support to survivors and solidify Ukraine's social cohesion.

9. Certain Socially Delicate Issues, Such as Collaboration and Support for Children Born from CRSV, Are Best Addressed via Transitional Justice Mechanisms

No form of pain caused by war is easy to remedy, yet some ruptures are particularly difficult to heal. For example, wartime collaboration has historically been a difficult issue to address, socially, politically, and legally.¹⁰⁶ Likewise, the experiences of Bosnian, Congolese, Ugandan, and Yazidi survivors have shown that bearing and raising children conceived from acts of CRSV have also been particularly characterized by stigma, ostracization, and fear of reprisals.¹⁰⁷ The international understanding of the victimization of children born out of CRSV, as well as the implications for other siblings and family lines as a whole, is still only burgeoning.¹⁰⁸

Ukraine is grappling with these and many other socially delicate and potentially divisive issues. Transitional justice approaches may be most suitable for engaging with such topics in a holistic and unifying manner.

Many international and civil society actors have raised concerns that Kyiv's prosecutorial approach to wartime collaboration has been unrealistic about people's survival instincts under occupation and, thus, overly stringent.¹⁰⁹ The Council of Europe's Commissioner for Human Rights has expressly stated that transitional justice could help Ukraine address collaboration "in a sustainable way."¹¹⁰ Leading Ukrainian and international human rights organizations have advocated for replacing the "overly criminalized" approach to collaboration with vetting and other transitional justice measures that can acknowledge the hardship faced under occupation.¹¹¹ Failing to do so would gravely fracture Ukraine's social cohesion and undermine the prospect of dialogue and reconciliation among Ukrainians with different wartime experiences.

106 Shane Darcy, *To Seve the Enemy: Informers, Collaborators, and the Laws of Armed Conflict* (Oxford: Oxford University Press, 2019).

107 Judy Mionki, "Symposium on Reproductive Violence in International Law: Legal Recognition of Children Born of Conflict-Related Sexual Violence in International Criminal Law," *Opinio Juris*, June 5, 2024.

108 Special Representative of the Secretary-General on Sexual Violence in Conflict, "Remarks for CSW69 Side-Event: The Forgotten Victims: Addressing CRSV and Children Born of Wartime Rape," March 13, 2025.

109 OHCHR, "Human Rights Situation During the Russian Occupation of the Territory of Ukraine and Its Aftermath: 24 February 2022 - 31 December 2023," paras. 167-168, 170.

110 Council of Europe Commissioner for Human Rights, "Report from the High-Level Meeting on Human Rights and the Pathway to Peace in Ukraine," para. 18.

111 Ukrainian stakeholders use the word "lustration" as synonymous to "vetting," the latter of which is more common internationally. This terminological preference reflects the historical usage of the term established during and after the Central and Eastern European transitions in the 1980-90s. Human Rights Centre ZMINA, "68% of Ukrainians Support Lustration as a Tool for Restoring Justice—Poll," May 4, 2025; Human Rights Watch, "All She Did Was Help People: Flawed Anti-Collaboration Legislation in Ukraine," December 5, 2024.

Ukraine's recognition of children born out of CRSV as victims entitled to reparations is greatly commendable.¹¹² However, the implementation of this right in practice requires broad consultations, nuanced policymaking, and exceptionally delicate public awareness campaigns. Community dialogues, targeted truth seeking, and memorialization would greatly help in this process. These measures would carefully unfold different levels of harm experienced by female survivors of rape, children born out of this violence, and their family units. A failure to engage with those immediately affected, their local communities, and the wider Ukrainian society on this highly sensitive matter would perpetuate stigma, ostracization, and transgenerational harm. On the contrary, a layered transitional justice approach to children born out of CRSV would gradually and empathetically contour their visibility, give life to their right to reparation, and ensure that those reparations are truly transformative. Respective reparative and protective measures should ensure that such children are not discriminated against, legally or otherwise, regarding citizenship, civil status, education and job opportunities. Such wider protective measures should also safeguard the mothers' right to choose, provide mental health and psychosocial support and—if required—additional resources to the mothers and families where such children are born (or when they decided to interrupt pregnancy), and ensure that an overall well-equipped monitoring system is in place within social services.

10. International Institutions and Kyiv's Key International Partners Support Transitional Justice for Ukraine

Numerous international stakeholders support the gradual introduction of transitional justice measures for war-affected Ukraine.

The UN Commission of Inquiry has noted the persistent advocacy for both criminal and non-judicial forms of accountability since long before the full-scale invasion and commended the urgent interim reparations for CRSV survivors.¹¹³ The commission has called upon Ukraine and its international partners to take further “actionable steps” regarding the right to truth, reparation, and guarantees of non-recurrence.¹¹⁴ While it has not expressly mentioned the wording “transitional justice,” it has been clearly and consistently advancing the same core elements for Ukraine since the outset of its mandate.

The UN Human Rights Monitoring Mission in Ukraine recommends that Kyiv “adopt a comprehensive approach to accountability,” with truth seeking as its primary element.¹¹⁵ The mission backed its recommendation with a reference to the UN Secretary-General's Guidance Note, “Transitional Justice: A Strategic Tool for People, Prevention and Peace.”¹¹⁶ It has also consistently called on Russia and Ukraine to ensure victims' rights to truth, justice, and reparations.¹¹⁷

The European Union Advisory Mission (EUAM) in Ukraine also supports holistic accountability for the country. It has facilitated crucial work on victim sensitivity, informed approaches to

¹¹² *Law of Ukraine on Legal and Social Protection of Survivors of Sexual Violence Perpetrated in connection with the Armed Aggression of the Russian Federation against Ukraine and Providing Urgent Interim Reparations to Them* 4067-IX, November 20, 2024, Art. 1.1-5.

¹¹³ Conference Room Paper of the Independent International Commission of Inquiry on Ukraine, paras. 958, 968, 973.

¹¹⁴ *Ibid.*, para. 989; Report of the Independent International Commission of Inquiry on Ukraine, March 11, 2025, paras. 80, 85(a).

¹¹⁵ OHCHR, “Human Rights Situation During the Russian Occupation of the Territory of Ukraine and Its Aftermath,” para. 187.

¹¹⁶ *Ibid.*, para. 187, footnote 181.

¹¹⁷ OHCHR, “Report on the Human Rights Situation in Ukraine: 1 February-31 July 2023,” para. 143(d). OHCHR, “Report on the Human Rights Situation in Ukraine: 1 August 2023-30 November 2023,” para. 96(c).

collaboration, and timely and sustainable reparations for atrocity survivors.¹¹⁸ In 2025, EUAM was hiring a Senior Advisor on Transitional Justice to “support local authorities in drafting legislation in the area of transitional justice,” among other duties.¹¹⁹

The EU’s Ukraine Support Loan envisages that a portion of its funding could be used to finance compensation as a form of reparations for survivors.¹²⁰

While the Council of Europe’s Commissioner for Human Rights believes the full application of transitional justice might currently be premature, he supports using “its lens of justice that rebuilds,” especially regarding collaboration.¹²¹ The Commissioner also supports reparations and “appropriate formats of truth-telling,” both of which are quintessential transitional justice elements.¹²²

The multi-stakeholder group of policymakers, judges, prosecutors, lawyers, human rights NGOs, academics, and regional and international organizations gathered at Wilton Park recommended that Ukraine revive its holistic transitional justice policymaking as a pathway to truly victim-centered accountability.¹²³

As envisioned by these and other actors, a comprehensive approach to conflict-related justice in Ukraine would enhance the cohesion of accountability measures. Activities led by various international and domestic actors in Ukraine are currently fragmented and duplicative. A holistic justice framework would emphasize the urgent need for coordination of efforts and provide guidance on doing so. Such an approach would ensure a more cost-effective use of the resources generously provided by Kyiv’s partners and maximize their impact for survivors and the wider Ukrainian society.

11. Transitional Justice Is a Crucial Component of Ukraine’s EU Accession

Joining the EU has long been an uncompromisable priority for Ukraine, as poignantly demonstrated by the country’s Revolution of Dignity.¹²⁴ Relevantly, the EU considers transitional justice to be a priority in its enlargement process.¹²⁵ Likewise, the Council of Europe’s Human Rights Commissioner has underscored that Ukraine’s EU accession path and any peace agreement should bear human rights obligations in mind and that “these two important sets of commitments will need to be aligned and cross-referenced.”¹²⁶

The 2014 EU-Ukraine Association Agreement contains several provisions that could be satisfied with nuanced transitional justice measures. Such provisions concern enhancing rule of law and

118 EUAM, “Ukraine Looks for Tools to Support Recovery Amid War,” May 28, 2025; EUAM, “What Do You Need to Prove to Call Someone a Collaborator? An International Law Expert Explains,” September 18, 2025; EUAM, “Ukraine’s Struggle for Justice: Balancing Hope and Realism for War Victims,” June 14, 2024.

119 European External Action Service, Annex 1, Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine), 1-2025 Call for Contributions, 2, 65-66.

120 “Parliament Approves €90 Billion Ukraine Support Loan Package,” *European Parliament News*, February 11, 2026; Council of the European Union, “Regulations of the European Parliament and of the Council Implementing Enhanced Cooperation on the Establishment of the Ukraine Support Loan for 2026 and 2027,” 5942/26, February 4, 2026, para. 24.

121 Council of Europe Commissioner for Human Rights, “Report from the High-Level Meeting on Human Rights and the Pathway to Peace in Ukraine,” para. 18.

122 *Ibid.*, para. 23.

123 Wilton Park is an executive agency of the United Kingdom’s Foreign, Commonwealth, and Development Office, which supports foreign policy development across a range of issues, including security, trade, development, and diplomacy. Wilton Park, “Action on Accountability: The Pursuit of Criminal Justice for Ukraine,” July 2025.

124 Kate Tsurkan, “How Ukrainian Identity Evolved Since the Revolution of Dignity,” *The Kyiv Independent*, November 21, 2023.

125 The EU’s Policy Framework on Support to Transitional Justice, 17.

126 Council of Europe Commissioner for Human Rights, “Human Rights Should Be an Integral Part of Any Peace Talks on Ukraine.”

respect for human rights.¹²⁷ Neither would be solid without ensuring survivors' rights to truth and reparations. Additional elements that would help solidify Ukraine's human rights-centered standing with the EU include conflict-related criminal justice proceedings reflecting fair trial guarantees, security sector reform with meaningful civilian oversight, and vetting procedures for alleged collaborators that respect due process.¹²⁸

The full implementation of all measures necessary to address conflict-related violations will take years. This timeline should not postpone Ukraine's accession to the EU. Both Kyiv and the EU should agree that the gradual implementation of transitional justice initiatives is a pathway to membership. They should also clearly define which of these initiatives must be completed before accession.¹²⁹

12. Ukraine's Transitional Justice Process Will Catalyze Transitions in Belarus and Russia and Help Counter Russia's Pervasive Propaganda Machine

The established view of transitional justice's historical development includes Central and Eastern European transitions. However, transitional justice practices such as vetting, security sector reforms, and access to state archives were largely developed by the former Warsaw Pact nations, such as Czechoslovakia (now the Czech Republic and Slovakia), Poland, and East Germany (now the reunited Federal Republic of Germany). Apart from the Baltic states, any reckoning with the abusive communist past in the former Soviet nations has been limited. This is particularly true for Russia.

Russia has criminalized the critical examination of World War II and the Nuremberg Trials and hindered the uncovering of facts about crimes committed by the Soviet and current Russian regimes.¹³⁰ A group of UN experts summarized the larger structural problem: "No official [Russian] body has ever been mandated to establish, in an open and transparent manner, a full public record, and thus public memory, of the atrocities."¹³¹ Moscow's crackdown on the critical examination of history, commemoration of survivors, and the wider activities of human rights defenders has been increasing in response to Kyiv's alienation from the Kremlin and the beginning of Russia's aggression in 2014.¹³² Since 2022, Moscow has amplified both the acute disinformation justifying its invasion and the hateful rhetoric inviting violence against Ukrainians.¹³³ According to the UN Commission of Inquiry and the Parliamentary Assembly of the Council of Europe, such rhetoric may amount to direct and public incitement to genocide.¹³⁴

127 Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (2014) 22014A0529(01), Arts. 2(e), 14.

128 EUAM, "Ukraine's Struggle for Justice: Balancing Hope and Realism for War Victims," June 14, 2024.

129 Oleksandr Kliuzhev and Diana Deputat, Human Rights Centre ZMINA, "European Integration of Ukraine: New Instruments and Incentives to Ensure the Rights and Opportunities of Internally Displaced Persons and Residents of the Temporarily Occupied Territories of Ukraine," 2025, 20-22.

130 Council of Europe Commissioner for Human Rights, "Statement: The Liquidation of Memorial NGOs Is a Harsh Blow to Human Rights Protection in Russia," December 29, 2021; Francine Hirsch, "Putin's Memory Laws Set the Stage for His War in Ukraine," *Lawfare*, February 28, 2022.

131 OHCHR, Press Briefing Notes, "Russia: UN Experts Raise Fair Trial Concerns Over Case of Gulag Historian Yuri Alexeevich Dmitriev," February 1, 2021.

132 Andrew Roth, "Russian Court Orders Closure of Country's Oldest Human Rights Group," *The Guardian*, December 28, 2021; Human Rights Watch, "Russia: Rights Researcher's Trial Raises Serious Concerns," July 21, 2020; Kateryna Busol, "Russia's Aggression Against Ukraine and the Idealised Symbolism of Nuremberg," *EJIL: Talk!* June 16, 2022.

133 Vladimir Putin, "On the Historical Unity of Russians and Ukrainians," July 12, 2021, 13; Atlantic Council, "Our Experts Decode the Putin Speech That Launched Russia's Invasion of Ukraine," February 22, 2023; Clara Apt, "Russia's Eliminationist Rhetoric Against Ukraine: A Collection," *Just Security*, February 14, 2023; Kravchenko, "What Russia Should Do with Ukraine [Translation of a propaganda article by a Russian publication]."

134 "Conference Room Paper of the Independent International Commission of Inquiry on Ukraine," para. 774; Oral Update of the Independent International Commission of Inquiry on Ukraine, Human Rights Council, 54th session, September 23, 2023, 3; Report of the Independent International Commission of Inquiry on Ukraine, A/HRC/55/66, 5 March 2024, para. 98; PACE, Resolution 2556 "Legal and Human Rights Aspects of the Russian Federation's Aggression Against Ukraine," June 26, 2024, para. 5.

A comprehensive transitional justice process in Ukraine would provide a nuanced antidote to the Kremlin's distortive narratives. Kyiv's path to justice could also inspire overdue transformations in other post-Soviet societies, especially concerning memorialization initiatives and redress for atrocity survivors. Ukraine's consideration of the undercurrents, enablers, and harms caused by the Kremlin's ongoing aggression could galvanize a wider reckoning with the past and its lingering repercussions in Russia, Belarus, and the wider post-Soviet region. Ukrainian civil society's leading role in this process could inspire their Russian, Belarusian, and other regional counterparts to confront their respective legacies of oppression and complicity under the Soviet and current regimes and to responsibly and proactively advance a transformative vision of a democratic and human rights-centered future.

13. Transitional Justice Is a Meaningful Area for Ukraine's Constructive Engagement with the Global Majority Nations

During imperial and Soviet times, Moscow was a dominant regional voice in Latin America, Africa, and Southeast Asia. Since the collapse of the Soviet Union, Russia has resolved to maintain its geopolitical, economic, and, crucially, narrative grasp in those regions. As the formal successor of the USSR, Moscow inherited its embassies and other logistical infrastructure in the Global South. It has also consistently invested in multilayered disinformation campaigns targeting these countries' domestic policies, relationships with Western nations, and views of the Kremlin's invasion of Ukraine.¹³⁵

Ukraine is only now developing direct, nuanced relationships with Global Majority nations. This requires substantial resources, which are ever more limited amid the cost of the daily existential standoff to Moscow's aggression. Still, Kyiv has managed to open new embassies across Africa, Asia, and Latin America to facilitate direct interactions. The Ukrainian government has proactively invited policymakers and civil society groups from Global Majority countries to visit and witness the devastating consequences of Russia's aggression firsthand.¹³⁶ Ukraine's human rights organizations have increased their visits to Global Majority nations and regularly host counterparts from those countries in Ukraine to discuss ways to confront and address painful histories and lingering fractures of colonialism.¹³⁷

Matters of transitional justice could be particularly relevant for Ukraine's genuine and constructive exchange with Global Majority nations. Latin American countries pioneered the first domestic atrocity trials. They thus have experience navigating the complex balancing act between prosecutions and truth-seeking initiatives and confronting the social setbacks of controversial amnesties. Argentina, Chile, Uruguay and other countries affected by junta-era child abductions could advise Ukraine on the recovery and return of Russia-deported Ukrainian children in keeping with the principle of the best interests of the child. Rwanda and South Africa could provide insights into non-judicial accountability measures. East Timor is one of the few nations to be able to discuss with Ukraine the complexities of transitional justice in situations of occupation. And Colombia's Special Jurisdiction for Peace (JEP)—a tribunal created through the 2016 peace agreement to investigate, prosecute, and sanction the most serious crimes committed during the country's five decades of conflict—could offer additional lessons. Even though JEP is dealing with an internal armed conflict, its jurisprudence could be instructive on mitigating

135 Natalie Sabanadze, Chatham House, "Russia is Using the Soviet Playbook in the Global South to Challenge the West – And It Is Working," May 16, 2024; David Ehl and Monir Ghaedi, "Russian Propaganda: How Moscow Uses Disinformation in Africa," *DW*, March 2, 2025; Reporters Without Borders, "The Propaganda Monitor."

136 Ministry of Foreign Affairs of Ukraine, "MFA Organized a Press Tour of Journalists from African Countries to Ukraine," December 11, 2025.

137 Ukrainian World Congress (UWC), "UWC President Begins South American Mission," August 3, 2024; Crimea Platform, "International Conference: Crimea Global. Understanding Ukraine Through the South;" Hlonipha Mokoena, Human Rights Centre ZMINA, "Reconciliation Never Ends: On the Challenges of Decolonization in South Africa," January 31, 2026.

considerations, alternative punishments, and restorative justice, all of which could inform Kyiv's approach to alleged collaborators, low-ranking perpetrators, enablers, or profiteers.

Engagement between Ukraine and Global Majority nations on transitional justice matters would be focused, mutually beneficial, and reflective of the changing geopolitical environment.¹³⁸ It would also align with the EU's transitional justice priorities, globally and in the African continent.¹³⁹

14. Transitional Justice in Ukraine Will Inform a Global Reframing of the Field, Especially Regarding Early Implementation of Transitional Justice Measures and Their Applicability to Interstate and Transnational Contexts

Ukraine's transitional justice response to Russia's aggression could guide further development of transitional justice as a field, deepening its victim centricity in practice.

First, following the Colombian and Syrian examples, Kyiv's experience would further normalize the early application of a transitional justice process.¹⁴⁰ Leading international actors (including OHCHR and the Council of Europe's Human Rights Commissioner), domestic stakeholders, and survivors have commended Ukraine's urgent interim reparations measures for CRSV victims.¹⁴¹ The Human Rights Commissioner expressly noted that Kyiv's advancements in this regard will reverberate globally.¹⁴²

Second, Ukraine's approach to reparations is innovative not only for its early implementation but also for proving that the non-availability of redress from a wrongdoer is not an excuse for inaction. Kyiv, its international partners, and human rights NGOs stepped in to provide immediate support to survivors while reparations from Russia are pending. This victim-centered action embodies a practical implementation of the UN Guidelines on Remedy and Reparation, which invite national reparations programs even when "the parties liable for the harm suffered are unable or unwilling to meet their obligations."¹⁴³

Finally, Ukraine's dedication to holistic accountability would reinforce the relevance of transitional justice to situations of military aggression, international armed conflicts, and occupation. While it is true that international transitional justice processes are distinctive as compared to the norm, it is also true that any case of armed conflict or dictatorship—internal or otherwise—is unique. The particular nature of the context should inform the choice, timing, and harmonization of transitional justice measures but not cast doubt as to the relevance of holistic justice altogether. Furthermore, Russia's aggression against Ukraine is indicative of an overall increase of transnational harms globally. Environmental destruction, food insecurity, undermined labor opportunities, catalyzed international human trafficking for forced enlistment, and emergency-related migration are global spillovers of once seemingly local or regional issues. Ukraine's nuanced consideration of such harms and their global reverberation would inform and strengthen transitional justice's systemwide vision and proposed responses to other contexts.

138 Alexander Stubb, *The Triangle of Power: Rebalancing the New World Order* (Columbia Global Reports, 2026).

139 The EU's Policy Framework on Support to Transitional Justice; African Union Political Affairs, Peace and Security Department, "AU-EU Expert Seminar on Transitional Justice Concludes with Renewed Commitment to Advance Reparations," June 28, 2025.

140 Media Initiative for Human Rights, "'The Country Is Still Fragmented:' Syria After the Power Shift and New Outbreaks of Violence," February 2, 2026.

141 OHCHR, "Human Rights and Transitional Justice," A/HRC/58/36, January 9, 2025, paras. 49-50; Global Survivors Fund, "Ukraine's Urgent Interim Reparations."

142 Council of Europe Commissioner for Human Rights, "Report from the High-Level Meeting on Human Rights and the Pathway to Peace in Ukraine," para. 25.

143 UNGA, *Basic Principles and Guidelines on Remedy and Reparation*, para. 16.

Conclusion

Ukrainian survivors, civil society organizations, and the government have already begun to develop robust justice responses to Russia's atrocities, even amid daily shelling and ongoing hostilities. These responses could and should be strengthened further by expanding all dimensions of accountability, both judicial and non-judicial.

Ukraine should revitalize its holistic transitional justice policymaking to ensure equal support for and mutual complementarity of reparations, prosecutions, truth seeking, memorialization, and institutional reforms. A holistic framework would explain the core principles of victim centricity, gender competence, intersectionality, trauma-informed approach, and the best interests of the child, all of which should guide Ukraine's recovery and transitional justice process. A comprehensive transitional justice policy would also clearly mark the beginning of Russia's aggression as 2014. In doing so, it would emphasize that all justice measures, including urgent interim reparations, should be available for all survivors affected since the initial invasion of Crimea and Donbas, not only since 2022.

A comprehensive transitional justice framework would help clearly articulate Ukraine's mid- and long-term vision to international partners, contributing to better coordination and strategic use of ever-decreasing resources.

Ultimately and fundamentally, Ukraine needs to develop a holistic transitional justice vision because it is required by those who have been most affected: survivors of Russia's ruthless crimes. For them and for the wider Ukrainian society, accountability for Russian leadership and direct perpetrators of violations, as well as other nuanced, victim-centered transitional justice measures are prerequisites to a just and sustainable peace. Such a framework should be revisited and sharpened at some turning points of the ongoing aggression such as a ceasefire or wider settlement, if and when they happen. However, the mere possibility of such pivotal points some time in future does not negate the relevance of a holistic survivor- and human-centric justice vision now.

The initiation of layered, victim-centered justice will pave the way for Ukraine's wider transformation. This transformation will ripen fully with a just and sustainable peace, actionable security guarantees, human-centered and environmentally conscious post-war economic recovery, solidification of transparent and resilient democratic institutions, and Ukraine's membership in the EU.

Policy Recommendations

To the Ukrainian government:

- Develop a holistic transitional justice policy.
- Recognize the objective limitations of such a policy amid ongoing hostilities and ensure its reconsideration at some turning points in the ongoing aggression such as a ceasefire or a wider settlement, to better reflect and address the new realities.
- Ensure that a holistic policy defines key guiding concepts and principles such as victim-centricity, gender competence, disability sensitivity, intersectionality, trauma-informed approach, best interests of the child, and others, which should inform any response to conflict-related atrocities.
- Consider the draft Transitional Justice Roadmap and recommendations of its drafters and reviewers to develop further a holistic justice policy.
- Consult Ukraine's civil society, survivor groups, and academics with established expertise in transitional justice, at all stages of respective policymaking and implementation.
- Support and expand existing holistic justice measures such as urgent interim reparations, which should be made available to all atrocity survivors.
- Designate a portion of the EU Ukraine Support Loan to fund reparations for survivors.
- Constantly signal to international partners and emerging international justice mechanisms that respective redress measures should be available to all victims of violations since the beginning of Russia's aggression in 2014.
- Proactively engage with the Global Majority countries on transitional justice issues, especially regarding the identification of deported children, support for children born of CRSV, restorative approaches to collaboration, and truth seeking.

To Ukraine's international partners:

- Support the revitalization of Ukraine's holistic transitional justice policymaking.
- Ensure that, at all stages, any technical assistance provided for Kyiv's transitional justice

policymaking engages with Ukraine's rich domestic expertise, especially that of civil society and academia.

- Ensure that both domestic and international justice measures include survivors from the beginning of Russia's aggression in 2014, not only since the full-scale invasion of 2022.
- Encourage the Ukrainian government to designate a portion of the EU Ukraine Support Loan to fund reparations for atrocity survivors.
- View Ukraine's transitional justice efforts as an important component of Ukraine's integration with the EU.
- Recognize that the full, nuanced implementation of transitional justice measures takes a long time and define which transitional justice steps are absolute preconditions for Ukraine's EU membership.
- Support the engagement of Ukraine's state institutions, civil society, survivor groups, and academia with counterparts from the Global Majority countries that have a rich transitional justice experience, thereby bridging at least some global geopolitical divides.
- Ensure that Ukraine's innovative early introduction of transitional justice measures in response to military aggression, international armed conflict, and occupation is disseminated widely, to inform the progressive development of the transitional justice field and the use of its tools by other countries and survivors.

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