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TRANSITIONAL JUSTICE IN THE CONTEXT OF INTERNATIONAL ARMED CONFLICTS AND COLONISATION: PATH FOR UKRAINE

16 July, 16.00 – 18.00 Kyiv / 15.00 – 17.00 CET / 9.00 – 11.00 Toronto

Event concept

Format: online with registration through the UBA's website

Languages: English / Ukrainian with simultaneous interpretation

Objectives: Since 2014, Ukraine has been engaged in an international armed conflict with the Russian Federation. To effectively address the long-term consequences of the war, it is imperative that Ukraine adopts and implements a comprehensive transitional justice framework.

The Government of Ukraine has taken important steps to advance accountability, provide reparations, promote memorialisation, and ensure guarantees of non-recurrence. While these initiatives reflect a strong commitment to justice, they have so far been implemented as separate measures. Integrating them into a comprehensive and coordinated transitional justice framework presents an opportunity to amplify their overall impact.

At the same time, transitional justice is sometimes viewed within Ukraine primarily through the lens of experiences from internal conflicts or regime transitions. This has contributed to a perception that such frameworks may not be directly applicable in the context of an international armed conflict. Addressing this perception is important for fostering a more holistic and effective approach to justice and reconciliation.

Looking ahead, it will be essential to further develop a context-specific vision of transitional justice that responds to Ukraine's unique experience of conflict. Such an approach can bridge both domestic and international dimensions of accountability and support broader processes of societal healing.

While transitional justice is most commonly associated with post-authoritarian or post-civil war settings, its principles and mechanisms are equally relevant when addressing serious violations of international humanitarian and human rights law committed during international armed conflicts, especially when international crimes were committed by occupying powers or invading forces; there is a need for truth-seeking, accountability, reparations, and institutional reform following foreign occupation or military aggression; and the post-conflict context involves state reconstruction, reconciliation, or restoring sovereignty.

As it was noted by the UN, "the potential of transitional justice as a strategic policy tool... is often underutilized by States and other stakeholders". Indeed, transitional justice applied in a variety of contexts: post-authoritarian transitions, weakly institutionalized post-conflict settings, contexts of

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ongoing conflict, situations affected by terrorism or violent extremism, stagnating political transitions, and even well-established democracies dealing with historical injustices.¹

Additionally, transitional justice can play a vital role in addressing human rights violations committed within the broader context of colonisation². This dimension is particularly relevant and should be further explored in relation to the Russian Federation's war against Ukraine, especially in light of historical patterns of domination, suppression of identity, and cultural erasure in occupied territories.

While international experience in implementing transitional justice offers invaluable insights, Ukraine is embarking on its own distinct path. The gravity of the atrocity crimes committed during the ongoing war, the geopolitical weight of the Russian Federation as the aggressor, and the unprecedented scale and duration of the armed conflict all contribute to shaping a transitional justice experience that is uniquely Ukrainian. These factors not only demand innovative approaches tailored to the country's specific context, but may also position Ukraine as a pioneer in expanding the scope and application of transitional justice in the setting of active international armed conflict.

The focus of the discussion:

- Why Ukraine needs transitional justice now — not after the war
- Transitional justice in the context of international armed conflicts and colonisation v. civil conflicts: bridging the conceptual gap
- Accountability and institutional reform in times of war
- Soviet legacy and the war: addressing historical injustices through a transitional justice lens

¹ United Nations. (n.d.). *Guidance note of the Secretary-General: Transitional Justice. A Strategic Tool for People, Prevention and Peace*. United Nations.

https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf

² United Nations General Assembly. (2021). *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli. Transitional justice measures and addressing the legacy of gross violations of human rights and international humanitarian law committed in colonial contexts* (A/76/180). <https://docs.un.org/en/A/76/180>

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Draft agenda

Moderator: Inna Liniova , Director of the Human Rights Institute, Ukrainian Bar Association	
16.00 – 16.20	Opening remarks <ul style="list-style-type: none">– Ms Iryna Mudra, Deputy Head of the Office of the President of Ukraine (tbc)– Mr Mykola Stetsenko, President of the Ukrainian Bar Association
16.20 – 16.40	Keynote address Mr. Bernard Duhaime , Special UN Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence <i>Transitional justice in the context of international armed conflicts and colonisation</i>
16.40 – 17.00	ICTJ representative (tbc) <i>Transitional justice in protracted conflicts: global lessons for Ukraine</i>
17.00 – 17.20	Anton Korynevych , Director of the Department of International Law of the Ministry of Foreign Affairs of Ukraine, Ambassador-at-Large, Ukraine's agent at the International Court of Justice (tbc) <i>Hybrid Approaches to Justice: Can Ukraine Pioneer a New Transitional Justice Model?</i>
17.20 – 18.00	Questions and answers session

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