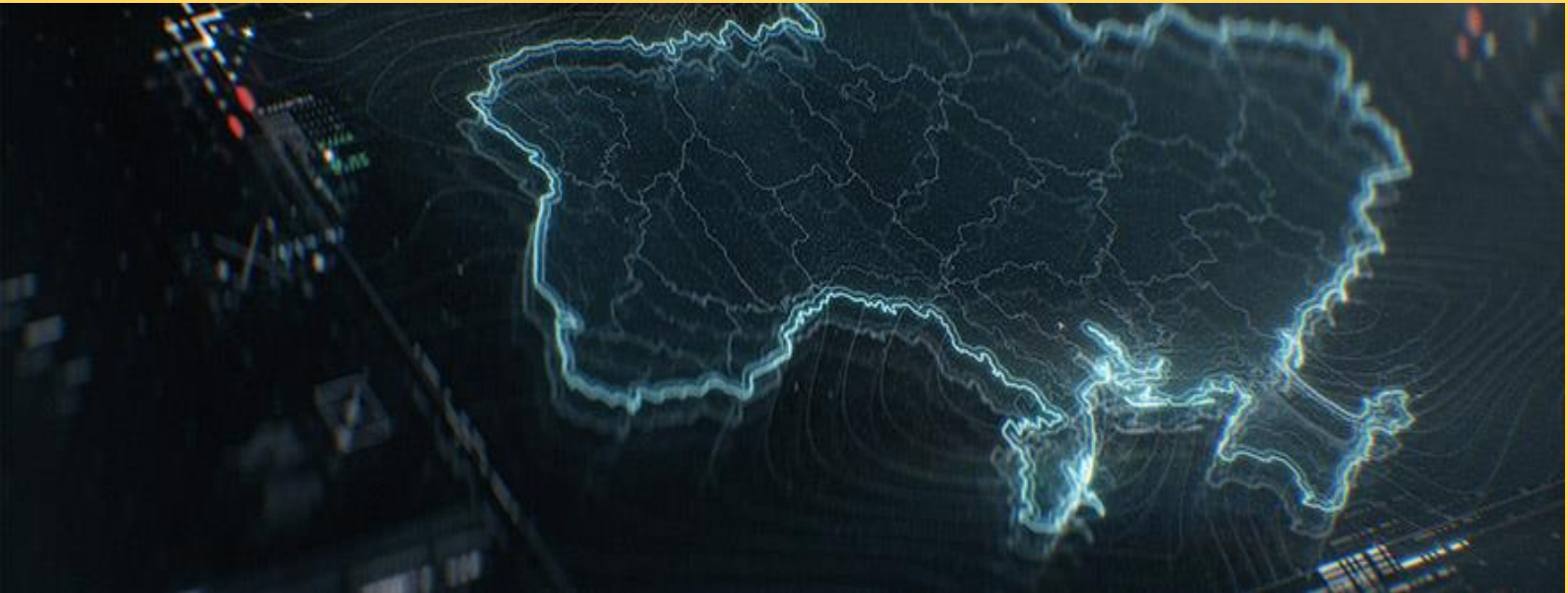




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UKRAINE SETTLEMENT PROJECT



UKRAINE SETTLEMENT OPTIONS:

Transitional Justice

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UKRAINE SETTLEMENT OPTIONS PAPER:

TRANSITIONAL JUSTICE IN A SETTLEMENT TO END THE CONFLICT BETWEEN UKRAINE AND RUSSIA

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1. INTRODUCTION

This paper briefly sets out the transitional justice issues facing the peace process in Ukraine and considers different modalities for addressing transitional justice through a peace settlement.

Transitional justice is understood here as a process by which a state deals with atrocities that occurred in the past because of an armed conflict or authoritarian regime. This process may include judicial and non-judicial mechanisms and involves not only legal aspects but also political, sociological, economic, and ethical aspects, although here it will be analysed from a legal perspective. The term “atrocities” is used in a broad sense to include serious human rights violations such as war crimes, crimes against humanity, genocide, enforced disappearances, torture, extrajudicial killings and conflict-related sexual violence crimes.

While recognizing that each transition is unique and needs to address local needs, it is essential to adopt a holistic transitional justice strategy, including a combination of different transitional justice mechanisms. In Ukraine, there are many efforts at the domestic and international levels to focus on accountability for atrocities crimes and the need to create special courts to investigate and prosecute serious human rights violations. Prosecuting those responsible contributes to strengthening the rule of law by confirming that the perpetrators do not go unpunished. However, these measures must also be accompanied by other mechanisms, such as: truth-seeking initiatives to address the root causes of the armed conflict and to search for disappeared persons; the establishment of reparations mechanisms with a victim-centred approach; and guarantees of non-repetition measures to prevent future violations of Ukraine's sovereignty and territorial integrity.

Transitional Justice Framework: International Standards

At the international level, two relevant instruments developed by the United Nations (UN) in 2005 establish international standards on transitional justice. There is the [Set of Principles against Impunity](#) adopted by the UN Commission on Human Rights, which establishes general obligations of States to adopt effective measures to fight against impunity and recognizes the right to truth, to justice, reparation and guarantees of non-repetition. In addition, the UN General Assembly adopted a set of [Basic Principles and Guidelines on Reparation for Victims of Serious Human Rights Violations](#), which define the notion of ‘victim’ and presents the

different mechanisms and types of reparation, with a clear victim-centred approach. These international standards, although not legally binding, guide states in transition and impose limits related to the fight against impunity. They will be used here as a general framework.

2. TRANSITIONAL JUSTICE ISSUES IN PEACE AGREEMENTS

In the past three decades, 105 peace agreements have included transitional justice measures, ranging from amnesty measures, the establishment of a specific court, creation of truth commissions, release of prisoners, special units for missing persons, to reparation measures for victims, and vetting processes (data from the [Peace Agreements Database](#)). Here are some examples:

- In **Guatemala**, the Comprehensive Agreement on Human Rights included an [Agreement](#) to establish a truth commission to clarify past human rights violations and acts of violence during its 36 years of armed conflict (1960-1996).
- In **South Sudan**, the [Agreement on the Resolution of the Conflict](#) adopted in 2015 (revitalised in 2018) has a specific chapter on “Transitional Justice, Accountability, Reconciliation and Healing” which foresees the creation of a Commission for Truth, Reconciliation and Healing, an independent hybrid judicial body named Hybrid Court for South Sudan and a Compensation and Reparation Authority.
- In **Colombia**, the [2016 Final Agreement](#) has a chapter dedicated to “victims”, which creates a “Comprehensive System for Truth, Justice, Reparations and Non-Recurrence” composed of the Truth, Coexistence and Non-Recurrence Commission; the Special Unit for the Search for Missing Persons; the Special Jurisdiction for Peace; comprehensive reparation measures for peacebuilding; and guarantees of non-recurrence.

The Colombian case stands out for its desire to create a comprehensive transitional justice system combining different judicial and non-judicial mechanisms in the peace agreement. This comprehensive approach is not the most common, but it certainly constitutes an important reference worth considering when discussing the inclusion of transitional justice in a peace settlement.

3. TRUTH-SEEKING MEASURES

The right to truth is an autonomous and inalienable right related to the duty of the State to protect and guarantee human rights, carry out effective investigations, and guarantee effective remedies and reparation. The right to know the truth is generally invoked in a context of serious human rights violations and has an individual and collective dimension. In the Ukrainian peace process, it could be promoted through the following mechanisms.

Truth Commission

The most common non-judicial transitional justice mechanism is the establishment of a truth commission. A truth commission could be established in a future settlement of the Ukraine conflict, with a mandate to study not only the atrocities committed from the Russian invasion in February 2022, but also those in the ongoing armed conflict in the Donbas region since 2014.

The mandate of the truth commission could even go further by including the human rights violations occurred in the soviet and post-soviet era, which would allow to address the root

causes of the current conflict. Here are some main elements to consider for a future truth commission for Ukraine:

- The need for a previous broad public consultation with civil society, human rights organizations, victims, and survivors.
- Ensuring independence, impartiality, and competence of its members, considering also gender and geographic representativity
- Addressing human rights and international humanitarian law violations
- Including not only civil and political rights, but also economic, social, and cultural rights
- Including women and other vulnerable groups as victims
- Establishing specific guarantees for the victims to avoid re-traumatization
- Including the diaspora and displaced persons

The mandate and functions of the truth commission could be set out in the peace settlement (as the case was in El Salvador). Alternatively, the settlement may include only the general terms of the mechanism, and leave the details of the mandate to be defined later, through the adoption of national legislation (as the case was in Sierra Leone, the Democratic Republic of the Congo and Kenya – see Hayner, [Unspeakable truths](#), 2010)

The advantages of a truth commission for Ukraine is that it goes beyond documentation of the facts and analyses why human rights violations occurred and what should be done to prevent recurrence of these atrocities in the future. The work of a truth commission can significantly contribute to the truth and official recognition of the harm suffered by the victims in the context of the armed conflict. In addition, existing institutions like the Ukrainian Institute of National Remembrance or similar entities can work on initiatives to preserve the collective memory and prevent revisionist and denial arguments. To be effective and contribute to reconciliation, the truth commission must include all stakeholders of the armed conflict to avoid exacerbating the ideological divide between Ukrainians, and between Ukrainians and Russians. Additionally, the truth commission must have sufficient resources to ensure its independence and to be able to perform its mandate. Finally, institutional support from all parts of the conflict is crucial to fully implement the truth commission's recommendations once the final report is out.

Special Unit for Disappeared Persons

The UN has [documented](#) 270 cases of arbitrary detention and enforced disappearance in Ukraine between 24 February and 15 May 2022, but figures could be higher if we include disappearances in the context of the ongoing armed conflict since 2014. The suffering of relatives who don't know the fate and whereabouts of their beloved ones is considered by the international human rights mechanisms as [inhumane treatment](#). Addressing enforced disappearances can contribute to peace as it alleviates this suffering and contributes to the satisfaction of the rights to truth and reparation. Therefore, it is important to deal with enforced disappearances, not only from a humanitarian perspective, but also from a judicial perspective, through a quick and effective investigation of the facts, prosecution of those responsible, and comprehensive reparation for victims.

A peace agreement for the Ukrainian conflict could create a special unit or commission for disappeared persons. The mandate would be to determine the fate and whereabouts of the disappeared and, in case of death, to return the remains to relatives so that they can bury them according to their traditions and beliefs and mourn the death of their loved ones.

This mechanism has been used in other peace processes. In 1996, in the first year of implementation of the Dayton Agreement, the [International Commission on Missing Persons](#)

was established to find the nearly 40,000 people who disappeared in the context of the Balkan armed conflict between 1991 and 1995. In Nepal, where there were about 1,300 disappearances, the [Commission of Investigation on Enforced Disappeared Persons](#) was set up based on the 2006 Peace Agreements between the government and Maoist forces. More recently, in Colombia, the Comprehensive Peace Agreement of 2016 led to the creation of the [Search Unit for Missing Persons](#), to coordinate and contribute to humanitarian actions for more than 99,000 disappeared persons as part of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition.

4. ACCOUNTABILITY MEASURES: FIGHT AGAINST IMPUNITY

States have an obligation to investigate serious human rights violations promptly and effectively according to international law. To guarantee the right to justice it is important to adopt a victim-centred approach and ensure the right to an effective remedy. At the same time, investigations should be conducted by independent and impartial bodies and prosecute crimes committed by all parties in the armed conflict. It is also relevant to adopt a gendered approach because conflict-related sexual violence crimes frequently [remain invisible](#), perpetuating impunity.

Amnesty Laws

The adoption of amnesty laws is probably one of the most controversial aspects of negotiating a peace settlement. Some consider amnesty laws to be an obstacle for justice, while others consider amnesty measures essential for sustainable peace. In international law, amnesty laws are not prohibited, but they cannot prevent the investigation and prosecution of serious human rights violations such as war crimes, crimes against humanity or genocide. Therefore, blanket amnesties are not accepted under international law as they contribute to impunity of atrocity crimes. The UN Secretary-General clearly stated in the [Rule of Law and Transitional Justice Report](#) of 2004 that UN-Sponsored peace agreements should “Reject any endorsement of amnesty for genocide, war crimes, or crimes against humanity, including those relating to ethnic, gender and sexually based international crimes, ensure that no such amnesty previously granted is a bar to prosecution before any United Nations-created or assisted court”.

In Guatemala, the [Comprehensive Agreement of Human Rights](#) of 1994 has a special chapter on impunity that prevents the government from adopting legislation that precludes the investigation and prosecution of human rights violations:

III. COMMITMENT AGAINST IMPUNITY:

1. The Parties agree on the need for firm action against impunity. The Government shall not sponsor the adoption of legislative or any other type of measures designed to prevent the prosecution and punishment of persons responsible for human rights violations.
2. The Government of the Republic of Guatemala shall initiate in the legislature necessary legal amendments to the Penal Code so that enforced or involuntary disappearances and summary or extra-judicial executions may be characterized as crimes of particular gravity and punished as such; likewise, the Government shall foster in the international community, recognition of enforced or involuntary disappearances and of summary or extra-judicial executions as crimes against humanity.
3. No special law or exclusive jurisdiction may be invoked to uphold impunity in respect of human rights violations

In the context of the Ukraine, the [Minsk Agreement I](#) of 2014 included the adoption of a “law prohibiting the prosecution and punishment of persons in connection with the events that took

place in certain areas of the Donetsk and the Lugansk regions of Ukraine”. Moreover, the [Minsk Agreement II](#) of 2015 has a similar clause stating that parties will “Ensure pardon and amnesty by enacting the law prohibiting the prosecution and punishment of persons in connection with the events that took place in certain areas of the Donetsk and Lugansk regions of Ukraine”. While these provisions do not necessarily violate international law, a future peace settlement, especially if UN sponsored, should expressly exclude any type of amnesty or pardon for persons responsible for atrocity crimes that would prevent their investigation and prosecution.

Creation of a Coordination Mechanism to Document Atrocity Crimes

Documentation of crimes occurring in the Donbas region, as well as in the context of the ongoing conflict after the Russian aggression in February 2022, is important to prevent evidence destruction and impunity. Civil society organizations are collecting information on war crimes and crimes against humanity in coordination with human rights NGOs, (i.e., [Ukraine. 5 AM Coalition](#)). At the international level, the UN Human Rights Council has created an [Independent International Commission of Inquiry on Ukraine](#) (IICIU) to investigate violations of human rights and international humanitarian law, and related crimes in the context of the aggression against Ukraine by the Russian Federation. The purpose of the IICIU is to establish the facts, circumstances, and root causes of these violations and to collect and analyse evidence of such violations, including their gender dimension, to ensure the accountability of those responsible.

While States have primary responsibility to prosecute perpetrators of atrocity crimes, the participation and support of the international community can be important to prevent impunity. In the context of Ukraine, there is concerted effort to investigate these crimes from different jurisdictions:

- Ukrainian authorities have currently [opened 16,000 investigations](#) of alleged war crimes. This is the first time a Ukraine has conducted investigations of large-scale war crimes while the armed conflict is still ongoing. International support will be essential to reinforce domestic capacity to investigate and prosecute those responsible for serious human rights violations.
- Since March 2022, the International Criminal Court (ICC) has been [investigating](#) past and present allegations of war crimes, crimes against humanity or genocide committed on Ukrainian territory by any person from 21 November 2013 onwards. Ukraine is not a State Party to the Rome Statute, but it has twice exercised its prerogatives to accept the Court's jurisdiction over alleged crimes under the Rome Statute occurring on its territory, pursuant to article 12(3) of the Statute. First with respect to alleged crimes committed on Ukrainian territory from 21 November 2013 to 22 February 2014 and later it referred the situation to ICC on an open-ended basis to include ongoing alleged crimes committed throughout its territory from 20 February 2014 onwards.
- Around 18 countries have started criminal investigations into war crimes in Ukraine, based on the universal jurisdiction principle. The EU, the US and the UK have launched the [Atrocity Crimes Advisory Group](#) for Ukraine to support the War Crimes Unit of the Office of the Prosecutor General of Ukraine. At the same time, EU Member States, third countries and the ICC have joined the [EU Joint Investigation Team](#) coordinated by Eurojust.

Documentation is a vital component of transitional justice. It paves the way for accountability for perpetrators, reparation for victims, memorialization, and institutional reforms that help prevent the recurrence of serious human rights violations. It also contributes to a clearer narrative and helps survivors deal with the aftermath of the conflict. Historically, transitional justice processes have been delayed, evidence destroyed, and witnesses have died. Therefore, a coordination mechanism to document atrocity crimes has the advantage of preserving the evidence and centralising all the work. However, as we face unprecedented efforts to document atrocities occurring in Ukraine, it is important to stress the need to avoid re-traumatization of victims and duplication of evidence. The establishment of a protocol of standards of collection of documentation and how to make the documentation available to the different institutions will be key to ensure its efficiency.

Creation of Specific Justice Mechanisms with an International Component

Considering this situation, the question arises as to what extent there is a need to include a justice mechanism in a future settlement that includes an international component. Since the investigation and prosecution of atrocity crimes is very complex and difficult, as they are often committed in a systematic manner, it may be necessary to establish a specific transitional justice mechanism to deal with these crimes with the support of the international community. Here are some options:

- Establishment of a **hybrid criminal tribunal** for the investigation and prosecution of atrocity crimes, like the Bosnia and Herzegovina War Crimes Chamber, the East Timor Special Panels for Serious Crimes (2000-2005), the Special Court for Sierra Leone (2002-2013), the Extraordinary Chambers in the Court of Cambodia (2004), the African Extraordinary Chambers in Senegal (2012), or Special Kosovar Tribunal (2017).
- Establishment of a **hybrid prosecutor office** to work together with the Ukrainian Prosecutor General Office. The most relevant precedent is the International Commission against Impunity in Guatemala ([CICIG](#)), which had a significant impact on the Guatemalan judicial system and contributed to strengthening the rule of law in a state with fragile institutions after protracted armed conflict.
- Establishment of an **ad hoc criminal tribunal to investigate the crime of aggression**, as the ICC does not have jurisdiction over this crime in the situation of Ukraine. So far, the [Parliamentary Assembly of the Council of Europe](#) has called on the organization to establish an ad hoc international criminal tribunal to hold to account perpetrators of the crime of aggression against Ukraine. The [European Parliament](#) has also requested the EU to create a special international tribunal for crimes of aggression to hold Russian political leaders and military commanders, and those of its allies, to account.

The main advantages of a hybrid court or prosecutor are that these mechanisms are composed of international and national personnel. The presence of international staff protects the mechanism from political interference and guarantees its independence. Working with national staff generates local ownership and contributes to strengthening the judicial system and rule of law. One of the main disadvantages is the likely lack of judicial cooperation between Ukraine and Russia for the investigation and prosecution of atrocity crimes. If Russia refuses to engage with any of these mechanisms presented above, it will be very difficult to hold accountable those responsible. Another important issue is what kind of perpetrators are going to be brought to justice (high, middle, or low-ranking officials) and the ability of these accountability mechanisms to charge based on command responsibility. Another question that arises is where should these mechanisms be established: in the Ukraine where the crimes occurred or in a third

country? While the Ukraine option is the best in terms of victims' access to justice and access to evidence, a mechanism outside of Ukraine could also be more independent and impartial, especially if it has jurisdiction over the crime of aggression. Many public figures support the creation of a special criminal tribunal for aggression to prosecute President Putin and Russian high-ranking officials, however, there are a few disadvantages such as the issue of immunity of serving and former officials, the high cost of establishing a new ad hoc tribunal or the question of selectivity of international criminal justice (for more details see [Kevin Jon Heller here.](#))

5. REPARATIONS AND GUARANTEES OF NON-REPETITION

Societies in transition must address remedies for victims of serious human rights violations. To this end, the courts and, increasingly, truth commissions, have a fundamental role when it comes to recognizing a right to victims' reparation and in directing reparation measures.

The UN Set of Principles against Impunity recognises as a general principle that “any human rights violation gives rise to a right to reparation on the part of the victim or his or her beneficiaries, implying a duty on the part of the State to make reparation and the possibility for the victim to seek redress from the perpetrator”. The victim is the essential focus, thus overcoming traditional conceptions of reparation centred on the relationship between State and perpetrator. This evolution is reflected in the UN Basic Principles and Guidelines on Reparation for Victims of Serious Human Rights Violations, which seeks to codify the norms and principles of protection of human rights from the perspective of the victim. Traditional reparations fall within the framework of the international responsibility of states, in which the main subjects are the states, while international human rights law has developed an approach based on victims and the right to an effective remedy, to obtain reparation. Both types of reparations can be addressed in a future settlement.

Reparations within the Framework of State Responsibility

Under international law, States have an obligation to repair the damage when they commit an internationally wrongful act. The [Draft Articles on Responsibility of States for Internationally Wrongful Acts](#) (DARIO) adopted by the International Law Commission in 2001, provides in article 31(1) that “The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act”. According to the Draft Articles, which reflect customary international law, the damage caused includes both material and moral damage. The foundations for reparations were set out in the [Chorzow Factory Case](#), in which the Permanent Court of International Justice determined that it is well-established in general international law that a State which bears responsibility for an internationally wrongful act is under an obligation to make full reparation for the damage caused by that act to the injured State.

Russia's invasion of Ukraine is an act of aggression which violates the prohibition of the threat or use of force enshrined in the UN Charter. This principle constitutes a peremptory norm, which means that its breach not only affects Ukraine but the whole international community. Besides, the violations of international humanitarian law and international human rights law that have occurred in the armed conflict in Ukraine also entail international responsibility of the state parties in conflict. There are different options to determine reparations within the framework of international responsibility of states:

- Creation of a **Russia-Ukraine Claims Tribunal**. As a precedent there is the [Iran-United States Claims Tribunal](#) established in 1981 under the [Algiers Accords](#), which

also ended the hostage crisis at the US embassy in Tehran. That Tribunal resolves claims by US nationals against the government of Iran, as well as claims by Iranian nationals against the U.S. government that arose out of the 1979 Islamic revolution. The Tribunal also resolves certain types of inter-governmental claims between the two countries.

- Reparations **through judicial proceedings**, for instance, by instituting a claim before the International Court of Justice (ICJ). In the decision on reparations issued on January 2022 by the ICJ on the [Armed Activities case](#) (Democratic Republic of the Congo (DRC) v. Uganda), the court awarded to the DRC the compensation for damage on persons, properties and related to natural resources a total of US\$325 million.

The disadvantage of inter-state reparations mechanisms is that they do not always take into consideration or cover the victim's needs as they are determined at the state level. The option of a Russia-Ukraine Claims Tribunal could be included in a future peace agreement, although it will much depend on how the armed conflict unfolds. One of the main problems will be [how to get Russia to pay for the damage](#), as the freezing of sanctioned assets does not automatically mean that those assets can be seized and put towards a reparations scheme.

Seeking a judicial process of reparation before the ICJ or another international court can be another option. Ukraine has already [issued a claim against Russia](#) on the grounds of the 1948 Genocide Convention and has requested the ICJ to adopt provisional measures to suspend the military operations of Russia that started on 24 February 2022. One of the advantages is that the ICJ has addressed in the past similar cases of serious human rights violations and adopted decisions on reparations. However, as Russia has rejected the ICJ's jurisdiction on the Allegations of Genocide Case issued by Ukraine, it may also reject the jurisdiction of the court for future settlement on reparations. Another disadvantage is that these proceedings can take a long time and not effectively address the right of victims to remedies as they are also framed in terms of the international responsibility of states.

Victim-oriented Reparations

The Basic Principles and Guidelines establish that full and effective reparation for the harm suffered must include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The capacity of existing domestic mechanisms to obtain reparation for victims of massive violations is often limited. By consequence, individual reparations can be difficult to grant without financial support from the international community. In this context, collective reparations, based on an inclusive approach, with moral reparation, recognition at the community level, and access to public resources and services, can be a solution and contribute to restorative justice. Here are some relevant options:

- Establishment of a **multilateral mechanism** to deal with individual claims. As a previous example, there is the [UN Compensation Commission](#) established in 1991 by the UN Security Council through Resolution 687(1991) to process claims and pay compensation for losses and damage suffered as a result of Iraq's invasion of Kuwait in 1990 which ended its work in 2022. The Commission was a subsidiary organ of the Security Council and was funded by the [UN Compensation Fund](#), which received a percentage of proceeds from the export of Iraqi petroleum and petroleum products (30% in 1991, which was reduced up to 25% in 2000 and up to 5% in 2010).
- **Redress obtained through the ICC investigation on Ukraine**. In this case reparation will be linked to the prosecution of the perpetrators of serious human rights violations

committed in Ukraine and limited to the evidence of the harm established in the criminal proceeding by the Court. Eventually, the reparation could be covered by the [Trust Fund for Victims](#).

- Establishment of a **national program of reparations** by creating a specific mechanism to deal with reparation of the victims. This program will probably need international support for the funding. Examples that illustrate the inclusion of reparations mechanism in peace agreements are the 1996 Comprehensive Peace Agreement of Guatemala which established a “State body responsible for public policy regarding compensation for and/or assistance to victims of human rights violations and present a compensation programme”; and the [Sudan Peace Agreement of 2020](#) which includes a Compensation and Reparations Fund in Darfur and details the composition and functioning.

The inclusion of mechanisms to deal with reparations in a future peace settlement is essential and needs to adopt a victim-centred approach. Reparations should include not only compensation, but also other forms of reparation such as restitution, rehabilitation, satisfaction and guarantees of non-repetition. Special focus on refugees, the return to their homes and restitution of their land and housing will be important to include it within the reparation’s programs. International support to coordinate and contribute with funds will also be crucial to help Ukraine recover from war and repair the damage suffered by its population. The establishment of a mechanism similar to the UN Compensation Commission seems unlikely as the UN Security Council is currently blocked by the Russian veto power, however, it could be created by other UN bodies, like the General Assembly.

Guarantees of Non-repetition

Guarantees of non-repetition (GNR) include all measures that a State must adopt to reduce the likelihood of recurrence of serious violations of human rights. The institutional reforms undertaken in transitional justice processes are understood as means to prevent this recurrence. Within the framework of the international responsibility of states, article 30(b) of the DARIO provides that the state responsible for the internationally wrongful act must “offer assurances and guarantees of non-repetition, if circumstances so require”. GNR are necessary when the injured State has a reason to believe that a return to the previous situation will not be a sufficient measure to protect it from future harm. In the context of Russian-Ukraine war, a future settlement should include some type of GNR measures aimed at the prevention of future violation of Ukraine’s sovereignty and to give assurance that its territorial integrity will be respected. The mere restoration of the situation before the invasion of Russia in 2022 is not enough as Ukraine already suffered the violation of its sovereignty with the de facto annexation of Crimea by Russia in 2014 and the ongoing conflict in the Donbas Region of Ukraine.

Beyond the inter-state dimension of the conflict, it is difficult at this moment to foresee the GNR that could be included in a future peace settlement. The inclusion of GNR in peace agreements normally focus on the security sector reform and the need for disarmament, demobilization, reinsertion, and reintegration of armed groups. In the context of Russian-Ukraine war, these measures may include the guarantee of civilian control of military and security forces as well as intelligence agencies; human rights training for public officials and employees, military, security, police, intelligence, and judicial sectors, and vetting of public officials personally responsible for atrocity crimes. However, these programs must not be carried out to the detriment of victims. In many post-conflict situations, it can be easier for ex-combatants to receive types of benefit, while victims cannot access dignified reparation measures.

As GNR take time and imply institutional reforms which need broad consensus and public participation, they require more concerted efforts in comparison to other transitional justice mechanisms, such as truth commissions, which are temporary and have limited impact. The advantages of including GNR in the future peace settlement is that they help build trust not only between Russia and Ukraine, but also for the whole international community. However, the levels of confidence between Russia and Ukraine remain very low to the point of not being able to sit at the same table in the signing of [the grain agreement of 28 July 2022](#). Another difficulty is that of determining what types of measures Russia and Ukraine should adopt to guarantee the non-repetition of the breaches of international law.

6. FINAL REMARKS

Transitional justice measures do not only address past atrocities, but are also looking-forward. They aim to prevent the recurrence of human rights violations by addressing the root causes of the armed conflict. There is no transitional justice template that states need to comply with, but studies show that the combination of non-judicial and judicial mechanisms contribute to the protection and respect of human rights.

As the armed conflict in Ukraine continues and we do not know yet the magnitude of the atrocities committed, it is important to keep documenting the human rights violations in a coordinated manner not only for accountability purposes, but also to know the truth of what happened and help determine the type and form of reparations. Different options have been presented in this contribution to serve as a guide for a future peace settlement. The inclusion of transitional justice issues in a peace agreement is important as it represents the commitment of the parties to the armed conflict to promptly address the atrocities that have occurred and places the victims and survivors at the center of the agreement.