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**Koshel N., Student, 293 “International Law”****Scientific Supervisor: Nataliia Vasylyshyna, D.Sc. in Pedagogy, Professor, Deputy Dean of the Faculty of International Relations, (National Aviation University, Kyiv, Ukraine)****LEGAL REGULATION OF TRANSITIONAL JUSTICE IN UKRAINE**

Ukraine is a country that has experienced multiple episodes of conflict and repression throughout its history. The most recent and ongoing conflict is the war in Ukraine, which erupted in 2014 after Russia's illegal annexation of Crimea and its support for separatist forces in eastern Ukraine and full-fledged in 2022. The war has caused widespread human rights violations and humanitarian crises. The need for transitional justice in Ukraine is evident, as the country faces numerous challenges in dealing with its past and present conflicts. Some of these challenges are political instability, corruption, social divisions, impunity, lack of trust in institutions, and human rights violations. These impediments, if unaddressed, threaten to stymie the efficacy of transitional justice mechanisms, thus undermining the broader goals of societal reconciliation and sustainable peace.

Ukraine's legal landscape for transitional justice is composed of various sources of law, such as the constitution, legislation, and international treaties. The analysis of the legal and institutional framework underscores the imperative of a nuanced and adaptable transitional justice strategy, cognizant of Ukraine's unique socio-political context. The Constitution of Ukraine has the highest legal force and is the basis for the legal system. The Constitution establishes the principles of democracy, human rights, the rule of law, separation of powers, and territorial integrity. The constitution also guarantees the right to life, liberty, security, fair trial, freedom of expression, peaceful assembly, association, and movement. These rights are essential for ensuring accountability, redress, reconciliation, and prevention in transitional justice processes. The constitution also provides for the possibility of constitutional amendments through a special procedure that requires a majority vote of the parliament and a nationwide referendum. Constitutional amendments can be used to introduce or reform transitional justice mechanisms or institutions. For example, in 2016, a constitutional amendment was adopted to reform the judiciary and enhance its independence and accountability. This amendment was seen as a crucial step for advancing transitional justice in Ukraine [1].

Besides, Ukraine has enacted several laws that are relevant for transitional justice.

The Law on Prevention of Persecution and Punishment of Persons Regarding Events that Took Place During Peaceful Assemblies (2014): This law grants amnesty to participants of the 2013-2014 Euromaidan protests that led to the overthrow of former president Viktor Yanukovich. The law aims to protect the protesters from criminal prosecution or administrative sanctions for their involvement in the protests. However, the law excludes those who committed grave crimes or violated human rights during the protests. The law also does not apply to members of the security forces or public officials who were responsible for violence or repression against the protesters.

The Law on Restoring Rights of Persons Deported on Nationality Grounds (2014): This law recognizes the historical injustice suffered by several ethnic groups that were forcibly deported from Ukraine by the Soviet regime during World War II. The law grants citizenship rights, social benefits, and compensation to the survivors and descendants of these groups. The law also establishes a state commission to oversee the implementation of the law and monitor the situation of these groups.

The Law on Legal Status and Honoring Memory of Fighters for Independence of Ukraine in XX Century (2015): This law recognizes the contribution and sacrifice of various groups that fought for Ukraine's independence from foreign occupation or domination during the 20th century. The law grants legal status, social benefits, and honors to the members or

relatives of these groups. The law also mandates the establishment of memorials, museums, archives, and educational programs to commemorate these groups.

The Law on Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols (2015): This law condemns the crimes and atrocities committed by the communist and Nazi regimes in Ukraine and bans the use of their symbols, names, or propaganda. The law also requires the removal or renaming of monuments, streets, or places that are associated with these regimes. The law aims to promote historical truth, justice, and reconciliation in Ukraine. The Law on Ensuring the Rights and Freedoms of Internally Displaced Persons (2014): This law defines the legal status, rights, and obligations of internally displaced persons (IDPs) in Ukraine. The law aims to protect and assist IDPs who were forced to flee their homes due to the conflict in Donbas or the occupation of Crimea. The law provides for IDPs' access to registration, documentation, housing, employment, education, health care, social security, and participation in elections. The law also establishes a state fund and a coordination centre to support IDPs. In 2022 several new laws were adopted to deal with IDPs and refugee situation in Ukraine.

The Law on The Principles of State Policy of Transition Period (Draft) [2]: This law is a draft bill that was submitted to the parliament in 2018 but has not been adopted yet. The law proposes a comprehensive framework for transitional justice in Ukraine that covers four main areas: truth-seeking, prosecution, reparations, and guarantees of non-recurrence. The law sets the stage for the establishment of a national commission for transitional justice and a special tribunal dedicated to addressing war crimes and crimes against humanity.

Central to this legislation is the principle of accountability, ensuring that those responsible for human rights violations are brought to justice. It articulates the critical role of supporting victims and the necessity of reparations, which are essential for the healing process. Additionally, the law advocates for sweeping institutional reforms, particularly within the judicial system, to prevent future conflicts and maintain high standards of human rights. Furthermore, it recognizes the importance of community reintegration and the fostering of societal reconciliation, viewing them as pivotal elements in the journey towards national recovery and healing. This initiative, however, is set against a backdrop of formidable challenges that demand a multi-pronged approach, entailing legal reforms, institutional capacity building, and a concerted effort to engender a culture of accountability and inclusivity [3].

In conclusion, the legal framework for transitional justice in Ukraine, particularly through the Draft Law on State Policy of Transition Period, offers a structured pathway towards addressing the nation's complex past. However, the success of these efforts is contingent upon overcoming substantial challenges, including political instability, endemic corruption, and deep-seated social divisions. As Ukraine will navigate its post-conflict landscape, the establishment of a robust transitional justice framework is crucial for ensuring accountability, fostering reconciliation, and building a resilient democratic society. The journey towards healing and justice is arduous, yet indispensable for the nation's future.

### References:

1. Khrystova G. Application of the Constitution in a Transitional Justice Process: Considerations and Ukrainian Realities. URL: [https://supreme.court.gov.ua/userfiles/media/new\\_folder\\_for\\_uploads/supreme/Khrystova\\_TJ\\_VC\\_prefinal.pdf](https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/Khrystova_TJ_VC_prefinal.pdf) (date of access: 16.11.2023).
2. Analysis of the Draft Law "On the Principles of the State Policy of Transition Period". *Charitable Foundation "Right to Protection"*. URL: <https://r2p.org.ua/page/transition-period-policy-analysis> (date of access: 16.11.2023).
3. Zhidkov V. On the way to transitional justice. *Ukrainian Helsinki Union for Human Rights*. URL: <https://www.helsinki.org.ua/wp-content/uploads/2023/09/PPr> (date of access: 16.11.2023).