



KHARKIV INTERNATIONAL
LEGAL FORUM

Panel discussion

PROTECTION OF WAR VICTIMS IN UKRAINE

4th of October
2022

online



Co-hosts



**Research Center for Transition Justice of
Yaroslav Mudryi National Law University**



Leibniz Institute for
**EAST AND SOUTHEAST
EUROPEAN STUDIES**

The Leibniz Institute for East and Southeast European Studies (IOS)



**Centre for International
Humanitarian Law
and Transitional Justice**
Justice Truth Humanity

Centre for International Humanitarian Law and Transitional Justice



Project Sunflowers

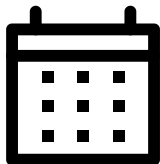
Sponsor



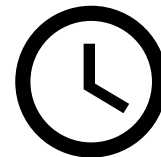
General information

PANEL DISCUSSION:

PROTECTION OF WAR VICTIMS IN UKRAINE



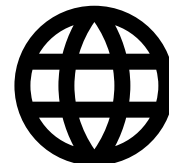
4th of October 2022



9:30 - 13:40 Kyiv time
8:30 - 12:40 CET



Online via Zoom Webinar



English and Ukrainian:
simultaneous translation will
be provided

Concept

The amount of people who became victims of Russian aggression is much larger. It brought the suffering of millions of people: hundreds of civilians were forcibly deported to Russian territory, almost every city of Ukraine was bombed, the whole cities were wiped off the earth, and multi-story residential areas, which were the houses of hundreds of thousands of people, were significantly destroyed, hospitals, cultural property, schools, administrative facilities, water stations and electrical systems have been ruined, millions of Ukrainians became IDPs and refugees.

It is difficult to estimate now the number of people who became victims of international crimes and gross violations of human rights. That is why national and international efforts should be a response to the consequences of this war. International crimes committed during this armed conflict should be prosecuted within all the possible jurisdictions: national and international (ICC, Special Tribunal for the Crime of Aggression against Ukraine), and victims of this war should be redressed and repaired. The problem of reparations is complicated by the lack of unified international instruments and mechanisms to respond to this challenge – repairing such a large number of victims. Each branch of international law (international humanitarian law, international human rights law, international criminal law) has its own definition of victims.



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Concept

Only several of them have permanent reparative mechanisms with limited competence: the ECHR's jurisdiction is limited to Russian withdrawal from the ECtHR, and the ICC can compensate only victims of crimes committed by persons found guilty. There is no IHL rule or mechanism aimed at direct reparations to victims of armed conflict. There are only a few precedents in history when victims of armed conflicts have been directly compensated, and it was always within the special ad hoc mechanisms.

Victims' participation in all the processes of discussing and creating the reparative instruments and mechanisms is more than essential now. There should be no policy "for victims without victims". Thus, a question which needs to be answered now – is how to apply the victim-centred approach to state policy in the most productive way. Among the victims are the most vulnerable groups – women and children, whose amount continues to grow.

There is a lack of proper state policy aimed at their protection. Thus, the adequate, comprehensive, victim-inclusive reparations programme is ever more urgent now.



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Concept

Civil society organisations are important partners for national authorities and international accountability mechanisms. Nevertheless, they should seek to prevent or minimise any unintended adverse effects of their documentation activities. The presence of multiple civil society organisations and stakeholders in the same accountability sector using different standards and tools gives rise to the risk of over-documentation, increases the risk of re-traumatisation of victims and can compromise the quality of evidence available for accountability purposes. Thus, NGOs, media and human rights activists need to be familiar with particular guidelines to ensure the safety and well-being of persons providing information, especially victims of international crimes.

By creating this Panel discussion – "Protection of War Victims in Ukraine," we try to find the answers to the following issues:

- fragmentation of victims' protection in different branches of international law;
- different dimensions of the definition of the war victims in Ukraine, the proliferation of victims;
- possible avenues of protecting the rights of victims of this armed conflict: ICC, ECHR, Special Tribunal for Aggression, ad hoc Compensation Mechanism etc.
- judicial, quasi-judicial and non-judicial mechanisms as means of redress for victims;
- the role of victims in victims-centred transitional justice processes in Ukraine;
- women and children as the most vulnerable categories of victims in this war;
- short-, medium and long-term strategy of reparations to victims of ongoing armed conflict.

Panel discussion timetable

09:30 - 10:00 (8:30 - 9:00 CET)

OPENING

Moderator - Dr Oksana Senatorova

INVITED GUESTS:

- **Anatoliy Getman** - Rector of Yaroslav Mudryi National Law University
- **Brigitta Triebel** - Head of Kharkiv office of Conrad Adenauer Stiftung
- **Iryna Mudra** - Deputy Minister, Ministry of Justice of Ukraine
- **Cindy Wittke** - Head of the Political Science Research Group at the Leibniz IOS
- **Ewa Hofmańska** - President of the Executive Board of the Foundation Sunflowers
- **Yuriy Belousov** - Ukraine's Chief War-Crimes Prosecutor of the Prosecutor General's Office of Ukraine
- **Ganna Hrystova** - Head of the Project "Internal Displacement in Ukraine: Developing Durable Solutions", Council of Europe Office in Ukraine.
- **Aleksandra Matviychuk** - Head of NGO "Center for Civil Liberties"

Panel discussion timetable

10:00 - 11:40 (9:00 - 10:40 CET)

I Panel Discussion "The Role of International Judicial Institutions in the Protection of Victims of War"

Moderator - Dr Cindy Wittke

- **"Protection and Redress to Victims of War Through International Law of Armed Conflict and Human Rights Law in the Context of Russia's War Against Ukraine"**

Keynote Speaker Mykola Gnatovskyy

up to 20 minutes

Q&A session

- **"Securing the Rights of Victims Before the ICC"**

Ms Paolina Massidda

up to 20 minutes

- **"Reparations: perspectives and challenges" (TBC)**

Dr Marina Lostal

up to 20 minutes

- **"The Road to Establishment of the Special Tribunal for the Crime of Aggression against Ukraine"**

Dr Anton Korynevych

up to 20 minutes

- **Questions & Answers session**

11:40 - 12:00 (10:40 - 11:00 CET) Break

12:00 - 13:40 (11:00 - 12:40 CET)

II Panel Discussion "Current Challenges of the Protection of Victims of War in Ukraine"

Moderator - Dr Ewa Hofmańska

- **"Gordian Knot of Approaches to Define the Victim of Armed Conflict and Redress: Cut or Untie?"**

Dr Oksana Senatorova

up to 20 minutes

- **"The Dynamics of Conflict-Related Sexual Violence in the Russia-Ukraine Armed Conflict and Survivors' Preferences for Reparations"**

Dr Kateryna Busol

up to 20 minutes

- **"Russia's 'Passportization' of Occupied Territories in Ukraine: Goals, Implementation, Consequences"**

Dr Fabian Burkhardt

up to 20 minutes

- **"The Case-law of the European Court of Human Rights Regarding Compensation for Damage Person's Life and Health During Armed Conflicts"**

Dr Alla Fedorova

up to 20 minutes

- **Questions & Answers session**

Invited guests for the Opening



Anatoliy Getman

Rector of Yaroslav Mudryi National Law University

Iryna Mudra

Deputy Minister, Ministry of Justice of Ukraine



Aleksandra Matviychuk

Head of NGO "Centre for Civil Liberties"

Invited guests for the Opening

Brigitta Triebel

Head of Kharkiv office of Conrad
Adenauer Stiftung



Yuriy Belousov

Ukraine's Chief War-Crimes Prosecutor
of the Prosecutor General's Office of
Ukraine



Ganna Hrystova

Head of the Project "Internal
Displacement in Ukraine: Developing
Durable Solutions", Council of Europe
Office in Ukraine.



Moderators

Cindy WITTKE



Head of the Political Science Research Group at the Leibniz IOS

Dr. Cindy Wittke is also the principal investigator of the project “Between Conflict and Cooperation: The Politics of International Law in the post-Soviet Space” funded by the German Federal Ministry of Education and Research (BMBF).

Cindy is the author of “Law in the Twilight International Courts and Tribunals, the Security Council and the Internationalisation of Peace Agreements between State and Non-State Parties, published by Cambridge University Press in 2018, and of peer-reviewed journal articles in the fields of international law, political science and area studies.

Ewa HOFMAŃSKA

President of the Executive Board of the Foundation Sunflowers

Ewa Hofmańska is PhD in law, specialized in labour law; academic with national and international practical experience, including the Trust Fund for Victims of the International Criminal Court in The Hague.



She is the President of the Executive Board of the Foundation Sunflowers, which implements the Project Sunflowers, an international initiative, which was created ad hoc just a few days after the Russian invasion of Ukraine started in February 2022.

Speakers



Mykola Gnatovskyy

Judge at the European Court of Human Rights

Topic of speech: “Protection and Redress to Victims of War Through International Law of Armed Conflict and Human Rights Law in the Context of Russia's War Against Ukraine”

Dr Mykola Gnatovskyy (born in 1977) holds LL.M. (1999) and Ph.D. (2002) in International Law. He is the author of many publications on European and international human rights law, as well as international humanitarian law and international criminal law.

Since 2002, he has taught at the Institute of International Relations of Taras Shevchenko National University of Kyiv and cooperated with the International Committee of the Red Cross as an academic partner.

In 2009–2021 Dr Gnatovskyy was a member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

He served as Vice-President of the CPT for two years (2013–2015) and as President of the CPT for six years (2015–2021).

Since June 2022 he serves as judge of the European Court of Human Rights elected in respect of Ukraine.

Speakers



Paolina Massidda

Principal Counsel of the Office of Public Counsel for Victims (OPCV) at the ICC.

Topic of speech: “Securing the Rights of Victims Before the ICC”

Paolina Massidda was appointed to her position since its creation in 2005 to represent victims in virtually all situations and cases before the Court.

She sought to bring the OPCV, and with it the ICC, closer to the victims who reside in the affected communities of the situation Countries.

At her initiative, the capacity of the ICC to reach out to victims without discrimination of any kind was significantly strengthened. She has developed the expertise of the OPCV to present the views and concerns of victims in the form of legal submissions in Court proceedings.

Before joining the ICC, Ms Massidda practised before national and international tribunals, representing accused and victims.

She worked as a Legal Adviser for the International Federation of the Red Cross and the International Committee of the Red Cross. She participated as an expert in several European Union training programmes.

She is specialised in human rights and international humanitarian law; she holds a master in international criminal law and has been a member of the Genoa Bar (Italy) since 1992.

Speakers



Marina Lostal

Senior Lecturer at the Law School of the University of Essex (UK) and co-deputy Director of its Human Rights Centre

Topic of speech: **"Reparations: Perspectives and Challenges"**

Marina Lostal holds a PhD from the European University Institute in Florence and an LLM from the University of Cambridge. She is admitted to the Bar in Spain and is also an accredited mediator. She specialises in the rights of victims in international criminal justice, the protection of cultural heritage in armed conflict and animal law.

Between 2017 and 2020 she served as a 'reparations expert' for the International Criminal Court. She has worked as a consultant for several organisations, including UNESCO and Geneva Call, and has experience conducting training on IHL to the military, peacekeepers, and armed non-State actors.

She has developed the UNESCO guidelines for the protection of cultural property in armed conflict (forthcoming) and is author of *International Cultural Heritage Law in Armed Conflict* (Cambridge University Press, 2017).

Speakers



Anton Korynevych

Ambassador-at-large in the Ministry of Foreign Affairs of Ukraine

Topic of speech: "The Road to Establishment of the Special Tribunal for the Crime of Aggression against Ukraine"

Dr Korynevych has been working on the legal consequences of Russian aggression against Ukraine since February 2014.

From 25 June 2019 till 25 April 2022 Dr. Korynevych served as the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea. Since 26 February 2022 he is the Agent of Ukraine before the International Court of Justice in the Allegations of Genocide case.

Dr. Korynevych is the head of the working group on reintegration of temporarily occupied territories within the Commission on Legal Reform of Ukraine. Recently he was also appointed as member of the working group on the development and implementation of international legal instruments of reimbursement of damage caused to Ukraine by armed aggression of the Russian Federation within Office of the President of Ukraine.

Dr. Korynevych is coordinating the issue of the establishment of the Special Tribunal for the Crime of Aggression against Ukraine on the Ukrainian side.

Speakers



Oksana Senatorova

Director of the Research Centre for Transitional Justice (RCTJ) at the Yaroslav Mudryi National Law University

Topic of speech: "Gordian Knot of Approaches to Define the Victim of Armed Conflict and Redress: Cut or Untie?"

Oksana Senatorova, PhD, a founder and Director of the NGO "Centre for International Humanitarian Law and Transitional Justice" (CIHLTJ), Director of Research Centre for Transitional Justice (RCTJ) and an Associate Professor of the International Law Department at Yaroslav Mudryi National Law University, and Associate Professor at NaUKMA.

From 2014 to 2020, she was a Co-Director of the LLM Programme "International Law", Dual Diploma Programme with Mykolas Romeris University. In 2020 she founded and headed the NGO "Centre for IHL and Transitional Justice", aiming to protect and promote the rights of victims of armed conflict.

Nowadays, she is a member of the Law Reform Commission of Ukraine under the President of Ukraine, developing the TJ Framework, a Coordinator of the Working Group on the Protection of Victims of Armed Conflict of the Interdepartmental Commission on Implementation of IHL in Ukraine, an expert at the International Council on Crimes Committed in Armed Conflict at Ukraine's Office of Prosecutor General. Since 2005 she has been an expert for the ICRC Regional Delegations; since 2021, is a peer reviewer for the ICRC Commentary on the IV Geneva Convention 1949. Since 2021 has been an expert for the Council of Europe on the IDPs in Ukraine. Since June 2022, is a fellow of the Leibniz IOS, "Working Group: A War Crimes Tribunal for the Crimes in Ukraine?". Since March 2022 is a co-founder of the Project Sunflowers (projectsunflowers.org)

Speakers



Kateryna Busol

Senior Lecturer at the National University of Kyiv-Mohyla Academy and a fellow at the Leibniz Institute for East and Southeast European Studies

Topic of speech: “The Dynamics of Conflict-Related Sexual Violence in the Russia-Ukraine Armed Conflict and Survivors' Preferences for Reparations”

Dr Kateryna Busol is a Ukrainian lawyer specialising in international human rights, humanitarian, criminal law, transitional justice, gender and cultural heritage.

Previously, Kateryna was a UN Women National Consultant on Transitional Justice and Prevention of and Response to Conflict-Related Sexual Violence. Kateryna also collaborated with the Global Survivors Fund, the initiative of the Nobel Peace Prize laureates Denis Mukwege and Nadia Murad, on a study on the needs and opportunities for conflict-related sexual violence survivors in Ukraine. She was a fellow at Chatham House, a legal consultant at Global Rights Compliance and a Visiting Professional at the Office of the Prosecutor of the International Criminal Court.

Kateryna is the founder of the #InternationalLawTalks media rubric and a Board member of the Cambridge Society of Ukraine, which enhances educational opportunities for Ukrainian children.

Speakers



Fabian Burkhardt

Research Associate in the Political Science Research Group at the Leibniz Institute for East and Southeast European Studies (IOS), Regensburg

Topic of speech: "Russia's 'Passportization' of Occupied Territories in Ukraine: Goals, Implementation, Consequences"

Since July 2020 Dr Fabian Burkhardt is a Research associate in the Political Science Research Group at the Leibniz Institute for East and Southeast European Studies, Regensburg / editor of Russland-Analysen and Ukraine-Analysen.

During 2019-2020 Fabian was a Research Associate at Eastern Europe and Eurasia Division, German Institute for International and Security Affairs (SWP Berlin).

In 2013-2016 Dr Burkhardt worked as a Member of Research Network Constitutional Politics in Central and Eastern Europe.

During 2012-2013 he was employed as Research Associate AT Geschwister Scholl Institute of Political Science, LMU Munich, Research Network Institutions and Institutional Change in Postsocialism (funded by the BMBF).

Dr Fabian Burkhardt is a scholarship holder of Graduate School for East and Southeast European Studies, Munich (funded by DFG).

Speakers



Alla Fedorova

Expert of the Council of Europe Projects
"Internal Displacement in Ukraine:
Development of Durable Solutions. Phase II"
and "Development of social human rights as
a key factor of sustainable democracy in
Ukraine", international expert of the
European Social Charter Department of the
Council of Europe.

Topic of speech: "The Case-law of the European Court of Human Rights Regarding Compensation for Damage Person's Life and Health During Armed Conflicts"

Alla Fedorova is an Associate Professor of the Department of Comparative and European Law of the Institute of International Relations of Taras Shevchenko National University of Kyiv, PhD in Law.

Since 2000 he has been working at the Institute of International Relations since 2006 - Associate Professor of the Department of Comparative and European Law. She has participated in many international programs and projects. She has more than 70 scientific publications on various issues of human rights protection, internally displaced persons, protection of labour and social rights, and Council of Europe law.

She was involved as a national and international expert and consultant to various projects of the Council of Europe, OSCE, EU.

She is the deputy editor-in-chief of the journal "Ukrainian Journal of International Law". Certified trainer of the Council of Europe HELP program on distance education and the use of the HELP Platform (Human Rights in the field of human rights for representatives of legal professions).