



**Statement on Ukraine Conflict
In Light of Mounting Evidence of War Crimes and Crimes against Humanity
By the New York City Bar Association,
a United Nations Economic and Social Council Accredited
Civil Society Organization**

Invoking its status as a United Nations Economic and Social Council accredited civil society organization, the New York City Bar Association (City Bar) believes it is vital for United Nations Member States and the international community to undertake all possible legal measures to reduce and ultimately cease hostilities caused by Russian aggression in Ukraine, ensure all parties adhere to their legal obligations under international law, and minimize suffering of the civilian population in Ukraine.

The Russian Federation's blatant violation of the fundamental principles and purpose of the United Nations Charter has created a pivotal moment for international law and the rules-based international order. The credibility of the international order, in which the rule of law plays a foundational role, is at stake. The City Bar affirms Ukraine's exercise of its sovereign right of proportional individual or collective self-defense. The failure to ensure accountability for grave violations of international humanitarian law (IHL), international criminal law (ICL), and international human rights law (IHRL) moreover would signal to perpetrators of atrocities around the globe the destruction of restraints against illegal acts of violence as a means to achieve political goals.

**THE CITY BAR URGES RESPECT FOR INTERNATIONAL HUMANITARIAN LAW,
INTERNATIONAL CRIMINAL LAW, AND INTERNATIONAL HUMAN RIGHTS LAW**

The City Bar condemns in the strongest possible terms the ongoing violations of IHL, ICL, and IHRL committed by Russian Federation forces and mercenary units under their control across Ukraine. Evidence of war crimes and crimes against humanity committed by Russian Federation forces against Ukrainian civilians continues to mount. The City Bar highlighted in its prior statements the illegality of the Russian Federation's invasion of Ukraine, which constituted a crime of aggression and a blatant violation of the UN Charter,¹ it called for the prompt investigation of

¹ See <https://www.nycbar.org/media-listing/media/detail/russian-federations-invasion-of-ukraine> (All websites last visited May 4, 2022.)

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

allegations of war crimes committed by Russian Federation forces and the establishment of a hybrid tribunal to investigate and prosecute the crime of aggression committed against Ukraine,² and it condemned censorship of independent media reporting in Russia and apparent targeting of journalists in Ukraine.³

The City Bar takes note of the credible and shocking reports of atrocities committed throughout Ukraine, most notably in Bucha, Irpin, Mariupol, and at the Kramatorsk train station, which are of particular concern, and appear to involve intentional and targeted military action against civilians, resulting in mass executions, torture, and sexual and gender-based violence. In particular, the City Bar believes that the scale of the atrocities committed in Bucha, Irpin, and other areas surrounding Kyiv provide evidence of and further support the credible allegations that Russian Federation forces have committed war crimes on a massive scale and crimes against humanity. The City Bar condemns the illegal attack on Kramatorsk train station on April 8, which resulted in the death of more than 50 civilians.⁴ The City Bar calls on the international community to strengthen its collective response to independently investigate all alleged atrocities committed in Ukraine and ensure that all perpetrators of these atrocities, including senior military and civilian leaders of the Russian Federation, are held accountable. In investigating these crimes, a victim-oriented approach to justice is paramount, including but not limited to, ensuring that witnesses and/or survivors are prioritized for health services, safe refuge, and immediate access to legal services.⁵

The City Bar fully supports efforts by the international community to investigate these crimes, including by the Office of the Chief Prosecutor of the International Criminal Court (ICC) and the Commission of Inquiry for Ukraine established by the United Nations Human Rights Council. The City Bar welcomes domestic investigations by authorities in Ukraine and other jurisdictions, which are essential to holding perpetrators of IHL, ICL, and IHRL violations accountable. The City Bar calls on the ICC and all other accountability mechanisms to expeditiously and impartially investigate all potential atrocity crimes being committed in Ukraine, including war crimes, crimes against humanity, and genocide.⁶ Furthermore, it commends the efforts of civil society organizations and private actors to obtain and preserve evidence of war crimes and crimes against humanity committed by Russian Federation forces, as well as efforts of domestic and international journalists who have risked their lives to bear witness to the atrocities in Bucha, Irpin, and elsewhere in Ukraine. The City Bar takes this opportunity to again express its grave concerns over

² See <https://www.nycbar.org/media-listing/media/detail/russian-war-crimes-in-ukraine-investigation-request>

³ See <https://www.nycbar.org/media-listing/media/detail/concerns-over-russian-attacks-on-freedom-of-expression-and-press>

⁴ Jonathan Beale, *Ukraine war: Disbelief and horror after Kramatorsk train station attack*, BBC (Apr. 9, 2022), <https://www.bbc.com/news/world-europe-61055105>.

⁵ As noted by the International Criminal Court itself, the security of victims is crucial. It is important to take preventive measures such as avoiding mentioning identifying details of individuals or exposing their cooperation with the ICC and other investigative mechanisms.

⁶ By separate letter to President Biden and Congressional leaders, dated March 3, 2022, the City Bar called on the United States to fully support the ICC's investigation into atrocity crimes in Ukraine. See <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/ukraine-russia-international-criminal-court-us-involvement>.

credible reports that the Russian Federation has targeted these journalists in violation of IHRL.⁷ All of these investigatory mechanisms are necessary to document the scale of the grave violations of IHL, ICL, and IHRL that are being committed against the Ukrainian population, and they should not be impeded in any manner.

Further, the City Bar deplores the credible reports that civilians in Ukraine have been victims of forcible deportations to Russia⁸ against their will and it condemns the use of sexual and gender-based violence by Russian Federation forces to terrorize the civilian population in Ukraine.⁹ The City Bar continues to express its deepest concern for those displaced by the Russian Federation's acts of aggression against Ukraine, including those displaced internally and those who have sought refuge abroad. As of April 23, ten million Ukrainians as well as foreign citizens have been displaced,¹⁰ including more than five million to neighboring countries,¹¹ the vast majority of which are women and children. The City Bar commends the willingness and ability of Ukraine's neighbors, including Poland, Moldova, Romania, Slovakia, and Hungary, to host refugees fleeing violence. The City Bar calls on the United States and the international community to respond collectively to provide financial and humanitarian aid to host countries and resettle refugees in accordance with international refugee and asylum law.

The Russian Federation must permit unhindered humanitarian access to besieged civilian populations, most pressingly in the city of Mariupol where up to 100,000 civilians are trapped and the horrific humanitarian situation continues to deteriorate further.¹² The Russian Federation must allow civilians to seek safety away from besieged areas in accordance with its legal obligations under IHL.¹³ Any use of humanitarian aid and hunger as weapons of war is illegal and completely unacceptable. The City Bar expresses its further concern over the impact the Russian Federation's invasion is having upon the human rights situation outside of Ukraine, especially in relation to

⁷ See <https://www.nycbar.org/media-listing/media/detail/concerns-over-russian-attacks-on-freedom-of-expression-and-press>; see also U.S. 'Horrified' At Killing Of American Journalist Near Kyiv, Radio Free Europe (March 13, 2022), <https://www.rferl.org/a/ukraine-us-journalist-shot-dead/31750862.html> (describing death of filmmaker in Irpin).

⁸ *Mariupol says 15,000 deported from besieged city to Russia*, Reuters (Mar. 24, 2022), <https://www.reuters.com/world/europe/mariupol-says-15000-deported-besieged-city-russia-2022-03-24/>.

⁹ *Ukraine: Russian forces extrajudicially executing civilians in apparent war crimes – new testimony*, Amnesty International (Apr. 7, 2022), <https://www.amnesty.org/en/latest/news/2022/04/ukraine-russian-forces-extrajudicially-executing-civilians-in-apparent-war-crimes-new-testimony/>; *Ukraine: Apparent War Crimes in Russia-Controlled Areas*, Human Rights Watch (Apr. 3, 2022), <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas#>.

¹⁰ *Almost 6.5 Million People Internally Displaced in Ukraine: IOM*, International Organization for Migration (Mar. 21, 2022), <https://www.iom.int/news/almost-65-million-people-internally-displaced-ukraine-iom>.

¹¹ See Operational Data Portal, Ukraine Refugee Situation, <https://data2.unhcr.org/en/situations/ukraine>.

¹² Alessandra Prentice and Issam Abdallah, *Mariupol mayor says lives of city's trapped residents are in Putin's hands*, Reuters (Apr. 21, 2022), <https://www.reuters.com/world/mariupol-mayor-says-lives-citys-trapped-residents-are-putins-hands-2022-04-21/>.

¹³ Rule 55 of the International Committee for the Red Cross's Customary IHL states, "The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control." See https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule55.

exacerbating the difficulty of providing basic services and creating food shortages in developing countries.¹⁴

While the City Bar welcomes the decision by the United Nations General Assembly to suspend the Russian Federation from its seat on the United Nations Human Rights Council,¹⁵ the City Bar is deeply troubled by the inability of the United Nations Security Council to take constructive action to end the acts of aggression and atrocities committed by the Russian Federation. If the United Nations Security Council remains paralyzed to act in response to grave violations of IHL, ICL, and IHRL, the public's trust in the ability of the institution to carry out its mandate to maintain international peace and security will be severely diminished.¹⁶

THE ROLE OF LAWYERS, BAR ASSOCIATIONS AND THE INTERNATIONAL COMMUNITY IN SUPPORTING UKRAINE'S JUSTICE AND RULE OF LAW INSTITUTIONS, CIVIL SOCIETY ORGANIZATIONS, AND PERSONS DISPLACED BY THE CONFLICT.

The City Bar calls on the legal community, law firms, and bar associations in the United States and across the world to explore ways to support Ukraine, its institutions, and civil society organizations in their efforts to document atrocities committed in Ukraine; as well as to support the needs of persons and populations displaced by the conflict.

As the crisis in Ukraine unfolds and evidence of atrocities accumulates, Ukraine's Ministry of Justice, Office of the Chief Prosecutor, Office of the Ombudsman, and Military Prosecutors at the national and local levels, as well as Ukrainian civil society organizations will require in kind support and international development assistance in several areas. These include among others, forensics; collection, documentation, preservation, and storage of evidence of atrocity crimes; legal aid for victims and displaced persons; psycho-social rehabilitation services in partnership

¹⁴ As noted by the U.N. Secretary General in his remarks to the Security Council of April 5, 2022, the Russian invasion of Ukraine continues to have repercussions far beyond Ukraine's borders. The war has led to massive increases in the price of food, energy, and fertilizers. It has disrupted supply chains and increased the cost of transportation. This has placed developing countries under pressure who were already on the precipice of debt collapse due to the impact of the COVID-19 pandemic. Prices of wheat, maize, barley, oil, natural gas, and fertilizer have all increased across the board, escalating at rates between 20 and 60 percent more than over the same period last year. If the situation continues unabated it will have unforeseen consequences in developing countries in terms of their sustainability and the ability of their governments to provide basic services. This can be expected to impact upon human rights and the rule of law in these countries, including the rights of women and children and other vulnerable groups to food, health, economic livelihoods, and the environment. See <https://www.un.org/sg/en/node/262886>.

¹⁵ Michelle Nichols, *U.N. suspends Russia from human rights body, Moscow then quits*, Reuters (Apr. 7, 2022), <https://www.reuters.com/world/un-vote-suspending-russia-human-rights-council-over-ukraine-2022-04-07/>.

¹⁶ To quote Ukrainian President Volodymyr Zelenskyy during his address to the United Nations Security Council on April 5, 2022, "We are dealing with a state that turns the right of veto in the UN Security Council into a right to kill. Which undermines the whole architecture of global security. Which allows evil to go unpunished and spread the world. Destroying everything that can work for peace and security. If this continues, the finale will be that each state will rely only on the power of arms to ensure its security, not on international law, not on international institutions. Then, the UN can simply be dissolved." See <https://www.president.gov.ua/en/news/vistup-prezidenta-ukrayini-na-zasidanni-radi-bezpeki-on-74121>.

with legal aid services; protection of women and children and investigation and prosecution of sexual and gender-based violence. Ukraine will also likely need support in establishing its own war crimes tribunal chambers and incarceration facilities and capacity building in the rule of law and justice sectors to train judges, lawyers, and prosecutors to try such cases. Beyond this, Ukrainian rule of law, justice, and human rights institutions will require renewed and sustained financial support in the form of international development assistance from United Nations Member States and the international community.

The City Bar urges all United Nations Members States to renew and fulfill their financial commitments as international development donors, both bilaterally and multilaterally. This includes bolstering their commitments to the rule of law via the United Nations Peacebuilding Trust Fund and other mechanisms. The City Bar urges lawyers and bar associations to explore ways in which they and their members can support the needs of persons and populations displaced by the conflict. This includes providing competent, diligent, and ethical pro bono legal assistance to these individuals and their families.

SUMMARY OF RECOMMENDATIONS

The City Bar joins the international community in calling for the Russian Federation, and all parties to the conflict in Ukraine, to adhere to their legal obligations under IHL, ICL, and IHRL, including the fundamental principle of IHL, the obligation to distinguish between military and civilian targets. This is especially important as the Russian Federation conducts a new offensive in eastern Ukraine.

The City Bar appeals to the United Nations system and the international community to diligently pursue all diplomatic avenues to reduce violence in Ukraine and achieve a ceasefire to reduce the suffering of the civilian population Ukraine.

The City Bar urges the Russian Federation to comply with the legally binding opinion of the International Court of Justice issued on March 16, 2022, requiring the Russian Federation to halt all military activities in Ukraine.

The City Bar calls on the ICC, the Commission of Inquiry on Ukraine, and all other mechanisms with proper jurisdiction to promptly and independently investigate atrocities committed in the areas surrounding Kyiv, including Bucha and Irpin, as well as in Mariupol to determine if they constitute war crimes, crimes against humanity, and possible genocide, while simultaneously ensuring witnesses and survivors' rights are protected, safety is guaranteed, and security is immediately prioritized.

The Russian Federation must cease, in accordance with IHL, ICL, and IHRL, its forced deportation of civilians and the commission of sexual and gender-based violence by its forces.

The Russian Federation must allow the unhindered passage of humanitarian aid and allow civilians to seek safety away from besieged areas in accordance with its legal obligations.

The City Bar urges all members of the international community to comply with their legal obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.¹⁷

The City Bar urges all United Nations Members States to renew and fulfill their financial commitments as international development donors, both bilaterally and multilaterally. This includes bolstering their commitments to the rule of law via the United Nations Peacebuilding Trust Fund and other mechanisms.

The City Bar calls on its fellow bar associations and the global legal community to assist the Ukrainian government and the international community in documenting evidence of war crimes, crimes against humanity, and other grave crimes under Ukrainian and international law with the objective of preserving such evidence for future prosecutions.

The City Bar urges lawyers and bar associations to explore ways in which they and their members can support the needs of persons and populations displaced by the conflict. This includes providing competent, diligent, and ethical pro bono legal assistance to these individuals and their families.

Sheila S. Boston
President

Council on International Affairs
Mary A. Meyer, Chair

Foreign and Comparative Law
Richard H. Langan, II, Chair

United Nations Committee
Clayton T. Cheney, Co-Chair
Catherine Van Kampen, Co-Chair

May 2022

¹⁷ Under Article I of the Convention on the Prevention and Punishment of the Crime of Genocide, the Contracting Parties must undertake measures to prevent and punish genocide. Furthermore, Article VIII of the Convention permits Contracting Parties to “call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide.”