Intransigence or heading towards 'dialogical truth'? The evolution of Ukrainian government's approach to truth-seeking in the context of Donbas conflict

Igor Lyubashenko, SWPS University of Social Sciences and Humanities (Warsaw)

Email: ilyubashenko@swps.edu.pl

Preparation of the paper was possible thanks to a research grant no. 2016/23/D/HS5/02600, financed by the National Science Centre, Poland.

Paper presented at the 2019 ASN World Convention, Columbia University 2-4 May 2019

Do No Cite Without the Permission of the Author

Abstract

The paper analyses the approach of Ukrainian authorities to truth-seeking (understood as an element of wider concept of post-conflict justice) in the context of ongoing Donbas conflict. It starts with theoretical considerations introducing key definitions and explaining the significance of truth-seeking for post-conflict justice.

The empirical part explains the specificity of circumstances accompanying the Donbas conflict: taking into account that we are dealing with ongoing conflict, with no clear prospect of its' resolution, we focus on ad hoc steps taken by Ukrainian authorities that correspond with the proposed understanding of truth-seeking, namely construction of narratives providing framework for interpretation of facts. The analysis starts with tracing the evolution of official narratives used by Ukrainian authorities to 'tell the story' of the conflict. Afterwards, these narratives are assessed from the perspective of their potential to become a ground for reconciliation. In particular, we look at: (1) the extent to which these narratives are confirmed by courts and (2) the extent to which these narratives are accepted by public opinion.

The paper constitutes a step towards better understanding of determinants, which may eventually have a significant impact on the design of a comprehensive model of post-conflict justice addressing the legacy of the Donbas conflict. More generally, the paper contributes to better understanding of specificity of truth-seeking initiatives in the circumstances of ongoing, unresolved armed conflicts.

Significance of truth-seeking for post-conflict justice

Armed conflicts are inevitably associated with violence, which in turn tends to generate lasting resentments and through them – a lasting impact on politics of affected societies, going far beyond the time scope of the conflict itself (Maddison 2017).

Armed conflicts should also be regarded as extraordinary situations, in which societies are forced to operate outside of established institutional infrastructure. From this perspective, despite their fundamentally destructive essence, armed conflicts can also be seen as 'originary and transgressive moments of symbolic and legal innovation and for constitutional creation' (Kalyvas 2008).

By no means, managing the conflict and post-conflict situation in a way that reduces the negative impact of legacy of violence and clears the way for constructive policies is not an easy task. Extensive literature has been devoted to this issue, the review of which would go beyond the thematic scope of this paper. What should be stressed, is that long-lasting positive peace is usually regarded as dependent on (among others) provision of justice (Galtung 1969).

In order to organize further analysis, we will utilize the concept of *transitional justice* (TJ). According to Kofi Annan's 2004 report, the concept refers to 'full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (and none at all) and individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissals, or a combination thereof'(United Nations 2004).

The concept of TJ thus refers not to a specific *type* of justice understood as a philosophical notion, but rather to a specific *procedure* of provision of justice in situations when resting on existing rules is impossible or undesirable. The *transitional* element of the concept refers to what was called above the extraordinary situation, when due to some sort of crisis the society undergoes a fundamental shift (e.g. transition between political regimes, or transition from war to peace). To make the long story short, TJ refers to a 'toolkit' of policies aimed at managing the resentments caused by large-scale violence.

Existing TJ literature draws attention at several important regularities. First, provision of justice in extraordinary situations inevitably contains what can be called a quantum of politics. In other words, to a certain degree it depends on an interplay of interests of involved actors: wrongdoers, victims and political actors aiming to obtain or keep power (Elster 2004).

Second, the concept of TJ as it stands today cannot be understood without a reference to normative foundations of widely understood western political order – primarily the rule of law and human rights (HR) doctrine, framed mostly by international law and its practical application, thus a case-law of international courts and tribunals, at foremost. In other words, the discussed kind of policy is expected to be normatively-driven (Gready and Robins 2014), it is expected to lead to an outcome that reinforces the principle of rule of law, respect of HR, effective reconciliation within the framework of an inclusive political order etc.

Peace and justice can thus be regarded as the most obvious normative goals of policies that fit into the category of TJ. In this paper, we focus on one more – less evident but not less important – normative goal of TJ, namely that of *truth*. In the following paragraphs, we will try to outline the significance of it from the perspective of post-conflict TJ.

In his monumental work, Aleksander Solzhenitsyn proposed a straight-forward definition of justice, the one that can be understood almost intuitively: the virtue triumphs and the vice is punished (Solzhenitsyn 2007, 175). Indirectly, this definition opens the way for explaining the meaning of what we call here truth: it implies the need of understanding what is virtue and what is vice.

Put other way, in order to correct a situation created by some instance of injustice, one should possess a certain *knowledge* about what actually happened. Thus, provision of justice (whether retributive or restorative) is dependent on establishing facts about what actually happened. This statement can be regarded as a sort of conventional wisdom, which raises no significant doubts in what can be called ordinary circumstances (the opposite of extraordinary circumstances). In order to deal with inevitable minor conflicts and wrongdoings that occur on everyday basis, contemporary societies tend to trust microscopic and logical types of truth (Sachs 2006), as established by proper state institutions (primarily courts) and based on existing institutionalized norms obliging in a given society.

Things may look differently in extraordinary circumstances, when the existing institutionalized reality breaks down and societies have to deal with the legacy of mass-scale violence. In such situations, additional problems usually arise.

First, there is no consensus among legal theorists regarding the possibility of universally infallible knowledge (Nicolson 2013). This argument may refer to any judicial or non-judicial process, which rests upon searching for evidence. However, it may appear to be especially relevant, when trying to establish truth understood as knowledge perfectly reflecting the full picture of causes, course and outcome of an extremely complex case, such as an armed conflict and engagement of particular individuals in it.

Second, even if one assumes that establishing truth (understood as knowledge) about a certain event or process is within reach, there is no guarantee that beliefs and attitudes to this event will necessarily change (Daly 2008). In other words, political divisions underlying the escalation of violence obviously do not vanish along with cease-fire; in fact, they may even deepen. As a result, we may deal with different frameworks for interpreting the meaning of events, even when there is a certainty about facts (Clark 2011).

Therefore, in the context of TJ, understanding of truth should be expanded towards what can be called *acknowledgement*. Indeed, this way of understanding truth is clearly prescribed to specific element of 'TJ toolkit' – truth commissions. They are expected to 'provide a public platform for victims to address the nation directly with their personal stories and can facilitate public debate about how to come to terms with the past' (United Nations 2004), and can 'assist in investigating current and past human rights violations or abuses, thus contributing to public recognition of these violations and of the suffering of victims' (European Union 2015).

Acknowledgement is thus close to Sachs's concept of experiential truth, which is about 'analyzing one's experience of a phenomenon, in which one's participated (Sachs 2006, 8). Acknowledgement is usually understood as victim-oriented practice. However in complex

situations, when the dividing line between perpetrators/wrongdoers and victims is not always obvious, this way of understanding acknowledgement suggests the need of at least taking into consideration of wide range of stories of the ones engaged in conflict.

Summing up, one can state that the relation between justice and truth when addressing some sort of wrongdoing depends strongly on wider political circumstances. In what is called here ordinary circumstances, justice 'produces' truth (understood primarily as knowledge) by establishing facts and assessing them from the perspective of existing institutionalized reality. In extraordinary circumstances, truth (extended towards acknowledgement of actual experience of the ones engaged in some form of violence) may appear to be the necessary condition for creating adequate framework allowing to assess facts in a way that contributes to (re)creation of institutions constituting the backbone of political order. Furthermore, from victims' perspective, acknowledgement as such may serve the function of restorative justice (Walker 2015).

In other words, while judiciary and non-judiciary investigations inevitably 'produce' microscopic and logical truths (data, facts), in extraordinary circumstances such 'production' should be to some extent sensitive to experiential truths of the ones engaged in and/or affected by large-scale violence.

Ultimately, if we understand reconciliation not as a sort of static ideal situation, but as an open-ended agonistic process, which creates space for peaceful coexistence of 'multiple truths, multiple histories' (Maddison 2017, 208), a bridge is established with Sachs's fourth type of truth, namely dialogical one, 'the whole mix of evidential testimonial, experiential, the truths of many people being interpreted in many ways; and it's never ending' (Sachs 2006, 9).

Basing on the above considerations, the term truth-seeking will be understood as a process of establishing claims and narratives that are 'sufficiently responsive to the experiences of relevant individuals and communities to be counted as truth' (Holder 2013, 246).

A note on the specificity of the Donbas conflict

The armed conflict in the east of Ukraine started to evolve in the aftermath of probably the most remarkable event in the country's contemporary history – the Euromaidan uprising that took place in the end of 2013 – beginning of 2014. The protests ended with the escape of President Viktor Yanukovych to Russia on 22 February 2014. Almost immediately, on 1 March, it was followed by rallies in the cities of Kharkiv, Odesa, Donetsk, Kherson and Mykolaiv (all situated in the south and east of Ukraine). The participants openly expressed their disagreement with the change of authorities in Kyiv. It is important to note that the support for Euromaidan was concentrated in the western and central regions of the country;[1] it was therefore no surprise that the narrative presenting the protests and their outcome as an illegal *coup d'etat* gained fertile ground in the east and in the south.[2]

Rallies against the post-Euromaidan change of authorities took place also in the Crimean peninsula. The latter were used by local pro-Russian groups, openly supported by the Russian military, to organise a referendum on independence of Crimea on 16 March 2014. Two days later, on 18 March, an agreement was signed in Moscow on the joining of Crimea to the Russian Federation.

Events in Donbas generally fit the same pattern. Anti-government meetings were soon complemented with separatist ones. There were instances of occupation of official buildings throughout the region, accompanied by the proclamation of 'people's authorities'. On 11 May 2014, the 'authorities' conducted unconstitutional referendums (according to Ukraine's constitution, issues of altering the territory of Ukraine are resolved exclusively by an all-Ukrainian referendum), thus provided the dubious basis for the so-called independence of self-proclaimed 'people's republics' of Donetsk (DNR) and Luhansk (LNR). Although Russia clearly supported the emergence of both putative states, there were no attempts to annex the secessionist territories as it happened in the case of Crimea.

Unlike in the case of Crimea, Ukrainian government decided to use force against secessionists in Donbas. On 13 April 2014, the counter-terrorist operation (ATO) was authorised in order to oppose growing centrifugal tendencies. By summer 2014, the crisis escalated to a full-fledged armed conflict. On 5 September 2014, the first ceasefire agreement was signed in Minsk by the representatives of the Organisation of Security and Cooperation in Europe (OSCE), Ukraine, Russia and leaders of self-proclaimed 'republics' of DNR and LNR (hereafter referred to as Minsk-1 agreement). It was followed by a new wave of violence at the beginning of 2015 and signature of the second ceasefire agreement on 12 February 2015 (hereafter referred to as Minsk-2 agreement). After the Minsk-2 agreement, a relative calmness (although not complete end of violence) was achieved.

The most important events (milestones) as well as data reflecting the intensity of the conflict (measured in number of conflict-related casualties) are presented in the timeline (Figure 9).

The fact that we are dealing with the ongoing conflict imposes some limits on the analysis of truth-seeking initiatives. First, there is no established final modality of dealing with the consequences of the conflict. In other words, there is no clarity which elements of 'TJ toolkit' will eventually be utilized. Therefore, the sort of analysis that is realistically feasible is an attempt to present the evolution of relevant policies in a certain period of time. This

[1] Basing on data published by the Kyiv-based Democratic Initiative Foundation (http://dif.org.ua/).
[2] These issues are analysed more thoroughly elsewhere. See: Andrew Wilson, *Ukraine Crisis: What it Means for the West* (New Haven and London: Yale University Press, 2014).

evolution to a certain degree may determine (in a sense of limiting options for further development) the eventual final shape of a comprehensive approach to post-conflict justice. In other words, the analysis provides an insight into the 'policy in-the-making', which should be regarded as the main value added of it.

This also means, that dialogical truth remains nothing but normative goal, the implementation of which can only be started when (and if) the conflict is settled. Only then one can realistically expect that some sort of policy/platform will be established for an open-ended dialogue between individuals engaged in the conflict.

Second, there is a problem of hybridity of the conflict, which refers to legal uncertainty regarding the status of the conflict, of combatants taking part in it as well as of political entities responsible for and able of conducting warfare and implementing peace agreements. Among other things, it implies a risk that any claim used under the label of truth-seeking can be understood as political manifestation of support given to one side of the conflict. In order to avoid it, we focus our analysis on initiatives undertaken by Ukrainian authorities, taking into account the proclaimed goal of reintegration of society divided as a result of the conflict. In other words, we focus on what can be called an 'official truth' about the conflict as presented by Ukrainian government.[3] The goal of the analysis presented in the following parts is to trace the evolution of narratives used by Ukrainian government to describe the conflict and to assess their potential to contribute to reconciliation between parts of Ukrainian society that appeared on different sides of the frontline. At the same time, the goal is not to tell, which narratives are right and which are wrong, which are legitimate and which are not.

[3] The notions of 'government' and 'authorities' in this paper are used as synonyms.

Establishment and evolution of Ukrainian authorities' 'official truth' about the Donbas conflict

Under the term 'official truth' we mean a sort of meta-narrative, used by Ukrainian authorities as a comprehensive framework for interpretation of different aspects of the Donbas conflict in general, and individual experiences in it in particular. To some extent, it can be understood as similar to Sachs's concept of experiential truth, although applied not to experience of a certain individual but of a collective entity.

In order to identify these narratives, we look at Ukrainian legislation adopted since the beginning of the conflict and aimed at addressing the problems generated by it. Tracing the emergence of these narratives requires moving back in time to the period that preceded the outbreak of the Donbas conflict itself, and which followed the dramatic culmination of the Euromaidan protest. As the second step, we will look at how these key narratives reflected in public rhetoric of key politicians aspiring for or holding important official positions, and thus having a significant possibility to shape public debate referring to the Donbas conflict.

Narratives used in legislation

On 22 February 2014, the Verkhovna Rada of Ukraine adopted a series of important resolutions. In particular, the Verkhovna Rada declared Yanukovych's de facto self-removal from office (Verkhovna Rada of Ukraine 2014c); restored the parliamentarian political regime by annulling the 2010 change of the constitution introduced in order to reinforce the presidential power of Viktor Yanukovych (Verkhovna Rada of Ukraine 2014g) and accepted political responsibility for the situation in the country (Verkhovna Rada of Ukraine 2014d), thus opening the way for the formation of interim government.

These documents are crucial because of their extraordinary character: without any doubt, Ukrainian legislation did not foresee such procedures for removing president from the office, changing the constitution or forming the interim government. These decisions were dictated rather by political necessity to stabilize the situation.

The mentioned documents, however, also provided arguments for the opponents of the interim government arguing that these events could be interpreted as illegal *coup d'etat*. So, Viktor Yanukovych's statement of 1 March 2014, in which he asked President Vladimir Putin to use Russian armed forces to 'restore law, peace, stability and protect the population of Ukraine', the mentioned events were characterized as 'illegal capture of power', which lead the country to the 'verge of civil war' (Censor.NET 2017).

The notion of civil war unleashed by the 'fascists' who came to power as a result of *coup d'etat* later became a cornerstone of identity policies of self-proclaimed 'people's republics'. They were also fundamental for Russian narrative interpreting the discussed events.[4]

The considerations of Ukrainian government about how to respond to the developing crisis are well reflected in the minutes of the meeting of National Security and Defense Council of

[4] A prominent example of using this argument can be seen in 2015 documentary by Andrey Kondrashov "Крым. Путь на Родину" (Crimea. A way back to motherland). The movie is published on the official YouTube channel of "Rossiya 24" TV channel: https://youtu.be/t42-71RpRgI.

Ukraine (NSDC),[5] which took place on 28 February 2014. The document presents the discussion of developing events by Ukrainian decision-makers as preparation of Russia to war, which could take form of full-scale invasion. It also reflects the awareness of decision-makers of the growing threat to territorial integrity of Ukraine (one should note however, that at that particular moment the crisis was centered around Crimea), as well as the awareness of weakness of the Ukrainian state. From the perspective of this analysis, the most important idea contained in the document is the need to avoid any steps that could be used by Russia as an argument for invasion as well as the need to construct any policies addressing the threat for territorial integrity in such a way that would ensure the support of international community (National Security and Defence Council of Ukraine 2014).

The manifestation of such deliberate cautiousness could be observed soon. On 1 March, Russian State Duma allowed usage of force on the territory of Ukraine, to what the Verkhovna Rada responded with an appeal to President Putin not to use the mentioned right to use armed forces on the territory of Ukraine (Verkhovna Rada of Ukraine 2014f), and an appeal to parliaments of states-guarantors of security of Ukraine and international organisations (Verkhovna Rada of Ukraine 2014e). The latter document referred to ongoing events as 'military actions against Ukraine', thus avoiding using more specific terms as 'war' or 'aggression'.

To a significant extent, this cautious approach explains the virtually non-violent process of annexation of Crimea, where Russian forces did not face any form of resistance from Ukrainian side. Another profound manifestation of it is the reluctance of Ukrainian authorities to introduce martial law. The latter could be interpreted as formal confirmation that Ukraine was in the state of war, and thus once again could indirectly trigger Russia's intervention on a much larger scale.

All in all, the initial phase of the conflict is characterized by what can be called hesitations of Ukrainian authorities about how to frame the emerging conflict. Ukraine's interim government looked for a narrative framework in a responsive way, looking for cautious claims that could not be read as an incentive for further escalation and at the same time not discourage international partners from providing political support.

Along with the development of events, Ukrainian authorities have managed to crystallize several narratives that were used to tell more or less comprehensive story about the Donbass conflict. Let us discuss them in the order dictated by chronology of their appearance.

Separatism

The notion of separatism appeared very early in the discourse accompanying the analysed conflict. Along with the mentioned extraordinary decrees referring to basic issues of organization of political life after the culmination of Euromaidan protest, on 22 February 2014, the Verkhovna Rada adopted another decree condemning the manifestations of separatism and other forms of attacks on national security of Ukraine (Verkhovna Rada of Ukraine 2014b). Obviously, at that particular moment the document referred first and foremost to developments in Crimea. Also in the mentioned transcript of the NSDC meeting

[5] NSDC is the institution headed by the president of Ukraine, aimed at coordination and control over activities of the executive in the field of national security and defense.

on 28 February 2014, separatism is mentioned several times as a fundamental threat to Ukrainian statehood.

The notion of separatism, however, never appeared later in any legal act formulating principles of state policy towards the discussed problems. For example, a law establishing a special status of 'people's republics' that was adopted on 16 September 2014, as a result of Minsk-1 protocol, refers to these entities as the 'certain parts of Donetsk and Luhansk oblasts'; the conflict as such was referred to as 'events' and government's adversaries (de facto separatists) – as 'participants of events' (Verkhovna Rada of Ukraine 2014a). In other words, the law establishing main principles of state policy towards separatist entities used notions devoid of unambiguous political meaning.

On the other hand, the notion of separatism appeared to be very popular in general public discourse. Although we do not have any quantitative data, it would be not an exaggeration to state that the notion was (and continues to be at the moment of writing) one of the most popular terms used by the Ukrainian media to address the problem of self-proclaimed 'republics' and parts of Ukrainian society that became adversaries of the government. It was also present in the rhetoric of authorities (we will return to this issue later).

The reason of such split between the range of use of the notion of separatism in legal and political domain can be explained as following. The notion of separatism is too vague and unclear to be used in the process of creating legal foundations for provision of justice. Neither international law nor Ukrainian legislation provide hard ground for treating separatism *per se* as a sort of wrongdoing. As we will see below, this problem was reflected in practice of punishing 'separatists': Ukrainian judiciary had to develop relevant criminal cases basing on a section of criminal code devoted to crimes against state security.

On the other hand, from the political perspective, the notion of separatism appears to be quite a convenient tool. It allows to create a simple category containing different sorts of problems and thus simplify political communications (it is enough to use the term 'separatism' or 'separatist' to make it clear which set of issues, problems and persons we refer to). Thus, the notion of separatism became an important element of the 'story' of the conflict as told by the Ukrainian government, however it did not grow roots in relevant legislation.

Terrorism

After the annexation of Crimea, the spark of the conflict moved to the eastern region of Donbas. Although protests against change of authorities in Kyiv took place in numerous cities of eastern and southern Ukraine as early as on 1 March 2014, events started to develop more quickly at the beginning of April, when separatists declared sovereignty of the 'Donetsk People's Republic', and the city of Slovyansk was seized by a group of combatants under command of Russian citizen Igor Girkin (aka Strelkov).

In a response to these events, acting president Oleksandr Turchynov issued a decision to initiate a counter-terrorist operation (ATO) on 14 April 2014 (President of Ukraine 2014), basing on recommendation by RNBO issued one day earlier. This decision was dictated on the one hand by the obvious need to introduce counter-measures in order to avoid repetition of the so-called 'Crimean scenario' of Ukrainian state's de facto withdrawal from secessionist regions and on the other hand, by the mentioned considerations regarding the need to avoid any steps that could be used by Russia as a justification for undisguised

military intervention. Using force within the legal framework of counter-terrorist operation was thus decided to be the most optimal way to act.

As a result of this decision, the notion of terrorism was introduced for good into Ukrainian public debate on the issues of Donbas conflict. More specifically, the government's adversaries started being referred to as terrorists.

Along with positive effects (possibility to use force without announcing martial law, rhetorical 'joining' the international efforts aimed at fighting international terrorism), introduction of the narrative of terrorism had several important pitfalls. In particular, it introduced serious legal ambiguities regarding status of fighters and prisoners on both sides of the conflict; it added uncertainty regarding responsibility to pay compensations to persons affected by warfare (these issues go beyond the thematic scope of this paper and will become an object of a separate analysis). Last but not least, the notion of terrorism can hardly become a basis for reconciliation, or even a starting point for dialogue between adversaries.

At the beginning of 2018, Ukrainian authorities undertook an attempt to put different elements of state policy towards secessionist territories in Donbas, which were often created in an ad hoc manner, into a single legal act, which is popularly referred to as 'reintegration law' (Verkhovna Rada of Ukraine 2018). Among other changes, the document created a possibility to end the ATO, which was eventually changed into a Joint Forces Operation (JFO) in April 2018. The notion of terrorism was thus officially removed from relevant legislation.

Aggression

The fate of the notion of aggression can be regarded as a mirror reflection of the fate of the notion of separatism. As it was mentioned above, in the initial phase of the conflict, Ukrainian authorities were reluctant to use any notion that could be associated with war, in official documents.

This approach started to change after the annexation of Crimea. As the first step, notions of occupation and occupied territories were introduced in the law 'On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine', adopted on 15 April 2014. It was, however, only in January 2015, when the Verkhovna Rada of Ukraine issued a statement, in which it explicitly stated that 'Ukraine remains the object of military aggression on the part of the Russian Federation, which is carries out, among others, through the support and providing supplies necessary for large-scale terrorist attacks' (Verkhovna Rada of Ukraine 2015).

The narrative of aggression was afterwards used in a number of legal acts, aimed primarily at introduction of sanctions against Russia. Finally, it was reinforced along with the adoption of the mentioned 'reintegration law', which explicitly defines the conflict under scrutiny as a result of a crime of aggression committed by the Russian Federation Against Ukraine. The law also defines both Crimea and 'people's republics' in Donbas as temporarily occupied territories, being under effective control of Russian Federation.

The notion of aggression differs from the previously discussed notions of separatism and terrorism, primarily because it provides much more consistent 'story' about the conflict. First and foremost, it puts responsibility for violence and injustices primarily on as external enemy; the cause of the conflict is being moved definitely outside of the state (whereas

separatism may be interpreted as a response to injustices committed by central government). Furthermore, the notion is well-grounded in legal terms (Grant 2015).

Reflection of key narratives in political communication of Ukrainian authorities

Comprehensive analysis of public discourse is beyond the goals of this research; we focus on several sources, which are regarded as important channels of communication between the political elites and citizens: (a) programs of political parties and candidates for presidency and (b) the most significant regular speeches of the President. The rationale behind it is the following. Obviously, political programs are by no means sources of accurate information about politicians' real beliefs or preferences. Especially in Ukrainian context, political programs usually have a shape of brief, broad and sketchy slogans, a list of general mottos a politician would like to be associated with, rather than a detailed proposal of actions planned to be implemented in upcoming electoral term. This is exactly the feature of these documents that is important in the framework of this analysis: we regard political programs as sets of simple narratives, which are used by politicians to communicate with the public at the moments when what we call here 'authorities' are being shaped – elections. These narratives reflect the attempts to adjust political 'supply' (proposals by candidates willing to get the office) to political 'demand' (expectations of the electorate).

Political programs, however, present only a static picture as it can be seen at the moments of elections. In order to add some dynamism, speeches of the president were added to analysis. In Ukrainian political system, president has a special position: he has significant power in forming the cabinet of ministers (government in a narrow sense). President Poroshenko in particular appeared to have especially strong position due to support in parliament. These statements should not be understood as arguments that in the period of time covered by the analysis Ukraine faced the rule of one man. Nevertheless, the position of the President was strong enough to regard him as one of key decision-makers able of having a significant impact on the general political course of an entity that is called here 'Ukrainian authorities'.

Having in mind the goal of this research, the mentioned documents were analysed through the prism of the following questions:

1. Are the Donbas conflict-related issues underlined as priorities?
2. What is the essence of the conflict?
3. Who are the wrongdoers/adversaries of Ukrainian state?
4. Who are the victims of the conflict?
5. Are there any proposals regarding post-conflict justice?

On 25 May 2014, early presidential elections in Ukraine took place, won in the first round by Petro Poroshenko (he obtained 54,7 per cent of votes). Table 1 presents the analysis of programs of main candidates for presidency in 2014.[6] The campaign took place after the annexation of Crimea but along with escalating warfare in Donbas. The data presented in the table show general consistency of narratives proposed by main presidential candidates: the conflict is characterized as a result of Russian aggression (which contrasts with the cautious

[6] It should be noted that 21 candidates were registered in 2014. The overwhelming majority of have failed to receive more than 2% of votes. Therefore, we concentrate attention on four leaders of the race, whose combined result was around 81% of votes.

approach of interim government to use such narratives in legislative acts at that time). There are no references to victims of the conflict (one should remember that the most violent phase of the conflict was still ahead). As for the 'visions of justice', they remain either non-present, or very general.

The interim period that followed the Euromaidan protests was definitely ended on 26 October 2014, when early parliamentary elections took place. This time, elections were held soon after the most violent phase of the conflict, and after signing the Minsk-1 protocol. Table 2 presents the analysis of programs of six parties that managed to get to the Verkhovna Rada and form parliamentary fractions. Furthermore, all of these parties (with the exception of the Opposition Block, the party that was formed out of remnants of Yanukovych's Party of Regions) have formed a ruling coalition, thus forming the government.[7]

As we can see, the narrative of aggression was once again used by all ruling parties. At the same time, there are several differences that can be observed when comparing parliamentary electoral campaign with the previously discussed presidential one. First, the notion of terrorism appeared on agenda, used in the program of one of two major parties (Arseniy Yatsenyuk's National Front). Second, notions that could be understood as calls for restorative justice were introduced: the need to restore regions affected by warfare; the need of decentralization of the state, and providing more power to local authorities (though, such proposals should not be understood as concessions to authorities of self-proclaimed 'republics', but as a proposal to restore common political order on new principles that would be more sensitive to specific needs and preferences of local population). Third, an 'alternative story' of the conflict was introduced in the campaign by the Opposition Block. The party claimed the conflict to be a civil war and underlined the responsibility of Ukrainian authorities for its' outbreak. The fact of the party has managed to get to the parliament clearly suggests that such interpretation of events was supported by part of Ukrainians.

Table 3 presents the evolution of narrative referring to the Donbas conflict in the period without electoral campaigns, as seen from the perspective of the most important speeches of President Poroshenko. Here, we focus on the following speeches: inauguration speech held on 07 June 2014, public speeches traditionally delivered on the Independence Day (24 August) and yearly messages delivered by the president to the parliament (we call them 'States of the Union', referring to the similarity with the speeches held by the U.S. president to a joint session of the U.S. Congress). These speeches are broadly transmitted and widely discussed in the media, thus having a significant reach among citizens.

A tendency that can be observed in the presented data is the following: along with the passage of time, the president narrows down the abundancy of notions used to tell the story of the conflict. Closer to the end of President Poroshenko's first term in office, as the conflict goes on with no clear perspective of resolution, notions suggesting international nature of the conflict ('aggression', 'war') became the main elements of the discussed narrative.

[7] It should be noted that Ukrainian parliamentary elections in 2014 were held in accordance with mixed electoral system. As a result, significant amount of candidates who entered the parliament from single-member constituencies, often created their own political programs. Nevertheless, the majority of them usually joins fractions formed by parties. The latter are thus the main 'aggregators' of political narratives present in the parliament.

Table 4 presents narratives used in the 2019 presidential campaign.[8] These data do not reflect any significant novelty. What should be noted is that more candidates decided not to underline the priority of the conflict, understood as a problem detached from other challenges faced by the country. This is not to say that the Donbas conflict has lost its' 'political appeal'; rather, it is presented as one of equally important problems (poor economic situation, poverty, corruption etc.), the solution of which should be comprehensive and depend primarily on economic and political development of the state. Like in the case of 2014 parliamentary campaign, there is an 'outsider', a candidate representing the mentioned Opposition Block (Yuriy Boyko), consequently underlining that the conflict's fundamental causes are not exclusively external.

Special attention should be paid to the fact that victims are virtually absent in all discussed sources. In other words, Ukrainian decision-makers rather avoid expressing claims about who has actually suffered from the conflict. Only in some cases (mainly at the beginning of the conflict) some general statements could be found in the presidential speeches referring to all peaceful Ukrainians as the ones suffering the consequences of the conflict, or the ones who directly experiences captivity by the representatives of 'people's republics'. We interpret this phenomenon as compatible with an overall tendency to narrow down the government's meta-narrative about the conflict to the notion of aggression. In such case, it is indeed logical not to identify any specific group as having a special status of victims, because it is the whole nation that is an object of aggression.

***

At this point, we can briefly summarize both the analysis of official documents and political rhetoric. Generally, Ukrainian authorities tend to simplify their experiential truth about the conflict. Interim government that took power immediately after the Euromaidan and had to face the first phase of the emerging conflict tried to avoid confrontational notions. One of the effects of it was the introduction of the notion of 'terrorism'. It provided Ukrainian government with the possibility to use the force against 'people's republics', but on the other hand could not be regarded as a basis for dialogue between parts of divided society. As time passed and the situation on the front stagnated (although the violence never stopped definitely), a turn was made towards what can be called unification of narrative: the conflict is the result of external aggression.[9] Figure 9 presents this a schematic timeline of this process.

[8] In 2019, 39 candidates for presidency were registered. We focus on the leaders of the first round – five candidates who gained joint support of around 80 per cent of voters.

[9] It should be noted that this statement doesn't mean that the notions of separatism and terrorism were completely removed from public debate in general.

Robustness of Ukrainian authorities' 'official truth' about the Donbas conflict

As it was mentioned above, truth-seeking policies are to a significant extent about construction of narratives providing basis for interpretation of knowledge of individuals somehow engaged in or affected by the conflict, about that conflict. At the same time, the incompatibility of narratives representing experiential truths of different sides of the conflict, as well as incompatibility between individual experiences and beliefs on the one hand and microscopic or logical truths established as a result of investigations constitute the essence of so-called truth vs. justice dilemma.

In this part of the paper, we will try to assess the potential of narratives identified in the previous part to become a basis for reconciliation (agonistic, but peaceful coexistence of different detailed stories of the conflict as seen from the perspectives of different parts of Ukraine's divided society). For this purpose, we confront these narratives with decisions issued by courts, both domestic and international. Furthermore, we assess the extent, to these narratives correspond with beliefs of Ukrainians.

Consistency with decisions of domestic courts

Ukrainian law enforcement authorities and courts were engaged to address instances of conflict-related wrongdoings. As a result, Ukrainian courts issued a number of verdicts basing on provisions of the criminal code that were virtually not used before the outbreak of the conflict:

a) crimes against foundations of national security of Ukraine, in particular: actions aimed at violent change or overthrow of the constitutional order or the seizure of state power (art. 109 of the CCU); attack on the territorial integrity and inviolability of Ukraine (art. 110, 110-2 of the CCU); treason (art. 111 of the CCU);
b) terrorism-related crimes, in particular: terrorist act (art. 258 of the CCU), involvement in committing a terrorist act (art. 258-1 of the CCU), public appeals to commit a terrorist act (art. 258-2 of the CCU), creation of a terrorist group or terrorist organization (art. 258-3 of the CCU), facilitating the commission of a terrorist act (art. 258-4 of the CCU), financing terrorism (art. 258-5 of the CCU);
c) creation of illegal paramilitary or armed units (art. 260 of the CCU);
d) planning, preparing, starting and conducting an aggressive war (art. 437 of the CCU).

Within the framework of this research project, these verdicts, issued between 13 April 2014 and 18 January 2018, were retrieved from the publicly available register, processed and coded into a database, allowing to conduct some qualitative analysis.[10]

As we can see, these categories to a significant degree correspond with the mentioned narratives framing the Donbas conflict. Two things should be underlined. First, taking into account that the criminal code of Ukraine does not contain a crime defined as separatism, acts widely acts widely referred to as de facto separatism (e.g. public support, agitation for ideas of some form of secession of a part of a country) were addressed as crimes against foundations of national security of Ukraine (hereafter, this type of crimes will be referred to

[10] More information about the database is available upon request.

as political wrongdoings). Second, there is a category of crimes that does not refer directly to any of above mentioned narratives: creation of illegal paramilitary or armed units.

According to data regularly published by the Prosecutor General's Office, the amount of crimes registered by law enforcement authorities at the same period of time was even higher. It is therefore possible to compare the number of instances when the state (in the face of law enforcement authorities) accuses a person of committing a certain crime with the number of instances when the accusation is confirmed by the court. In other words, a ratio of issued convictions to a number of registered crimes can be treated as an indicator of the level of consistency between what was called above the authorities' experiential truth and the logical truth as established by courts.

Of course, the result of such analysis should be treated with caution. First, data originate from different sources; there is no technical possibility to trace the fate of each act registered as a crime (some may not end in court at all, investigation of some cases may last longer and therefore be finally resolved by the court in the period of time that is not reflected in the analysis at all). Second, one should bear in mind that Ukrainian judiciary cannot be regarded as perfectly independent 4/9/19 10:11:00 AM. Therefore, one cannot exclude that at least to a certain degree, verdicts issued by Ukrainian courts are dictated by political motivations rather than by willingness to investigate the case accurately.

On the other hand, the average time that has passed between the moment of committing a crime and issuing the decision (as can be deduced from the database) is 15 months (in other words, an average path of a case from committing an act itself to issued court decision was relatively short). The overwhelming majority of cases covered by the database are not the instances of so-called 'big fishes' (in which it would be more logical to expect politicized decisions). Finally, we operate with relatively large number of cases, which suggests the possibility to identify some regularities and patterns. Basing on these arguments we claim that the proposed indicator can contribute some value added to our analysis.

The results of comparison are reflected in Figures 1-4. Basing on the above considerations, it is possible to conclude that the narratives of separatism (Figure 1) and especially the narrative of terrorism (Figure 2) appear to have the weakest support in the form of relevant court decisions. In the case of crimes against foundations of national security of Ukraine (which are treated as equivalents of separatism here), the ratio under scrutiny grew regularly, which suggests that Ukrainian authorities have learned how to approach this type of wrongdoings in a way that does not create contradictions. In the case of terrorism-related crimes the gap between the number of registered crimes and issued convictions is indeed huge.

Data referring to acts qualified as aggressive warfare should be interpreted with special caution. The ratio under scrutiny in this case is higher, however the number of cases (this refers to both registered crimes and court decisions) is much smaller (in fact, these figures would hardly be seen if put into the same scale as other types of wrongdoings). To some extent, this is not a surprise: alleged principal authors of aggression remain outside the reach of the Ukrainian judiciary.

The gap between the number of registered crimes and issued convictions confirming that the crime was actually committed appeared to be the narrowest in the cases of creation of illegal paramilitary or armed units. This category can be called a 'neutral' one: it does not support directly any 'story' of the conflict. On the other hand, it does not contradict any of

the mentioned narratives, and therefore can be 'channeled' into any of them (participants of illegal armed groups can be framed as 'separatists', 'terrorists' or 'aggressor's collaborators' with equal easiness).

Summing up, the proposed indicator does not tell us much about the fate of individual cases of Ukrainian state's addressing acts interpreted as conflict-related wrongdoings. Therefore, it cannot be used to assess the accuracy (or lack of it) of work of Ukrainian law enforcement authorities or courts.

It should be interpreted only from the perspective of what can be called the 'practical effectiveness' of main narratives used by the Ukrainian authorities to 'tell the story' of the conflict. On the one hand, we have the language of political rhetoric. The number of registered crimes is likely to be sensitive to it: law enforcement institutions and the prosecution are part of the executive. Registering a particular deed as a certain type of crime can be used by the government as a prove of their effective work to deal with the problem.

On the other hand, there are courts, whose task is to established what was called above a logical truth about a certain case. And indeed, the general number of conflict-related crimes confirmed by the courts is impressive. However, the existing gap between both numbers can be used as an evidence, that the authorities are 'overzealous' in labelling certain types of deeds. This, in turn, opens the way for regarding these labels (or as we called them, narratives) as not being well-founded. The narratives of separatism and terrorism appear especially prone to this kind of criticism.

International courts: assessment yet to come

International courts provide another potential point of reference for assessing the validity of narratives used by Ukrainian authorities to 'tell the story' of the conflict.

On 27 January 2017, Ukraine submitted a lawsuit against Russia at the International Court of Justice (ICJ) alleging that the latter violations of the International Convention for the Suppression of the Financing of Terrorism (ICSFT) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (International Court of Justice 2017).

On 14 February 2015, the Verkhovna Rada adopted a declaration about a self-referral to the International Criminal Court (ICC), with the intention to cover the annexation of Crimea and warfare in Donbas (Verkhovna Rada of Ukraine 2015). The declaration alleges that Ukraine has been a subject of aggression from the side of Russian Federation, as a result of which 'the highest officials of the Russian Federation and the leaders of terrorist organisations of DNR and LNR' had committed crimes against humanities and war crimes on the territory of Ukraine.

Finally, Ukraine has lodged several inter-state applications against Russia at the European Court of Human Rights (ECHR), the common denominator of which is the allegation that Russia has an effective control over the occupied territories (European Court of Human Rights 2018), which obviously suggest the fact of aggression.

At the time of writing, neither of these cases was ended with court decision, which could be used as an argument supporting or overthrowing the narratives of aggression and terrorism, which are obviously referred to in the mentioned lawsuits.

Consistency with public opinion: do people buy it?

In this part, we take under consideration available data reflecting the acceptance of the mentioned narratives by the Ukrainian society. It should be noted that despite relative abundance of surveys conducted in Ukraine devoted to the problems of the Donbas conflict, not all of them are conducted systematically (different research centers formulate questions differently, the majority of surveys are not repeated, as a result there is a limited possibility to trace the changes of public opinion). Our understanding of the evolution of public perception of the conflict is far from being perfect.

Figures 5 and 6 reflect respectively the public opinion of Ukrainians regarding the role of Russia in the conflict and opinion about self-proclaimed 'people's republics' (unfortunately, there are no similar data going beyond the beginning of 2016).

Both figures confirm that the narratives of terrorism and Russian aggression are accepted by the majority of citizens. At the same time, it reflects the existence of minority, which does not accept Ukrainian authorities' narratives, and which explains the 'alternative stories' of the conflict that were reflected in political programs of some political parties and candidates for presidency.

What is much more important from the perspective of our research question is to what extent the authorities' narratives speak to the part of Ukrainian citizens who live on the territories of self-proclaimed republics. In this case, however, the problem of imperfect knowledge is much more severe: according to our best knowledge, only one publicly available survey was conducted on the territories of DNR/LNR during the conflict (Sasse 2017). Despite its' undoubtful informative value, the survey does not provide a ground for direct comparison of public moods with Ukrainian so-called 'mainland' (parts of the country under control of the central government) – it was based on different questions. Therefore, we are condemned only to some general observations.

Figures 7 and 8 present the result of the mentioned survey conducted in Donbas (both parts under control of Ukraine and under control of DNR/LNR). As we can see, assessment of the conflict as well as self-identification of inhabitants of 'republics' are radically incompatible with narratives proposed by the government. In particular, the belief that the conflict was caused by Russia (the one that would correspond with the dominating narrative of aggression) appears to be the less popular. Furthermore, inhabitants of 'republics' obviously have a different vision of the future of these entities.

A qualitative research (based on the method of focus-groups) conducted in February 2018 revealed that inhabitants of DNR/LNR are characterized by lack of trust in Ukrainian authorities. Furthermore, they tend to regard the conflict primarily as internal one (Democratic Initiatives Foundation 2018).

All in all, we can conclude that the narratives proposed by the Ukrainian authorities to 'tell the story' of the conflict indeed appear to be appealing to majority of Ukrainians living in the 'mainland'. At the same time, they are far from reflecting the perception of Ukrainians remaining in the territories controlled by DNR/LNR. In other words, these narratives rather serve the function of consolidating public opinion of Ukraine's 'mainland' than the function of 'building a bridge' between divided parts of the society.

Conclusions

Ukrainian authorities' meta-narrative of the ongoing Donbas conflict has gone through evolution. Having faced the previously unexperienced problem of foreign intervention and centrifugal political tendencies threatening the integrity of the state, Ukraine's post-Euromaidan decision-makers introduced several notions attempting to provide an adequate framework for interpreting facts (and thus also creating ground for provision of justice; this problem will constitute a subject of our further research). As time passed, the official meta-narrative was consolidated around one notion: aggression.

Whether this evolution will appear conductive for the process of reconciliation between the parts of Ukraine's divided society remains an open question. On the one hand, the notion of external aggression is accepted by the majority of Ukrainians living in the 'mainland'. Furthermore, it is much less exclusive in comparison to other notions that were also used to frame the conflict (separatism and terrorism). If the responsibility for violence lies on the side of forces that come from outside of our community, it is easier to argue that all representatives of our community are in fact victims of the situation, and not the adversaries. On the other hand, there is evidence that this narrative does not correspond with beliefs of part of society that appeared to be separated from the 'mainland' (inhabitants of self-proclaimed 'republics'), who predominantly do not trust Ukraine's central government.

These findings can hardly be used as a foundation for any sort of predictions about the development of the situation. Instead, we will try to draw some general conclusions referring to the specificity of truth-seeking initiatives applied in the conditions of unresolved, ongoing armed conflict. The fundamental function of it The fundamental function of truth-seeking as it is understood in this paper is to 'build bridges' between adversaries; therefore, it should be regarded as a necessary condition of reconciliation. The discussed situation of Ukraine reveals a sort of paradox. On the one hand, Ukrainian government has no option but to start 'building its' part of the bridge' (having in mind the proclaimed goals of reintegration of the occupied territories). On the other hand, there is no coordination with the ones 'standing on the opposite side'. As a result, any truth-seeking initiatives initiated by Ukrainian government are sentenced to a certain level of ineffectiveness.

This is not a surprise, if we have in mind the mentioned issue of hybridity: de facto decision-makers on the side of Ukrainian government's adversaries do not recognize their participation in the conflict *de iure*.

References

Censor.NET. 2017. “Yanukovych`s Letter to Putin with Request to Send Troops to Ukraine: Censor.NET Publishes Historical Document.” *Censor.NET*. https://censor.net.ua/en/news/423877/yanukovychs_letter_to_putin_with_request_to_send_troops_to_ukraine_censornet_publishes_historical_document (March 25, 2019).

Clark, Janine Natalya. 2011. “Transitional Justice, Truth and Reconciliation: An Under-Explored Relationship.” *International Criminal Law Review* 11: 241–61.

Daly, Erin. 2008. “Truth Skepticism: An Inquiry into the Value of Truth in Times of Transition.” *International Journal of Transitional Justice* 2(1): 23–41.

Democratic Initiatives Foundation. 2018. *Chym Zhyvut’ Tymchasovo Nekontrolovani Terytoriyi Donbasu? Osoblyvosti Horyzontalnoyi Komunikatsiyi Meshkantsiv Rozdilenoho Rehionu*. Kyiv: Democratic Initiatives Foundation. https://dif.org.ua/article/chim-zhivut-meshkantsi-okupovanikh-teritoriy-donbasu.

Elster, Jon. 2004. *Closing the Books. Transitional Justice in Historical Perspective*. Cambridge University Press.

European Court of Human Rights. 2018. “New Inter-State Application Brought by Ukraine against Russia. Press Release.”

European Union. 2015. “The EU’s Policy Framework on Support to Transitional Justice.” http://eeas.europa.eu/archives/docs/top_stories/pdf/the_eus_policy_framework_on_support_to_transitional_justice.pdf.

Galtung, Johan. 1969. “Violence, Peace, and Peace Research.” *Journal of Peace Research* 6(3): 167–91.

Grant, Thomas D. 2015. *Aggression against Ukraine: Territory, Responsibility, and International Law*. First edition. New York, NY: Palgrave Macmillan.

Gready, Paul, and Simon Robins. 2014. “From Transitional to Transformative Justice: A New Agenda for Practice.” *International Journal of Transitional Justice* 8(3): 339–61.

Holder, Cindy. 2013. “Truthfulness in Transition: The Value of Insisting on Experiential Adequacy.” In *Jus Post Bellum and Transitional Justice*, ASIL studies in international legal theory, eds. Larry May and Elizabeth Edenberg. New York, NY: Cambridge Univ. Press.

International Court of Justice. 2017. “Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation).” https://www.icj-cij.org/files/case-related/166/19410.pdf.

Kalyvas, Andreas. 2008. *Democracy and the Politics of the Extraordinary: Max Weber, Carl Schmitt, and Hannah Arendt*. Cambridge: Cambridge University Press. http://ebooks.cambridge.org/ref/id/CBO9780511755842 (March 22, 2019).

Maddison, Sarah. 2017. *Conflict Transformation and Reconciliation: Multi-Level Challenges in Deeply Divided Societies*. First issued in paperback. London New York: Routledge, Taylor & Francis Group.

National Security and Defence Council of Ukraine. 2014. "Transcript of the Meeting of the National Security and Defence Council of Ukraine." http://www.rnbo.gov.ua/files/2016/stenogr.pdf.

Nicolson, Donald. 2013. "Taking Epistemology Seriously: 'Truth, Reason and Justice' Revisited." *The International Journal of Evidence & Proof* 17(1): 1–46.

President of Ukraine. 2014. *Decree on the Decision of the Council of National Security and Defense of Ukraine of April 13, 2014 "On Urgent Measures to Overcome the Terrorist Threat and Preserve Territorial Integrity of Ukraine''."*

Sachs, Albie. 2006. "Archives, Truth, and Reconciliation." *Archivaria* 62(1): 1–14.

Sasse, Gwendolyn. 2017. *The Donbas - Two Parts, or Still One? The Experience of War through the Eyes of the Regional Population*. https://www.zois-berlin.de/fileadmin/media/Dateien/ZOiS_Reports/ZOiS_Report_2_2017.pdf.

Solzhenitsyn, Aleksandr Isaevich. 2007. *Gulag Archipelago 1918-1956, the: An Experiment in Literary Investigation*. Harper Perennial Modern Classics.

United Nations. 2004. "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies. Report of the Secretary-General."

Verkhovna Rada of Ukraine. 2014a. *Law on special regime of local self-government in certain districts of Donetsk and Luhansk Oblasts*. https://zakon.rada.gov.ua/go/1680-18 (March 22, 2019).

———. 2014b. *On preventing the manifestations of separatism and other attacks on the foundations of the national security of Ukraine*. https://zakon.rada.gov.ua/go/756-18 (March 5, 2019).

———. 2014c. *On self-abolition of the President of Ukraine from the exercise of his constitutional powers and the appointment of early elections of the President of Ukraine*. https://zakon.rada.gov.ua/go/757-18 (March 5, 2019).

———. 2014d. *On taking political responsibility for the situation in Ukraine*. https://zakon.rada.gov.ua/go/753-18 (February 27, 2019).

———. 2014e. *On the appeal of the Verkhovna Rada of Ukraine to the parliaments of the states - guarantors of security of Ukraine and international organizations*. https://zakon.rada.gov.ua/go/845-18 (March 5, 2019).

———. 2014f. *On the Statement of the Verkhovna Rada of Ukraine*. https://zakon.rada.gov.ua/go/844-18 (March 5, 2019).

———. 2014g. *On the text of the Constitution of Ukraine in the wording of June 28, 1996, as amended and supplemented by the Laws of Ukraine of December 8, 2004 No. 2222-IV, February 1, 2011 No. 2952-VI, September 19, 2013 No. 586-VII*. https://zakon.rada.gov.ua/go/750-18 (March 5, 2019).

———. 2015. *On the appeal of the Verkhovna Rada of Ukraine to the United Nations, the European Parliament, the Parliamentary Assembly of the Council of Europe, the NATO Parliamentary Assembly, the OSCE Parliamentary Assembly, the GUAM Parliamentary Assembly, the national parliaments of the countries of the world on the recognition of the Russian Federation as an aggressor state*. https://zakon.rada.gov.ua/go/129-19 (March 6, 2019).

———. 2015. *On the statement of the Verkhovna Rada of Ukraine "On the recognition by Ukraine of the jurisdiction of the International Criminal Court over the crimes against humanity and war crimes committed by senior officials of the Russian Federation and the leaders of the terrorist organizations 'DNR' and 'LNR', which led to particularly grave consequences and the massacre of Ukrainian citizens."* https://zakon.rada.gov.ua/go/145-19 (March 6, 2019).

———. 2018. *Law on the Peculiarities of the State Policy Aimed at Protecting the State Sovereignty of Ukraine in Temporarily Occupied Territories in the Donetsk and Luhansk Oblasts*.

Walker, Margaret Urban. 2015. "How Can Truth Telling Count as Reparations?" In *Historical Justice and Memory*, Critical human rights, eds. Klaus Neumann and Janna Thompson. Madison, Wisconsin: The University of Wisconsin Press.

Tables and figures

Table 1. Conflict-related rhetoric in programs of candidates for presidency (May 2014)

	Petro Poroshenko	**Yulia Tymoshenko**	**Oleg Lyashko**	**Anatoliy Hrytsenko**
Conflict-related issues as priority	No (focus on the need of comprehensive reforms)	Yes	Yes	No (focus on the need of comprehensive reforms)
Essence of the conflict	Russian aggression	Military aggression against Ukraine	War; "separatist sabbath"; Russian aggression	Aggression
Wrongdoers/adversaries	n/a	Russian Federation	Internal and extenral enemies ('"parasites": occupants, separatists, embezzlers and corruptionists"); Russia, Putin, Putin's bandits	n/a
Victims	n/a	n/a	n/a	n/a
Visions of justice	De-escalation by political and diplomatic means	Ratification of the Rome Statute to stop 'military capture of Ukraine and bring to justice the perpetrators of crimes against humanity'; expansion of powers and financial autonomy of local authorities	Freeing Ukraine from "parasites": occupants, separatists, embezzlers and corrupt officials'; bringing wrongdoers to justice in accordance with the rules of martial law; more powers to local authorities	Need to restore trust between east and west of the country

Source: Central Election Commission of Ukraine, http://www.cvk.gov.ua.

Table 2. Conflict-related rhetoric in programs of political parties participating in parliamentary elections (October 2014)

	Petro Poroshenko's Block	National Front	Fatherland	Samopomich	Radical Party	Opposition Block
Conflict-related issues as priority	Yes	Yes	Yes	No	Yes	Yes
Essence of the conflict	Russian aggression	Aggression	Military aggression of the Russian Federation, war	n/a	War, aggression	Civil conflict (deduced from the need to establish 'civil peace')
Wrongdoers/adversaries	Occupants	external enemies, foreign troops and mercenaries, terrorists	aggressors, terrorists	n/a	Russia, internal enemies	Underlined responsibility of Ukrainian authorities
Victims	n/a	n/a	n/a	n/a	n/a	n/a
Visions of justice	Underlined need of decentralisation as a response to aspiration of regions	Special attention: protection of ATO participants; restoration of affected regions	War-like rhetoric; victory as a precondition of any successful policies; protection of ATO participants; reparations from Russia	Underlined necessity to protect sovereignty and unity; crisis as an opportunity to implement deep reforms	Desepartisation': necessity of bringing 'internal enemies' to political and criminal accountability; restoration of destroyed infrastructure	Necessity to elaborate National reconciliation plan: dialogue between representatives of regions; investigation of cases of mass killings; amnesty; wide-scale restoratve actions

Source: Central Election Commission of Ukraine, http://www.cvk.gov.ua.

Table 3. Conflict-related rhetoric in public speeches of President Poroshenko

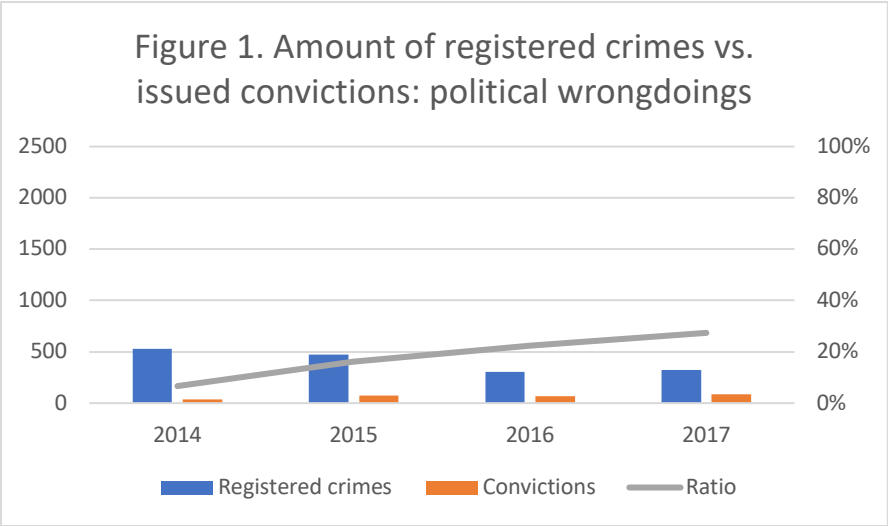
	Inauguration speech (07 Jun 2014)	Independence Day (24 Aug 2014)	'State of the union' (27 Nov 2014)	'State of the Union' (04 Jun 2015)	Independence Day (24 Aug 2015)	Independence Day (24 Aug 2016)	'State of the Union' (06 Sep 2016)	Independence Day (24 Aug 2017)	'State of the Union' (07 Sep 2017)	Independence Day (24 Aug 2018)	'State of the Union' (20 Sep 2018)
Essence of the conflict	war	not declared, but real war; war against foreign aggression	war; aggression agnst Ukraine from the East	Russian aggression; occupation of territories	war for independence; aggression from the neighbouring country	war	Russia's aggression against Ukraine	war	war	Russian aggression; war	war; aggression
Wrongdoers/adversaries	Russian mercenaries; terrorists	n/a	n/a	Russian militants; separatists, incited by Moscow; fifth columnl criminal-terrorist regime	n/a	Russian aggressor	Russian-terrorist troops	Russian aggressor	n/a	Russian aggressor	n/a
Victims (referring to UA citizens remaining in the "republics")	peaceful citizens of Ukraine	n/a	n/a	Ukrainian prisoners	n/a	n/a	n/a	n/a	n/a	n/a	n/a

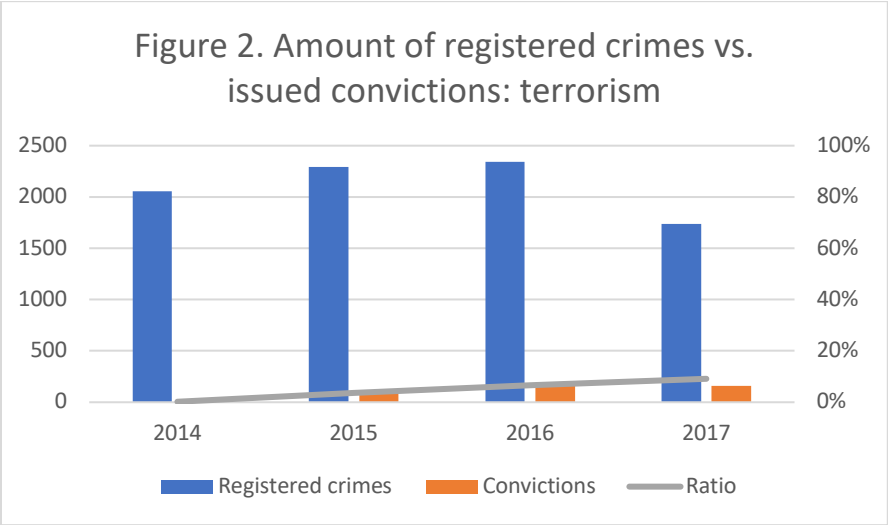
Source: website of the President of Ukraine, https://www.president.gov.ua.

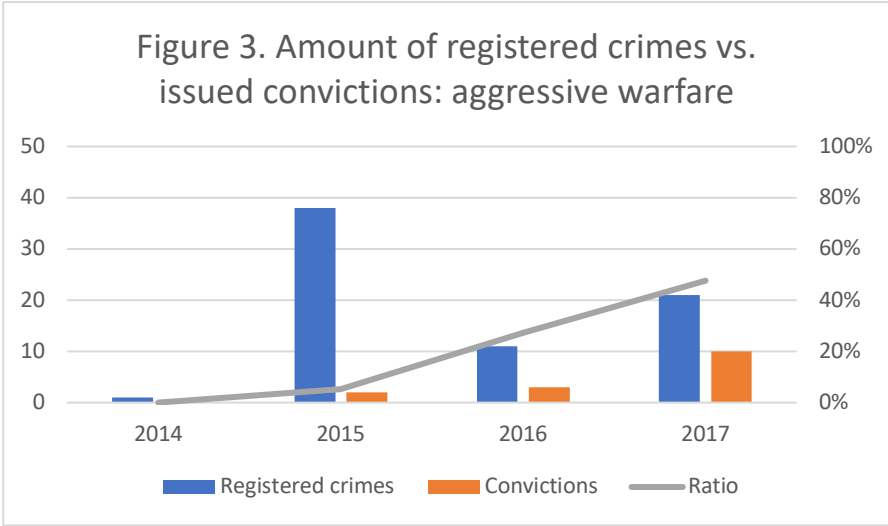
Table 4. Conflict-related rhetoric in programs of candidates for presidency (March 2019)

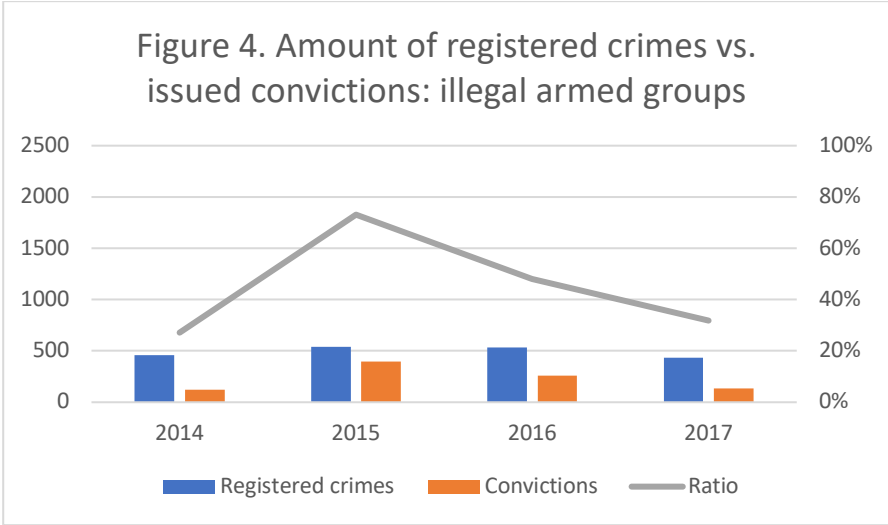
	Petro Poroshenko	Yulia Tymoshenko	Anatoliy Hrytsenko	Volodymyr Zelenskiy	Yuriy Boyko
Conflict-related issues are clearly highlighted as a priority	No (embedded into a comprehensive proposal of further reforms)	Yes	No (embedded into a proposal of comprehensive reforms)	No (embedded into a proposal of comprehensve reforms with special attention paid to economic issues)	Yes
Essence of the conflict	Russian aggression	Aggression	n/a	War	Armed conflict
Wrongdoers/adversaries	Russian aggressor	Russia: state-aggressor	n/a	Aggressors	n/a
Victims	Hostages of Russian aggressor (referring to prisoners of war)	All Ukrainian citizens are victims	n/a	n/a	n/a
Visions of justice	The need to bring Russia to accountability for repression in occupied territories and force it to pay compensation for caused damages; continuation of decentralisation.	The need of inventory of damages caused by Russia; the need of efforts to bring Russia as an aggressor state to legal liability and force it to pay compensation	The need to return occupied territories without any sort of "special status": by diplomatic, military, economic, sanctioning means in cooperation with foreign partners	'We have to make the aggressor pay for damages'; decentralisation	The new government will go on direct negotiations with all parties to the conflict - for the sake of peace and the return of territories and population under the jurisdiction of Ukraine; decentralisation.

Source: Central Election Commission of Ukraine, http://www.cvk.gov.ua.

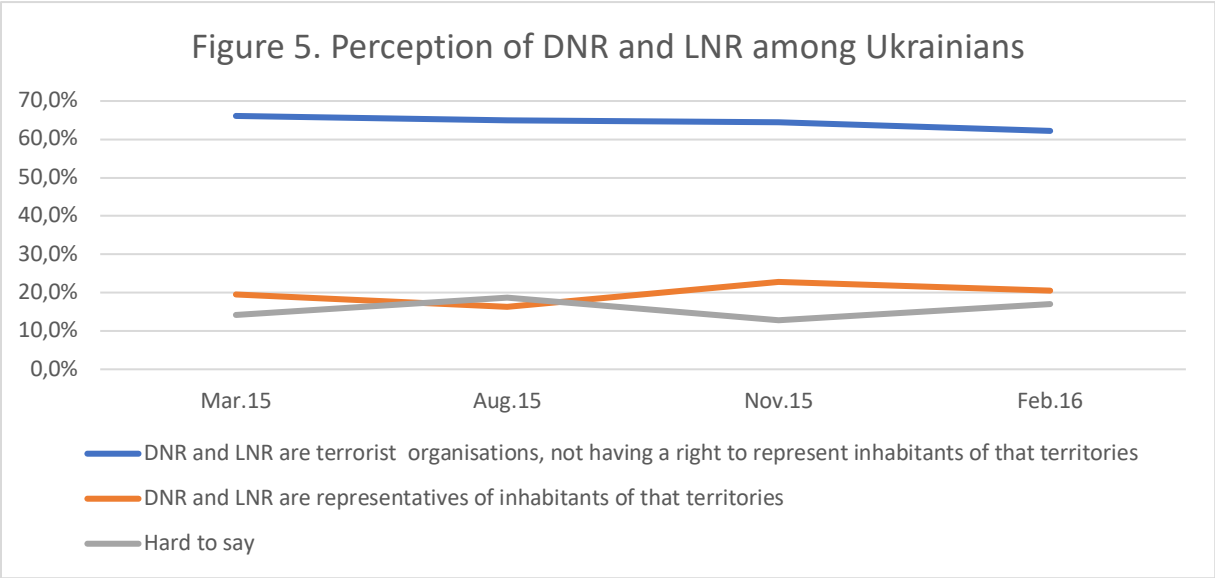






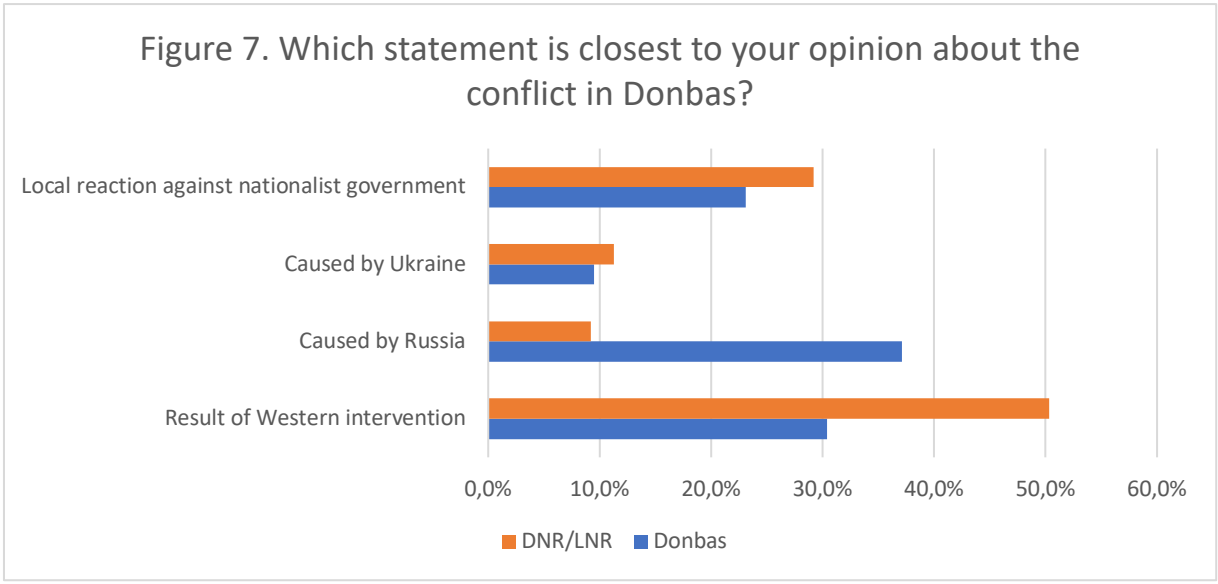


Source: http://reyestr.court.gov.ua, https://www.gp.gov.ua.

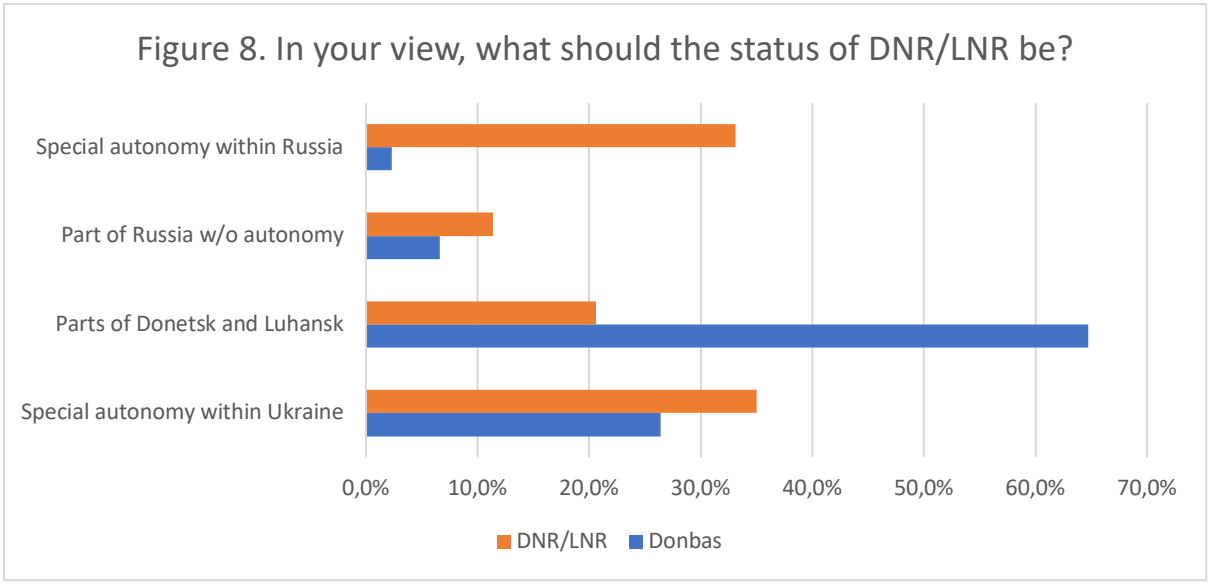


Source: Razumkov Centre.

Source: Razumkov Centre.

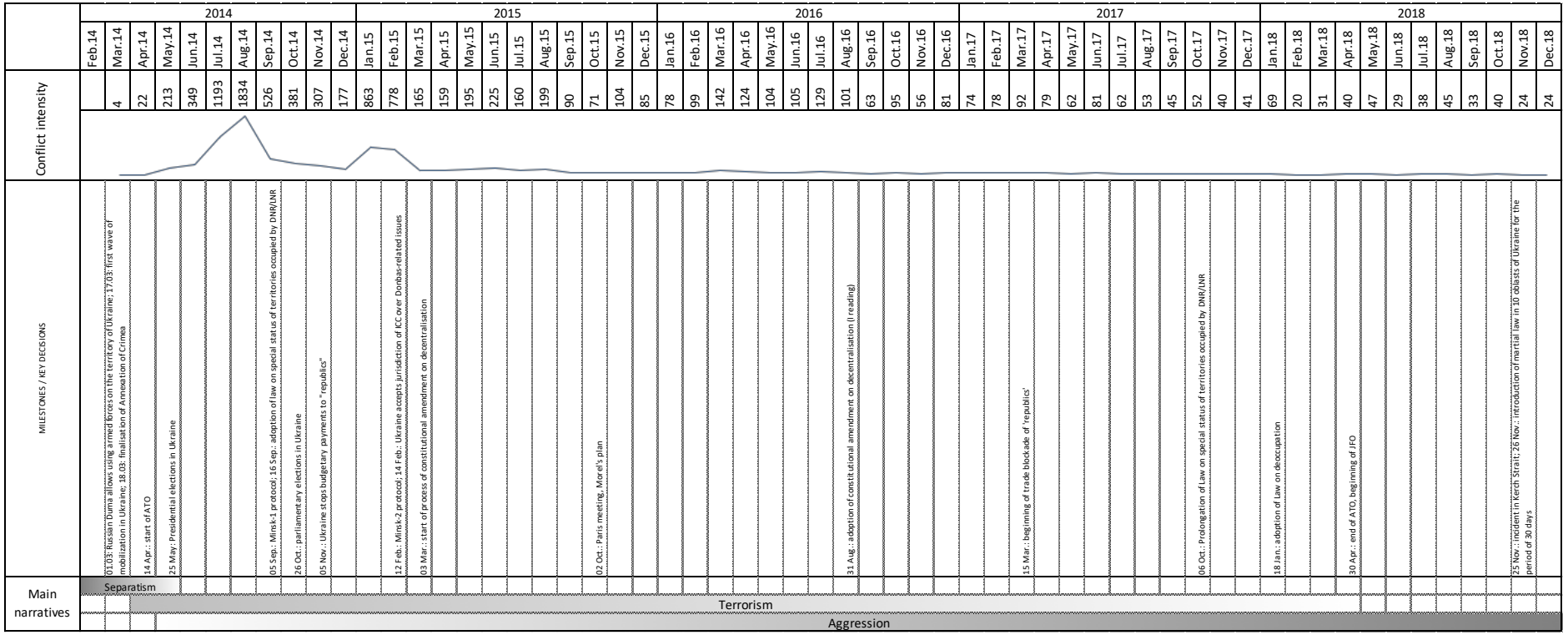


Source: (Sasse 2017)



Source: (Sasse 2017)

Figure 9. Timeline of events



Notes: (a) data illustrating conflict intensity present number of conflict-related casualties in a given month, both combatants and civilians, representing all sides of the conflict. Data do not reflect 1103 instances, when the exact date of death is unknown. Data provided by coordinators of the Memory Map project (https://memorialmap.org/).

(b) Intensity of fill in the fields illustrating usage of narratives symbolically reflects the intensity of using these narratives in official communication. However, this intensity is not based on any specific data.