

Ambassador-at-Large Beth Van Schaack
Opening Statement
Senate Foreign Relations Committee Hearing
May 31, 2023

Mr. Chairman, Ranking Member Risch, and distinguished members of the Committee, thank you for the opportunity to appear before you today. It is an honor and privilege to address you as the sixth U.S. Ambassador-at-Large for Global Criminal Justice.

Senators, as President Zelenskyy so aptly noted earlier this month, there can be no peace without justice in Ukraine. Justice for the millions who have had their lives disrupted and destroyed as a result of the senseless, unprovoked, and illegal war of territorial conquest launched by Vladimir Putin.

My office, in collaboration with other parts of the U.S. government and many international partners, is proceeding along five pathways to justice to uphold the international norms we all hold dear and to ensure those responsible for the abuses we see in Ukraine are held to account. We welcome your support for each.

The first pathway involves international courts and institutions. Our efforts here include working toward the establishment and renewal of the UN Independent International Commission of Inquiry on Ukraine and three invocations of the Moscow Mechanism of the Organization for Security and Co-operation in Europe. The United States has also sought to intervene in support of Ukraine's case before the International Court of Justice against Russia under the Convention on the Prevention and Punishment of the Crime of Genocide. Finally, the Prosecutor of the International Criminal Court has opened an investigation into the Situation in Ukraine, which received an

unprecedented number of state referrals. Since then, two arrest warrants have now been issued for the transfer and deportation of Ukrainian children into Russia. We are grateful for the bipartisan legislation Congress has enacted to support the ICC's investigation in Ukraine.

The second pathway aims to increase the capacity of Ukrainian institutions to document, investigate, and prosecute war crimes in Ukrainian courts. The Ukrainian Office of the Prosecutor General has now recorded more than 80,000 incidents that may constitute prosecutable crimes. Through the Atrocity Crimes Advisory Group, alongside the UK and the EU, we are providing expert technical assistance, capacity building, and comprehensive training in international criminal law and practice to assist Ukrainian investigators and prosecutors in Kyiv and out in the field. This includes attention to the scourge of conflict-related sexual violence that has been widely documented by the UN and other bodies.

The third pathway is aimed at supporting strategic litigation in other courts around the world. In Europe, we have witnessed the mass mobilization of prosecutorial and investigative authorities operating under the Eurojust umbrella to coordinate strategies, track potential defendants, and share information and evidence. The United States supports these efforts through memoranda of understanding with different states, through engagement with the Joint Investigative Team that was set up through Eurojust, and by working with civil society organizations that are providing potential evidence to national authorities.

Prosecutions for the crime of aggression offer a fourth pathway to justice. Permitting impunity for Russia's illegal war of aggression will embolden other actors to engage in similar blatant violations of state sovereignty, territorial integrity, and political independence. We are thus supporting the establishment of a special tribunal dedicated to

prosecuting those most responsible for the crime of aggression: one that is rooted in Ukraine's judicial system but enhanced with international elements in the form of personnel and expertise, structure, and support (including in terms of funding and cooperation).

The final pathway leads here to the United States. This involves strengthening U.S. law and ensuring that the United States does not offer a safe haven to those who commit international crimes, such as those being committed daily in Ukraine. Congress took a monumental step in this direction by passing *The Justice for Victims of War Crimes Act* to enhance the federal war crimes statute. There is more that can be done to provide U.S. prosecutors with the tools they need to prosecute international crimes. As Deputy Attorney General Lisa Monaco recently testified before the Senate Judiciary Committee, the United States lacks a statute criminalizing crimes against humanity.

Crimes against humanity encompass certain abuses—including murder, torture, and rape—committed as part of a widespread or systematic attack directed against any civilian population and pursuant to or in furtherance of a state or organizational policy to commit such an attack. They can be committed during an armed conflict but can also take place in times of peace, such as the ongoing crimes against humanity and genocide that PRC authorities have continued to inflict on Uyghurs and members of other ethnic and religious groups in Xinjiang. Passing crimes against humanity legislation will better align U.S. law with that of our friends and allies and empower U.S. prosecutors and investigators to prosecute the whole range of international crimes.

Senators: there can be no secure or lasting peace without justice. Holding Russia to account for its war crimes and other atrocities within Ukraine and against its people is foundational to the defense of U.S. values and the maintenance of a peaceful, just, and secure world. We welcome support from Congress to achieve these goals, advance each

of these pathways to justice, and position the United States as a leader in international justice. Thank you and I welcome your questions.