



*Global Institutions*

# REVITALIZING THE UNITED NATIONS

**MAKING AND KEEPING THE PEACE**

Edited by  
Tapio Kanninen and John Torpey



“Understanding the UN’s contemporary relevance requires moving beyond simplistic narratives of institutional success or failure. Instead, we must examine how the organization’s historical foundations, current operations, and potential for reform intersect with the evolving nature of global challenges. This volume aims to contribute to this critical conversation by analyzing the UN’s capacity to adapt its mission, structure, and operations to a rapidly changing international landscape while preserving the core principles that have guided it for nearly eight decades.”

*From the Foreword by Maria Fernanda Espinosa Garcés, former Foreign and Defence Minister of Ecuador and former President of the UN General Assembly*

“With the United Nations in particular and multilateralism in general under siege, readers will be relieved that Kanninen and Torpey have assembled contributors who recall the essential role of both in many previous conflicts and negotiations. Surely, that capacity will soon be required again.”

**Thomas G. Weiss**, *Presidential Professor Emeritus, Political Science, and Director Emeritus, Ralph Bunche Institute for International Studies, CUNY Graduate Center*



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# Revitalizing the United Nations

This book explores whether the United Nations (UN) is relevant in resolving wars when the permanent members of the UN Security Council are directly or indirectly involved. It examines solutions to major wars by applying and testing the UN's vast experience in mediating and deploying peacekeeping, demilitarization, truce monitoring, UN temporary administration, and other tools. While some observers see the organization in deep decline as the Security Council cannot agree to stop the wars in Ukraine and Gaza, the expert contributors to this volume make the case that until the start of this century the UN played a critically important role in resolving and freezing major conflicts, and the renewal of the organization could be based on these and other successful precedents. This volume will be of interest to scholars and students of global governance, security studies, and the history of the UN in the maintenance of international peace and security. It will also be of great interest to practitioners at the UN and its partner organizations, as well as to diplomats around the world.

**Tapio Kanninen** is Senior Fellow and Director of the Major Wars Project at the Ralph Bunche Institute for International Studies at the Graduate Center of the City University of New York, where he earned his Ph.D. in Political Science in 1990. He is also President of the Global Crisis Information Network Inc. He was Chief of the Policy Planning in the UN Department of Political Affairs (1998–2005) and Head of the Secretariat of Kofi Annan's five Summits with Regional Organizations.

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## **Global Institutions**

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# Revitalizing the United Nations

## Making and Keeping the Peace

Edited by Tapio Kanninen and John Torpey



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# Contents

|  |            |
|--|------------|
| <i>List of Illustration</i>  | <i>x</i>   |
| <i>List of Contributors</i>  | <i>xi</i>  |
| <i>Preface</i>   | <i>xix</i> |
| <i>Foreword</i>  | <i>xxi</i> |
| MARÍA FERNANDA ESPINOSA GARCÉS   |            |
| <br>   |            |
| Introduction   | 1          |
| TAPIO KANNINEN AND JOHN TORPEY   |            |
| <br>   |            |
| <b>PART I</b>  |            |
| <b>Context of the Book</b>   | <b>5</b>   |
| <br>   |            |
| 1 Geohistorical Context of the Book: Can the United Nations Remain Relevant in the 2020s and Beyond? | 7          |
| HEIKKI PATOMÄKI, TAPIO KANNINEN AND HEIKKI TALVITIE  |            |
| <br>   |            |
| 2 The Future of the United Nations and the Need for New UN Policies, Strategies and Diplomacy        | 29         |
| BERTRAND G. RAMCHARAN  |            |
| <br>   |            |
| <b>PART II</b>   |            |
| <b>Lessons Learned From UN Experience</b>  | <b>51</b>  |
| <br>   |            |
| 3 The Evolution of Peace Operations: Learning Lessons and Creating Norms                             | 53         |
| A. WALTER DORN   |            |
| <br>   |            |
| 4 The Future of UN Peacekeeping: From Practice to Policy   | 71         |
| JOHN G. COCKELL  |            |

|                 |   |            |
|-----------------|---|------------|
| 5               | “Holding the Centre”: The Contribution of United Nations Peacekeeping Where There is “No Peace to Keep”             | 92         |
|                 | SALVATOR CUSIMANO   |            |
| 6               | Lessons Learned from the History of UN Efforts in Mediation of Smaller and Bigger Conflicts                         | 110        |
|                 | BERTRAND G. RAMCHARAN   |            |
| <b>PART III</b> |   |            |
|                 | <b>The Conflict in Gaza/Israel/Palestine</b>  | <b>125</b> |
| 7               | The Origins and Evolution of the Modern State of Israel   | 127        |
|                 | CHAS FREEMAN  |            |
| 8               | History of UN Involvement in the Israeli–Palestinian Conflict   | 137        |
|                 | GEORGIOS KOSTAKOS AND FOTINI ZAROGIANNI   |            |
| 9               | Pathway to Peace: The Two-State Solution in the Middle East   | 169        |
|                 | JEFFREY D. SACHS AND SYBIL FARES  |            |
| 10              | Should the United Nations Administer Post-Conflict Gaza? Establishing a UN Trusteeship in Gaza Would be a Mistake   | 180        |
|                 | LARRY D. JOHNSON  |            |
| <b>PART IV</b>  |   |            |
|                 | <b>The Conflict in Ukraine</b>  | <b>187</b> |
| 11              | Lessons in Peace and Justice from the Former Yugoslavia to Ukraine and Beyond                                       | 189        |
|                 | JESSIE BARTON HRONEŠOVÁ   |            |
| 12              | The International Administration of Occupied Ukrainian Territory as a European and United Nations Diplomatic Option | 202        |
|                 | A. DIRK MOSES AND JESSIE BARTON HRONEŠOVÁ   |            |
| 13              | Competing Narratives about Ukraine and the Possibility of Dialogue and De-Escalation                                | 218        |
|                 | HEIKKI PATOMÄKI   |            |

|               |  |            |
|---------------|--|------------|
| 14            | The Potential Role of the UN in Resolving the Conflict in Ukraine  | 234        |
|               | TAPIO KANNINEN AND HEIKKI PATOMÄKI   |            |
| <b>PART V</b> |  |            |
|               | <b>The Uses of International Law in Resolving Major Wars</b>   | <b>247</b> |
| 15            | The Role of the International Court of Justice and the International Criminal Court in Managing the Crisis in Palestine/Gaza and Ukraine | 249        |
|               | ROY S. LEE   |            |
| 16            | The Russia–Ukraine War and the UN Charter Provisions for the Peaceful Settlement of Disputes   | 273        |
|               | TAPIO KANNINEN AND GEORGIOS KOSTAKOS   |            |
|               | <b>Conclusions</b>   | <b>284</b> |
|               | TAPIO KANNINEN AND JOHN TORPEY   |            |
|               | <i>Index</i>   | 289        |

# Illustration

## Figures

- 3.1 Map of UN peacekeeping missions started in the twentieth century 57
- 3.2 Map showing UN peacekeeping operations in 2025 58
- 3.3 The number of uniformed personnel in UN peacekeeping since 1991. (Graph by the author. Data from the United Nations, 2025) 66

## Tables

- 1.1 Parallels between the imperialist era of 1871–1914 and the 1999–2005 period 17
- 3.1 From Cold War to hot wars: Different types of operations for different times 64

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# Preface

*Tapio Kanninen and John Torpey*

On the 19<sup>th</sup> of September 2024, the Ralph Bunche Institute for International Studies at the Graduate Center of the City University of New York organized a seminar on the relevance of the United Nations in resolving major wars, notably those going on in Ukraine and Gaza. The New York Office of the Friedrich-Ebert-Stiftung sponsored the event.

The seminar explored the potential of various UN interventions in resolving major wars based on historical precedents, especially regarding the Russia-Ukraine and Hamas-Israel wars, as well as the role the International Criminal Court (ICC) and the International Court of Justice (ICJ) might play in these conflicts. Most of the contributions in this book have been written by participants in that seminar.

As background material for the seminar – and indeed for this book – we referred in the invitations to the seminar to a *Foreign Policy* article of 31 October 2023 titled “On Gaza, the U.N. Struggles for Relevance.” In the article, Richard Gowan, UN Director of the International Crisis Group, was quoted as saying, “In situations such as Russia’s war on Ukraine and the current war in Gaza, where the major powers cannot see a way to agreement, the U.N. is basically a stage for speechifying and posturing... The U.N. is the world’s premier political theater.” Needless to say, this is a damning indictment of the UN’s lack of relevance in the current world order.

But the UN, the Security Council, the General Assembly, and the Secretaries-General and their envoys have in the past played a critical role in resolving or freezing major wars, even when the Security Council was locked in stalemate, such as in the Suez Crisis in 1956. The UN’s involvement included that of Ralph Bunche, UN mediator and the namesake of the Ralph Bunche Institute, as well as the 1950 Nobel Peace Prize recipient for his efforts in achieving armistice agreements between the Arab states and the newly created state of Israel.

The book offers several examples of how the UN has been critically important in the years and decades since. It also explores the possibilities for the UN to re-emerge from its place as “the world’s premier political theater” and to resume its erstwhile role as a forum for resolving major-power conflicts.

We hope the analyses and reflections provided in the book will contribute to strengthening the ability of the world’s leading international institution to achieve and maintain peace in the years to come.

# Foreword

*María Fernanda Espinosa Garcés*

In the third decade of the twenty-first century, the international community faces an unprecedented convergence of crises. Climate change threatens to reshape human civilization, technological disruption outpaces our capacity for governance, inequality within and between nations deepens, and great power competition intensifies against a backdrop of regional conflicts and humanitarian emergencies. This compounding of challenges has exposed both the irreplaceable nature of the United Nations and the urgent need to reimagine its role in global governance. As the world's premier multilateral institution struggles to address these intersecting crises, a fundamental question emerges: how can an organization conceived in the aftermath of World War II adapt to meet the demands of our contemporary moment?

The paradox at the heart of this inquiry is that even as criticism of the UN's effectiveness mounts, its foundational mission—to maintain international peace and security, develop friendly relations among nations, and promote social progress, better living standards, and human rights—has never been more vital. The UN remains the only truly global institution with the legitimacy, operational capacity, and normative framework to coordinate responses to transnational challenges. Yet this unique position brings with it both extraordinary responsibility and intense scrutiny, as the gap between the organization's aspirations and its current capabilities becomes increasingly apparent.

Understanding the UN's contemporary relevance requires moving beyond simplistic narratives of institutional success or failure. Instead, we must examine how the organization's historical foundations, current operations, and potential for reform intersect with the evolving nature of global challenges. This volume aims to contribute to this critical conversation by analyzing the UN's capacity to adapt its mission, structure, and operations to a rapidly changing international landscape while preserving the core principles that have guided it for nearly eight decades.

The United Nations emerged from the devastation of World War II as more than just a successor to the League of Nations—it represented a fundamental reimagining of international cooperation. Its architects envisioned an organization that would not only prevent conflict but also actively shape a

more equitable world order. Through decades of institutional evolution, this vision has manifested in an unparalleled operational infrastructure: a global network of peacekeeping missions, humanitarian response capabilities, and diplomatic channels that no other organization can match. From mobilizing emergency relief in the wake of natural disasters to maintaining peace in volatile regions, the UN's practical impact on human security remains profound and measurable.

Yet today's challenges demand far more than traditional peacekeeping or humanitarian response. Climate change demonstrates this new category of threat—a crisis multiplier that transforms every aspect of the UN's mission. When rising temperatures contribute to resource scarcity, population displacement, and regional instability, conventional approaches to conflict prevention become insufficient. Similar complexity characterizes other emerging challenges: artificial intelligence and cyber warfare blur the lines between peace and conflict, transnational criminal networks exploit governance gaps, and non-state actors increasingly shape global outcomes. These developments fundamentally challenge the state-centric model upon which the UN was built.

The organization's response to these evolving threats has revealed both its adaptability and its limitations. Through my experience presiding over the General Assembly, I witnessed firsthand how the UN's universal membership and consensus-building mechanisms can mobilize global action—but also how institutional inertia and competing national interests can impede urgent reforms. The UN's efforts to address climate security and regulate emerging technologies demonstrate its willingness to adapt. However, these same initiatives highlight the growing mismatch between twentieth-century institutional structures and twenty-first-century challenges.

This tension between institutional legacy and contemporary demands plays out across every aspect of the UN's work. While the organization maintains its unique legitimacy as a forum for international cooperation, its effectiveness increasingly depends on its ability to coordinate with a complex network of regional organizations, civil society groups, and private sector actors. The UN's traditional tools of preventive diplomacy and peaceful dispute resolution must now be supplemented by expertise in environmental science, technological governance, and transnational justice. Success requires not just institutional reform, but a fundamental reconceptualization of how global governance operates in an interconnected world.

Assessing the UN's contemporary relevance requires looking beyond visible crises to consider its less quantifiable preventive role. Throughout the Cold War, the organization served as an essential platform for dialogue between opposing powers, providing crucial diplomatic channels that prevented numerous crises from escalating into direct confrontation. This preventive function remains one of the UN's most vital contributions to global stability. Yet today, we witness a troubling retreat from preventive diplomacy precisely when complex, interconnected threats demand more sophisticated approaches to conflict prevention and escalation. The challenge ahead lies not

simply in strengthening existing preventive mechanisms but in reimagining preventive diplomacy as a key instrument to ensure peace and security, moving from mere “*détente*” to genuine “*entente*” – from dialogue to cooperation.

The path forward requires a “variable geometry” approach to UN reform – recognizing that different aspects of the organization must evolve at different velocities. Some changes, particularly in administrative systems and operational procedures, can and should be implemented swiftly. Others, such as expanding the UN’s capacity to address emerging threats like cyber warfare or climate-induced displacement, require careful institutional innovation and capacity building. The most fundamental reforms, including the contentious but essential restructuring of the Security Council, demand sustained diplomatic engagement and may unfold over years or decades. Yet this variation in tempo need not impede progress; indeed, advancing reforms at multiple speeds may offer the best hope for meaningful transformation.

Ultimately, the success of any framework and reform depends on establishing robust accountability mechanisms and the definition of clear metrics for progress. However, procedural adjustments alone will not suffice. True reform requires fostering a sense of genuine ownership among member states, civil society organizations, and other key stakeholders. This ownership must be cultivated through inclusive dialogue and decision-making processes, ensuring that the diverse voices of the global community are meaningfully engaged. The UN’s legitimacy has always rested on its ability to serve “we the peoples,” and its renewal must bridge the gap between institutional ambitions and the needs and aspirations of those it represents.

The challenges facing the United Nations are formidable, but they also create opportunities to strengthen the organization’s role to make space for more diplomacy, dialogue, and cooperation. The UN has demonstrated remarkable resilience and adaptability. It remains, in both practical and aspirational terms, humanity’s best hope for addressing the defining challenges of our time. Our task now is to ensure it has the tools, structures, and support to fulfill this vital mission.



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# Introduction

*Tapio Kanninen and John Torpey*

As we noted in the Preface, the seminar held at the Ralph Bunche Institute for International Studies in September 2024 provided some examples of the major role the UN has historically played in resolving and policing great-power conflicts. The book addresses this experience of the United Nations in building and keeping peace in global hot spots around the world during its 80-year existence. We hope the book will contribute to a rejuvenation of the UN's storied role in creating and maintaining world peace.

At the time of the September 2024 seminar, we noted, first of all, regarding Israel/Palestine, that several UN agencies are active in humanitarian work, including in Gaza. But beyond that indispensable task, proposals urging a leading role for the UN in post-war Gaza had been offered already at that time by UN University scholars Emma Bapt and Adam Day (2023) and by international scholars and politicians, including former Canadian foreign minister Lloyd Axworthy, who argued for a UN Trusteeship for Palestine in *Foreign Affairs* (Axworthy et al. 2024). In this volume, these and other proposals regarding the UN's role in Israel/Palestine/Gaza are reviewed and greatly expanded with historical context, including the contributions by Chas Freeman, Georgios Kostakos, Fotini Zarogianni, Jeffrey Sachs, Sybil Fares and Larry Johnson.

We also mentioned, in September 2024, that the UN has historically played a powerful role in Eastern Europe, as for example in the case of the conflict in the former Yugoslavia. But it has not yet done so in Ukraine. However, some academic research had been undertaken before 2024 regarding the possibilities of the UN's involvement in this dangerous war. A. Dirk Moses and Jessie Barton Hronešová's article, "A Diplomatic Option to Avoid an Endless War in Ukraine," appeared in *Noema Magazine* in 2022. The authors consider the possibility, based on historical precedents, of a UN transitional administration in occupied areas in Ukraine (Moses and Hronesova 2022). Similarly, in the January 2023 edition of *Le Monde Diplomatique*, in an article titled "Give Peace a Chance: Towards a Negotiated Agreement in Ukraine," Tapio Kanninen and Heikki Patomäki proposed the deployment of UN peacekeeping, peacebuilding and temporary UN administration in occupied areas in Eastern Ukraine, following a model used by the UN that brought

## 2 *Revitalizing the United Nations*

peace to East Timor in 1999–2003 (Kanninen and Patomäki 2023). In the present volume, Dirk Moses, Jessie Barton Hronešová, Heikki Patomäki and Tapio Kanninen elaborate and expand these earlier proposals from various perspectives.

In addition to scholars, other major political voices have also supported the UN's role in moving toward a resolution of the Ukraine war. The new president of Indonesia, General Prabowo Subianto, while still a defense minister at the Shangri-La Dialogue Conference in Singapore in June 2023, proposed a ceasefire and a demilitarized zone in Ukraine, and that the UN should monitor the zone and hold elections in the disputed areas in Ukraine (The Straits Times 2023). In addition, the Council of Presidents of the UN General Assembly (UNCPGA) called in their Doha Declaration on 3 May 2024

for the launch of a credible peace process based on the Istanbul agreement of April 2022, which includes the neutrality of Ukraine along with a decision on the self-determination of the occupied territories in the form of a referendum under the auspices of the United Nations.

(United Nations 2024)

Several authors in this volume comment and expand upon these proposals.

For its part, though without much public attention, the International Criminal Court (ICC) has been active in indicting dictators and warlords over the years. But when the ICC indicted President Vladimir Putin, things changed drastically as the Court's decision received major media attention. The ICC also started exploring evidence regarding the Hamas–Israel war, and on 20 May 2024, the ICC prosecutor filed applications for arrest warrants targeting both the Hamas and the Israeli leadership, including Prime Minister Benjamin Netanyahu. Regarding indictment of the Israeli leadership, some extend this culpability to the United States, given the economic and military support it has given to Israel (see Chas Freeman's essay in this volume). Meanwhile, the International Court of Justice (ICJ) has been actively exploring recent violations of international law as well. On 29 December 2023, South Africa brought a case before the ICJ raising claims for the protection of the Palestinians in Gaza from acts of genocide. The court found that South Africa's claim for these rights was "plausible." The Court then issued a ruling in January 2024 in which it ordered Israel to take all measures to prevent any acts contrary to the 1948 Genocide Convention (International Court of Justice 2024). Roy Lee expands and elaborates on these indictments in his chapter about the ICC and ICJ.

In Chapter 1, Heikki Patomäki, Tapio Kanninen and Heikki Talvitie provide a historical and geopolitical context for the book. They examine some key terms related to international relations, including the concepts of great powers, imperialism, as well as democratization within countries and globally. They conclude that the major UN organs – the Security Council including its five permanent members (the "P5"), the General Assembly and the

Secretary-General – have increasing relevance in resolving major wars as well as in regard to global threats such as increasing risks of nuclear crisis, the arms race and runaway global warming.

After giving context to the substantive part of the book dealing with the Gaza and Ukraine wars and the UN's possible role in resolving them, Part I concludes with a chapter by international diplomat and scholar Bertrand Ramcharan on the future of the UN. He first notes the fact, often unrecognized in the international community, that two-thirds of the states-members of the UN are not democratic countries and the consequences of that fact. He goes on to discuss the changing foundations of the international order and the United Nations.

Part II of the book goes deeper into the lessons learned from peacekeeping operations and mediation efforts by the UN Secretary-General and his envoys. Walter Dorn, a professor at Canada's Royal Military College and at its Canadian Forces College, first gives an overview of how UN peacekeeping and peace operations have developed over the years and decades. Canadian international affairs practitioner and scholar John Cockell then discusses several peacekeeping operations based on his own field experience. The chapters on lessons learned from peacekeeping operations conclude with UN analyst Salvator Cusimano providing an inside analytical view of the UN Department of Peace Operations, using particularly the Mali experience as a case study.

In Chapter 6, "Lessons learned from the UN's mediation and negotiations efforts," international diplomat Bertrand Ramcharan boils down the lessons learned from these endeavors to twelve recommendations. He also discusses the-not-so-widely-known fact that Secretary-General U Thant had a major role behind the scenes in resolving the Cuban Missile Crisis.

Part III deals with the Hamas-Israeli war and the future of Israel/Palestine. Former US Assistant Secretary of Defense for International Security Affairs and diplomat Chas Freeman starts the discussion with an introduction to the origins and evolution of the modern State of Israel. Georgios Kostakos and Fotini Zarogianni then provide a chronology and analysis of the Palestinian-Israeli conflict and proposed UN solutions. In Chapter 9, Jeffrey Sachs and Sybil Fares discuss the details of the proposed two-state solution of the conflict in the Middle East. International lawyer and former long-time UN official Larry Johnston concludes Part III with his analysis of the future governance of the Gaza Strip.

Part IV examines the Russia-Ukraine war and prospects for long-term peace in the region. Jessie Barton Hronešová first examines the lessons learned in peace and justice from the wars of the Former Yugoslavia. Next, Dirk Moses and Jessie Barton Hronešová describe the concept and the history of international administrations of territory in light of its application in the Ukraine war. Heikki Patomäki then examines the various narratives of the Ukraine war. Tapio Kanninen and Heikki Patomäki conclude Part IV with a discussion of the potential role of the UN in the de-escalation of the conflict in Ukraine.

#### 4 *Revitalizing the United Nations*

Part V discusses the legal issues related to the Hamas-Israeli and Russia–Ukraine conflicts. In Chapter 15, international legal scholar and former UN official Roy Lee examines the ICC and ICJ, and in particular their purposes, limitations and uses in the context of major wars like those in Gaza and Ukraine. In Chapter 16, Tapio Kanninen and Georgios Kostakos examine how the principle of peaceful settlement of disputes enshrined in Chapter VI of the UN Charter has been used in regard to the Russia–Ukraine conflict.

Finally, we, the editors, draw some conclusions from the essays in this volume. We also offer some thoughts about the future in light of some of the fundamental changes anticipated on the international scene and the role of the United Nations since the Trump Administration took office in 2025.

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Part I

# Context of the Book



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# 1 Geohistorical Context of the Book

## Can the United Nations Remain Relevant in the 2020s and Beyond?

*Heikki Patomäki, Tapio Kanninen  
and Heikki Talvitie*

### Introduction

Often, the history of humankind has been written through the lenses of great powers and their leaders, and how dominant nations tried to expand their reach and conquer the lesser ones. The institution of “great powerness” has nonetheless existed only for two centuries. While the greatness of various city-states, empires and kingdoms had been praised for centuries, if not millennia, the term “great power” came into use in its current meaning at the Congress of Vienna in 1815.<sup>1</sup> Hedley Bull (2002, Chapter 9) explains that the concept presupposes and implies the idea of an international society as opposed to an international system. By that, he means a body of independent political communities linked by common rules and institutions as well as by contact and interaction.

Practices such as diplomacy with their permanent missions, congresses between states and power-balancing had already been established by the time the conservative leaders of the Congress of Vienna discussed their presumed responsibility of maintaining tranquillity and peace against revolutionaries, future Napoleons and other troublemakers. These leaders created a new club of a selected few. Great powerness implies a hierarchy among states, granting disproportionate influence to a few states. Only a few states can become members in terms of some (usually poorly explicated) rules and principles. The United Nations Security Council (UNSC) is a clear example of such a club: the five permanent members (P5: US, UK, France, Russia and China) hold veto power, meaning they can block any decisions independently of whether the clear majority of the United Nations (UN) member states or the world population support them.

During the Cold War, the number of great powers was sometimes reduced to just two (e.g., Kenneth Waltz maintained there are “only two powers capable of acting on a world scale” (Waltz 1979, 171). In order to distinguish the two great powers that really matter from the other members of the Security Council and other potential aspirants to the club, a new term was introduced: “superpower”. When the Cold War ended and the Soviet Union collapsed, this gave rise to the idea that there is now only one superpower, the

United States (US). On the one hand, this led to a convergence with the concept of “hegemony” in the theory of hegemonic stability (e.g., Gilpin 1981). On the other hand, there was also a lot of talk of a unipolar moment in world history (notably, Krauthammer 1990/1991, 2002/2003). Thus, it was widely assumed, especially in the US, that the US alone has the responsibility of maintaining stability and security in the world, despite the existence of a variety of multilateral rules, principles and institutions. This problematic idea generated not only double standards but also tensions already in the 1990s, and these tensions continued to intensify in the 2000s.

The rapid development and economic growth of China and other emerging markets, the stabilisation of the economic recovery of Russia and the relative decline of the traditional industrial countries changed the situation rapidly. The unipolar moment, if it ever existed, turned out to be short-lived, and it was quickly replaced by attempts to resuscitate pluralism. One sign of this was the establishment of BRICS in 2009 (initially Brazil, Russia, India and China, the “S” referring to South Africa). Understood in terms of the metaphorical concept of polarity that has its roots in the 18th- and 19th-century balance-of-power theories and practices, while the explicit use of the metaphor of “pole” became prevalent only during the Cold War, this would mean multipolarity.<sup>2</sup>

In the current world-historical situation, the UN can be seen as representing both traditional hierarchical institutions of international society as well as somewhat more novel ideas about equality and democracy. While the UNSC is undemocratic due to the veto power of the permanent five, the UN Charter emphasises the rule of law and institutions such as the International Court of Justice (ICJ) that was established by the UN Charter and the International Criminal Court (ICC) that was established later. These institutions promote legal equality among states and individuals. Moreover, the UN General Assembly (UNGA) is based on the principle of “one state, one vote”.

The UN represents two different historical strata and at the same time is tied to the modern, originally European concept of the state. The veto power of the permanent members of the UNSC has been justified on the grounds that it prevents conflicts from escalating into military confrontation between the great powers. The central argument of this chapter is that in the world situation of the 2020s and 2030s, the ambivalence of the UN remains temporarily useful. This is because the post-Cold War era is marked by tendencies towards a return to the era before WWI, while some tendencies recall the developments of the 1920s and 1930s. Once this regressive phase is over, it seems possible that either the UN will be democratised or it will be replaced by different and more democratic institutions, although here we do not develop such scenarios.

This chapter aims to place the question of the UN and its relevance in conflict resolution in a broad world historical context. First, we summarise the process of global democratisation and its setbacks and contradictions, focusing especially on the contradictory role of the US in democracy promotion.

Second, we offer a brief explanation of why there has been a kind of return to the past, which includes the rise of authoritarianism, securitisation of issues and weaponisation of interdependence, terms we explain later in the chapter. Third, we turn our attention to the war in Ukraine. As long as the war continues, a particularly worrying aspect of the war is related to the increased risks of nuclear confrontation. While the main point of this chapter is to outline the world-historical context of the book, we also make an argument for the continued relevance of the UN in the 2020s and beyond. Although the UN system is only a phase in the history of the development of common institutions of humanity, in the current conjuncture, it remains indispensable.

### **The Process of Global Democratisation: Waves and Counterwaves**

Global democratisation can mean two different things. First, it is often taken to mean the spread of liberal or other democratic principles to all countries of the world. According to the second interpretation, however, which has at times gained traction, especially after the world wars and the end of the Cold War, global democratisation means the democratisation of trans- and supra-national relations, particularly those concerning international organisations and global governance.

Although democracy as an idea was evident already in the American and especially French revolutions, the emerging franchise or right to vote remained confined to a small part of the population (even in the most radical experiment in 1793 in France, only males were given a vote). The idea gained additional traction and new meanings as the mechanical-industrial revolution shaped social relations. A new movement arose and started to shape political developments. As Karl Polanyi (2001, 242) put it, “[s]ocialism is, essentially, the tendency inherent in an industrial civilization to transcend the self-regulating market by consciously subordinating it to a democratic society”. Although the socialist movement succeeded in democratising the relations of production only temporarily or to a limited degree, it has had a significant impact on the development of liberal democratic institutions in various countries. For those committed to the universal value of (liberal) democracy, the ideal of democracy encourages promoting liberal democracy within states across the world.

The idea of “three waves of democratisation” was introduced by Samuel Huntington (1991a, 1991b). According to Huntington, the first wave occurred in the 19th century and the early 20<sup>th</sup> century. However, in the mid-19th century, no country was yet democratic in the sense of equal franchise or right to vote for all adult citizens. Although in the US property requirements for voting were gradually eased and then abolished in the early 19th century, only about 10–15% of the total population had the franchise before the 15th Amendment of 1870 when African American men theoretically gained the right to vote (in practice in the South, this only happened in the 1960s).

In the UK, even after the Second Reform Act (1867), when the franchise expanded in urban areas, only about 12–15 per cent of the total population (or around 30–35 per cent of adult males) had the right to vote. In France, universal male suffrage was established in 1848, but it started to have real effects only when the Third Republic was established in 1871. Developments in Germany were parallel to those of France; all adult males were given the right to vote for the Reichstag after German unification in 1871 (though Prussia retained its three-tier class system until 1918).

The second wave occurred in the aftermath of World War II. Many countries in Western Europe and newly independent states in Asia, Africa and Latin America transitioned to democracy during this period. The third wave of democratisation commenced in 1974 with the fall of Portugal's authoritarian Estado Novo regime and continued through the end of the Cold War and the late 20th century. It led to democratic transitions in Latin America, Eastern Europe, Africa and parts of Asia.

Each wave of democratisation has been followed by democratic backsliding. In the 1920s, fascist and authoritarian regimes emerged in Italy (Mussolini) and Spain (de Rivera) in a violent response to the revolutionary aspirations of communists and socialists, and in support of the self-regulating capitalist markets and prevailing established social structures. The Great Depression of the 1930s exacerbated economic hardship, leading to political instability and the appeal of authoritarian alternatives. The rise of Adolf Hitler and his National Socialist party was a prime example of this, subsequently mimicked across Europe and the world.

Between 1958 and 1975, many countries that democratised in the second wave experienced democratic backsliding. Military coups and authoritarian rule returned in Latin America (e.g., Argentina, Brazil, Chile), Africa and parts of Asia. Factors contributing to the reverse wave included stark inequalities, economic instability and Cold War-era interventions supporting authoritarian rulers for strategic reasons. Such factors also involved the weakness of new institutions that were quickly imposed on deep-seated but fractured social structures in much of the world outside Western Europe and North America.

The current backsliding started gradually in the 2000s and accelerated in the 2010s. This process is partly analogous to the reversal that occurred in the interwar period. According to V-Dem Democracy Report 2023, the current backsliding is driven by the rise of populist leaders, erosion of civil liberties and electoral integrity, increasing political polarisation and disinformation, intensifying interstate conflicts and shifting geopolitical influences. All these, and especially increasing socio-economic inequalities in the majority of countries, have reversed nearly four decades of progress. The backsliding has intensified over the past ten years, with more countries moving towards autocracy than at any point in the last 50 years.

A key aspect of the third wave of democratisation and its reversal concerns the role of the US. While democracy and human rights promotion around the world has been a long-time trend in US foreign policy, after the end of

the Cold War it became especially pronounced during the Clinton Administration with three components: global democracy promotion as a desirable political system, liberal economic development promotion through free markets, and NATO's (North Atlantic Treaty Organization) enlargement as an increased security buffer to the US and its allies in Europe.

In 1993, Anthony Lake, President Bill Clinton's National Security Adviser, made a speech at Johns Hopkins University with the title: "From Containment to Expansion" (Lake 1993). It elaborated on the above US foreign policy objectives and tied democracy promotion to two other processes: the expansion of the exclusive military alliance (related to the "unipolar moment" of the 1990s) and neoliberal globalisation (related to the US hegemony in the global political economy). Both were justified in terms of strong assumptions about liberal harmony, which, for example, E.H. Carr (2016) had shown to be problematic already 50 years ago.

The first assumption of such democracy promotion was that the US leadership, including the expansion of the US-led military alliance, is good for everyone and the world as a whole. All rational, liberal-democratic states of the world should welcome the US leadership and NATO expansion. Moreover, rationality and liberal democratic institutions can also be introduced to other countries by supporting like-minded political actors, intervening as necessary in the country's internal political processes, and possibly also by military means (Kosovo, Afghanistan, Iraq, etc.). The second assumption was that if the only rational (i.e., neoliberal) economic policy is implemented by most states, the result will be a harmonious coming together of the world. Both assumptions have backfired.

Although the problems caused by these assumptions are not limited to any one country or region, Russia's development has been a central part of the process in which democratic backsliding has occurred and confrontations have increased. Neoliberal globalisation played a major role in shaping Russia's post-Soviet transformation. The collapse of the USSR (Union of Soviet Socialist Republics) reinforced the already prevailing idea in the West that there was no alternative to free-market capitalism, shrinking ideological space for dissent. Following the USSR's collapse, Western economists and neoliberal ideologues saw the economic turmoil as further proof that only free markets could succeed. Under Boris Yeltsin, Russia underwent "shock therapy", a radical liberalisation and privatisation programme inspired by neoliberal principles.<sup>3</sup> This approach was heavily influenced by Western economists<sup>4</sup> and implemented by Yeltsin and Russian liberals. It is assumed that dismantling Soviet-era structures would naturally lead to a harmonious, self-regulating market economy. However, it ignored Russia's specific circumstances and the role of state capacities in economic developments, leading to economic chaos, hyperinflation and rapidly rising inequality. Wealth was concentrated in the hands of a few oligarchs, while millions fell into poverty. This period not only devastated Russia's economy but also fuelled nationalist and authoritarian responses, as many sought a stronger role for the state to counteract the failures of neoliberal policy.

Concurrent with the implementation of shock therapy, the Western and especially US political leaders devised post-Cold War security arrangements in Europe and also globally. “Security” is not only about the protection of people’s lives but typically includes the preservation of possessions and power relations, some normative principles (e.g., adhering to promises and agreements), and fundamental perspectives on one’s historical existence (who are we, where do we come from, where are we going?).

The enlargement of NATO towards Russia’s borders and related changes, as the power of the expanding alliance grew in the late 1990s and early 2000s<sup>5</sup>, and occurred in the context where the failure of neoliberal ideas was increasingly evident. It was made clear by the West that Russia would stay outside NATO. While traditional nuclear deterrence between the US and Russia continued to define their relationship, the trust between Russia and NATO or the US started to erode. The more competitive the situation has become over time, the more harm NATO expansion has caused (see Patomäki 2014, 140–1).<sup>6</sup>

The Russian experiences can be generalised. For example, Thomas Piketty (2014) has argued that in slow-growing and financialised contexts, such as the OECD (Organisation for Economic Co-operation and Development) world since the 1980s, the average rate of return on capital tends to exceed economic growth. This means that the past increasingly determines the present, and accumulated inherited wealth grows faster than production and income.<sup>7</sup> Whether caused by this or other mechanisms, the concentration of wealth and capital tends to have far-reaching political consequences.

Wealth can be translated into political influence also in liberal democracies, not only through labour relations but also more generally by changing the rules of politics. When the rules limiting the influence of money on politics in favour of the wealthy and big corporations are changed or eliminated, the process easily becomes self-reinforcing, as it produces positive feedback connections. Previous changes enable new changes in the same direction. The result is de-democratisation and increasingly asymmetric power relations. Following the “shock therapy” of the early 1990s, Piketty’s inequality  $r > g$  (where “ $r$ ” represents the rate of return on capital and “ $g$ ” represents the economic growth rate) became a prevailing reality in many parts of the former Soviet area in just a few years. Similar developments have occurred in many or most countries across the world, including and perhaps especially in the US itself. Although the process has been slower than in Russia, its cumulative effects are similar.

### **Global Democracy in the Cosmopolitan Sense and Its Failure in the Post-cold War Era**

It is time to return to the second meaning of global democratisation. In the cosmopolitan sense, global democracy refers to trans- and supranational social relations, including those of international organisations and systems of

regional and global governance. If there are common issues and concerns in our interconnected world, and if there are processes and power relations that can be characterised as international, transnational or global, should they not be democratised as well? Like the idea of democracy in general, the idea of cosmopolitan democracy emerged during the turmoil and aftermath of the French Revolution. While global democracy may remain less well understood than democratisation within national states, it has influenced the development of transnational, international and global relations.

Global democracy was widely discussed at the end of World War I, World War II and the Cold War. UNSG (Secretary General) Boutros Boutros-Ghali's (1996) *An Agenda for Democratization* is a case in point. Chapter 5, "Democratization at the International Level", takes up about half of the document. Taking the concept of international society further than Bull, Boutros-Ghali argues that it is both a society of states and a society of individual persons. There are qualitative differences between state-based political communities and international society, but the concept of democratisation as a process that can create a more open, more participatory, and less authoritarian system applies both nationally and internationally. Moreover, Boutros-Ghali (1996, 26) connects democratisation at the international level with the aim of fostering peace:

Democracy is the way to mediate the various social interests in a particular community. In the international community, it is the way to promote the participation of all actors and to provide a possibility to solve conflicts by dialogue rather than by force of arms. The process of democratization internationally can therefore help promote peaceful relations among States.

This kind of thinking does not sit well with concepts such as hegemony, great power, superpower or unipolarity. It thus comes as no surprise that there were multiple conflicts between the US and the Boutros-Ghali-led UN in 1992–1996 (for a detailed discussion, Patomäki 2002). In 1996, the US lobbied extensively against Boutros-Ghali, without any apparent success. The Clinton administration also made various offers to Boutros-Ghali, tempting him to give up his candidacy for a second term, again without success.

On 18 November 1996, the fifteen members of the Security Council convened to vote on Boutros-Ghali. Fourteen of the fifteen members of the UNSC voted for him. The vote was postponed for twenty-four hours, during which the US applied massive pressure to change the count. But the next day, the situation was unchanged. Fourteen votes were cast in favour of Boutros-Ghali's full second term; the US cast its veto. This brought the election process to a halt. Threats and pressure from the US continued. Misinformation was planted in the press. Although the breakthrough was the admission that the Council should discuss whatever African names might come forward, the US had already chosen Kofi Annan. The US and Britain double-vetoed all

Africans except Kofi Annan. France, in turn, vetoed the non-French speaker Kofi Annan. In the following straw polls, France again – repeatedly – cast its veto against Kofi Annan, supporting the Francophonic Boutros-Ghali. But eventually, France had to give up. Just before Christmas 1996, President Chirac declared that France would lift its veto. The US had its way: Kofi Annan became the new SG as of January 1, 1997.

*An Agenda for Democratization* was written at the very end of Boutros-Ghali's term in autumn 1996. He wrote personally Chapter five of this text against the advice of many members of his staff, who were dedicated to the democratisation of international relations. Three years later, Boutros-Ghali (1999) published a book entitled *Unvanquished. A U.S.-U.N. Saga*, which is a story about his five-year term as UN Secretary-General 1992–1996. In the book, he explains:

The U.S. veto was a rejection of democracy. That America would argue for democracy within every state but reject it in the world's organization of states was a theme heard over and over in the Arab and Third-World press. It seemed strange to me too, because the key theme to my term as secretary-general was democratization. The fact that a single vote – that of the United States – could dictate the outcome at the United Nations threatened hopes for increasing democratization on the international scene.

(Boutros-Ghali 1999, 319)

The *Agenda* emphasises that although “interrupted by the Cold War”, democratisation in accordance with the spirit of the UN Charter is also about “the project of democratic international organizations” (Boutros-Ghali 1996, 32). “A supportive international environment for democracy” (58) requires, in the context of the post-Cold War situation and globalisation,

democratization at the international level, so that democratization within States can take root, so that problems brought on by globalization which affect all States may be more effectively solved and so that a new, stable and equitable international system can be constructed.

(60)

In the 1990s and early 2000s, numerous articles and books were published on global democracy. Actors of global civil society that emerged in the 1990s proposed and campaigned for a wide range of global democratic reforms. Some of these campaigns concern the UN system and have continued into the 2020s. The most important of these is the Campaign for a United Nations Parliamentary Assembly (UNPA), which advocates for the establishment of a democratic and representative body within the UN system (for a history and justification of the campaign co-written by its key organiser, see Leinen and Bummel 2024). The campaign was launched in 2007 by Democracy Without

Borders (formerly the Committee for a Democratic UN) and is driven by a broad coalition of parliamentarians, NGOs, academics and former UN officials. Although the campaign has received broad support from various quarters, including the European Parliament, it has run counter to the prevailing trends and powers in world politics.

The momentum of global civil society and the global democracy debate began to wane in the early 2000s. A key turning point was the election of George W. Bush as US president and the subsequent conservative turn in politics, which was reinforced by 9/11 and the wars in Afghanistan and Iraq that followed. Another turning point was the global financial crisis (GFC) of 2008–09 and the resulting Euro crisis, which contributed to the rise of nationalist and authoritarian populists and strengthened polarisation and disintegration tendencies in the global political economy.<sup>8</sup> This period has seen the continued growth of China, which stayed clear of any shock therapy. Throughout the era of rapid economic growth, China has consistently run large current account surpluses, resulting in a massive accumulation of foreign exchange reserves, which has precipitated conflicts over trade. Moreover, in the 2000s, the conflict between Russia and the West (especially NATO) escalated gradually. With securitisation, also in response to various uprisings and wars, Russia started to become increasingly authoritarian.<sup>9</sup> This shift foreshadowed the more general reversal of the third wave of democratisation in the 2010s and 2020s.

### **Imperialism, Great Powers and Spheres of Interest in the Current Regressive Era**

The current world-historical conjuncture is grounded on a particular way of organising the main institutions of the world economy. The main arrangements originated in the Bretton Woods agreement of 1944 but have subsequently been transformed and (neo)liberalised. A key aspect of the current arrangements concerns the US dollar's dominance as the world's reserve currency. It is widely perceived that this grants the US disproportionate privileges, including economic resources and geopolitical power, while creating dependencies for other nations, particularly in the Global South. It has allowed one country to run a deficit from year to year and decade to decade, which, however, has led to the accumulation of imbalances. The overall result of such dynamics tends to be instability, trade conflicts and an international system resistant to reform.

The reliance on the US dollar has long been contested. Proposals to replace it with a multipolar system – whether through regional currency solutions, Special Drawing Rights (SDRs), or a new supranational reserve currency – have been repeatedly blocked, often by the US (see Morgan and Patomäki, forthcoming). SDRs, initially designed as a multilateral alternative, have been issued only in times of crisis, and their potential remains underutilised, particularly due to the US's effective veto power within the International Monetary Fund (IMF).

Attempts by China and others to introduce alternatives have met resistance, reinforcing the system's inertia (China proposed such an alternative during the GFC in 2009). An adequate global monetary system would reduce, mitigate and eliminate causes that co-generate conflicts between states, especially trade wars. The absence of an adequate global system and thus the apparent unreformability of the world monetary system are in a significant part responsible for the current world political situation. This vicious cycle persists because the very monetary imbalances it tends to create in a world economy are characterised by uneven growth that fuels global tensions such as the US-China trade war. Meanwhile, the absence of a credible alternative due to the apparent non-reformability of the world economic system allows the US to maintain its financial dominance. The securitisation of political-economic relations (for instance, seeing vulnerabilities and existential threats in supply lines and trade relations) and the growing division of the world into competing geopolitical blocs exacerbate the problem.

Breaking this cycle would require global reform. A viable solution would lie, for example, in establishing a global clearing union with balanced obligations for both surplus and deficit countries, possibly underpinned by a global central bank. Could the UN be an agent for global reforms? We return to the issue of UN based reforms in the next section. In any case, such reforms could mitigate trade wars, financial instability and geopolitical tensions. However, unilateral actions – such as regional or other blocs (e.g., BRICS) bypassing the dollar – risk intensifying fragmentation rather than solving the root issue. Ultimately, meaningful change would necessitate cooperation among all major economies, particularly through BRICS and other emerging powers, to push for new international monetary structures that reduce dependence on any single national currency. As long as this does not happen, the dynamics of prevailing processes and forces will deepen the regression and carry the risk of global economic collapse and regional or global military catastrophe.

In a situation where disintegrative tendencies and processes of securitisation prevail and where conflicts are escalating, many phenomena seem like a repeat of the past, even though there are always also important differences. A telling example is the Western neo-imperial discourse that emerged in the 1990s and especially in the early 2000s (Table 1.1).<sup>10</sup> This cannot be easily summarised, but it includes instances such as Tony Blair's (1999) Chicago Speech promoting the idea of a responsibility to intervene in failing or oppressive states,<sup>11</sup> and the Bush administration's National Security Strategy (US 2002) justifying pre-emptive war to maintain US dominance.<sup>12</sup>

At the same time in the early 2000s, public intellectuals such as Niall Ferguson (2003) argued that the British Empire helped spread democracy, capitalism and legal institutions that later benefited former colonies, even though colonialism and imperialism also caused, at times, misery. Applied to the contemporary era, Ferguson's arguments suggest that Western intervention could bring stability and prosperity to "failed states". Similarly, but more radically, Max Boot (2003) not only accepted that the US is

*Table 1.1* Parallels between the imperialist era of 1871–1914 and the 1999–2005 period

| <i>Justifications in 1871–1914</i>   | <i>Justifications in 1999–2005</i>  |
|--|---|
| <p><b>“Civilizing” the world</b> – Europeans claimed they were uplifting “backward” societies.</p> <p><b>Racial superiority and social Darwinism</b> – Empire was seen as a duty of “advanced” races.</p> <p><b>Religious mission</b> – Christianity justified control over non-Christian societies.</p> <p><b>Humanitarian justification</b> – Ending slavery or “saving” indigenous peoples justified colonisation.</p> <p><b>Bringing order to “anarchic” regions</b></p> | <p><b>Promoting democracy and human rights</b> – The US and UK framed interventions as spreading freedom.</p> <p><b>Western liberalism as universal</b> – Democracy and capitalism were seen as inevitable for all societies.</p> <p><b>Secular mission</b> – Western values (liberal democracy, secular governance) were promoted as moral imperatives.</p> <p><b>Responsibility to protect (R2P)</b> – Justifications for Kosovo, Iraq and Afghanistan included saving civilians from oppressive regimes.</p> <p><b>State-building in “failed states”</b></p> |

imperialistic but also defended it by writing that “U.S. imperialism has been the greatest force for good in the world during the past century”. For instance, according to Boot, the US defeated communism and Nazism and has intervened against the Taliban and Serbian ethnic cleansing.

A key problem is that the unilateralism implied by the early 2000s neo-imperial discourse can spread. Given that the US and UK are only a small part of the 21st-century world, other state actors easily learn to ask that if certain states are allowed to act in that way based on their own particular interests and moral concepts, why cannot we, too?

The problem is not only political and military interventions in terms of state-building or promoting liberalism.<sup>13</sup> The process may involve attempts to create or maintain imperial preferences, implying double standards that easily backfire and lead to tit-for-tat responses that include trade wars. The subsequent dynamic generates a new era of competing imperialisms. If such dynamics prevail, it is possible and perhaps likely that the logic of violence and war will also return to the core areas of the world economy. Although a proper causal explanation requires understanding and explaining multiple choices and processes, this provides an important perspective on how the conflict between Russia and the West has escalated (including through expanding and intensifying sanctions against Russia) and then led to a full-scale war over NATO expansion and other issues in Ukraine starting in 2022.

Such conflicts also concern who belongs to the club of great powers and who does not. The neo-imperial discourse of the early 2000s was premised on the idea that there is only one true superpower in the world, the US, with which the great power Britain has a special relationship. To reiterate, the idea of a great power suggests an exclusive club with ambiguous and contested rules about who qualifies for membership. One such struggle has been played

out between the US and Russia. After the Cold War, the West sought to avoid humiliating Russia by acknowledging it as a great power. However, it did not consider Russia a superpower on par with the US. This distinction reflected a deeper divide over the hierarchy of power. The contrast between international institutions like the OSCE (Organization for Security and Co-operation in Europe) and NATO illustrates this struggle.

In the OSCE, Russia was treated as an equal among European states. In NATO, however, the US maintained clear leadership, reinforcing its superior position. For Russia, as trust eroded and conflicts with the West started to widen and escalate, this began to signal an unacceptable imbalance. Thus, the Kremlin has insisted on being recognised as a full and equal member of the great power club, resisting any suggestion that it was merely one among several lesser powers.

At the heart of this dispute lay differing visions of global power. The US perspective implied a system with one dominant superpower and a handful of secondary great powers, such as the other permanent members of the UNSC. Russia, by contrast, rejected any hierarchy that placed it below the US and sought recognition as an equal force in world affairs. At its core, this dispute is not just about military strength or economic power but about the recognition of status (cf. Honneth 1996). The result is an ongoing struggle for influence, where both sides seek to define and defend their place in the international hierarchy.

A concept that has been tied with great powerness is that of the “sphere of influence”, which in the immediate post-Cold War was widely seen as outdated. However, since the conflict in Ukraine became violent in 2013–2014, accusations revolving around the concept of “sphere of influence” have been common and have not only been levelled in one direction. The history of the concept parallels that of great powerness. The US did not participate in the Congress of Vienna but assumed similar “responsibilities” in the Americas. President James Monroe’s 1823 speech did not include the terms “sphere of influence” or “sphere of interest” as such, but in effect, the notion of protecting the American hemisphere came close. The term and concept became common and gained a recognised position in international law during the neo-imperial period of 1871–1914, especially from the 1880s onwards. After World War II, which discredited the concept, what remained was a tacit and reciprocal understanding between the US and the USSR about “spheres of interest”. Although they recognised these spheres in practice, neither side used the term, and they would not have publicly approved of its use about their own country.

The Cuban Missile Crisis tested the limits of the spheres of interest doctrine. As any serious test after the Cuban crisis could easily escalate to an all-out nuclear war, the US and the Soviet Union agreed to a series of measures to improve communications during a crisis, involving a hotline agreement. The crisis also instigated various attempts to negotiate nuclear and conventional disarmament regimes, some of them successful. However, the parties never explicitly talked about spheres of interest in any of these

contexts. Paul Keal (1983, 155) explains that the US was publicly committed to the sovereign equality of states and the norms of interstate behaviour, whereas the USSR framed its actions in terms of socialist solidarity. This continued until the end of the Cold War. In the subsequent euphoria until the early 2000s, it was widely thought that the “sphere of interest” was an outdated concept that the world had finally shed – although the US has held on to its version of the tacit concept all along, and in a sense even globalised it. Since the mid-2000s, Russia has gradually returned to geopolitical doctrines that, at least to an extent, resonate with some of the ways in which the concept was used from the 1880s until 1945.

### **The Continued Relevance of the UN**

Although above we focused on describing the role of the US and the escalation of the conflict between the West and Russia, the current world-historical conjuncture encompasses much more, including the governance of the global economy, the role of the EU (European Union), China–US relations, the rise of BRICS, conflicts in the Middle East, and the positioning of the global South in these developments. The main point is, however, that when actors begin to repeat the patterns and mistakes of previous eras, institutional solutions from these eras may become relevant once more, at least temporarily. This applies to the UN system in the 2020s and beyond.

The UN was born after a devastating world war. The three main winners of WWII met in conferences at Teheran, Yalta and Potsdam and secured an agreement on the contours of the new world organisation, the UN. The purpose was to create an organisation where both universal principles, such as peace and human rights, and the national interests and (implicitly) spheres of interests of great powers would be guaranteed, mainly through veto rights in the Security Council.

The aim was also to avoid the fatal failures of the League of Nations. The US never joined the League, and Germany, Japan, Italy and Spain left the organisation in the 1930s. The Soviet Union was expelled after attacking Finland in 1939. The idea in the circumstances of the 1940s – the war had just ended, but European empires still existed, while the Soviet Union challenged some of the basic principles of the capitalist world economy – was that the world organisation should withstand even the most severe disputes among the self-selected great powers. It would provide a unique meeting place for them amid severe disagreements and ongoing conflicts, sometimes seriously threatening great powers’ interests and values.

Since the post-Cold War liberal euphoria has ended – for reasons we have briefly discussed above – and been replaced by the current era of polarisation, fragmentation, stagnation and regression, any serious effort to avoid global economic, military or ecological catastrophe requires at least a temporary revival of the UN and its founding principles. Moreover, the global existential risks of the present era support this contention. In January 2025, the

Bulletin of Atomic Scientists moved “the Doomsday Clock from 90 seconds to 89 seconds to midnight – the closest it has ever been to catastrophe” (Bulletin of Atomic Scientists 2025). If humanity fails to respond adequately to the existential risks of the 21st century, it is possible and perhaps likely that large parts of the planet will become uninhabitable. While the Bulletin stresses global warming as an existential risk to humanity, in 2025, the Bulletin considers the risks posed by nuclear weapons as the most acute and immediate of all these major risks:

In regard to nuclear risk, the war in Ukraine, now in its third year, looms over the world; the conflict could become nuclear at any moment because of a rash decision or through accident or miscalculation. Conflict in the Middle East threatens to spiral out of control into a wider war without warning. The countries that possess nuclear weapons are increasing the size and role of their arsenals, investing hundreds of billions of dollars in weapons that can destroy civilization. The nuclear arms control process is collapsing, and high-level contacts among nuclear powers are totally inadequate given the danger at hand. Alarming, it is no longer unusual for countries without nuclear weapons to consider developing arsenals of their own – actions that would undermine longstanding nonproliferation efforts and increase the ways in which nuclear war could start.

The New York Times’ veteran reporter David E. Sanger wrote, in an article published on 9 March 2024, that a nuclear Armageddon – the use of tactical nuclear weapons by Russia and then the war’s expansion into a global nuclear war – was much closer in October 2022 than is widely known (Sanger 2024). For his article, Sanger interviewed political and military leaders of NATO countries over 18 months. Through successful Ukrainian military advances on the battlefield at that time, the scenario of their further breakthrough towards the Crimean Peninsula seemed quite possible. According to the CIA’s estimate, in that situation, the likelihood of Russia using nuclear weapons would have risen to 50% or even more.

As long as the war continues (at the time of this writing, a peace process seems likely to begin in 2025), the danger of nuclear war exists and can increase considerably if the conflict expands. Moreover, the war in Ukraine is not the only problem. Due to the recent slide towards global disintegration involving neo-imperial practices and attempts at great power domination – perhaps in terms of the spheres of interests of those in the inner club – and the erosion of the rules and procedures for solving conflicts peacefully, the world today is troubled by local and regional crises that could flare into major wars including the use of nuclear weapons as nuclear proliferation just expands. We have seen a drift towards fatally dangerous situations where escalations keep rising in various armed conflicts and territorial disputes. The Middle East is a case in point, while the struggle between the US and China seems more epic.

As the current geopolitical landscape is marked by deep divisions and a persistent negative security dynamic, which, along with the currently prevailing disintegrative tendencies and divisions, continue to hinder conflict resolution and the management of global crises, the role of UN peacekeeping in conflict resolution remains indispensable. In many post-Cold War conflicts, such as East Timor and former Yugoslavia, peacekeepers have played a key role in mitigating or stopping violence, assisting in reinstating the rule of law and participating in state-building efforts. Despite its positive role and functions in many contexts, the UN faces the risk of further marginalisation and diminished relevance.

Current developments are not solely negative, however, as some new practices have been adopted within the UN that could, at least in principle, contribute to strengthening the UN's role. An encouraging sign is that recently, there have been some improvements in the working methods of the UNSC, facilitated by its Secretariat.

While consultations of the whole, allowing members of the SC to discuss issues informally and without public scrutiny, have existed from the early days of the Organisation, the so-called Arria-formula meetings started in the early 1990s.<sup>14</sup> They provide SC members with the opportunity to engage in confidential and candid discussions not only among themselves but also with some other member-states and relevant stakeholders such as international organisations and non-state actors. Similarly, Security Council retreats outside the UN Headquarters and the SG's monthly luncheons with the Council members offer informal spaces for discussing sensitive political matters. Monthly public thematic debates provide a structured forum for addressing broader concerns such as climate change and AI (artificial intelligence) governance, enlarging the responsibility of the Council to consider global trends and risks.

If the Security Council fails to assert leadership on major issues of world politics, the General Assembly may step in as it did in the Suez Crisis of the 1950s (see below) – a development that the five permanent members may not welcome. Moreover, a significant but underutilised tool available to the UN Secretary-General is Article 99 of the UN Charter, which grants him the authority to bring urgent threats to international peace and security to the Council's attention. Regular invocation of Article 99 could reinforce the Secretary-General's leadership role and ensure timely action on critical matters, such as the growing risks of nuclear conflict. Given the deterioration of disarmament regimes, the strategic use of this provision could become increasingly necessary.

The Security Council's current inefficiency has generated widespread frustration among UN member states, undermining its credibility. In response, there is a renewed push for democratisation within the UN, particularly concerning the Security Council's veto power and the process for selecting the SG.

These discussions have continued for decades to no avail, but the movement for a more accountable and transparent Council gained momentum with the

adoption of the “veto initiative” resolution on April 26, 2022 (Donalson 2022). Initiated by Liechtenstein, this measure aims to hold the five permanent members accountable for their use of the veto, reflecting a growing demand for institutional reform. This may be a small step, but it is in the right direction.

The General Assembly’s September 2024 “Summit of the Future” convened the largest number of heads of state and government in UN history. The resulting “Pact of the Future” reaffirmed member states’ commitment to strengthening the General Assembly’s role in maintaining international peace and security, as well as improving the SG’s appointment process (United Nations 2024). In this context, it is worth recalling that during the 1956 Suez Crisis, the GA authorised the UN Emergency Force as the SC was deadlocked due to French and UK vetoes. A similar approach may be necessary to address contemporary conflicts.

An idea to strengthen UN leadership and address the deadlock in the Security Council could be for the General Assembly to explore appointing the Secretary-General independently of the Council’s recommendations. While the current system ensures P-5’s political backing of the SG, it can also limit the SG’s ability to act decisively and independently. Any move in this direction would need careful consideration, as financial or political repercussions from P-5 members could follow. However, keeping this option open for the future may help safeguard the UN’s effectiveness in times of crisis.

Could the UN change itself in a more fundamental sense? Article 109 of the UN Charter provided for a General Conference of the UN Members to review the Charter at the latest ten years after it entered into force, which was by 1955; however, this did not occur. Arguably, such a review of the UN Charter is long overdue and urgently needed (Kanninen and Kostakos 2022). Nonetheless, organising such a meeting in the 2020s or 2030s is difficult politically and for other reasons. It is worth mentioning that before the “Summit of the Future”, Antonio Guterres appointed an independent “High-Level Advisory Board for Effective Multilateralism” and the Board suggested convening the Article 109 General Conference: “The Summit of the Future is an opportunity to reaffirm our common commitment to the United Nations Charter and announce a Charter Review conference focused on Security Council reform” (High-Level Board 2023, 49). The summit, however, did not include this recommendation in its outcome document.

While it is possible to change the UN Charter, such a process is complex and difficult. The Charter can be amended under Articles 108 and 109, but it must be adopted by a two-thirds majority of the GA. It must then be ratified by two-thirds of UN member states, including all five permanent members. In other words, the permanent members of the SC have veto power also over amendments to the UN Charter, making fundamental changes to the Charter difficult, if not almost impossible, particularly if they affect the privileges and powers of the P5. A possible approach, however, would be to retain veto power but create a procedure to overruling it. For example, if the Security Council’s permanent members cannot agree on a resolution, the General Assembly, perhaps together with the Parliamentary Assembly, can approve it with a qualified majority or qualified double majority vote.

Current or potential planetary crises may, however, create a situation where reforming the UN could become both necessary and possible. In addition to the existential risks posed by nuclear war and technological developments (e.g., AI), global warming may have effects that force the governments of “great powers” to think about common global institutions from a novel perspective. The ten hottest years on record have occurred in the last ten years (see World Meteorological Organization 2024). This trend cannot continue for long before various severe effects of global warming (floods, forest fires, droughts and other man-made natural disasters) start to significantly affect the majority of households on the planet.

A key concept is the tipping point. Tipping points in climate change refer to critical thresholds in the Earth’s climate system that, once crossed, lead to significant and often irreversible changes. These points mark moments where gradual environmental shifts trigger self-reinforcing feedback loops, accelerating global warming or ecosystem collapse beyond human control. Some scientists warn that multiple tipping points could interact, leading to a cascade effect and worsening climate impacts worldwide. Preventing these shifts requires urgent actions.

In the case of the threat of a nuclear war, there may be only one tipping point, namely the first use of tactical nuclear weapons, as indicated by a major US 1983 gaming exercise to learn about the options in a nuclear crisis.<sup>15</sup> However, in the case of climate change, there are several. A hopeful scenario for the future is one in which reaching a tipping point or indicator of an incipient cascade of interacting forces through reinforcing feedback loops will lead to large-scale global cooperation, including through institutional changes. Given the current structure of the UN and the continued existence of the institution of great powerness, the role of the permanent five of the Security Council remains important in this scenario, but so does the UNSG – and we should also not forget the UN Parliamentary Assembly, which, if implemented, would bring a new democratic element to the UN system.

The relations among the P5 countries are currently hostile, with tension and blame going around, yet concern about the planetary conditions for life might provide the basis for a turning point. The earlier the change starts and the more proactive it is, the lower the risk of a catastrophe or massive cascade effect. The history of the UN involves examples of proactive action that did not require the worst-case scenario to materialise. An example is the Cuban Missile Crisis and Secretary-General U Thant’s active role in finding a solution to the crisis before it was too late.

On 24 October 1962, in his address to the Security Council, Secretary-General U Thant stressed that what was at stake was the fate of mankind. He called for urgent negotiations between the parties directly involved, informing the Council that he had sent urgent appeals to President Kennedy and Premier Nikita Khrushchev for a moratorium of two to three weeks on any action that might aggravate the tense situation. Both leaders ultimately

accepted SG's proposals on that date and also what he proposed during the remaining days of the crisis. U Thant's mediation and his proposals to delay any escalatory move bought crucial time for the US and the Soviet Union to resolve the crisis ultimately peacefully (for more on this, see Bernhard Ramcharan, Chapter 6, in this volume).

Under the circumstances of the late 2020s and despite real constraints, the next SG, to be appointed in 2026, should take on more responsibility and show more global leadership than has been customary since the 1990s. A new SG should bring the Council members together to resolve common problems of humankind in a much more serious fashion than before.

## Notes

- 1 Encyclopedia Britannica, "Great Power", viewed on Feb 1, 2025, available at <https://www.britannica.com/topic/great-power>.
- 2 Practices and institutions are concept- and activity-dependent. As concepts and practices can emerge in history, they can also become absent or be deliberately absent. This applies to power-balancing practices and institutions such as great powerness. The Cold War concept of "pole" is metaphorical, akin to a magnetic pole, signifying a centre of attraction or dominance that other states align with or react to. Discussions about poles and polarity in the 21st century imply the reproduction of these kind of historical institutions in a situation where it would be rational to seek to absent and/or transform them into a form that meets the demands of an era of global existential risks.
- 3 This discussion summarises the relevant passages of Forsberg and Patomäki 2023, 12–15. Many analyses of shock therapy and its consequences have been published, such as Stiglitz 1999 and Goldman 2003, but an especially interesting recent book concerns how China succeeded in avoiding such a shock therapy (Weber 2021). As Stiglitz notes, over the decade beginning in 1989 China's GDP nearly doubled, while Russia's fell by almost half. Russia's GDP, which was more than twice that of China at the beginning of the decade, was a third smaller by the end of it.
- 4 Most prominent was Harvard economist Jeffrey Sachs. However, Sachs later criticised the shock therapy and complained that some of his advice, such as establishing a stabilization fund or cancelling part of Russia's debts, was not followed (e.g., Goodman 2022).
- 5 The NATO expansion was still in the early 1990s a controversial issue inside the Clinton administration. Even military leaders were reluctant to embrace the new doctrine, and George Kennan called it "Strategic blunder of potentially epic proportions". Deputy Secretary of State Strobe Talbott dedicated a whole chapter (Chapter 9) for NATO expansion's preparations in Clinton's White House in his memoirs (Talbott 2003). The high point of preparations was the Madrid NATO Summit in July 1997 when the organization invited Hungary, Poland and the Czech Republic to join and also established the NATO-Ukraine Commission.
- 6 For a discussion and debate on the expansion of NATO in terms of whether promises were broken, what the precise effects of NATO expansion have been, etc see Forsberg and Patomäki (2023). For the role of OSCE see Patomäki (2024).
- 7 There are also much faster processes of wealth accumulation and concentration, while the two types of processes can be seen as complementary. The "winner-takes-it-all" outcomes in capitalist market economies can be explained through a combination of economic theories and structural dynamics. For example, in terms of network effects: in industries where a product or service becomes more

valuable as more people use it, the largest provider often gains a dominant position. Or in terms of economies of scale: larger firms can produce goods or services more cheaply than smaller ones due to spreading fixed costs over more production. Also path dependency matters: early advantages in branding, infrastructure, or customer loyalty compound over time, reinforcing the leader's position. Explanations of specific outcomes typically require references to many mechanisms. For example, "winner takes it all" in fields such as pop music or sports can be explained in terms of many interacting mechanisms and related structural dynamics: network effects, popularity feedback loops, economies of attention, the Matthew effect, etc.

- 8 After a critical turning or tipping point, the dynamics of a self-reinforcing process, characterised by positive feedback to at least some actors, tends to support and institutionalise the original choice or choices. Thus, reversals become increasingly difficult. As argued by Pierson (2004), dynamics triggered by particular events and/or processes at one point in time may reproduce themselves or accelerate, even in the absence of the recurrence of the original events or processes. Patomäki (2008, 145–151), frames the early 2000s' ambiguous turn by the US and UK to new imperialism as a nodal point. In 2018 (122), he argued that the global financial crisis (GFC) was a world history nodal point of at least of an equal magnitude, in particular a saddle point that has induced stasis and political and economic regression.
- 9 Securitisation in political science describes how political actors frame issues as existential threats to national security prompting states to take action, sometimes with extraordinary measures. The post-Cold War process of securitisation of Western interference in political processes in the CIS area started at the latest at the time of the Colour Revolutions 2003–2005 (preceded by the Chechen wars and coinciding with the Iraqi war). The securitisation of these uprisings triggered exceptional countermeasures by the Russian side, which in turn have led to unintended counterproductive effects, not least in Georgia and Ukraine (Delcour and Wolczuk 2015), to which Russia has again reacted (spiral of escalation; see also Michailova 2022). Before the 2007–2008 elections, there was talk in Russia about the danger of a "colour revolution". Academic analysts have been torn between two different interpretations. Some argue that securitisation has served Putin's regime in domestic politics, whereas others think that the anxiety of leading Russian politicians is genuine (see Duncan 2013). The fear seems genuine, but it is possible that the dominant beliefs in Russia conflate concerns about the ruling elite's position and the interests of society at large. From this perspective, the domestic context exposed the Russian political system to securitisation, while securitisation has triggered measures that tend to de-democratise society.
- 10 This table was generated with the help of ChatGPT and has been checked and revised by the authors.
- 11 Among other things, Blair stated: "If we wanted to right every wrong that we see in the modern world then we would do little else than intervene in the affairs of other countries. We would not be able to cope. So how do we decide when and whether to intervene".
- 12 In a key passage on p.16: "The United States has long maintained the option of pre-emptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction – and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act pre-emptively. The United States will not use force in all cases to pre-empt emerging threats, nor should nations use pre-emption as a pretext for aggression. Yet in an age where the enemies of civilization openly and actively seek the world's most destructive technologies, the United States cannot remain idle while dangers gather. We will always proceed deliberately, weighing the consequences of our actions".

- 13 In the early 2000s, while the neo-imperial discourse emphasised the ability of powerful states to shape developments in other countries, the aim was to do this without direct territorial conquest. The US, for example, used military interventions in Iraq and Afghanistan to install favourable governments without annexing these territories (this might have been the initial purpose of the Russian invasion of Ukraine as well). This form of influence was primarily non-territorial, relying on military force and political restructuring rather than direct expansion. However, in the 2020s, neo-imperial tendencies have increasingly taken on territorial forms. Russia's invasion of Ukraine can be seen as exemplifying a return to the logic of territorial conquest, even if only inadvertently as a response to the failure of Istanbul negotiations in March–April 2022. President Donald Trump's interest in purchasing Greenland, his efforts to exert control over the Panama Channel and “own the Gaza Strip” reflects a renewed emphasis on territorial expansion, signalling a new phase in the evolution of neo-imperialism.
- 14 The format was introduced in 1992 by Diego Arria, then Venezuela's Ambassador to the UN, as a way for Council members to hear firsthand accounts from actors directly involved in conflicts or crises.
- 15 In 1983, the most extensive top-secret gaming exercise ever conducted took place in the Pentagon and in US military facilities around the globe with thousands of participants to understand realistically the options in a nuclear crisis. Even the Secretary of Defense (Caspar Weinberger) and Chairman of the Joint Chiefs of Staff (General Vessey) participated although secretly. To the horror of participants, the game ended in the destruction of the world in an all-out nuclear war. The tipping point was on the fifth day of the exercise the first use of tactical nuclear weapons authorised the by US Secretary of Defence (Langewiesche 2024). To the best of our knowledge, the situation is no different in 2025.

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## 2 The Future of the United Nations and the Need for New UN Policies, Strategies and Diplomacy

*Bertrand G. Ramcharan*

### 2.1 Introduction

The issue raised for discussion at the seminar that led to this volume was framed thus: “Is the UN still relevant in resolving major wars?” and this volume contains thoughtful essays on this subject, with particular reference to conflicts under way at the time of writing between Russia and Ukraine, and between Israel and the Palestinians, notably in Gaza.<sup>1</sup> We shall seek, in this chapter, to set the issues in perspective with a broader discussion about the future of the United Nations. In order to do this, we need to take into account certain variables about the United Nations.

In their book *The United Nations and Changing World Politics*, Thomas Weiss, Roger Coate, David Forsythe and Kelly-Kate Pease discussed what they dubbed “three United Nations:” the UN of Member States, the UN of the Secretariat and the UN of a network of NGOs, experts, corporate executives, media representatives and academics who work closely with the first and second UN (Weiss et al. 2017, 7 ff.). In the UN of Member States, political considerations are uppermost. In the UN of the Secretariat, its role is interstitial and intellectual: doing what it can in the given political context, fashioning ideas that might help take the UN forward. In this UN of civil society, there is a strong desire to fulfil the aspirations of the UN Charter in spirit and in letter.

We may simplify this and say that there is a political UN and an aspirational UN, with adherents of both types among States, the UN Secretariat and civil society. But, at the end of the day, it is the political UN of Member States – particularly the powerful countries – that dominates. One may note the following features about the political UN:

- On issues pertaining to the maintenance of international peace and security, the UN is only able to do what the relevant configurations of power and political interests at a particular time allow it to do. Where Great Powers are involved in a conflict, directly or indirectly, the UN has historically not been able to play much of a role unless, in the end, the Great Power or Powers find this convenient. The UN has promoted the use of

preventive diplomacy (Ramcharan 2008) and has developed a rich practice of the use of peacekeeping and observer forces, but there now seems to be a crisis of faith in UN peacekeeping, with Antonio Guterres, the current Secretary-General, advocating that peacekeeping be delegated to regional organizations, particularly the African Union, and with the UN defraying the costs of such peacekeeping. Whether the UN membership will accept such a financial arrangement, and for how long, remains to be seen.

- On humanitarian issues, the UN has developed a good record in the coordination of humanitarian assistance, but it is always struggling to obtain resources for this. Its appeals for resources are almost invariably under-funded.
- On issues of development, the UN has historically promoted UN technical assistance for development and development policies, but, as David Malone has pointed out,

the relevance of the UN's work on development has seemed increasingly questionable. Beyond the setting of global goals, which had some mobilising effect, it has become clear that the UN has had little to do with the success of development efforts.

(Malone 2017, xvi-xvii)

The UN has, however, had a good track record in the provision of technical assistance for development through the UN Development Programme. Meanwhile, the implementation of the Sustainable Development Goals is stalled as this is being written.

- On issues of human rights, the UN has managed to craft an impressive body of norms, but these have always been massively violated and challenged. Out of a UN Membership of 193, there are fewer than 50 countries that are considered by impartial assessors to be truly democratic (The Economist Intelligence Unit, 2024). And there is a frontal challenge to universal human rights standards underway at the present time from China and Russia. China's President, Xi Jin Ping has cautioned Chinese scholars against notions such as constitutionalism, the rule of law and inalienable human rights (The Economist Intelligence Unit, 2024). The first Trump Administration had also challenged the universality of some norms in the Universal Declaration of Human Rights, and it remains to be seen how this will fare during the second Trump Administration.

One needs to take account of this modest record of UN achievements when contemplating its future. One must also be mindful that the UN is now operating in a second cold war, during which there will be a need for new UN policies and strategies and, importantly, for new UN diplomacy (See generally, Lavelle 2020). To begin with, however, let us start by recognizing the structure of international society, notably the paucity of democratic governance worldwide.

## 2.2 The Structure of International Society: The Overwhelming Majority of UN Member States Are Not Democracies

The Economist Intelligence Unit (EIU) publishes an annual Democracy Index, which, in 2024, noted that, in that year, more people were expected to vote in national elections than ever before (Economist Intelligence Unit, 2024). But many elections in 2024 would be problematic. The 2024 Democracy Index indicated that only 43 of the more than 70 elections were expected to be fully free and fair.

Each year, the EIU grades 167 countries and territories on a scale of one to ten according to the strength of their democratic practices, including how fairly they run elections and how well they protect civil liberties. It then groups them into four categories: full democracies, flawed democracies, hybrid regimes and authoritarian regimes. The 2024 report, published on February 15th, 2024, indicated that less than 8% of the world's population lived in full democracies, and that 39.4% were under authoritarian rule – up from 36.9% in 2022.

Western Europe remained the most democratic place on Earth: 71% of Western European countries included in the index were full democracies. Only Turkey was a hybrid regime. (The EIU counts it as part of Western Europe because it belongs to the UN's Group of Western European and Other States.)

The scores for every other region had declined. The average score for sub-Saharan Africa had dropped to its lowest since the index began in 2006. Latin America had fallen by the most, and had recorded its eighth consecutive drop. El Salvador, where Nayib Bukele ran for re-election as president in defiance of the constitution (and easily won), was the worst performer in the region.

Turning to the global trend, the average score of 5.23 for 2023 was the lowest since the index began. The decline had started in 2016 and was made worse by the curtailment of civil liberties during the pandemic.

The 2021 edition of Freedom House's *Freedom in the World*, covering the events of 2020, reported that 2020 had marked the 15th consecutive year of decline in global freedom. Of the 195 independent countries assessed in the report, 73 had experienced aggregate score declines and just 28 had made gains, the widest margin of its kind during the 15-year period. At the time of publication, there were 54 non-free countries, accounting for 38% of the world's population, the highest share since the decline began.

Freedom House's 2024 edition of *Freedom in the World* contained the following key findings:

- Global freedom declined for the 18th consecutive year in 2023.
- Widespread problems with elections, including violence and manipulation, drove deterioration in rights and freedoms.
- Armed conflicts and threats of authoritarian aggression made the world less safe and less democratic.

- The denial of political rights and civil liberties in disputed territories dragged down freedom in the associated countries, including some democracies.
- Pluralism is under attack but remains a source of strength for all societies.

One cannot avoid taking account of the undemocratic nature of governance in three-quarters of the Membership of the United Nations when considering the future of the world organization. The leopard has its spots – persistent spots. Human Rights Watch, in its 2022 Annual Report, assessed that the situation of human rights in the world would only start to become better when the problem of the democratic deficit was reversed.

### **2.3 Core Concepts: Power, Ideology, International Law, Diplomacy, Ripeness of Conflicts for Mediation and the Purposes and Principles of the UN Charter**

During the second cold war currently under way, as was the case during the first cold war, concepts that need to be kept in mind when considering the role of the UN are: power, ideology, state structure (i.e., a paucity of democracies), international law, diplomacy, ripeness of conflicts for mediation and the Purposes and Principles of the UN Charter.

During the First Cold War, the UN and its Secretaries-General needed to be ever mindful of the configurations of power, ideology, state structure, international law, diplomacy and the issue of ripeness of conflicts for mediation, keeping in mind at all times the Purposes and Principles of the UN Charter. The UN could and did help resolve a few major wars when the parties involved, and the major powers, allowed it to play a role.<sup>2</sup> Ralph Bunche's mediation, in 1947, of the first Arab-Israeli war was a case in point. So was the facilitatory role of Secretary-General U Thant during the Cuban Missile Crisis.<sup>3</sup> UN mediation helped bring about a cease-fire after Iraq and Iran had fought themselves to a standstill in the 1980s.

The UN made a positive contribution when circumstances permitted. When they did not, it was unfortunately not in a position to take the lead in the *resolution* of major wars, although it did contribute through approaches such as UN peacekeeping and observer forces. UN diplomacy helps ascertain when the UN might be in a position to assist in the resolution of conflicts (Malone 2017).

During the First Cold War, disciplined diplomacy was needed on the part of the principal powers at the UN, as well as on the part of the Secretaries-General. Some UN Secretaries-General lost sight of the need for disciplined diplomacy when the First Cold War ended, with unfortunate results.

Following the end of the First Cold War, the Security Council met in January 1992 at the level of Heads of State/Government and invited the then Secretary-General, Boutros Boutros-Ghali, to submit to it an agenda for peace, which the Secretary-General did later that year (Boutros-Ghali 1992).

Boutros Boutros-Ghali had an ambitious view of the roles of the United Nations and its Secretary-General, sought to act accordingly, and was unceremoniously blocked from renewal at the end of his first term by the pre-eminent superpower of the day, the USA (Boutros-Ghali 1999).

He was followed as Secretary-General by Kofi Annan, who was internationally popular during his first term and helped support important initiatives such as the Millennium Declaration, the Millennium Development Goals and the Responsibility to Protect (Annan and Mousavizadez 2013). However, he ran into controversies over allegedly unethical behaviour in the administration of the Oil for Food Programme in Iraq, and he also ran into difficulties when he dared to pronounce the US invasion of Iraq illegal without authorization from the UN Security Council. He was a broken man during his second term, sought counselling, and is known to have considered resigning.<sup>4</sup> One may say that the disciplined Kofi Annan of the first term had given way to a careless Kofi Annan of the second term, who brought himself and the UN to grief.

Ban Ki-Moon drew lessons from the experience of Kofi Annan and struck a much more disciplined posture, focusing mainly on the issue of climate change. He was criticized in some academic circles for being lacklustre, but he did not bring the UN into any controversy and deserves credit for this (Ki-Moon, 2021).

Ban Ki-moon was succeeded by Antonio Guterres, at this writing approaching the end of his second term. Before becoming Secretary-General, he had been, for over a decade, UN High Commissioner for Refugees – in which post he had practised careful diplomacy. Four things stand out about his tenure as Secretary-General: first, he has sought to play the role of a secular pope, ever making statements and appeals and issuing policy papers on a broad range of issues – unmindful of whether they were being implemented or not; second, he has sought to provide leadership on the issue of climate change, in the tradition of his predecessor; third, he introduced some reforms in the political, development and administrative parts of the Secretariat. What the lasting substantive benefits of these internal reforms will be remains to be seen; fourth, his stances prevented him from playing a mediating role in relation to the conflicts involving Russia-Ukraine and Israel-Palestine, and the UN consequently suffered from public perceptions of its irrelevance (Latoeiro and Domingues, 2022).

As this is written, there is much lamentation about the fate and future of the United Nations – with wars raging in different parts of the world, the world heating up due to climate change, large-scale environmental destruction, stalled implementation of the SDGs, peoples moving by the hundreds of thousands in search of safety and security, pervasive violence and inequities affecting women, children, migrants, minorities and indigenous persons, widespread gross violations of human rights, fewer genuine democracies in the world, and rising tensions among great powers professing contrasting systems of governance and ideologies.

In a recent essay in *PassBlue*, veteran UN official Stephen Browne (2024) asked, “Is the End of Multilateralism Near?” Many declarations, he pointed out, had come and gone. And a draft pact of the future, as it stood at the time he wrote, contained nearly 60 actions. In his assessment:

Apart from authorizing the UN Secretary-General to take a few minor organizational initiatives, nearly all the “actions” – like so many previous resolutions over decades – will fall short. The continuing pursuit of perfection in an organization that is still pretending to adhere to an 80-year-old Charter, originally developed by and for the prevailing postwar Western interests, is futile. If there were ever a good definition of “brain dead,” we are encountering it in the UN. Attempts in September to reset, revamp and revisit the organization through yet another pious declaration will only distract us from global realities. They are not going away.

How did the Pact for the Future turn out in the end, and does it have actionable items that might help shape the UN of the future? The following section gives an idea about this.

## 2.4 The Pact for the Future

The Pact for the Future, as adopted on 22 September 2024 by the UN Summit of the Future, affirmed three pillars of the United Nations – sustainable development, peace and security and human rights. Conceptually, this needs to be updated. There should be an additional pillar on “Survival and Protection of Humanity and its Habitat.” In seeking to identify actionable items in the Pact, we shall use these four categories:

### A Survival and Protection of Humanity and Its Habitat

The Pact commits to accelerating States Parties’ fulfilment of their obligations under the United Nations Framework Convention on Climate Change (United Nations, n.d., Treaty Series) and the Paris Agreement. It envisages a transformation in global governance. The Pact also commits to making the multilateral system “just, democratic, equitable and representative of today’s world...”

The Global Digital Compact commits to the establishment of appropriate safeguards to prevent and address any adverse impact on human rights arising from the use of digital and emerging technologies and to protect individuals against violations and abuses of their human rights in the digital space, including through human rights due diligence and establishing effective oversight and remedy mechanisms.

The Pact committed to strengthening international cooperation for the exploration and use of outer space for peaceful purposes and for the benefit of all humanity.

## B Sustainable Development

The Pact reaffirms that the 2030 Agenda for Sustainable Development is the overarching road map for achieving sustainable development and recognizes that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development. The Pact calls for action to address and promote the prevention of water scarcity.

The Pact undertakes to strengthen efforts to build peaceful, just and inclusive societies for sustainable development, provide access to justice for all and to create effective, accountable and inclusive institutions at all levels, as well as to uphold human rights and fundamental freedoms. The UN Human Rights Council could advise urgently on how to strengthen these efforts.

## C Peace and Security

The Pact recognizes the interdependence of international peace and security, sustainable development and human rights, and reaffirms the importance of the rule of law at international and national levels. It reaffirms commitment to preventive diplomacy, the peaceful settlement of disputes and the importance of dialogue between States. It recommends the role of the UN in preventive diplomacy and the peaceful settlement of disputes.

The Pact seeks to develop and implement mechanisms for the pacific settlement of disputes, confidence-building, early warning and crisis management, at the subregional, regional and international levels to address new and emerging threats to international peace and security. It urges the Secretary-General to actively use her/his good offices and to ensure that the United Nations is adequately equipped to lead and support mediation and preventive diplomacy. It encourages the Secretary-General to bring to the attention of the Security Council any matter that may threaten the maintenance of international peace and security.

The Pact commits to adapting UN peace operations to better respond to existing challenges and new realities. It requested the Secretary-General to undertake a review of the future of all forms of United Nations peace operations.

The Pact commits to strengthening the response of the Security Council for the maintenance of international peace and security and its relationship with the General Assembly. The Pact also called for the enhancement of ways in which the General Assembly could contribute to the maintenance of international peace and security. The Pact affirmed a commitment to strengthening the Peacebuilding Commission.

## D Human Rights

The Pact reaffirms the Universal Declaration of Human Rights and the fundamental freedoms enshrined therein. It commits to respect, protect, promote and fulfil all human rights, recognizing their universality, indivisibility, interdependence and interrelatedness, and to be “unequivocal in what we stand for and uphold:” freedom from fear and freedom from want for all. The UN Human Rights Council could draw up a plan of action to achieve this.

The Pact reaffirms commitment to the Beijing Declaration and Platform for Action, and to accelerating efforts to achieve gender equality, women's participation and the empowerment of all women and girls in all domains and to eliminating all forms of discrimination and violence against women and girls.

The Pact commits to ensuring the effective enjoyment by all of all human rights and to responding to new and emerging challenges. The Human Rights Council could empanel a High-Level Group of Experts to advise it on these matters.

The Pact could go the route of previous lofty declarations destined to take their place on the bookshelves. Or efforts could be made to implement some of its recommendations practically. Whether practical action is taken or not will depend on whether the UN pursues a path of lofty pronouncements as it has been wont to do recently, or whether it pursues negotiations through careful UN diplomacy, a subject we turn to next.

## 2.5 The Need for New UN Diplomacy

In looking towards a new UN diplomatic strategy for the Second Cold War it is helpful to recall features of the UN diplomacy of the First Cold War. The UN diplomacy of the First Cold War recognized that States had differing political, legal, economic and social systems – even as it sought to promote the Principles of the UN Charter and the Universal Declaration of Human Rights. The UN sought to do this through cooperative approaches and methods, rather than confrontational ones. The Secretary-General utilized his good offices discreetly behind the scenes and refrained from lecturing or hectoring governments in public (Ramcharan 1983).

The UN diplomacy of the First Cold War was anchored in the Purposes and Principles of the UN Charter – even if those principles were flouted by Great Powers from time to time. UN diplomacy recognized that it would be difficult for the UN to play a role in matters falling within the direct sphere of interest of the great powers, or in matters involving clashes between them. Even so, there were situations, such as the Cuban Missile Crisis of 1962, where the good offices of the UN Secretary-General helped defuse the situation (Ramcharan 2008).

Secretary-General Dag Hammarskjöld, in particular, sought to develop the preventive diplomacy role of the UN in relation to situations outside of the immediate spheres of the Great Powers. The UN was able to contribute to peacemaking when the Great Powers allowed this, as in the case of Ralph Bunche's mediation of the first Arab-Israeli war in 1947. (Urquhart, 1994) The UN called upon the aid of UN peacekeeping and observer forces when the Great Powers and parties on the ground facilitated this. UN peacekeeping and observer forces were given roles to act as objective witnesses and interlocutors. They were not expected to engage in "peace enforcement."

The UN diplomacy of the First Cold War sought to promote development through successive development decades and through UNDP's provision of

technical assistance. The UN diplomacy of the First Cold War sought to promote protection of the environment through global conferences such as the Stockholm Conference on the Global Environment and through practical diplomacy.

The UN diplomacy of the first Cold War sought to sensitise world public opinion through world conferences on issues such as food, health, shelter, human rights, gender equality and the rights of women and racism and racial discrimination. The guiding principle for all these efforts was the principles of international cooperation and consensus.

The United Nations was born in 1945 at the advent of the First Cold War, which lasted from 1945 to 1989. During the first Cold War, countries of what came to be known as NATO and countries of what came to be known as the Warsaw Pact faced off across the world, as well as at the United Nations.

The leadership of the United Nations, notably Representatives on the UN Security Council, and the UN Secretaries-General, learned a crucial lesson, namely that progress could only be achieved incrementally, in selected areas at the United Nations, when a consensus could be negotiated through the exercise of careful judgment and discreet diplomacy.

During the era of the First Cold War, careful and discreet diplomacy led to consensus on agendas for development, decolonization, peacekeeping, preventive diplomacy and emergency humanitarian assistance. However, progress on human rights issues was halting.

Secretary-General Hammarskjöld helped develop the UN's roles in peacekeeping and preventive diplomacy, while Secretary-General U Thant helped establish what was then known as the Office of the UN Disaster Relief Coordinator, now incorporated in the Office for the Coordination of Humanitarian Affairs.

The first Secretary-General of the UN, Trygve Lie, a trade unionist, thought he could be a public advocate for the UN and was forced to resign eventually because the then-USSR withdrew its cooperation from him. By the time he died in an aircraft mishap in Africa, Secretary-General Hammarskjöld, accused of activism in the then Congo, also faced calls from the USSR to resign.

Secretaries-General U Thant, Kurt Waldheim and Perez de Cuellar understood the pulse of the times and operated discreetly, thus enabling the United Nations to contribute, to the extent that the great powers allowed it to do so, in the areas of development, decolonization, peacekeeping, preventive diplomacy, humanitarian assistance and some human rights work.

Shortly after the First Cold War ended, the Security Council met in January 1992 at the level of Heads of State – and at the outset of the post-Cold War world. It requested Boutros-Boutros-Ghali, the first Secretary-General of the post-Cold War period, to present to it an Agenda for Peace for its consideration. This author, as Chief Speech-Writer to the Secretary-General, wrote the first, repeat first, draft of this agenda for peace. Secretary-General Boutros-Ghali published his Agenda for Peace in August 1992, with major chapters on preventive diplomacy, peacemaking, peacekeeping, peacebuilding and peace enforcement.

It was an ambitious document, but Boutros-Ghali stepped back from it a year or so later in a Supplement to the Agenda for Peace. Essentially, he said that what he had initially presented, including the idea of peace-enforcement (which was not in this author's draft), could not be implemented. Boutros-Ghali was erratic in publishing the Supplement,<sup>5</sup> as he was in publishing Agendas for Development and for Democratization just before he left office.

Boutros-Ghali had set the bar for the UN too high, and he would continue to do so during the rest of his term. As Secretary-General, he sought to act imperially and he got into fights with the USA, which vetoed his bid for a second term. Boutros-Ghali's tenure proved that, even in the post-Cold War period, discreet diplomacy was needed on the part of the UN Secretary-General.

The next Secretary-General of the post-Cold War period, Kofi Annan, who had a long career as an administrator in the UN before he became Secretary-General, judiciously sought to advance a UN agenda during his first term, and may be credited with having helped craft the UN Millennium Declaration and the Millennium Development Goals (Williams, 2024).

During his first term, he cooperated with the great powers, but then came to loggerheads with the USA during his second term. He faced calls for his resignation. He ended his term as a wounded helmsperson at the United Nations.

His successor, the third Secretary-General of the post-Cold War period, Ban Ki-Moon, chose a discreet path, while successfully and courteously seeking to sensitise the world to the dangers of climate change. Some commentators privately accused him of being faceless, but he left the UN without any notable disagreements over the Secretary-Generalship, and history will give him credit for that.

Ban Ki-Moon's successor, the current Secretary-General, Antonio Guterres, may be considered the first Secretary-General of the post-post-Cold War period, or the first Secretary-General during the Second Cold War. He has carried on Ban's heritage, highlighting the problem of climate change, but has performed very much in the role of a public advocate, similar to what Trygve Lie had sought to do at the start of the UN. As a former Prime Minister, public advocacy comes naturally to him.

Guterres has launched at least a dozen "plans of action" or similarly-titled documents, none of which has advanced much in implementation. The proposal of a Summit/Pact of the Future came from him and, as we discussed in a previous section, it remains to be seen whether there will be a practical follow-up to the Pact for the Future.

These events are taking place at a time when there is evidence all around that a Second Cold War has descended on the world and on the United Nations. China and the United States, the leading global powers, have locked horns politically, economically, militarily and ideologically. Ideologically, China and Russia are bedfellows who both challenge the "rules-based order," which they contend is a Western imposition. What this means in practical terms is not clear.

China formally declares its support for the United Nations and the UN Charter, but challenges the “rules-based order,” by which it means unspecified norms of international law that it contends were introduced by Western powers without its knowledge or consent. China also challenges the notion of universal human rights, which, it similarly asserts, is a Western invention incompatible with the history and ethos of a country like China – which it dubs a civilizational country.

Russia also claims to be a civilizational country. It has militarily taken over large parts of Ukrainian territory and has obtained material support from China, Iran and North Korea, among others – including India, which buys large amounts of its oil and gas. As this is written, wars are raging in Gaza-Palestine, Lebanon and Sudan, and the Security Council is paralysed for the most part. Russia, a veto-wielding power on the Security Council, protects itself from criticism, while the USA uses its veto to shield Israel from criticism for its prolonged military operations in Gaza.

As a Second Cold War has descended upon the UN, the Secretary-General, as well as powers belonging to the G-20 and BRICS groupings, are pressing for reforms at the United Nations – while fully aware that structural reforms such as enlargement of the Security Council would require not only the requisite voting approbation, but also the support or acquiescence of each of the five Permanent Members of the Security Council.

In the meantime, the UN is in a quandary: in order for it to discharge its function in respect of the maintenance of international peace and security, it needs the cooperation of the Permanent Members, including Russia, and in order for it to enhance international cooperation, it will need the goodwill of the two pre-eminent powers, China and the USA. Without this, the UN will be hobbled, as it was during the First Cold War.

It also needs to be remembered that it is this present Security Council that will elect the next UN Secretary-General and, in all likelihood, the Security Council will opt for a Secretary-General versed in the skills of discreet diplomacy rather than one seeking to be a public advocate. The public advocacy of Secretaries-General Trygve Lie and now Antonio Guterres will be found wanting.

What will be needed in the coming period, during the second cold war, is a Secretary-General who operates behind the scenes, consulting with the various UN regional groups and the major powers, searching for areas of common ground and helping to craft agreements or solutions to the extent possible.

The second cold war will require the return of the discreet UN diplomacy practised during the first cold war. At the end of the day, what counts is results, not shouting in a void. Diplomacy is the art of the possible. And discreet diplomacy is what the UN now will need again.

In order to be able to make a meaningful contribution, the UN, particularly its Secretary-General, will need to adopt new diplomatic strategies grounded in confidence-building and incrementalism: seeking progress one step at a time. United Nations’ efforts of the future must continue to be grounded in the foundations of the international order, which we set out briefly next.

## 2.6 The Need to Act for the Strengthening of International Law

There is an urgent need to act for the strengthening of international law. Ground rules of international law are under challenge by Great Powers such as China, Russia and the USA. During the First Cold War, notwithstanding the East-West divide, the UN patiently and persistently worked at the strengthening of international law and adopted the Declaration on Principles of Friendly Relations and the Manila Declaration on the Peaceful Settlement of Disputes. The International Law Commission contributed significantly to the progressive development and codification of international law, giving the world the concept of *jus cogens*. The International Court of Justice gave the world the concept of obligations *erga omnes* – obligations owed to the international community as a whole.

Unfortunately, there is now a lull at the UN in activities for the strengthening of international law. A correspondent, a respected former senior officer in the UN Office of Legal Affairs, wrote in a reply to this author on 26 July 2024: “I am really worried about the UN’s continuous deterioration. I see impasse, lack of interest and non-production in the Sixth Committee, the International Law Commission and the Charter Review Committee.”<sup>6</sup>

In fact, the 2024 report of the Charter Review Committee shows that it has no substantive items on its agenda (United Nations 2024). The Legal Committee of the UN General Assembly (the Sixth Committee) used to be a forum for discussing new challenges in need of the development of legal principles, such as the legal regime governing outer space, but this role has disappeared for the time being.

At the start of the International Law Commission, in 1946, the UN Secretariat wrote for its consideration a Survey of International Law, discussing areas where the Commission could concentrate its efforts. A follow-up Survey of International law was carried out in 1973 (Ramcharan 1977). No such survey has been done in recent decades, and so there is little forward thinking about areas where the development of legal principles and rules would be necessary.

It would be a matter of priority for the UN to act urgently to reinforce international law, including the UN Charter and core multilateral treaties. In the process, whatever challenges there may be to parts of international law can be addressed, if need be, and the constitutional and ground rules of international law and order consolidated and reaffirmed. The Legal Committee of the UN General Assembly could start with an urgent high-level debate on this topic and set in train activities calculated to reinforce international law.

## 2.7 The Foundations of International Order

The foundations of international order are and will continue to be the UN Charter and the rules of international law. The UN Charter contains values such as the principles of self-determination, respect for human rights, equality and non-discrimination.

In 1970, on the occasion of the twenty-fifth anniversary of the United Nations, the UN General Assembly adopted the Declaration on Principles of

International Law Concerning Friendly Relations and Cooperation among Nations, which is universally recognized as a codification and reaffirmation of the fundamental legal principles of the UN Charter. One can therefore include the Declaration as an essential foundation of the international order.

As is indicated in the title of the Declaration adopted by the UN General Assembly, a fundamental principle of the UN Charter is the principle of international cooperation, and this principle may be highlighted as a key foundation of the international order.

On the basis of the above, there are undoubtedly firm foundations of international order, which include the following:

- The United Nations Charter and the legal obligations of Member States to comply with its provisions.
- The UN Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among Nations.
- Rules of international law flowing from the sources of international law stated in Article 38 of the Statute of the International Court of Justice – which is an integral part of the UN Charter: treaties binding on States parties, customary international law and general principles shared by the principal legal systems of the world. Pronouncements of the International Court of Justice help clarify the content of international law.
- Imperative norms of public international law (norms of *jus cogens*) have recently been enumerated and reaffirmed by the UN International Law Commission.
- Binding Resolutions of the UN Security Council adopted under Chapter VII of the UN Charter.

Recognizing and reaffirming the foregoing foundations of international order might, repeat might, help bring about easier relations among the great powers. But the reconciliation of interests is a political matter that will require diplomacy and cooperation in good faith.

One may therefore add these three principles to the foundations of international order enumerated earlier:

- Cooperation
- Good faith
- Diplomacy – especially discreet diplomacy.

It will be important, in the future, to act for the strengthening of international law through cooperative action. We will discuss this briefly next.

## **2.8 Alleviating the Plight of the Poorest, and Advancing Human Dignity and Development on the Ground**

UN development policy for the foreseeable future will continue to be the implementation of the Social Development Goals. But implementation of the SDGs

is stalled, and meeting after meeting is being convened to address this. In the meantime, the plight of the poorest people continues to grow more and more distressing.

In its history, the UN has sought to address challenges of development through programmes of technical assistance, development decades, calls for a New International Economic Order, advocacy of a right to development, the Millennium Development Goals and now the Sustainable Development Goals. There is a paradox about this. Three-quarters of the delegates who take part in high-sounding debates in the UN General Assembly on development issues are representatives of undemocratic governments whose incompetence or corruption are impoverishing their own peoples. Such representatives besmirch the efforts of leaders of democratic developing countries, such as those in the Caribbean, who are earnestly arguing for more equitable international economic and financial arrangements.

How are we to make sense of such a situation? In a book published some years ago, the economist Paul Collier made a case for international solidarity to alleviate the plight of the “Bottom Billion” in Africa (Collier 2007; see also Collier 2013). The UN could adapt this idea and launch a campaign to alleviate the plight of the poorest people worldwide, using available resources to do some good in the world.

It would also help alleviate the plight of the neediest to engage in practical activities for good governance through representative democracy and the upholding of human rights in every country.

## **2.9 Promote and Protect Human Rights on the Ground Through Adequate and Effective National Human Rights Protection Systems**

The concept of a national protection system is one of the most strategic for the universal realization of human rights. The protection of human rights should take place in one’s country, where one lives and comes face to face with authority or power. Every country should have in place an adequate and effective national protection system (Ramcharan, et.al, 2022). This is a basic duty of governments, which exist to advance and protect the dignity and rights of their people. This legal duty stems from the obligation of Governments under the UN Charter to uphold human rights within their own countries and to cooperate for the universal promotion and protection of human rights.

It is a widely held view among “We, the Peoples” of the world that national, regional and international activities should be geared towards the respect, realization and protection of internationally agreed norms of human rights. By human rights are meant all rights, civil and political as well as economic, social and cultural (United Nations 1948 and UN 1966a and 1966b). In the UN Millennium Declaration (United Nations 2000a; Ghai and Cottrell 2011), leaders the world over committed themselves to values for the twenty-first century which give priority to respect for human rights and fundamental freedoms. The Millennium Development Goals (United Nations

2000b) sought to halve the number of people living in poverty in the world by 2015, and this aim has now been extended to 2030 by the Sustainable Development Goals.

A national human rights protection system has the following key dimensions: constitutional, legislative, judicial, institutional, educational and preventive. In addition, it requires an independent and efficient judiciary and law enforcement systems and human rights education. National human rights plan of action can also help reinforce a national protection system.

The constitutional structure of a country is a matter for the sovereign choice of its people. However, three issues require particular attention and scrutiny from the perspectives of international human rights law: first, its fundamental human rights guarantee; second, its judicial institutions; and third, its national institutions for the protection of human rights.

Fundamental human rights guarantee in the constitution or the bill of rights, if there is one, should not be less but may be more than what is provided for in international human rights law. Each country should be able to show that it has done two things: first, that it has methodically made a comparison between the provisions of its fundamental human rights guarantees and those in the principal international human rights instruments; second, that rights guaranteed in international customary law, particularly norms of *jus cogens*, are among its constitutional human rights guarantees.

The Second Restatement of the Foreign Relations Laws of the USA provides a good summary of rights that are guaranteed in international law:

A state is obliged to respect the human rights of persons subject to its jurisdiction that it has (a) undertaken to respect by international agreements; (b) that states generally are bound to respect as a matter of customary international law; and (c) that it is required to respect under general principles of law common to the major legal systems of the world.

(American Law Institute 1965, Article 701)

A state violates international customary law if, as a matter of state policy, it practices, encourages, or condones:

- Genocide.
- Slavery or slave trade.
- The murder or causing the disappearance of individuals.
- Torture or other cruel, inhuman or degrading treatment or punishment.
- Prolonged arbitrary detention.
- Systematic racial discrimination, or
- A consistent pattern of gross violations of internationally recognized human rights (American Law Institute 1965, Article 702).

International law gives discretion to States as to whether they would make treaties they have agreed to be bound by directly applicable in their legal

systems or whether they would reflect the provisions of those treaties in national legislation. Whichever route a country chooses, there is an obligation to make sure that its national laws correspond to its legal commitments under international human rights law or international human rights treaties. National parliaments should exercise oversight over whether this obligation has been met and, where action is required, see to it that legislative changes or enactments are made.

The human rights treaty bodies operating under particular international conventions often make suggestions for legislative updating, and national parliaments should require regular reports from the Executive about the recommendations of the human rights treaty bodies. There is a role for parliamentary oversight over governmental compliance with international human rights obligations. Each parliament should ideally establish a human rights committee to perform this role.

The judicial dimension requires that courts be independent and effective. There are United Nations declarations and statements on the meaning of judicial independence and effectiveness, which we shall discuss later in this chapter. As already indicated, international law leaves it to the choice of a government whether it makes a treaty directly applicable in its legal system or whether it enacts legislation incorporating the obligations under the treaty. It would be our submission, however, that international human rights norms of *jus cogens* status, and human rights norms that have the status of international customary law, should be directly applicable in national courts.

International law makes it obligatory that each State provide adequate guarantees against human rights violations. This responsibility falls, in the first place, primarily upon the national judiciary. In the event that there is a failure to protect, there may be remedies under international law. The Second American Restatement, which we cited earlier, summarized these remedies as follows:

- 1 A state party to an international human rights agreement has, as against any other state party violating the agreement, the remedies generally available for violation of an international agreement, as well as any special remedies provided by the agreement;
- 2 Any state may pursue international remedies against any other state for a violation of the customary international law of human rights.
- 3 An individual victim of a violation of human rights agreement may pursue any remedy provided by that agreement or by other applicable international agreements.

(American Law Institute 1965, Article 703)

It is of great importance that judges and legal practitioners be provided with access to the key decisions of international human rights bodies in local languages so that they may be aware of them and may draw upon them. This is a task on which international human rights organizations and NGOs may

assist. But it would be important also that national ministries of justice, or their equivalent, pay attention to this matter so that judges may have access to the latest human rights precedents and reasoning.

Experience has shown that, in addition to the courts, institutions such as national human rights commissions, national human rights commissioners or ombudspersons can be quite helpful in advancing and protecting human rights (Ramcharan 2005 and Mertus 2009).

International law does not make such institutions mandatory, but, as a matter of policy, a country should periodically assess its institutional arrangements, or lack thereof, to see whether the establishment of national human rights bodies could be helpful for the protection of human rights.

The Paris Principles provided that national human rights institutions could perform, among others, key tasks such as seeking an amicable settlement of human rights grievances through conciliation, binding decision or other means; informing the complainant of his or her rights and of available means of redress, and promoting access to such redress; hearing complaints or referring them to a competent authority; and making recommendations to the competent authorities, including proposals for amendment of laws, regulations, or administrative practices that obstruct the free exercise of rights.

The responsibility to protect and to prevent violations of human rights demands that every country monitor itself to detect situations of distress and to address them well before they erupt into violations of human rights or conflict (Ramcharan 2009). This calls for independent bodies that will systematically watch out for such distress situations and draw attention to them. A national human rights commission could be given the mandate to do this. In multi-ethnic countries, special arrangements may need to be devised. But the concept of self-monitoring is a vital part of a national protection system.

A national protection system should provide for adequate and effective remedies to prevent violations of human rights and to provide redress in cases of breach. The absence of a remedy available to test an arguable claim for breach amounts to a violation of human rights (Ramcharan 2009). The right to an effective remedy may, in certain circumstances, require Governments to provide for and to implement provisional or interim measures to avoid continuing violations and to endeavour to repair at the earliest possible opportunity any harm that may have been done (Ramcharan 2005 and Mertus 2009).

A national protection system should be particularly attentive to the risks of genocide, ethnic cleansing, crimes against humanity and war crimes, and should provide effective guarantees against them. As the Human Rights Committee stated in its General Comment 6/16 of 27 July 1982, States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life. A national protection system should provide for a system of regular visits by national, regional or international bodies to all places of detention.

In the event of a violation of human rights, the national protection system must provide for measures, beyond a victim-specific remedy, to be taken to

avoid the recurrence of the type of violation in question. Such measures may require changes in the state's laws or practices (Ramcharan 2005 and Mertus 2009).

A national protection system should provide for investigations of gross violations of human rights and for justice to the victims. A national protection system should provide for safeguards against deportation or extradition to a state where the deportee/extraditee may face serious risks of torture or arbitrary execution. A national protection system should be particularly protective of human rights defenders.

### **2.10 Promoting Equality and Equity for Women and Children by Strengthening UNICEF and Making “UN Women” an Independent UN Agency**

UNICEF is one of the most successful agencies of the United Nations, and discussion of the future of the UN should include consideration of how this agency can be further strengthened and supported. UNICEF works in over 190 countries and territories to save children's lives, to defend their rights, and to help them fulfil their potential, from early childhood through adolescence. UNICEF is on the ground before, during and after emergencies, working to reach children and families with lifesaving aid and long-term assistance.

The UN has a department, UN Women, which undoubtedly does important work. But its visibility is low, and consideration should be given to making UN Women an autonomous agency along the lines of UNICEF. UN Women declares on its website: “We are the global champion for gender equality. UN Women is the UN organization delivering programmes, policies and standards that uphold women's human rights and ensure that every woman and girl lives up to her full potential.”

### **2.11 Pursuing Peacemaking, Peacebuilding, Conflict Prevention and Preventive Diplomacy on the Ground**

The task of the UN is not to solve every conflict, but to be ready to offer its assistance if parties are disposed to call upon its assistance. The UN Secretariat should organize and position itself so as to be available for advice inside countries if needed. And the Security Council could develop an informal role, quietly reviewing potential situations of need with the UN Secretariat and suggesting situations where the latter could consider deploying its best endeavours.

In the future, UN peacebuilding, conflict prevention and preventive diplomacy could move more and more to the ground, to the field. In one of his reports on preventive diplomacy, former Secretary-General Kofi Annan called for every country to have in place a national system for the promotion of peace and the prevention of conflict. This should be the focus of UN peacebuilding and preventive activities in the future.

SDG 16, titled “Peace, Justice and Strong Institutions,” aims to “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.” The targets of SDG 16 include the following: “Reduce violence everywhere;” “Promote the Rule of Law and Ensure Equal Access to Justice;” “Strengthen National Institutions to Prevent Violence and Combat Terrorism and Crime” and “Promote and Enforce Non-discriminatory Laws and Policies for Sustainable Development.”

Action 7 of the Pact for the Future pledges:

We will strengthen our efforts to build peaceful, just and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and uphold human rights and fundamental freedoms. ...

We decide to: ...Respect, protect and fulfil all human rights and fundamental freedoms, including the right to development, promote the rule of law at the national and international levels and ensure equal justice for all and develop good governance at all levels and transparent, inclusive, effective and accountable institutions at all levels...

In Action 3 of his New Agenda for Peace, Secretary-General Antonio Guterres recommended to “Shift the prevention and sustaining peace paradigm within countries.” Specific recommendations that he put forward included the following:

- Develop national prevention strategies to address the different drivers and enablers of violence and conflict in societies and strengthen national infrastructures for peace. These strategies can help reinforce State institutions, promote the rule of law and strengthen civil society and social cohesion, so as to ensure greater tolerance and solidarity.
- Member States seeking to establish or strengthen national infrastructures for peace should be able to access a tailor-made package of support and expertise.

These are sensible suggestions worthy of being implemented. The provision of peacekeepers and observers is also sensible and desirable – when parties support them.

## **2.12 Provide Peacekeeping and Observer Deployments When Parties Support Them**

There is, at the present time, a perceptible “peacekeeping fatigue,” and the current UN Secretary-General has been advocating that peacekeeping activities in Africa should be delegated to the African Union, with the UN paying for them. This is a policy of doubtful wisdom. As in the case of peacemaking, the UN should continue to be ready to offer its peacekeeping and observer

services if the parties are disposed to call upon its assistance. UN peacekeeping should return to its traditional foundations: peacekeepers and observers are there to function as impartial observers and not to engage in peace enforcement.

### **2.13 Develop a Peace Promotion and Peacebuilding Role in Regional Bodies, Including the Regional Economic and Social Commissions**

With the growing divide between the China camp and the USA camp, there is a need to study whether the ground might be more fertile, at times, to draw upon the contributions of the UN regional economic and social commissions. Surely, the regional bodies could develop long-term goals for their respective regions when it comes to promoting peace, i.e., peacebuilding. They are nearer to the ground and could engage in sustained cooperative activities to promote peace.

### **2.14 Draw on Peace-promotion Contributions of Business**

Businesses can play a valuable role in contributing to UN strategies for the enhancement of national conflict prevention and national human rights protection systems, promoting equality and equity for women and children, alleviating the plight of the poorest, and advancing implementation of the Sustainable Development Goals. The UN of the future should reflect on and establish appropriate arrangements for drawing on the input of businesses and multinational corporations in these areas.

### **2.15 Conclusion**

In this chapter, we have argued for new UN policies and strategies and for a corresponding new UN diplomacy grounded in confidence-building and constructive engagement – when, where and however possible. We have submitted that there is an urgent need to act for the strengthening of international law, with a view to enlarging the areas of consensus on the constitutional architecture of the world among Member States, especially the great powers.

We have called for UN policies in the human rights field to be focused on enhancing national human rights protection systems inside each country, and we have sought to make the case for priority to be allocated to improving equality and equity for women and children.

We have advocated that UN peacebuilding, conflict-prevention and preventive diplomacy efforts should be targeted more towards efforts on the ground, rather than in New York. In this perspective, the UN regional economic and social commissions could play a useful role.

We have submitted that it is not the responsibility of the UN to solve every conflict. Rather, the role of the UN in peacemaking is to be ready to offer peacemaking assistance should the parties be disposed to accept it.

When it comes to the provision of peacekeepers and observers, we have argued that the UN should continue to be ready to provide such services to parties willing to avail themselves of them. However, UN peacekeepers and Observers should return to the traditional role of impartial observers and should not be expected to engage in peace-enforcement.

Finally, we have suggested that the UN should explore whether the regional economic and social commissions can play a greater role in trust and confidence-building, keeping in mind the historic cooperative diplomacy of organizations such as ASEAN.

## Notes

- 1 Subsequently between Israel and Hizbollah in Lebanon.
- 2 See the chapter in this volume on lessons learned from the history of the UN efforts in mediation of conflicts.
- 3 See on this, Bertrand Ramcharan, *Preventive Diplomacy at the UN*. Bloomington, Indiana, 2008, Chapter on U Thant and the Cuban Missile Crisis.
- 4 He sought counselling at the time from Dr David Hamburg and his wife, both trained psychiatrists.
- 5 This author was Director of the International Conference on the Former Yugoslavia at the time, immersed in efforts to stop conflicts in the Balkans, and had no part in the drafting of the Supplement to the Agenda for Peace.
- 6 Email exchange with a discreet, respected former colleague, a Member of the Institute of International Law.

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**Part II**

**Lessons Learned from  
UN Experience**



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# 3 The Evolution of Peace Operations

## Learning Lessons and Creating Norms

A. *Walter Dorn*

When Canadian Foreign Minister Lester B. Pearson won the 1957 Nobel Peace Prize for his role in proposing and supporting the UN's first peacekeeping force in 1956, he said in his acceptance speech (1957):

The United Nations Emergency Force may have prevented a brush fire becoming an all-consuming blaze at the Suez last year, and it could do so again in similar circumstances in the future. We made at least a beginning then. If, on that foundation, we do not build something more permanent and stronger, we will once again have ignored realities, rejected opportunities, and betrayed our trust. Will we never learn?

It seems that the United Nations does learn, since over 70 peacekeeping missions have been created since the United Nations Emergency Force (UNEF) was established. Moreover, the character, capabilities, and roles of UN missions have expanded considerably. How exactly has UN peacekeeping evolved over time? What are the means and mechanisms for this evolution?

To answer these questions, the general steps for the creation of new practices and their solidification into norms (customs) can be applied to the peace operations (POs) of the United Nations. New practices are initially advocated by *norm entrepreneurs* and diffused through argument, example, inspiration, and action, especially by thought leaders who seek to improve existing practice. Their ideas gain greater salience when they are seen to solve a particular crisis or problem of the day, as was true when Pearson helped resolve the Suez Crisis of 1956 through the creation of the UN's first peacekeeping force. UNEF was a major step in the evolution of POs, building on the earlier peacekeeping missions that employed only unarmed observers.

Once a new innovation gains prominence and acceptance, it becomes institutionalized in bureaucratic practice, as did the notion of armed peacekeeping forces under the United Nations. The *norm cascade* usually results in the new norm becoming so natural that it is taken for granted and ceases to be identified as unusual or innovative (Howard and Dayal 2018). Thus,

peacekeeping became established in practice, as did the word itself, which entered into the mainstream discourse in the late 1950s (though written hyphenated as peace-keeping for the following four decades).

Norm creation for ethical norms like peacekeeping usually starts with an idealized view about how things *ought to be*, based on generalized yet contextual assessments of what is right or wrong (good or bad), such as the contrast between a peaceful society practicing non-violent conflict resolution tools and a warmonger society immersed in constant tit-for-tat violence. Through peacekeeping, the international community has made it easier for conflicting parties to come to peace and utilize innovative tools to implement peace agreements, though the United Nations cannot force them to do so.

Ethical norm development requires the expression of conscience, and usually the assertion of principle over power, i.e., the “force of law over the law of force.” It fosters higher moral standards over lower modes of behaviour. From ideals, ethical norms gain adherents and support due to their ideational attractiveness, as well as their obvious benefit (less death and destruction). Peacekeeping is an example of this, which shows an alternative and additional use for military forces internationally.

### 3.1 Military Forces Under International Control

Traditionally, the purpose of national militaries is to defend the territorial integrity and political independence of the nations they serve. In human history, nations faced with warring or threatening neighbours naturally sought additional security through alliances against that external threat. It was only with the emergence of international organizations (IOs) that such *collective defence* expanded to *collective security*. The commitment (on paper at least) was that all member states agree to help maintain peace, even against aggressors *within* the collective. This Wilsonian principle was central to the useful but ultimately ill-fated League of Nations, which only failed when Member States chose not to implement the League Covenant provisions to respond to the aggression by fascist and imperialistic governments in the 1930s. Collective security is even more central to the United Nations, which has performed much better than its predecessor, though still far from perfect.

The UN Charter recognizes not only the interests and possible contributions of each Member State, but it also emphasizes the special position that the great powers demanded for themselves in the cooperative system created in 1945. Therefore, UN action could not jeopardize the major interests of the major powers, i.e., the P5 or Permanent Five members of the Security Council (Howard and Dayal 2018). This now looks like a major historical mistake.

In a major conceptual innovation, Chapter VII of the UN Charter envisioned that Member States would place their armed forces at the service of the United Nations to maintain and enforce international peace and security. The Security Council, which was given primary responsibility in this sphere, was equipped with a Military Staff Committee to oversee the use of these

forces. However, this unifying idea failed to survive a more potent and divisive force: the Cold War between communist and capitalist nations, which prevented UN members from effectively using such arrangements. The result is that today, the United Nations is without the pledged armed forces envisioned in the UN Charter for enforcement purposes.

After World War II, some governments and diplomats, such as Canada and its Foreign Minister Lester B. Pearson, were still seeking to implement the Charter's provisions for standby military contributions to enforce UN decisions. Units within the Canadian military were pledged in the late 1940s to the United Nations and saw UN action in the Korean War, 1950–53, which was the first instance in world history where a collective security organization repelled aggression using military force. Pearson also chaired UN meetings for the establishment of standby UN forces to act under Chapter VII, though such proposals were never implemented.

Peacekeeping evolved from these efforts, though it was more accidental than pre-planned. Ironically, it was not the divided Security Council that gained control of UN forces in the field; it was the UN Secretary-General (UNSG) who assumed operational control (OPCON in military parlance) of UN peacekeeping forces. Over time, these forces expanded to reach the maximum deployment in 2016 of 108,000 uniformed personnel in conflict zones under the UNSG OPCON, more than any national leader at the time, including the US President. But the normative emergence and acceptance by all states of peacekeeping forces did not come solely through deliberate planning. The quirks of fate played a role, with nation-states accepting the necessity of UNSG control because there was no better alternative under the circumstances that arose in the decades after World War II.

### **3.2 The Evolution of Peacekeeping Norms (Dorn 2011)**

UNSG Dag Hammarskjöld is commonly credited with the expression: “peacekeeping is not a job for soldiers, but only soldiers could do it.” But the idea that soldiers could be used to keep the peace had important precedents. The League of Nations had carried out a half-dozen peacekeeping-like operations. For instance, League soldiers provided stability during elections in the highly industrialized Saar region that the League of Nations governed for 15 years from 1920 until the inhabitants voted to join Germany in 1935. Despite the League experience, the concept of peacekeeping operations (PKOs) was, surprisingly, not included in the UN Charter. But it continued and expanded in practice.

Experiencing both successes and failures, UN peacekeeping has evolved considerably over time. However, the term “peacekeeping” is more identified with the older (traditional) types of missions that emerged soon after World War II. In the 2010s, the United Nations adopted the term POs to encompass both PKOs and special political missions (SPMs). The latter are usually smaller and do not include armed military forces.

The mandates of PKOs have become more complex. Over the decades, conflicting parties and the UN Security Council have generally given peacekeepers more access, more responsibilities, and pledged more cooperation, on paper at least. After the Cold War, there was a dramatic increase in the number of PKOs, as well as an expansion in the mandates. In the 1990s, for instance, the number of new missions was double the number created in the previous four decades since the first mission in 1948.

Figures 3.1 and 3.2 are maps of the locations of missions up to 2000 and of the missions a quarter-century later.

A review of all UN PKOs shows they can logically be divided into four broad functional categories, corresponding roughly to four “generations” over the almost 80-year history. Each new category or generation brought new types of mandates and new functional capabilities as the normative expectations around peacekeeping evolved and broadened. This includes: broader monitoring objectives, larger and better-armed forces, the employment of more advanced technologies, the rise of “peacekeeping-intelligence” (PKI), explicit mandates regarding the Protection of Civilians (POC), robust combat operations for peace enforcement, numerous Women Peace and Security (WPS) initiatives, and policies around how to interact with and limit the use of child soldiers.

During this historical and functional evolution, each generation of operation created or developed a new norm and expanded the level of responsibility from the previous generation or type, though the capacity in the field (or at UN headquarters) was not often commiserate with the requirements or the expanded mandates. Constructivist norm theorists would reason that each substantive change resulted from the *intersubjective* evolution of the underlying norms (e.g., people’s common understandings of how PKOs should function). This does not mean simply that older types of mandates and missions were no longer possible, but the new missions usually had expanded functions as people expected more. The simpler, older missions became the minority as new types of missions evolved.

### 3.3 Four-Generations Model

As peacekeeping was becoming established, the UN’s Department of Public Information (c. 1960) produced a poster that well described the first generation of UN operations:

UN OBSERVERS. Their beat—no man’s land. Their job—to get the facts straight. A frontier incident, an outbreak of fighting ... Which nation is responsible, whose story is true? The UN must know. So its peace patrols keep vigil to prevent flare-ups, supervise truces, investigate and report. Already this vital work has helped to end bloodshed, bringing a promise of peace to millions of people.



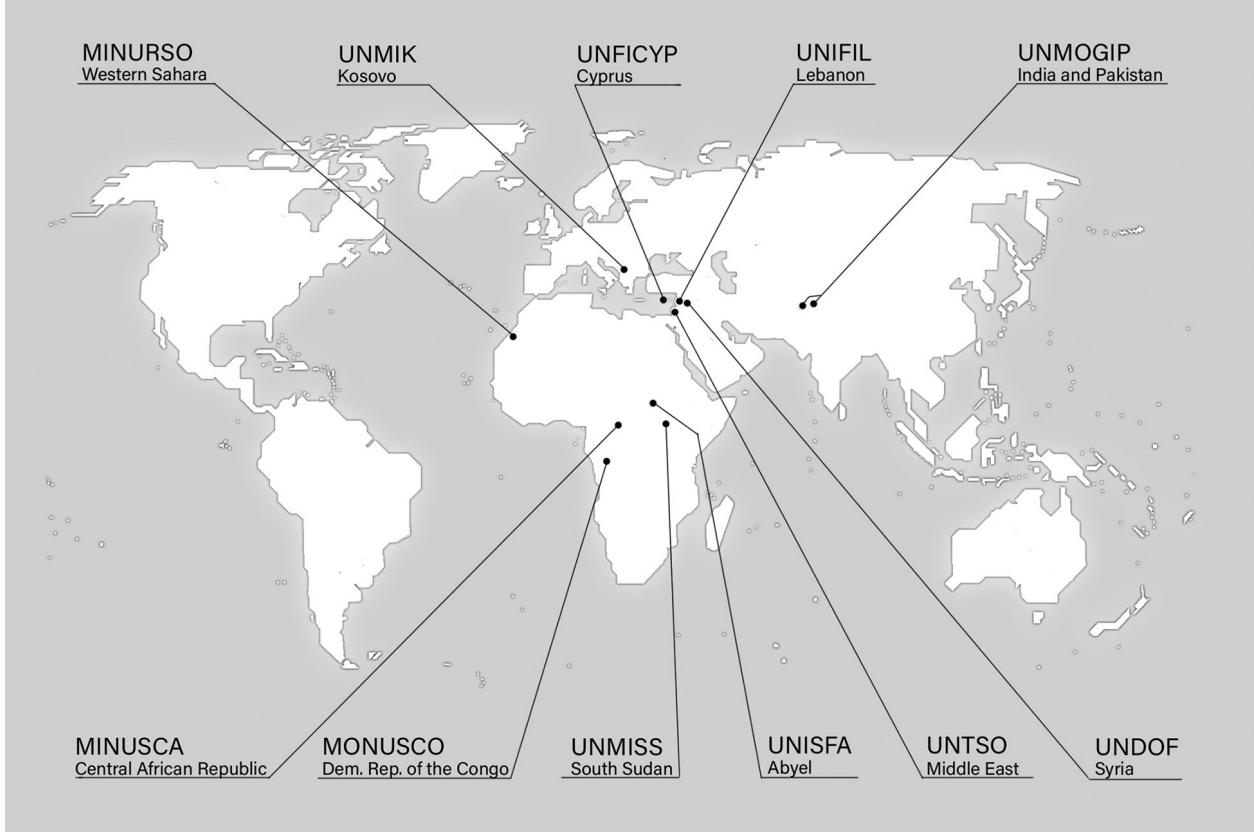


Figure 3.2 Map showing UN peacekeeping operations in 2025.  
(Sources: United Nations, 2025.)

This quote characterized the function of “observer missions.” The primary purpose of such missions was, and still is, to observe and report on the deployments and activities of the armed forces of two or more conflicting states, usually to verify compliance with ceasefire agreements negotiated between states with UN mediation. Sometimes the mission’s name, as well as mandate, included the ambitious term “supervision,” but conditions rarely put these UN operations in such an elevated position over the parties. The unarmed UN observers on the ground, however, have opportunities to help de-escalate and contain violence. They attempt to influence parties to quell violence using advice, aid, investigation, and mediation. They also operate as an international “trigger” function, bringing violations that threaten international peace and security to the attention of the UN Security Council (UNSC) and the world more generally. The first official UN PKO, which is still functioning, is the United Nations Truce Supervision Organization (UNTSO).

UNTSO was created by the UN Security Council to oversee a ceasefire the Council had called for in May 1948 during the first Arab-Israeli War. The Swedish Count Folke Bernadotte was appointed as UN Mediator in Palestine at that time. To help him report on the observance of the ceasefire directly to the Council, UNTSO was created to provide military observers through an UNTSO Chief of Staff. Furthermore, to help the mediator and his small mission with political, logistical, and other matters, the UNSG appointed an able member of the UN Secretariat, Dr. Ralph Bunche, as an advisor and his personal representative.

When Bernadotte was killed by an extremist Israeli group called the Stern Gang, responsibility for UNTSO fell to Bunche (Bunche 1948). The mission’s Chief of Staff then reported directly to Bunche, who was already reporting to the UNSG, unlike Bernadotte, who had reported directly to the UNSC. When Bunche left the mission, the Chief of Staff became the head of the mission but continued to report to the UN Secretariat in New York. This was an important and useful but accidental evolution. As much of the logistical support for UNTSO was obtained through the Secretariat in New York, the chains of command and support both went through the Secretariat, instead of directly to the UN Security Council. Hence, through this evolution, the Secretary-General gained authority over UN field missions and would appoint successive Chiefs of Staff, including Major-General E.L.M. “Tommy” Burns from Canada in 1954 (Burns 1962).

Having the Secretary-General hold responsibility for field missions also helped solve a major political problem that had plagued other early UN missions and commissions established by the Security Council after World War II, e.g., in Greece, Indonesia, Korea, and Palestine. These early missions were composed of and led by selected member states, often with a balance between states from the East and the West, i.e., communist and capitalist countries. The representatives on these early commissions would need to wait for instructions from their national capitals on how to vote or act, leading to a slow and often intractable decision-making process in the field. The effect was to

frustrate those serving on the missions, as Eastern and Western nations were mostly at odds, especially as they brought their Cold War disputes to the field operations (Wainhouse and Bechhoefer 1966). Having the UNSG oversee field missions helped to avoid this extreme politicization and polarization. Though the Secretariat was subject to Cold War pressures, it could act as a buffer for field operations. UN Headquarters in New York became the main venue for resolving political issues centrally rather than in each field location in isolation.

But the soldiers in observer missions were still contributed nationally and were unarmed. In the decade following the signing of the UN Charter, diplomat Lester B. Pearson and others had been calling for the implementation of the provisions of the UN Charter for armed standby military forces under the UN Security Council. Though countries like Canada earmarked specific forces for UN duty, the institutional mechanisms to employ such forces ground to a halt because of the East-West divide. Despite this, Canada explored with like-minded countries various ways to improve the enforcement power of the world organization.

When the Suez Crisis came crashing down on the United Nations—with the invasion of Egypt by Israel, followed quickly by further invading forces from France and the UK in late October 1956—Pearson saw a way to advance both the cause of creating UN forces and resolving the immediate crisis. In the early morning hours of 2 November 1956, he proposed “a truly international peace and police force ... large enough to keep these borders at peace while a political settlement is being worked out” (Pearson 1956). He backed his proposal with a commitment that Canada would provide substantial forces to the operation.

The General Assembly (GA) had become seized with the Suez crisis after a referral from the Security Council under the “Uniting for Peace” formula (another UN innovation). Under the Uniting for Peace resolution of November 1950, the Assembly in effect claimed it could do “by recommendation virtually everything the Security Council could do” (Combs 1967). This innovation was utilized to transfer the Suez question from the Security Council, which was immobilized by vetoes from France and the UK, to an emergency session of the Assembly, where the majority rules. In response to Pearson’s proposed emergency force, the Assembly requested Secretary-General Dag Hammarskjöld to submit a detailed plan for such a force. The Assembly then created the UNEF in resolution 1000 (ES-I) of 5 November 1956.

So, with crisis came opportunity. Pearson and Hammarskjöld adapted the vague pre-existing concept of standby UN forces to propose something concrete and specific when the diplomatic opening appeared. It was an evolutionary moment in international peace and security.

Pearson’s proposal satisfied both the needs for realist and liberal responses: it helped avert the trans-Atlantic rift that had developed because the United States was firmly against the invasion by Israel, France, and the UK; the proposal also helped promote the ideal of a stronger United Nations. Media reports highlighted the dire nature of the conflict, including the prospect of Soviet forces backing Egypt, leading to a larger and potentially nuclear war.

Pearson had the support of many states, including the large majority that pushed for decolonization (including the United States), and he gained the begrudging support of the three invading countries (Israel, and the two colonial powers, France and the UK).

The new force was more than an observer mission; it was armed and much more extensive than anything the United Nations had yet created for maintaining peace, aside from UN Command in Korea—which had been UN-sanctioned but was a US-led enforcement effort (war) that was not provided with direction or logistics from the UN Secretariat.

Major-General Tommy Burns, who was then serving as chief of staff of the UNTSO mission with several hundred UN military observers, was called upon to serve as the first Force Commander of the UN's first peacekeeping force. The troops numbered some 5,000. Unlike the unarmed officers serving in observer missions, the armed peacekeepers in these operations included non-commissioned members who were deployed in preformed units (e.g., battalions), not as individual UN observers on secondment from national forces as was the case previously.

This major normative leap in the mandate for PKOs is underrated in the literature. While it is natural to consider peacekeeping forces and observer missions together as traditional PKOs, the new forces represent a substantial increase in deployment size, complexity, capability, and mandate (Oksamytna and Karlsrud 2020).

UNEF was deployed to the Sinai to separate the Egyptian army from the withdrawing forces of Israel, France, and the UK. In this and other “second-generation” operations, UN troops were *interposed* between conflicting national armed forces. By separating combatants physically, these UN forces reduced the number of military contacts between belligerents, limited flare-ups, and allowed more effective monitoring of the tense but UN-demarcated zones (“no man’s land”) between the parties.

To prevent parties from violating a ceasefire or gaining new territory, the UN peacekeepers keep constant watch over the positions of the combatants. They try to anticipate any forward movements from agreed positions, sometimes even placing themselves in the way of such advances to slow them down.

In his pioneering proposal to the GA for the proposed emergency force, Pearson was the norm entrepreneur who managed to convince an initially reluctant Secretary-General, Dag Hammarskjöld. But once Hammarskjöld saw the workability of the idea, he was the thought leader who set out its basic principles (UN Secretary-General 1956). He performed critical normative work for this new generation of UN forces. This and future traditional missions were to be:

- under the operational control of the Secretary-General;
- recruited from Member States other than the permanent members of the Security Council, i.e., China, France, the Soviet Union, the UK, and the United States, who were excluded from direct on-the-ground participation due to their Cold War strategic involvement in most disputes in the world;

- paid/subsidized by the United Nations, with UN headquarters providing financial compensation (a given amount per soldier and per piece of equipment);
- impartial, i.e., the forces would not favour one side over the other in the conflict; and
- non-offensive, using armed force only in self-defence.

Hammar skjöld negotiated with Egypt an agreement that became a model for future Status of the Force Agreements (SOFAs) that the United Nations signs with host states. The SOFAs cover a wide range of issues, including the peacekeepers' freedom of movement and their legal immunity in-country (to prevent undue pressure from the host state). The forces also need the consent of the host state to be deployed. For this reason, observer missions and peacekeeping forces could be withdrawn at the request of the host government, as transpired when Egypt demanded the UNEF's withdrawal in 1967, just as Egypt was preparing to launch a war. This showed how traditional operations are of limited value once the parties are determined to engage in serious fighting. While critics suggest this is a fundamental weakness of PKOs, it still demonstrated a major change in state behaviour that allowed the UNSG to control armed international forces for peacekeeping duties on national territories.

More particularly, the UNEF force helped limit the possibility of an accidental escalation for a decade, and it served as the model for a follow-up operation, UNEF II (1973–79), that was created after the next war. Similarly, other interposed forces helped bring greater peace in other conflict areas like Yemen, Cyprus, and, towards the end of the Cold War, helped end the Iran-Iraq war. Even after the Cold War, these types of missions served a purpose in more conventional disputes, e.g., as with the United Nations Mission in Ethiopia and Eritrea 2000–08.

### 3.3.1 *Norms Commentary*

The major shift in norms and practices in the early evolution of UN peacekeeping was almost accidental. The shift in power to the Secretary-General over military personnel in the field came as an improvisation due to historical necessity, after the assassination of the UN Mediator for Palestine. However, this normative change required some harmonization of the intersubjective experience of the nations and organizations. Furthermore, institutionalization does not come without contestation. The creation in 1956 of UNEF, the first PKO by the UN General Assembly clashed with the norm of Security Council responsibility for mission establishment. In addition, France abstained on the creation in 1964 of the UN Peacekeeping Force in Cyprus (UNFICYP) because France

was skeptical about the propriety of the Council delegating so much power to the Secretary-General; France let it be known that it hoped UNFICYP would not set a precedent for the Council to abdicate its responsibility in matters of international peace and security.

(Tandon 1967)

But UNFICYP did indeed reinforce the norm of UNSG operational control of armed forces. Though major powers and Cold War politics limited the range of acceptable UN action, the enhancement of authority of the Secretary-General (and the Secretariat) came as a natural and creative result of the deadlock between the nations of the East and West during the Cold War. Adaptation was required, and this period of severe constraints on the United Nations, particularly in comparison with the expectations of the UN Charter, resulted in some unexpected opportunities for norm entrepreneurship.

While the UNSG gained significant new powers not prescribed in the Charter, including operational control over armed forces, the consent of the host state remained for the initial deployment of forces. State sovereignty surrendered only a bit of its strong normative power; the principle of consent for the initial deployment is a cornerstone of UN operations, as without it, a UN operation would be an invasion. Still, once in the country, the United Nations assures itself of freedom of movement in accordance with the SOFA. Consent is not needed for every activity. Furthermore, consent itself can be influenced by the United Nations (Gagnon 1967).

### 3.4 Modern Missions

The third generation of UN operations (multidimensional) arose from the changed character of most conflicts following the Cold War, as described in a general fashion in Table 3.1. The norms of conflict changed sharply, and so did the UN operations designed to deal with them. Internal conflicts increased in both number and intensity, and the Cold War politics between East and West no longer limited UNSC action. The United Nations became much more involved *within* states rather than just between them, with peacekeeping contributing to “a rise in negotiated settlements and a decline in military victories” (Stanton 2020). The ideals of the United Nations at its formation were reanimated as Cold War animosity ended. Other normative changes began as UN conduct evolved. UN missions now included soldiers from the P5 (permanent members of the Security Council).

The United Nations Security Council placed peacekeepers between many kinds of warring factions, with roles to foster sustainable peace, not just monitoring ceasefires, and to assist in the difficult task of nation-building. Civil wars tend to decentralize control, and even in the aftermath, the governments are usually very weak, leaving a power vacuum for external and transnational actors to fill, sometimes detrimentally. So, peacekeepers find themselves having to substitute for effective governmental control (Ruggeri, Dorussen, and Gizelis 2017). This required multidimensional peacekeeping, encompassing a wide range of functions and methods, adding to the traditional observation and interposition between armed forces, to include also the delivery of humanitarian aid, human rights monitoring and promotion, supervision of elections, and oversight of selected government functions. While the previous two types of operations monitored mainly military

*Table 3.1* From Cold War to hot wars: Different types of operations for different times

|                       | <i>Cold War</i>  | <i>Post-Cold War</i>  |
|-----------------------|--|---|
| Predominant conflicts | <i>Interstate</i> , inter-alliance   | <i>Intrastate</i> , internal  |
| Origins               | Ideology; Power bloc rivalry   | Ethnic/tribal/religious animosities, secessionism   |
| Main threats          | Armed cross-border attack or invasion  | Civil war, human rights violations (including genocide and torture), terrorism  |
| Goals                 | National security; international stability; conflict management  | Assurances of human security; conflict resolution; comprehensive multidimensional peace agreements; conflict prevention   |
| Means                 | Deterrence; negotiation of ceasefire; traditional peacekeeping (observation and interposition); Chapter VI of UN Charter | Cooperation, mediation, modern multidimensional peacekeeping (traditional peacekeeping plus humanitarian action, disarmament, elections, enforcement, sanctions, economic assistance, peacebuilding); transitional administrations; Chapters VI & VII of UN Charter |
| Locations             | State boundaries   | Throughout a nation or region   |
| Peacekeepers          | Soldiers (non-P5, i.e., not the permanent members of the Security Council)   | Soldiers, police, civilian monitors, and experts (elections, human rights); including P5; close collaboration with non-military UN elements, civil society and humanitarian partners  |

activities, the new missions became involved in a wide diversity of activities, including political, humanitarian, police, judicial, electoral, economic, and human rights activities.

The United Nations not only had to disengage and disarm the fighting forces of the conflicting parties but also to reform the security sector as a whole, including the war-driven agencies like the internal affairs agencies. New training was required for border guards, prosecutors and judges, and even officials in intelligence agencies. In missions in Cambodia (UNTAC 1992–93), Bosnia (UNMIBH 1996–2003), East Timor (UNTAET 1999–2002), and Kosovo (UNMIK 1999–present), the tasks expanded to include the supervision of entire departments of government, including defence and foreign affairs. The United Nations found itself at the forefront of efforts to fight crime, control cross-border smuggling, and enforce Security

Council-mandated sanctions. Even the conception of what was included in the core principles of peacekeeping evolved. No longer was it enough to focus on simply keeping hostile armed forces separated. The focus expanded to stop hostile armed groups from targeting civilians and limit the exposure of children to armed conflict. This new generation of peacekeeping still aimed to enhance international security, but it was guided towards the liberal notion of human security (Börzel and Zürn 2021).

The post-Cold War period has been dominated by multidimensional missions. During the Cold War, only one mission could be characterized as such (UN Operation in the Congo, 1960–64), but over 30 have been launched since the end of the Cold War. In 1989, the pioneering operation in Namibia catalysed the independence of Namibia through an election, and this facilitated the subsequent election in South Africa and the end of the apartheid regime. Major powers, including permanent members of the Security Council (the P5), actively participate in multidimensional operations.

The 1990s saw major achievements but also major tragedies. Among the achievements were the mission in Cambodia, which managed to neutralize the Khmer Rouge through elections, and various missions in Central America, which helped bring an end to the pernicious civil wars in that region. Among the tragedies of that era were the experiences of UN missions in Bosnia, Rwanda, and Somalia, which were unable to prevent a number of mass atrocities, though they had some mitigating effects.

At the end of the 1990s, the fourth type of PO, emerged in the form of “transitional administration.” In such cases, the United Nations found itself not merely supervising a peace accord but governing an entire territory during a transitional period. This includes responsibility over governments, including defence, policing, courts, banking, and education. The main cases of transitional administrations are the missions in Kosovo (UNMIK) and East Timor (UNTAET). While East Timor became self-governing in 2002, Kosovo remained under United Nations administration, gradually reducing its authority after elections and after Kosovo’s unilateral declaration of independence in 2008.

Because the Transitional Administration precedent has not been repeated, it would be misleading to call it a new generation of peacekeeping. Nevertheless, working examples, if not a new norm, have been created for the future. Transitional administrations can be created again as a way to manage governance transition while assuring peace and security, both internationally and within fractured nations.

Despite the setbacks in the 1990s, the number of UN peacekeepers increased dramatically in the first decade and a half of the twenty-first century. The change in numbers overall and in most multidimensional missions is an indicator of the evolution of peacekeeping. In a traditional observer mission, some 500–1,000 military personnel were typically deployed. With UNEF, the strength jumped to 6,000, and similarly for other interposed forces. In the post-Cold War period, the number of uniformed peacekeepers

(military plus police) in multidimensional missions deployed with over 10,000 per mission— with some 80,000 in the field at the 1990s peak. After the United Nations completed its missions in Cambodia (1993), Somalia (1994), and Bosnia (1995), the total number of peacekeepers fell back to 10,000, which was the Cold War average. But in the twenty-first century, the demand for peacekeepers grew dramatically in two “surges:” The first to handle the two transitional administrations (in East Timor and Kosovo); the second for the missions in the Democratic Republic of the Congo and the Darfur region of Sudan. The number of uniformed UN peacekeepers exceeded 100,000 for the first time in 2010. The new peak was attained in 2016: 108,000 uniformed peacekeepers. Adding civilians attached directly to peace missions, both international and local, the total number of peacekeeping personnel reached 125,000. Then the Trump administration (2017–21) pushed to reduce the expense and size of UN missions.

The number of uniformed peacekeepers (military and police) post-Cold War is graphed in Figure 3.3, showing the two surges—one in the early 1990s and the second after 2000—and the decline since 2016.

In the 1990s, the developed and developing worlds (i.e., Global North and South) contributed approximately equal numbers of peacekeepers to UN operations, but since 2000, the largest contributing nations of uniformed personnel (about 80%) have been from the developing world.

Armed force remains a valuable deterrent, but minimum force only should be applied in POs, given the inevitable resentment that comes after injury,

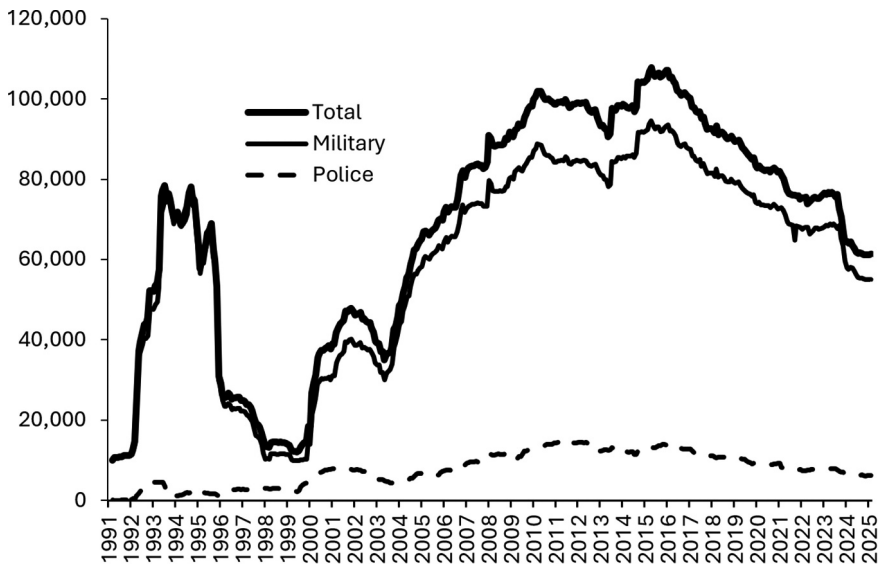


Figure 3.3 The number of uniformed personnel in UN peacekeeping since 1991. (Graph by the author. Data from the United Nations, 2025.)

death, and destruction. This places critical importance on the role of information and public messaging around UN operations at both the tactical and strategic levels. For the United Nations, this “information power” is often a more important tool than “military force.” And when the use of force is required, information—specifically PKI—plays a central role in determining when and where to apply force, and for what specific purpose (e.g., POC, and mandate enforcement). Expanding the UN’s information horizon has allowed it more options across the spectrum from soft to hard power. Multidimensional UN operations generally aim to be robust as well as flexible. The adoption of a doctrinal PKI Policy (United Nations 2017) was a major step in the normative acceptance of intelligence in PO. The increased use of armed force meant that PKI was essential.

### **3.5 Use of Force in Robust Operations**

The call to use armed force became impossible to ignore, especially after the tragic experiences in Bosnia, Somalia, and Rwanda in 1993–95. However, it took many hard lessons for a new norm of peacekeepers using force to emerge. Since the turn of the century, the Security Council mandated the POC with authorization to use “all necessary means,” and POs made more use of armed force, moving to peace enforcement on occasion. Attack helicopters became a potent symbol of robust peacekeeping. However, the underlying challenges of using force remained, and many were concerned about the UN’s vulnerability to retaliation, especially since missions had expanded to include many non-military components that could not defend themselves.

This move towards justice and civilian protection supported liberal internationalist ideals and seemed to move the United Nations towards an era of post-national liberalism (Börzel and Zürn 2021). It had already begun earlier, for instance, when the Security Council recognized the 1994 Rwanda genocide as a “threat to international peace and security” (UNSC Resolution 955 (1994)), though it acted too late to deal with that threat. Partly in response to UN failures, in resolution 1296 (2000), the Council recognized that the targeting of civilians and the denial of humanitarian access may constitute “threats to international peace and security.” Because the term (along with “threat to the peace”) is used in the UN Charter as a trigger for Council action, the resolution suggested that the Council would use force to protect civilians and humanitarian workers. Indeed, an earlier resolution 1265 (1999) suggested that it would consider this when giving mandates to new missions.

Scores of UN combat actions were undertaken in the D.R. Congo (Dorn 2023), including some with attack helicopters (Dorn 2014, 241–253). The mission in Haiti in 2006–07 also showed that force could be successfully used to take on gang-rule in difficult places like Cité Soleil (Dorn 2009), though the small Kenyan force in Haiti from 2023 onwards does not have the means to do this kind of robust operation.

The United Nations had to be realistic that any conflicting party could undermine, spoil, and derail peace processes and humanitarian initiatives. In the twenty-first century, the UN's move towards greater reliance on the use of force meant that aspects of realism (force) were playing a more significant role to support liberal (peaceful) goals. In one view, “[i]t was the activation of peace enforcement on a broad scale that moved the UNSC into the age of postnational liberalism” (Börzel and Zürn, 2021).

Still, there was pushback from some UN Member States who considered that UN missions had been overextended, not only in the matter of the use of force but in many other ways as well. The mandates of the UN Security Council (so-called “Christmas tree mandates”) may be appealing, but they were pushing missions in so many directions as to make the mandates unimplementable. Part of the solution was to call for the sequencing of mandates, if not their reduction. But the reality remains that since peace is multidimensional, so must also be the POs of the United Nations.

### 3.6 Conclusions

This chapter shows how some general yet simple concepts for norm creation and implementation can be applied to show the evolution of POs. A major example is the normative step in 1956, when military forces were first put under the operational control of the UNSG. Then, after the Cold War, peacekeeping became multidimensional, moving far beyond ceasefire monitoring and separation of conflicting military forces.

This chapter also shows how international norms are more easily embraced when they meet both liberal and realist tendencies, as was the case in the Suez crisis. In this way, crises are more likely to give rise to new initiatives that gain the support of a wider range of actors, including key individuals (left and right of the political spectrum), states (liberal and illiberal), non-governmental organizations (especially norm entrepreneurs), and the media. The urgency allows the actors to break from their usual modes of thinking and behaving. The end of the Cold War caused the United Nations to further innovate its peacekeeping work by creating multidimensional POs as a new norm.

More generally, UN norm development can proceed through the usual progression of steps: recognition of a problem (especially during a crisis), novel proposals for potential solutions, negotiation, adoption, signature (or voting), and implementation (including possible measures for verification and compliance). Nevertheless, resistance towards norms development is inevitable in the global interstate system founded on the sovereignty of each state and the special position of the permanent members of the Security Council (a recognition of realism). As such, political disagreement is apt to be endemic at the United Nations, as featured most strongly during the Cold War when the scope of UN action was much reduced. Still, even then threats to the great powers gave rise to innovations, like UN peacekeeping forces in

1956. This concept gained strong normative valence. Furthermore, peacekeeping became an international activity that brings a degree of national pride, as nations contribute to the global initiative that helps them gain moral, political, and financial gain, as well as increased global security.

Whilst the recognition of a new norm's potential to benefit individual nations and the collective good is important for its successful development within the UN system, more imperative is the assurance it provides to the great powers that its progression will not jeopardize their interests. Furthermore, the new norm means that its costs should not exceed what the international community is willing to contribute, in both lives and finances. For this reason, certain norms such as state sovereignty, which lies at the heart of national interest, often stand against new and emerging UN norms, surrendering only partially their strong power to an emerging norm. So certain norms that are designed for the collective good, but that put into question state sovereignty, such as UN transitional administrations after conflicts, have had a hard time competing.

Although these sovereignty tensions narrow the window of opportunity for global norm development, the United Nations has acted as an instigator for change at key moments. For instance, the normative evolution of peacekeeping strengthened its validity as an instrument of UN policy and international conflict management. The shift in power to the Secretary-General for control of deployed armed military personnel in POs was a major normative advancement. It required an adjustment of the intersubjective experience of the nations, but UN peacekeeping forces are now an established and accepted feature of the international community.

While no new PKOs have been created for almost a decade under UNSG António Guterres, a strong foundation remains for potential future deployments. And as the United States, under President Trump or a future administration, takes a “hands-off” (isolationist) approach to international conflict management, the United States and other nations may need to throw the “hot potatoes” (difficult conflicts) to the United Nations to manage. And if the great powers now engaged in competition need to reach out to the United Nations, the world organization has a useful toolbox containing useful tools developed during the Cold War upon which to construct new instruments. Fortunately, the United Nations has proven capable of developing new norms for peacekeeping.

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# 4 The Future of UN Peacekeeping

## From Practice to Policy

*John G. Cockell*

### 4.1 Introduction

In the post-Cold War era of modern UN peacekeeping, complex multidimensional missions have been deployed to a broad range of country contexts, primarily in Africa but with large missions in Kosovo, East Timor and Haiti as well. Notable recent examples have been MONUC/MONUSCO in DR Congo, UNAMID in Darfur (a hybrid mission with the AU), MINUSTAH in Haiti, UNMISS in South Sudan, MINUSMA in Mali and MINUSCA in CAR. More often than not, these missions have had multifaceted mandates combining peace process facilitation, protection of civilians (POC), stabilisation/security and statebuilding priority tasks, in the teeth of ongoing instability and/or active armed conflict involving non-state armed groups and loss of effective control by host governments over large areas of territory. The protracted nature of these multifaceted challenges, and the growing sense that these complex conflict situations impose serious strains on the core principles of UN peacekeeping (i.e. consent of the parties, impartiality and non-use of force except in self-defence and defence of the mandate), has led Member States to become more doubtful in recent years about the medium to longer term efficacy of such missions in these contexts (Guéhenno 2015, 315). MONUSCO (and MONUC before it), for example, has provided a peacekeeping presence in eastern DRC for two decades now and has become – for the local communities, Congolese authorities and the UN alike – a seemingly inseparable part of the landscape there, but with no discernable significant improvement in the chronic insecurity and violence of that benighted region. With the notable exceptions of Kosovo and Timor-Leste (and perhaps Liberia and Sierra Leone in Africa), the other cases noted above present a similarly troubling record (Howard 2019, 185–86).

It is in this context that there have been, of late, both internal and external reflections on the future of UN peacekeeping in its current form. This necessary reflection should not detract from the recent efforts made to mount an evidence-based case for the historical effectiveness of peacekeeping (Walter, Howard and Fortna 2021). Rather, the current moment evinces

a concerning gap between existing policies (that have guided demonstrated effectiveness over the past two-plus decades) and what current practice on the ground is facing in the way of significant challenges. The dilemma is perhaps threefold:

- A These complex conflicts are not likely to decrease in frequency, but rather increase as climate change, transnational migration and extremism, normative challenges to democratic governance and universal human rights, and economic shocks impact on fragile states' limited treasuries, governmental legitimacy and security forces' presence and effective control;
- B UN peacekeeping missions will continue to struggle to effectively implement complex mandates in large areas of responsibility (AORs) without the necessary means and requisite timeframes to achieve sustainable results, to be measured in decades rather than years, with the attendant costs to the assessed peacekeeping budget of the organisation; and
- C Current policy, doctrine and mandates on peacekeeping have been less and less helpful in guiding effective planning and operational implementation on the ground in complex contexts, with missions increasingly facing dangerous challenges that do not have established playbooks in UN peacekeeping. Moreover, these challenges to practitioners on the ground are often not accorded the focus and urgency needed at the policy level to generate updated guidance and ultimately improved mandates that will both support missions to be more successful in their assistance to conflict management.

The purpose of this chapter is to offer some observations that might inform ongoing policy debates on the future of peacekeeping, and how its rolling reforms might relate to the broader spectrum of modern conflict management. What elements should define core peacekeeping outcomes as complex field operations engage in multifaceted, protracted conflicts? How and why are key aspects of peacekeeping practice being tested in these contemporary contexts, and what should this mean for reforms to policy and doctrine? What follows here is in no way a comprehensive survey of answers to these questions but rather a personal reflection on current pain points in complex peacekeeping practice that may point up relevant priorities for policy development and policy-facing research.

In making the observations that follow, I wish to be clear that I believe peacekeeping – and indeed all peace operations more broadly – should be judged by the extent to which it adds value to conflict management and resolution in the context concerned. It should be seen, as Roland Paris has recently argued, as a form of “collective conflict management” (Paris 2023). I will draw in particular on my direct experience with peacekeeping in DR Congo and Mali, but aim to broaden the presentation of these issues such that they speak to the comparable realities in other conflict theatres such as Somalia, Sudan, CAR, South Sudan, Libya and Iraq.

## 4.2 Exogenous Challenges Affecting Peacekeeping Outcomes

Before diving into a coal-face examination of some core dilemmas of contemporary peacekeeping practice, it should be noted that significant factors external to the UN impact peacekeeping outcomes and risk overwhelming the organisation's available capacities for effectiveness (Caplan 2019). A non-exhaustive list would include:

- Internal armed conflicts with protracted dynamics driven by long-standing inter-group and/or state-society grievances over equitable political participation and representation, economic development and livelihoods, social cohesion and physical security. Many such internal conflicts do not have structured peace processes or agreements, or where these exist, they are stalled and/or not fully inclusive of key actors on the ground.
- Broad and extensive loss of sovereign state control over peripheries with significant population centres, aggravated by rejection of the legitimacy of existing state authority and/or structures and leading to counter-state insurgencies, transnational armed extremism and alternative, competing expressions of effective control over territory and communities.
- Increased fragmentation and proliferation of non-state conflict actors, forming, shape-shifting and dissolving across time and into and out of various groupings, with unclear links between political and armed factions, local and regional political power brokers and shadowy engagement in competing nodes of transnational violent extremism, organised crime, illicit resource extraction and trafficking.
- Increased incidence and lethality of asymmetric threats to peacekeepers from non-state armed groups, including the use of improvised explosive devices with remote detonation, complex vehicle-borne attacks on bases and indirect artillery fire.
- Increased “internationalisation” of internal conflict, with regional and global actors – both state and non-state – providing transnational support to these fragmented conflict actors and turning these conflicts into zones for broader geopolitical and ideological contestation.
- Growing normative divergence across the international community over core principles of international peace and security, governance and human rights. Democratic governance and human rights are increasingly contested by authoritarian and non-democratic global and regional powers, and standards of conduct respecting non-interference and non-use of force are being eroded in favour of naked promotion of national self-interest.

There will undoubtedly be other factors that may be added to this grim list. But these may serve at least to illustrate the context in which *organisational practice* by the UN in complex peacekeeping is falling short of the mark with respect to conflict management imperatives. Three such “endogenous” challenges will be outlined next.

### 4.3 Endogenous Challenges in Peacekeeping Practice

After the explosive growth and dynamism of UN peacekeeping and peacebuilding following the end of the Cold War – its normative aspirations captured in the original Agenda for Peace of 1992 (Boutros-Ghali 1995) – the organisation has periodically issued milestone reviews and policy updates on peacekeeping. These have included the Brahimi report of 2000, the Capstone Doctrine of 2008, the Independent High-Level Panel on Peace Operations (HIPPO) report of 2015, the Santos Cruz report of 2017 on security of peacekeepers, and the current Action for Peacekeeping (A4P) initiative launched in 2018 for renewed engagement with peacekeeping stakeholders.

Through these various reports and policy shifts, some notable themes have emerged and taken on greater salience as challenges to peacekeeping doctrine and operational effectiveness on the ground. Three in particular will be outlined in brief here, based on current difficulties experienced in the UN's largest recent operations in Darfur, Haiti, Mali (all three now withdrawn), DR Congo, South Sudan and CAR: stabilisation, POC and political strategies.

#### 4.3.1 *Stabilisation*

Robust mandates for peacekeeping (i.e., proactive use of “all necessary means” of force at the tactical level with the authorisation of the Security Council and consent of the host nation) have been a long-standing theme since the Brahimi report in 2000, and this has coincided with the advent of the post-9/11 non-UN counterinsurgency interventions in Afghanistan and Iraq. Over the past two decades, the UN has moved (and been moved by influential Member States) away from the comprehensive approach to complex peacekeeping seen in such cases as Sierra Leone, Liberia, Kosovo and East Timor, towards an increased emphasis on “stabilisation” operations. This shift has taken place as well alongside the growth of international interest in statebuilding initiatives in fragile and conflict-affected states (FCAS). In this context, peacekeeping mandates set out by the Security Council have often featured overt statebuilding objectives in situations of active armed conflict and/or significant instability in whole or part of the country concerned.

In addition, recent peacekeeping practice has faced ongoing armed conflict in all of the “big five” missions: DR Congo, South Sudan, Darfur, Mali and CAR. Peace agreements have not always been a feature of these situations, giving rise to the well-worn critique of peacekeeping wrongly being sent into situations “where there is no peace to keep.” The 2015 HIPPO report (United Nations 2015, 44) noted only at the time (during which the complex missions to Mali and CAR had been mandated in quick succession) that: “in the past decade, the Security Council and the Secretariat have used the term “stabilisation” for a number of missions that support the extension or restoration of State authority, in at least one case during ongoing armed conflict. The term “stabilisation” has a wide range of interpretations, and the Panel believes the usage of that term by the United Nations requires clarification.”

The careful wording of the Panel here reflected a distinct unease within the UN over the grey area some Member States were content to foster between peacekeeping and counterinsurgency in contemporaneous conflicts such as those in Afghanistan, Iraq and the Sahel. This has pushed the use of force in peacekeeping for compelling and deterring conflict actors into greater dissonance with Capstone Doctrine core principles, i.e., impartiality, consent and non-use of force (Howard 2019, 192-94). Whether one would want to argue in favour of those principles being revisited, it has been a long-standing position of the Secretariat that UN peacekeeping missions are neither suitable nor appropriate for peace enforcement, counterterrorism or other militarily-offensive operations. But apart from this general stance against war-fighting, to this day the UN lacks a clear policy on stabilisation, in spite of the call in the HIPPO report for such “clarification.”

This lack of clarity is increasingly problematic in the UN’s biggest operations. To a considerable extent, stabilisation has been a core purpose – even a *raison d’être* – of the peacekeeping operations deployed to Haiti (MINUSTAH), Mali (MINUSMA) and CAR (MINUSCA); of the revised mandate for the operation in DR Congo (MONUSCO); and of the operation in South Sudan (UNMISS). The absence of UN policy on stabilisation has meant that, in practice, it has been difficult for these large operations to set out clear operational priorities from one annual mandate to the next, such that the requirements of the mandate may be given operational effect in a manner that supports progressively successful conflict management. This challenge is only compounded in situations where a peace process is absent or stalled, or where the agreed provisions of a peace agreement are not supported by the government, non-state armed groups, or both.

The HIPPO report refers to “extension or restoration of state authority” in its brief reference to stabilisation, and indeed recent missions have often sought to support efforts in this area, whether in line with a peace agreement or not. A substantial amount of work in the areas of civil affairs, rule of law, justice and security institutional reforms and electoral cycle support often falls into this broad category. Stabilisation has also been viewed as an intermediary stage of international intervention, one that comes after the domestic political environment has settled enough to allow the national government to exercise power. In this view, stabilisation should focus on “the core state functions that are required from a ‘statebuilding’ perspective ... to help (re) construct the governmental institutions that are legitimate enough and capable enough to underpin the wider peacebuilding process” (Ramsbotham, Woodhouse and Miall 2011, 217). One could argue that evolving UN practice has at various times combined some or all of these elements:

- physical security/POC;
- reducing intercommunal violence (mediation/CVR/PVE); and
- re-establishing core state functions and legitimate authority:
  - (a) local governance, (b) police and (c) judiciary/courts.

All of this is to be coordinated under a clear political strategy, a point that will be elaborated further below. But there is as yet no cross-case understanding of what the core elements of successful stabilisation should be, from a conflict management/resolution perspective, much less a clear UN doctrine that can guide operational planning in difficult country contexts.

In situations with active counterterrorism operations by national militaries and/or regional coalitions, such as in Mali (where the former colonial power France had also deployed its own CT Operations Serval and Barkhane over a ten-year period ending in 2022), there can be a pronounced expectation (even within some UN military contingents) that a UN mission should contribute to or at least provide operational support to such CT operations. National authorities facing violent extremist/terrorist armed insurgencies can become impatient with large UN peacekeeping missions that do not put their thousands of military personnel into the fray but instead monitor human rights violations and press for reforms of civilian state authority.

Where such misunderstanding of UN mandates extends to the population at large, as has been the case in Mali and DR Congo in recent years, the mission can also face concerning levels of public anger, demonstrations and violence directed towards mission personnel and facilities. In MINUSMA, for example, there was a long-standing tension between using robust action in response to attacks by extremist groups (including Islamic State and Al-Qaeda proxies) and offensive counter-terrorism operations. Hindered by the mandate and its rules of engagement, MINUSMA fell short of Malian expectations for greater effectiveness (including to protect civilians) against these transnational groups' attacks.

Host governments, often lacking the necessary defence/security forces needed, may find it convenient to have UN and international forces (e.g., Operation Barkhane in Mali) indefinitely provide counter-insurgency security operations in large areas that require expeditionary warfare capability. Indeed, in the case of DR Congo, then Under-Secretary-General for the UN Department of Peacekeeping Operations (DPKO), Jean-Marie Guéhenno, noted that the UN mission there had “kept a central military role, becoming almost an auxiliary of the government in the east” (Guéhenno 2015, 159). In 2017, those UN missions that had been given robust mandates by the Security Council were informed by UNHQ that in no case were those missions using their robust rules of engagement to the satisfaction of the Council (United Nations 2017b). In this context, concepts such as “robust” and “proactive” currently leave too-large gaps in interpretation, between Force Commanders, civilian mission leadership, host governments, troop contributing countries (TCCs) and contingent commanders (that at times have declined to mount proactive operations), on the right balance for using military force in stabilisation operations. In future, UN peacekeeping missions will need clearer policy direction from Member States on the conduct of robust peacekeeping

mandates in contexts of weak state control and asymmetric conflict, particularly where such conflict may be driven by transnational extremist groups not party to any peace agreement and using terrorist tactics to seize illegitimate control of territory and populations. The current review of all forms of UN peace operations, launched by the Secretary-General in 2025, provides a timely opportunity for Member States to reflect on recent mission experience and develop such clearer direction in doctrine and methods.

#### *4.3.2 Protection of Civilians (POC)*

If UN peacekeeping has suffered in recent years from lack of clarity on stabilisation roles and how these should be understood in relation to robust mandates under Chapter VII of the UN Charter (authorising the use of force), the same can not be said for the evolving role of POC. Indeed, since 2010, the UN has defined and established doctrinally coherent POC strategies in all missions where that role has been mandated, accompanied by a detailed package of guidance for personnel (United Nations 2020) that rivals any other substantive area of peacekeeping save perhaps for DDR.

The norm became caught up with peacekeeping policy and practice following internal lesson learning from the peacekeeping failures in the mid-1990s (notably the genocides committed in Srebrenica and Rwanda while lightly-armed peacekeepers were present on the ground). The first peacekeeping mission to be given an overt POC role was UNAMSIL in Sierra Leone in October 1999, directed by the Security Council “to afford protection to civilians under imminent threat of physical violence” (United Nations 1999). DPKO later began to roll out a global policy on POC in field missions from 2010, which charged missions to develop three-tiered POC strategies (United Nations 2010). In reality, the tier dedicated to the provision of *physical* protection has become the dominant aspect in peacekeeping practice, particularly after the UNMISS mission in South Sudan distinguished itself by protecting thousands of South Sudanese at imminent risk of attack in Bor in January 2014.

In 2015, a Rwanda-Netherlands-USA jointly-sponsored High-Level Conference on the POC put forth the “Kigali Principles” on POC in UN peacekeeping, which *inter alia* took the physical protection aspect of POC into new territory. Instead of protecting civilians as an adjunct to their core mandated tasks, within their capabilities and areas of deployment, peacekeeping operations were now enjoined to “be prepared to use force” without hesitation to protect civilians. Failure to take such proactive action by peacekeeping contingents should, in turn, be met with “disciplinary action” (Government of Rwanda 2015). However, in large theatres such as Mali, DRC, Darfur and South Sudan, where peacekeepers are spread very thinly, a majority of available troops are tied down protecting the bases, camps and movements of the mission itself. Only a small proportion of the military component may be available at any given moment to respond to POC threats or

early warning alerts (e.g. MINUSMA in Mali had less than 10% of its military component available at any given time for such purposes). And with vast distances to cover, they will most likely not arrive in time to effect meaningful protection. Armed groups that seek to target civilians are easily able to strike in areas where the mission will not be patrolling or be hours or even days away from an air-mobile response.

In addition, as researchers have noted in recent years, national caveats on use of contingents in active conflict zones, as well as inability to be deployed on long-range patrols or to temporary bases that would increase risk of asymmetric attack, further reduce the operational capacities of missions in these settings to achieve successful POC outcomes (Berdal 2018). Overly bureaucratic UN budget controls, imposed by Member States over the years, can also cause field mission managers to opt for civilian-contracted helicopters for tactical airlift and casualty/medical evacuation. The civilian contractors, while cheaper for the mission budget, typically will not operate on weekends or in active conflict areas. In this context, and in spite of considerable efforts by MINUSMA to force-generate and deploy contingents to its Mobile Task Force (MTF) in Mali, the mission was not able to address a significant increase in violent POC incidents across a broad swathe of central and eastern Mali during the second half of its decade-long deployment. As has been the case with MONUSCO in DR Congo, this exacerbated an increasingly negative perception of MINUSMA by certain segments of the Malian population and host government, and the mission was eventually forced to withdraw from Mali in October 2023 when the government withdrew its consent for the mission's mandate earlier that year.

What stabilisation and POC do both share as challenges to peacekeeping success is a need for robust mandates to be supported by Member States with the requisite capabilities and mindsets in their troop and police contributions, as well as in annual budget reviews at UNHQ. From the Brahimi report to today's A4P agenda, the UN has sought to boost international support for key capacities and force enablers – not least military attack and utility helicopters, intelligence, logistics (including mine/IED-resistant combat convoy contingents) and transport aviation. But as Mats Berdal has observed, these efforts have at best only attenuated rather than eliminated “deep, inbuilt and, as far as military effectiveness is concerned, ineradicable weaknesses” (Berdal 2018). Despite the considerable energy invested in the A4P initiative since 2018 to foster renewed commitment of Member States to provide the necessary contingents, capabilities and equipment needed for robust peacekeeping, it seems clear that the UN will perennially fall well short of receiving what it would need to meet performance expectations for physical POC.

The vexing reality of POC in these big missions, then, is that there is not enough capacity and capabilities to extend proactively successful physical protection in all the areas where it may be needed. As a result, civilians may be targeted with impunity by armed groups, safe in the knowledge that UN forces will not be able to respond in a timely manner. To deliver successful physical protection in a

peacekeeping context, missions require long-term, integrated efforts that require relatively costly capacities including tactical/utility airlift and attack helicopters, ISR platforms for theatre intelligence, mine-resistant armoured personnel carriers repairable/replaceable when damaged in IED/mine strikes, and air-mobile quick-reaction forces that can respond within hours to asymmetric attacks. TCCs that can provide these capacities, and the necessary training and mindsets needed, are few and far between and mainly limited to NATO countries that have generally been unwilling to commit significant deployments to UN missions.

In the meantime, however, Member States and UN policy have both elevated POC in scope and importance for peacekeeping mandates such that it now appears as a stand-alone priority that can even be treated as the main effort of the mission in the country concerned. But dedicating costly and scarce military and police resources to physical POC, at the expense of other mandated priorities, is failing to achieve improved POC outcomes, fostering mistaken expectations among national authorities and populations that the mission is replacing state responsibility for protection, while doing nothing to support conflict management. The HIPPO report spoke to this challenge clearly:

Protection mandates must be linked explicitly to political solutions. To do otherwise denies the mission a viable exit strategy and provides only palliative protection for civilians. Absent a serious political strategy for resolving the armed conflict that gave rise to the threats to civilians in the first place, a mandate focused exclusively or even predominantly on the protection of civilians is likely to lead to a long, drawn-out and ultimately unwinnable campaign.

(United Nations 2015)

In this way, the “gravitational pull” of POC within a multidimensional mandate can distract leadership attention and scarce operational resources from other, often interdependent, priorities. Day and Hunt note in the case of DR Congo that “MONUSCO’s overriding focus on POC ... detracted from its potential work on the political process” (Day and Hunt 2022), including because its attention was drawn to reacting to crises rather than forward planning in a more strategic manner.

Yet today, this unwinnable posture continues to be prevalent in UN peacekeeping. For example, a key tool that can be used by missions to provide physical POC is the establishment of a temporary operating base (TOB) in an area that has been attacked. But TOBs are a finite resource that must be carefully planned, not least as they require logistical sustainment for periods that can last for many weeks or months. Committing resources in this way prevents the potential use of a TOB for other mandated priorities, such as establishing area security for local mediation, conflict management, extension of state authority, SSR/DDR or electoral support.

In fact, the future of peacekeeping may be imperilled by the reputational damage to its brand arising from widespread failure to deliver on

unrealistically high expectations of Member States that POC could become a central and even defining measure of peacekeeping success. Conflating POC with humanitarian protection imperatives, which call for field operations to save lives above all else, reduces peacekeeping to a perpetual role of first responder to every attack on civilians. This has also inspired something of a “cottage industry” surrounding POC, including the presence of advocacy groups focused on achieving physical POC to the exclusion of other peacekeeping objectives (Russo and Mamiya 2022).

Peacekeeping missions, constrained by the various operational impediments noted above, will almost always fail in this more robust, Kigali-Principles vision of POC. Should POC continue to be viewed as somehow intrinsic to the practice of peacekeeping, it would undermine the potential for a turn towards what some have called “pragmatic peacekeeping” that is less overtly normative in a world moving towards multipolarity (Dunton, Laurence and Vlavonou 2023). In short, continued emphasis on POC as a strategic priority in peacekeeping mandates will only prevent mission resources from being focused on a maximising the conflict management role of peacekeeping and ultimately undermine host government and societal support.

#### 4.3.3 *Political Strategies*

If the current state of peacekeeping challenges can be understood to include a lack of clear understanding of what the end state of stabilisation should be, or a growing tendency to elevate physical POC to a strategic objective rather than a tactical, ancillary priority, then this should prompt a reflection on the strategic guardrails for complex peacekeeping. The HIPPO panel had this concern clearly in sight when they emphasised the “primacy of politics” as an “essential shift” needed for peace operations to properly support conflict resolution, such as during mediation, ceasefire monitoring and assisting the implementation of peace accords and longer-term efforts at sustaining peace (United Nations 2015).

More recently, the A4P process at the UN generated an “A4P+” implementation strategy of sorts in October 2021 that set out seven core priorities to be addressed for the period 2021–23. Priority one – literally – is for missions to have “collective coherence behind a political strategy” that will “provide strategic direction to missions, to ensure a clear articulation of a broad political direction and strategic objectives, a longer-term vision, prioritisation and sequencing, targeted results and expected roles and contributions from partners” (United Nations 2021). Recent policy-facing research has also noted that since the release of the HIPPO report in 2015, such political strategies have, in practice, been expressed in a plethora of formats that have not benefited from clear criteria or guidance (Day et al. 2020).

At worst, the absence of a flexible and context-sensitive political strategy can rob a peacekeeping mission of an orienting vision to guide decision-making and promote unity of effort when faced with peace process breakdown or

other such changes of political and security dynamics in the country. The problem can be compounded when the political focus of the mission is understood to be derived from its Security Council mandate. When circumstances on the ground diverge from the mandated priorities set out by the Council – whether slowly over time or in a sudden event – the mission can be at greater risk of becoming irrelevant and dedicating its hard-won resources to activities and goals that are out of step with the changed conflict dynamics.

MINUSMA faced this dilemma in Mali following the double military coups d'état of August 2020 and May 2021, which upended engagement by the Malian government in the peace process for the 2015 Algiers peace agreement. Effectively pausing its participation in the peace process in favour of launching a national political transition to lead to new elections by 2024, the changed character and stance of the government put the mission in the position of having to reassess its political role and focus. While subsequent mandates issued by the Council in 2021 and 2022 requested the mission to (also) support the political transition, this direction sat uneasily alongside the standing “primary strategic priority” of MINUSMA, i.e., to continue to support implementation of the 2015 peace agreement (United Nations 2022). As the northern Malian armed groups that had been signatories to the agreement showed increasing signs of abandoning the peace process themselves, MINUSMA had to improvise a unsteady balance: continued attempts at reviving the peace process (including its SSR-DDR provisions) and providing technical support to the political transition’s ambitious electoral plan, all while the military regime in Bamako drove ahead with its “refondation de l'état” plan that included increased counterterror operations in central Mali against extremist/jihadist armed groups that are not signatories to the 2015 agreement (Government of Mali 2022).

So, while annual mandates from the Security Council may serve as broad guidance for peacekeeping practice by specific missions, they need to be given context-flexible interpretation by nimble political strategies that engage the buy-in of all sections and components of the mission and its senior leadership. The “primacy of the political” is too often being given lip-service while time, political capital and resources are assigned to major lines of effort that have diminished or no strategic value under altered circumstances on the ground. In this way, missions large and small can drift from year to year, conducting rinse-and-repeat activities (see POC, above) that have poor return-on-investment value in conflict management terms.

There is also an unfortunate tendency to assume that such political stasis has no real expiry date, and that missions can spin their wheels in this expensive manner indefinitely, even if the country's situation shows no meaningful improvement towards a sustainable peace. UNAMID in Darfur was eventually wound down after such a period of ineffectiveness, and MONUSCO in DR Congo has in recent years been reckoning with its own drawdown after years of chronic instability in its eastern AOR. Peacekeeping missions need to be able to apply leverage and grab opportunities when and where they may

arise, guided by a north star vision of what role the mission can best play in the extant circumstances (which may no longer be those against which the Council set out its original mandate for the mission). This might require pursuing opportunities outside the ambit of national-level political/peace processes, where a mission might be facing declining political traction, in order to flexibly engage local actors or constituencies outside of these processes (Day et al. 2020).

#### 4.4 So What? Some Implications for the Future of Peace Operations

The withdrawals of MINUSMA from Mali in 2023 and of UNITAMS from Sudan in 2024, as well as the slow-motion drawdown of MONUSCO in DR Congo amidst growing operational challenges and weakened host government consent, have all served to hasten moves towards another in-depth organisational review of UN peace operations. The *Pact for the Future*, agreed by UN Member States at the GA summit in September 2024, included a specific call for the Secretariat to conduct such a review in 2025 provided that the earlier proposal has not been taken out; on which the Secretary-General has since taken action (as noted above). In advance of this, an independent study led by former MINUSMA SRSG El-Ghassim Wane has also produced a detailed analysis and set of recommendations (Wane, Williams and Kihara-Hunt 2024). In this context of heightened external and internal interest in the future of peace operations, large and small, three areas for particular attention, if not innovation, might be proposed, based on the field experiences outlined above.

##### 4.4.1 *Strategic Management and Mission Planning*

In recent years, strikingly little attention has been paid to the role of the head of mission and her/his senior leadership team in complex mission structures. The dilemmas noted earlier with operational direction, priority-setting across mandated tasks and nimbleness in changing direction to adapt to political shifts in country context all point up, however, the indispensable role of proactive mission leadership. In particular, peace operations – large or small – in complex and dynamic environments require ongoing attention across the mission structure to strategic management imperatives, including adaptive and collective priority setting, unity of effort across military-police-civilian components, coherent and coordinated tactical operations and a relentless focus on ensuring sustainable effects (or results) that align with an overarching political strategy.

While the current UN A4P+ Plan calls for the strengthening of mission planning units and empowering the mission Chief of Staff (United Nations 2021), this does not go far enough to highlight and reinforce the essential role of mission leadership to ensure sustained operational effectiveness, leaving some to confuse this A4P+ priority with an overemphasis on performance metrics and data-driven reporting on Mission Plans. The operational implementation

of any Mission Plan is a command-driven process that entails the periodic and routine exercise of senior leadership's decision, direction and guidance. Three core tenets underpin this orientation: the importance of understanding the SRSG/HOM intent, a clear and shared responsibility across senior management and staff to fulfil that intent, and timely decision-making by senior leaders. The underlying requirement is the fundamental responsibility for all Mission sections/components to act within the framework of the SRSG/HOM's expressed intentions, political strategy and senior leadership oversight.

In the absence of structured attention to implementation, mission sections, components and field offices will tend to use their budgeted resources and personnel in a service line-centric manner that is not well coordinated across the mission structure, leading to ad hoc activities, a lack of shared direction and a generally low level of unity of effort. Where present, annual work planning by sections, components and offices tends also to be ad hoc and not oriented in line with either a standard template for work plans or the results framework of the Mission Plan. The impact of this may be seen in the inefficient use of limited resources (particularly for projectised activities), a lack of strategic direction in mission operations and ultimately ineffective mandate delivery with respect to adding value in conflict management terms. As noted above, this can be observed in several recent and ongoing missions in the tension between political strategy/conflict management objectives and POC.

To counteract this institutional tendency towards fragmented and incoherent operational delivery, Mission Plan implementation should be executed and reviewed in concrete, time-bound periods of less than one year (preferably on a quarterly basis). This will strengthen the shared responsibility of the senior leadership group for ongoing strategic management of the mission by establishing regular occasions for activities and initiatives to be cross-checked against the SRSG/HOM's expressed intentions and the objectives of the Mission Plan. Routine, collective oversight by senior managers will, in turn, encourage mutual accountability for delivery, supported with greater use of results-based work planning aligned with the Mission Plan and the use of dashboard-type briefings that update senior management and the SRSG/HOM on the status of strategic objectives. In 2023–24, the MINUSCA mission in CAR began to make significant innovations in this direction, leveraging a new online application for strategic planning that is part of the UN's Umoja resource management platform. Periodic, routine oversight of the Mission Plan in this manner enables the SRSG/HOM and senior managers to collaborate in the ongoing strategic management of the mission in a more structured and intentional manner.

An additional gap often experienced in operational delivery by complex missions is that between the Mission HQ (MHQ) and its decentralised field offices, usually located in key regions for mandate implementation. While field offices are usually in closer physical proximity to the key drivers of ongoing conflict and instability, and better able to identify priorities for action by the mission from one month to the next, it is the sections and components at

MHQ that are the resource managers. Decisions on assignment of resources (financial, staff, support) to specific activities can and too often are taken at the MHQ level with little to no advance consultation with Heads of field offices. Not only should this be corrected with regular region-specific briefings for line managers on key needs, led by the respective Head of Office, but Heads of field offices should participate in all MHQ-led senior management meetings as a matter of course. It is an emerging good practice for complex missions to have a joint operational planning unit – with civilian, military and police planners – to organise regional operational planning group (OPG) exercises in support of Heads of Office, to develop regional operational plans that align with the Mission Plan and provide concrete direction to MHQ sections and components on prioritised resource allocations.

#### *4.4.2 Restoration and Extension of State Authority (RESA)*

It was noted above that stabilisation mandates in UN peacekeeping have usually featured a central role for restoration and extension of state authority (RESA). For some analysts, this suggests that “the overall purpose of stabilisation is to achieve legitimate governance over territory, which means priority must ultimately be given to those non-military activities that can deliver long-term stability” (Williams and Bellamy 2021: 219). Indeed, in the debate over the use of force in peacekeeping versus counterinsurgency operations, the military-forward approach has tended to obscure a key problem in all of this, which is the challenge of statehood/state legitimacy, or what some have called “ungoverned spaces” (Clunan and Harold 2010).

Where state authorities do not exercise effective (or legitimate, in the eyes of local communities) control over territory, this leads to the eventual establishment of non-state forms of local control, some of which may be quite malign and linked to transnational criminal and terror networks. Stabilisation, in this context, is still chasing symptoms too much – such as the presence of non-state armed groups or terrorist groups – and not addressing the core challenge of how to support the reestablishment of effective control in peripheral regions by legitimate governance and security institutions. As Berdal and Sherman note, “non-state forms of governance ... [with] the degree of local legitimacy they sometimes enjoy” can “either thwart or be made to support the objectives of UN peace operations” (Berdal and Sherman 2023, 10).

As a matter of practice, that process has to be undertaken through tailored dialogue and institution-building, enabling better local political and economic participation and development, rather than through force of arms or the outdated “clear-hold-build” notions of counterinsurgency (Boutellis, Mechoulan and Zahar 2020). But for such a complex undertaking central to multiple peacekeeping mandates, it is striking that the UN has yet to articulate a model concept of operations or other similar policy framework for RESA. A useful best-practice review by DPKO some years ago did identify some broad themes relevant for operational planning, but was too abstract and lacking in

doctrinal/policy authority to drive coherent practice on the ground (United Nations 2017a). The review touches briefly on implementation, but the organisation has yet to tackle how the imperatives for presence, capacity and legitimacy should translate into concrete action and programming by mission sections and UN agencies in the field. More recently, a UN study in late 2019 noted that RESA efforts “have been primarily context-driven and have not been guided by clearly delineated policies and approaches, nor informed by lessons learned and best practice” and that missions with RESA mandates “do not generally develop whole-of-mission [R]ESA strategies encompassing the multi-sectoral work of their substantive components” (United Nations 2019, 10). Within missions, cross-component unity of effort needs to bring together local governance (civil affairs and mediation), justice/corrections/rule of law and policing capacities into integrated operations in priority areas that align with a more politically-informed and less technocratic understanding of national and local needs. But sustainable effects in this complex area also require missions to partner with UN agencies, particularly with UNDP, that have programmatic resources and longer-term presence to anchor integrated efforts (Curran and Hunt 2020).

The operational and tactical approach on this in the field is too often incoherent at the moment (Guéhenno 2015) and deserves a thorough rethink that would benefit greatly from concrete policy and guidance based on a review of recent mandate implementation. In Mali, for example, MINUSMA was mandated to support RESA both in the north (under the terms of the Algiers peace agreement) and in the centre, but the mission did not work with Malian central and local authorities in a concerted manner to achieve sustainable effects in agreed regions/localities of priority concern. Similarly, the 2019 UN study found that in DR Congo, MONUSCO’s efforts had evinced a “failure to focus ... on the presence-capacity-legitimacy nexus and to ground [R]ESA efforts more firmly within the political and security objectives of the mission,” resulting in “the perception that limited measurable transformational impact is being achieved in terms of legitimacy” (United Nations 2019, 25).

These operational shortfalls should be a cause for further internal reflection at UNHQ and among Member States. How can the UN support the return of local governance, police and justice institutions that will be seen as legitimate by local communities, some of which have taken up arms against the state and/or against each other (with or without allying with transnational terrorist movements)? How do we work with national line ministries to better understand what their priorities and constraints are with available capacities for deployment of civil servants, judges and police? How can other partners (UN agencies, IFIs, donors) work with national machinery of government (e.g. finance ministries) to spur meaningful transfer of resources to lower levels of governance? For some, the weakness of state legitimacy calls for a more bottom-up, focused approach to building the rule of law (Osland and Peter 2021), though this would seem to be unlikely to improve prospects for host state consent if not based on national ownership and priorities.

Finally, supporting the extension of state authority in a legitimate and sustainable manner will require – in the short term – the provision of area security that can deter extremist armed groups from attempting to seize de facto control. This should be an important added value for peacekeeping missions and arguably the main effort for mission military components in these situations (as opposed to physical POC). While there has been a surge of policy on how military units should ensure physical POC, there is a dearth of such guidance for coherent joint civilian-military support to RESA in line with UN principles.

#### *4.4.3 Political Strategies: Thinking Small From the Middle Out*

The need for a viable conops for RESA, in turn, raises the challenge of how best to engage with non-state actors that control significant areas of territory, especially if they have an established degree of legitimacy (amounting to effective control) with local communities. As the HIPPO report noted well in 2015:

When it comes to support to State institutions, local people often have deep misgivings about the prospect of their expansion, particularly if the State is perceived as tainted by corruption or exclusionary politics. Supporting programmes and public institutions that have legitimacy in the eyes of communities is critical for sustaining peace.

(United Nations 2015)

Country studies of non-state forms of legitimacy confirm that regions of so-called fragile statehood are generally places in which diverse and competing claims to authority and control co-exist and overlap.

In such an environment, the “state” does not have a privileged position as the political framework for the provision of legitimate security, welfare and representation. Instead, it has to share authority, legitimacy and capacity with other local, de facto structures and hybrid political orders that can differ considerably from the Western state model (Boege et al. 2008). In Mali, such a hybrid political order has been emerging out of the constellation of Tuareg nationalist groups that had signed the 2015 peace agreement: the *Cadre Stratégique Permanent* (CSP). Coordination through the CSP – fostered initially through meetings in 2021, convened by an Italian NGO – has increased the scope and effective control of these groups over northeastern Mali between their strongholds in Kidal, Menaka and Gao.

The Wane report rightly notes (as did the HIPPO report before it) that all missions must be guided by a political strategy: “UN field missions will have the best chance of success where they are implemented as part of a comprehensive framework that seeks to address the causes of conflict and insecurity through the pursuit of sustainable political solutions” (Wane, Williams and Kihara-Hunt 2024, 30). While political strategies should address the full

range of strategic objectives for conflict management and sustainable peace, and set priorities within these, the default approach by mission planners in the field has been to set out such comprehensive plans at the national or theatre-wide level. Such an approach squares well with the typical content of a Security Council mandate, but can be near-impossible to implement in practice over a 12-month timeframe. Ambitious strategies, in other words, have not usually been a pathway to peacekeeping success, particularly in contexts of contested legitimacy and hybrid political orders (Day and Hunt 2020). The current emphasis on data-driven monitoring and reporting has, if anything, pushed the system to invest even further in these elaborate top-down plans and accompanying metrics for measuring linear performance.

What may well be needed instead is to start thinking small instead of big, regional/local in addition to national, and seizing opportunities to support sustainable effects where local conditions and relevant actors have the requisite leverage, capacities and commitment for success. For example, it has been argued that in collapsed states such as Yemen, the first step in reconstituting public authority should consist of developing institutional links between remnants of state bureaucracies and *de facto* local authorities that are achieving tangible, measurable outcomes on the ground, to restore some coherence and coordination in basic service delivery and public order. In this way, focusing on this “middle” layer should come before addressing larger questions of the constitution-making process and constitutional design (Mansour and Salisbury 2019). Such a “middle-out” approach offers a more flexible and decentred orientation suitable for crafting more modest political strategies in the face of hybrid political orders. This kind of perspective would support greater resort to adaptable, area- and situation-specific initiatives in the field that would build sustainable peace through aggregation of small successes that nevertheless link national institutional roles and capacities with local needs and expectations of legitimate authority.

Part of getting away from the grand-design implementation rut that we are arguably now in also would entail taking a more ethnographic, less linear, and more context-driven approach that analyses and engages with conflict dynamics on their own terms, not the terms that we would wish, or what is laid out in a stalled peace agreement or even in a Security Council mandate. How can practitioners better engage with and leverage conflict actors and communities on the terms that they are setting out for their own peace, their own understanding of legitimacy, and desired outcomes? As Guéhenno has recently argued, “the priority should never be for the international community to try to assemble the building blocks of a functioning state” but instead to take a political economy approach that will “identify the political dynamics that shape post-conflict societies, and ... empower in a systematic way those groups who have a genuine interest in real change” (Guéhenno 2023, 39).

Another part of this “thinking small” orientation to implementation would entail looking to make incremental progress where possible, whether at central or local levels or (ideally) a combination of those. In recent

discussions on how to accelerate SDG implementation among UN development practitioners, the concept of “simplicity” has been proposed as a way to identify and promote connections across the complex SDG agenda in specific country situations where relative success in one SDG can be used to leverage progress in another. What can the application of an idea like simplicity do for creative peacekeeping practice in the middle, “hybrid order” space of complex conflict situations? Can this be used to break down protracted conflict into achievable wins that demonstrate proof of concept for more ambitious targets down the road, and build buy-in of conflict actors slowly but sustainably? It has been argued, for example, that in Mali, CAR and South Sudan, increased use of political-economic strategies prompted greater political engagement by UN missions at the local level, including through mediation and peacemaking efforts that have helped to manage violent conflict between armed groups and communities in a way that enhanced prospects for progress at the national level (Berdal and Sherman 2023).

#### 4.5 Conclusion

The end of peacekeeping has been heralded before, most memorably during the 1990s when the mandate and practices of UNPROFOR and UNAMIR (derived from the era of classic, Cold War peacekeeping policy) proved to be wholly unsuitable for the realities of the fall of Yugoslavia and genocide in Rwanda. We may not be at such a stark point of inflection now, but it seems clear that peacekeeping practice once again needs to inform policy and help to chart a more pragmatic future for this flag-bearer of multilateral cooperation in peace and security. It seems to be in the nature of peacekeeping that in those moments when major powers suppose it to no longer have any use, it suddenly once again becomes the only tool available for an urgent need. And we cannot know for certain where and when we will need it again. Ukraine, Palestine, Haiti and Syria all loom as potential peacekeeping theatres, should the Security Council determine, together with national authorities and conflict parties, that conflict management requires its unique combination of stabilising presence and international legitimacy.

Before that moment comes again, then, UN headquarters, major powers and friends of peacekeeping alike should – once again – take stock and ensure that it is fit for future purposes. In the current international context of complex challenges, divisions and violent conflict, it seems somehow appropriate that the future of peacekeeping should be defined more by the experience of recent missions in the field, and less by high-level normative orientations at the level of strategic policy in New York and the capitals of major powers. But if peacekeeping is to be more pragmatic in future iterations, after a decade in which no new missions have been mandated, it should at least return to an unerring focus on conflict management as the main effort of any mission.

From this perspective, mission mandates and structures should be as large or small as the needs of the conflict situation demand, and more attentive to host state buy-in, institutional capacities and political will. So, in cases where large, multidimensional missions are needed to address complex situations – up to and including stabilisation and interim administration of contested territories (as was done in Kosovo and East Timor some 20 years ago) – the international community would respond with the mandates, personnel and resources needed to achieve sustainable conflict management effects. And in cases where a focused response would be most effective, smaller missions with more limited mandates – perhaps focused on restoration/extension of legitimate authority – would be preferred. This would also call for peacekeeping to be viewed as a point along a spectrum of peace support operations – together with prevention and peacebuilding – that could be deployed in an adaptable and nimble manner more responsive to rapid changes in conflict dynamics, such as seen most recently in Mali. To this end, and from one vantage point at least, attending to the central importance of mission strategic management, political-economic strategies and the nuts and bolts of extension of state authority in practice will go some considerable way to ensuring that peacekeeping remains a relevant and indeed indispensable tool for major powers and conflict actors alike.

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# 5 “Holding the Centre”

## The Contribution of United Nations Peacekeeping Where There is “No Peace to Keep”\*

*Salvator Cusimano*

### 5.1 Introduction

Observers of United Nations peacekeeping often contend that contemporary operations are deployed where there is “no peace to keep” (Bara and Schumann 2023, 2). In such contexts, violence persists and peacekeepers confront attacks against civilians, fatalities among their ranks, and charges of inefficacy in the face of these challenges. Some observers have cited a “crisis” in peacekeeping, which has seen its budget and personnel steadily decline since 2015, with no new operation deployed since 2014 (Kenkel and Foley 2021). National authorities and civilians in the countries where peacekeepers are deployed have called for missions to depart, citing their ineffectiveness in improving security and protecting civilians (Russo 2022). The abrupt withdrawal of MINUSMA (United Nations Multidimensional Integrated Stabilization Mission in Mali) from Mali in 2023 at the transitional authorities’ request illustrated this trend (International Crisis Group 2023a). Taken together, these developments have led some observers to question the relevance of United Nations peacekeeping in resolving present and future wars (International Crisis Group 2023a).

At the same time, research suggests that peacekeeping operations are effective, particularly in contexts where there is “no peace to keep”. Walter, Howard, and Fortna (2020) found that studies have consistently pointed to the effectiveness of peacekeeping at “reducing violence in the midst of war” (Walter et al. 2020, 1706), citing studies suggestive of peacekeeping operations’ contribution to “lower rates of civilian and combatant deaths in civil wars” (Walter et al. 2020, 1709), “reducing the geographic spread of conflict, both across borders and within countries experiencing violence” (Walter et al. 2020, 1710), and “the successful implementation of peace settlements” (Walter et al. 2020, 1710).

Moreover, the recent retrenchment in peacekeeping belies the fact that, despite their divisions, Security Council members remain largely unified in their support of peacekeeping operations in general (United Nations 2024a). When

\* The views expressed herein are those of the author and do not necessarily reflect the views of the United Nations.

peacekeepers have recently found themselves under fire, both literally and figuratively, the Security Council has issued strong statements in their defence (e.g. United Nations 2024b). The Pact for the Future’s affirmation that peace operations remain “critical tools to maintain international peace and security” despite the complex challenges they face would appear to validate this observation (United Nations 2024c, 16).

In this light, how can perceptions of the impotence of peacekeeping where there is “no peace to keep” be reconciled with research consistently pointing to its effectiveness in limiting violence and implementing peace settlements amidst war? How can assertions of peacekeeping’s irrelevance be squared with the resilience of its mandates and the continued participation of diverse nations in peacekeeping, even where there is “no peace to keep”?

This chapter suggests that these paradoxes can be understood by examining more closely the ways in which peacekeeping missions actually operate under conditions where there is allegedly “no peace to keep”. Specifically, it argues that contemporary peacekeeping operations are adept at “holding the centre” of complex conflicts, which can be illustrated in two principal ways. First, peacekeeping operations hold a physical and ideational centre in the conflict, limiting violence by creating space for interim understandings between stakeholders. Second, peacekeeping operations hold a geopolitical centre in the conflict, moderating diverse interests often brought to bear on the conflict by political, military, and economic actors. In this sense, this chapter seeks to bridge what Roland Paris (2023, 235-236) has characterized as micro- and macro-level perspectives on why peacekeeping operations are deployed and what their future prospects may be.

This chapter draws on the case of MINUSMA in Mali to suggest that while “holding the centre” illustrates the unique strengths of peacekeeping, it also underlines its limitations. On the one hand, “holding the centre” builds on the fundamental principles of peacekeeping,<sup>1</sup> in such a way that it may help explain why research consistently finds that peacekeeping has a positive impact even in the most challenging environments. On the other hand, the expectation of host state authorities and populations that peacekeeping will resolve the insecurity they face means that “holding the centre” alone may be insufficient for operations to retain consent. The chapter concludes with reflections on what this means for the future of peacekeeping.

## 5.2 “No Peace to Keep” in Context

The first United Nations peacekeeping operation described as having “no peace to keep” appears to have been the United Nations Operations in the Congo (ONUC), whose blue helmets battled Katanga secessionists from 1960 to 1964 (Lefever 1968, 4). Besides a handful of references in literature to United Nations peacekeeping operations in the Middle East having “no peace to keep” in the 1980s (Nelson 1985, 2), it was in the early 1990s that the phrase “no peace to keep” came into common use. As peacekeeping

operations deployed with unprecedented frequency into various stages of civil wars, the phrase entered the mainstream in the face of mounting peacekeeper fatalities and well-documented failures to protect civilians in places like Rwanda and Srebrenica (Tharoor 1995, 408-410).

By the time a new wave of operations deployed starting in 1999 and into the first decade of the new millennium, peacekeepers confronted intense violence that observers characterized as genocide (Badescu and Bergholm 2009, 295),<sup>2</sup> proxy war (Tull 2009, 225-226),<sup>3</sup> and organized crime (Cockayne 2009, 79),<sup>4</sup> often in the absence of a clear political settlement involving the perpetrators of violence (Kreps 2010, 91). This trend continued into the next decade. As certain operations deployed in the early 2000s began to close, the Security Council having deemed their mandate to have been implemented (United Nations 2018a),<sup>5</sup> others gained more robust stabilization mandates to confront persistent violence (Russo 2021).<sup>6</sup> New operations in Mali in 2013 and the Central African Republic in 2014 were endowed with robust mandates and capabilities commensurate with ongoing violence in their theatres of operation. Through these two decades, the “no peace to keep” frame remained prevalent as peacekeeping operations sustained fatalities among their personnel, bore witness to massacres of civilians and spiking violence, and faced calls for their departure (Goldewijk and Soeters 2018).

The current deployment of peacekeepers, where there is “no peace to keep”, thus, represents evolution more than novelty. It also underscores the relative resilience of peacekeeping with “no peace to keep”. The Security Council, General Assembly, and Troop- and Police-Contributing countries learned and adapted from these experiences. The advent of robust mandates, particularly for the protection of civilians, can be attributed to lessons from the failures of the early 1990s (Gilder 2023, 321-323); the emergence of multidimensional stabilization operations can be attributed in part to the recognition that situations of “no peace to keep” may require an integrated civilian-military approach to both quelling violence and addressing conflict drivers linked to domestic politics and governance (Andersen and Engedal 2013).

While this does not signify that the United Nations has resolved the dilemmas it has faced over the last three decades, it does mean that the current form of peacekeeping operations emerges from deliberate responses to these dilemmas. Having taken this form, peacekeeping has proven resilient where there is “no peace to keep”, despite retrenchment, because its operations have come to serve a particular purpose in resolving wars. The following sections suggest that this purpose is “holding the centre”: not to resolve wars by themselves, but to engage in conflicts in such a manner that fosters moderation both within the theatre of conflict and in the arena of geopolitics.

### 5.3 Holding the Centre

Several studies have correlated the size and nature of the uniformed components of peacekeeping operations with lower levels of violence of various

forms, but relatively few studies have explored the importance of civilian components in explaining the role of peacekeeping in reducing violence (Asano 2023, 289-292). Fewer, still, have examined the combined effect of civilian and uniformed components working together, as they do on a daily basis on the ground. Moreover, although existing research provides insight into the mechanisms by which peacekeeping operations influence the course of the conflicts into which they are deployed, it is less developed in terms of placing peacekeeping operations into their broader geopolitical context. Roland Paris (2023, 235-236), for example, has noted that much existing research contributes to “‘micro’ theories of peacekeeping” concerning their internal characteristics and local contexts, while the “‘macro’ relationship between international politics and peace operations” remains relatively undertheorized.

Peacekeeping operations’ role in “holding the centre” offers a window into both the “micro-” and “macro-” dimensions of how peacekeeping operations may contribute to resolving wars, while accounting for the role of their civilian and uniformed capacities in so doing. At the micro-level, peacekeeping operations create physical and ideational space for interim understandings that limit violence. At the macro-level, peacekeeping operations moderate diverse geopolitical interests that shape the conflicts in which they are deployed – not to mention their own mandates and composition.

### *5.3.1 Creating Space for Interim Understandings*

When there is “no peace to keep”, peacekeepers use their uniformed and logistical capacities to create space for dialogue to take place, or to transport parties and key stakeholders to talks. Peacekeepers also engage with these actors and draw on their technical expertise to facilitate dialogue. Allard Duursma (2023, 1405) has shown that both “the capabilities-based and the mediation-based” logic of peacekeeping contribute to ceasefires that may not definitively end a conflict, but which may reduce violence and provide space for processes that might lead to a more definitive political solution. Peacekeepers’ perceived impartiality plays an important role in this process (Duursma 2023, 1409). This can also help explain several notable findings in research, such as the finding that peacekeepers mitigate attacks on aid workers (Levin 2023) or that peacekeepers boost the effectiveness of mediation (Clayton and Dorussen 2022).

Peacekeeping missions achieve this by creating physical spaces for dialogue in which parties can participate in talks at safe, neutral locations or engage in shuttle diplomacy if they are not prepared to meet directly. Whether at a hotel in the capital city or beneath a mango tree in an outlying village under the control of armed groups, personnel from the Special Representative of the Secretary-General to rank-and-file staff in substantive sections like political affairs, civil affairs, and disarmament, demobilization, and reintegration (DDR) facilitate discussions with a range of political stakeholders. Uniformed components, meanwhile, provide security to both United Nations

personnel and their counterparts. Sometimes, uniformed personnel facilitate or participate in dialogue themselves, particularly on a “military-to-military” basis in what some practitioners have called “peacekeeping military mediation” (Gyllensporre 2024, 83).

The Mission’s own facilities – whether its headquarters, field offices, or outlying temporary operating bases – host discussions or facilitate dialogue among the conflict parties, authorities, and community representatives under the security offered by uniformed components (Zahar and Mechoulam 2017). This speaks to peacekeeping missions’ ability to project into remote, conflict-affected areas, often as the only actor able to do so independently when there is “no peace to keep”. Honed over decades of learning and adaptation, peacekeeping missions’ civilian and military aviation, transport, engineering, supply, and medical capacities enable rapid, sustained deployment amidst austere conditions to reach the parties and communities where they are. These logistical capabilities are also frequently used to transport stakeholders to the site of talks taking place domestically or abroad.<sup>7</sup> In short, “the centre” is a place, and peacekeepers are adept at conjuring it out of challenging environments and at helping key stakeholders get there.

Mediation mandates and the diverse specialized capacities that comprise contemporary peacekeeping operations allow them to facilitate talks, lend their technical expertise to solutions on issues ranging from land tenure to disarmament, and help restore local conflict resolution mechanisms and rule of law institutions (United Nations 2017). Additionally, they can offer services that can help the parties commit to an agreement or enable civilians to feel safer: receiving and disposing of belligerents’ weapons, identifying cease-fire violations, or stationing troops or dispatching patrols in key locations (Gyllensporre 2024, 81-111). Research suggests that their impartiality in these tasks may make them more effective in this role than other third parties (Nomikos 2022). Here, “the centre” is an idea, and peacekeepers can make it feel within grasp.

As a result, when peacekeeping operations are present where there is “no peace to keep”, political processes that do emerge are more likely to be inclusive. As already suggested, mission logistics can eliminate physical barriers to access; while tools like programmatic funding or quick impact projects can enable and create incentives for diverse stakeholders to participate in peace processes (Boutellis et al. 2020, 31). This can be particularly beneficial for the participation of women and youth who may face physical, cultural, and security barriers to participation. Research findings that “multidimensional peacekeeping operations are conducive to growing levels of women’s empowerment” appear intuitive in this light (Blanton et al. 2023).

Inclusion refers not only to civil society but to belligerents. This is particularly important given that the high-level leadership of armed groups, for example, may exercise only tenuous control over the rank and file on the ground who are capable of perpetrating violence or ending it. There may also be actors who fall outside of the scope of a peace process, but who may play

a similarly decisive role in the continuation or cessation of hostilities. The ability of peacekeepers to maintain contact with such actors, such as through military-to-military engagement, can help to mitigate violence (Gyllensporre and Edström 2024, 19). Meanwhile, operating within a global multilateral organization allows peacekeeping missions to link local peace efforts with processes at national, regional, and international level (Boutellis et al. 2020, 24). Thus, in addition to being a place and an idea, “the centre” is also a constituency, and peacekeeping helps to enlarge it.

The experience of MINUSMA in Mali illustrates how peacekeeping operations’ unique capacities enable them to “hold the centre” within the theatre of conflict. MINUSMA focused on stabilizing urban centres, supporting the redeployment of state authority, and providing good offices and technical advice to advance the peace process and political transition in Mali in the wake of a rebellion of armed groups in northern Mali that gave way to the advance of armed actors identified as “terrorist” groups (United Nations 2013a). The Mission worked with the parties to uphold a ceasefire pursuant to an ECOWAS-brokered preliminary agreement signed in June 2013 (Gorur 2020, 129-130). MINUSMA civilian and uniformed personnel hosted talks among military representatives of the parties, deployed troops to sensitive locations, and launched consultations with civil society actors on lessons from past peace processes in Mali (Gorur 2020, 129-130).

When hostilities resumed in the northern town of Kidal in May 2014, MINUSMA helped to negotiate another ceasefire (Boutellis and Zahar 2017, 11-12). When Algeria subsequently assumed the role of lead mediator, MINUSMA used its field offices and ability to project its uniformed and civilian components into northern Mali to maintain dialogue with belligerents and communities (Boutellis and Zahar 2017, 11-12). When, in June 2015, the parties’ readiness to sign the Accord for Peace and Reconciliation negotiated in Algiers came into doubt amidst renewed hostilities, MINUSMA used its good offices to again help the parties reach a ceasefire and deployed troops to take responsibility for the security of disputed towns (Boutellis and Zahar 2017, 20).

After the Accord was finally signed by all parties on 20 June 2015, MINUSMA’s role as Secretariat of the main political follow-up committee and its Force Commander’s presidency of the military follow-up committee formalized the Mission’s convening role. The Mission’s uniformed and civilian components supplied substantive expertise to support the parties in implementing their commitments, whether in deploying interim authorities to northern Mali or launching joint patrols of signatory armed group ex-combatants alongside government forces (Wane 2024). The Mission advocated for the inclusion of civil society and leveraged the Trust Fund it managed to support initiatives to this end, contributing, for example, to considerable gains in the representation of women in the political follow-up committee (Lorentzen 2020).

In response to proliferating violence in central Mali from 2017 onwards, MINUSMA worked with government reconciliation actors, NGOs and

community leaders to broker peace agreements and ceasefires at the local level that helped reduce violence, if only temporarily and in relatively limited geographical areas (Boutellis et al. 2020). Here, too, the Mission's projection power via its field offices and temporary operating bases enabled it to work in spaces inaccessible to other actors. Sometimes, this meant facilitating their access to conflict parties and communities; at other times it meant hosting dialogue and other activities related to the implementation of the Accord on or near the Mission's premises.<sup>8</sup> The Mission's hosting of the first meeting of the high-level political follow-up committee in Kidal, in northern Mali, was a milestone in this regard (United Nations 2021).

Despite these efforts, violence and insecurity worsened as time passed, particularly in central Mali (van der Lijn 2019, 39-43). Although the ceasefire between the signatory parties to the Accord largely held in northern Mali, signatory groups increasingly clashed with groups characterized as "terrorist" or "extremist", which also attacked civilians, MINUSMA peacekeepers, and national and international security forces (Gorur 2020, 134). Intercommunal violence in central Mali, exacerbated by the presence of "extremist" actors, reached shocking levels (Gorur 2020, 126). All along, implementation of the Accord stalled amidst allegations that the parties lacked sufficient political will to implement it (Gorur 2020, 134).

MINUSMA faced growing charges of ineffectiveness from the authorities and the population. Security Council members, observers of peacekeeping, and Secretary-General Antonio Guterres himself suggested that there was "no peace to keep" in Mali (United Nations 2023a). Eventually, the transitional authorities of Mali requested the Mission's immediate departure during deliberations over the renewal of its mandate in June 2023. The authorities cited, among several factors, the Mission's inability to live up to what they saw as its fundamental purpose: to improve security (Mohamed 2023).

In summary, MINUSMA appeared to embody the role a peacekeeping operation can play in "holding the centre" where there is "no peace to keep". However, the persistence of violence – albeit largely outside of the Algiers framework that MINUSMA had been mandated to support – began to call into question the rationale for the Mission's deployment. While "holding the centre" at times meant MINUSMA mitigated violence between the signatory parties and belligerents and created conditions for a peace process that was more inclusive, large segments of the Malian authorities and population expected MINUSMA to fight terrorism. Indeed, this expectation had been voiced in 2013 as the Security Council considered options for deploying a peacekeeping operation to Mali; consent among the Malian transitional authorities for an operation designed instead for political processes and stabilization was reportedly ambivalent (Boutellis 2013). In this sense, while "holding the centre" may have been an important contribution to resolving central aspects of the conflict in Mali, it was insufficient to sustain consent for MINUSMA's deployment.

### 5.3.2 *Moderating Geopolitical Interests*

The theatre of conflict never exists in a vacuum; it is part and parcel of geopolitics. The perpetrators of violence often span borders or draw support from external sponsors. Key drivers of violence are often related to the strategic interests of myriad international actors. Violence in one country can spread to its neighbours. Indeed, observing that “peacekeeping missions are too often operating in areas where simply there is no peace to keep”, Secretary-General António Guterres has stated that “[instability] in many places around the world is a by-product of instability in power relations and geopolitical divides”. (United Nations 2024d)

Such divides have shaped not only the conflicts peacekeeping missions are deployed to address, but the missions themselves. Observers frequently cite divisions among Security Council members as a primary reason for the “crisis” facing peacekeeping (Kenkel and Foley 2021). Moreover, conflict parties, host country authorities, and communities have at times perceived peacekeeping operations to be too closely aligned with certain geopolitical interests (Gregory 2023), threatening to undermine the impartiality that undergirds a mission’s operational role in “holding the centre” as described above. In some cases, such perceptions have been fuelled by misinformation and disinformation that itself may be related to geopolitical competition (Trithart 2022, 3).

While these dynamics indicate that United Nations peacekeeping operations are not immune to geopolitics, they also highlight their responsiveness to diverse and divergent geopolitical constituencies. Given that peacekeeping missions are established and operated only via multiple consensus-based negotiation processes, they embody consensus. Their multinational composition, good office’s role, and reporting functions mean they can serve as a platform for interested international actors to engage in a conflict setting without allowing any single one’s interests to predominate. In this sense, peacekeeping may provide a moderating influence on geopolitical competition in conflict zones, providing a possible explanation for the relative resilience of peacekeeping where there is “no peace to keep”. Typically portrayed as causing paralysis, incoherence, or co-optation by narrow political interests, the geopolitics inherent in peacekeeping actually highlights its role in “holding the centre” at the macro-level.

The consensus required to establish a peacekeeping mission and sustain its operations illustrates this. Security Council resolutions setting forth mission mandates are adopted with the votes of at least nine of 15 members; no veto-wielding permanent member can dissent, and in practice, peacekeeping mandates, like most resolutions, are adopted by consensus (Gifkins 2021, 10-11). Every word of the text that is put to a vote has already been painstakingly debated and cleared; every paragraph contains a compromise. The peacekeeping budget and the annual report setting its policy and operational orientations are decided in the General Assembly’s Fifth Committee and C-34

Special Committee on Peacekeeping Operations, respectively, where member states negotiate in regional blocs and aim for consensus (Forti 2022). The generation of force and police units is also subject to the negotiation of memoranda of understanding with contributing countries, a process that is often politically sensitive (Smith and Boutellis 2013). Meanwhile, the principle of consent often gives the host state considerable influence over the form a peacekeeping operation takes – and whether it can deploy at all – during Security Council negotiations, which continues in the negotiation and subsequent interpretation of the status of forces agreement (Gregory and Sharland 2023). The arduous process of reaching agreement in all of these negotiations means that peacekeeping operations reflect not only the consensus of member states but compromise among them, something nearing the centre point of the geopolitical interests at stake in the conflict zones where missions are deployed.

This is visible not only in the process of establishing peacekeeping missions, but in their very composition. Bellamy and Williams (2013, 18-19) have shown that the political, security, and economic interests of Troops and Police Contributing Countries (T/PCCs) are primary motivating factors for deploying to peacekeeping, with some research suggesting that “proximity to the conflict area” is among the best explanatory factors in a country’s contribution to peacekeeping operations (Bove and Elia 2011, 699). As the proportion of troops from T/PCCs that are neighbours of the host state rose from less than 3 per cent in the early 1990s to nearly 34 per cent in 2017 (Williams and Nguyen 2018, 1), “a longstanding, if unwritten, principle” in the United Nations against deploying units from neighbouring countries (Williams and Nguyen 2018, 1) appears to have been weighed against the recognition that regional countries’ national interest can “lead to greater political engagement and is also helpful for generating the political will required to deploy troops to peace operations with robust peace enforcement mandates” (Security Council Report 2024, 29).

Yet peacekeeping missions are not vectors of untrammelled national interest, largely because they have built-in mechanisms to maintain their impartiality even if their framers and contributors have an interest in the conflict. First, the chain of command, Sector Headquarters, and Force Headquarters are multinational, with units usually answering to a Force Commander or Police Commissioner of a nationality other than their own. Although this occasionally engenders challenges for command and control and force generation (The Economist 2021), it guards against the wanton pursuit of national interests. Second, a civilian Special Representative of the Secretary-General normally leads the entire mission, while civilian sections staffed by diverse international civil servants selected in part on the basis of national and regional representation are entrusted with carrying out good offices and technical interventions to address the drivers of conflict, as described above. Certainly, geopolitical considerations influence the appointment of civilian senior leaders (Chai 2024), but in multidimensional missions, there is a

degree of balance between civilian and uniformed leadership and action: no component, and therefore no particular set of geopolitical interests, is entirely preponderant.

These principles extend to the role of peacekeeping in reaching a negotiated settlement where there is “no peace to keep”. Finding a mediator with the right balance of political weight and distance vis-à-vis the parties to be able to convene them while also avoiding perceptions of bias is challenging. Moreover, actors with an interest in the conflict may wish to support the peace process or seek information on its progress towards a settlement or its implementation thereafter, while avoiding perceptions of trying to exert undue influence.

Peacekeeping operations provide a platform for these actors to have visibility and input into the process, without allowing any single one of them to predominate. Missions’ good offices and technical support to mediation processes are delivered on behalf of all member states and frequently in consultation with civil society. Its monitoring activities can “build trust that is essential for mediators to continue the peace process” (Clayton and Dorussen 2022, 154). Meanwhile, given that perception of donor bias can undermine peace processes (Brück et al. 2020, 42), peacekeeping missions’ programmatic funding, management of multi-donor trust funds, and logistical capacities can fund costly aspects of mediation processes while limiting conflicts of interest by placing appropriate distance between donors and the destination of their funds. Peacekeeping missions also collect credible information about the conflict and present it publicly to all interested stakeholders (Clayton and Dorussen 2022, 154). Although quarterly Secretary-General’s reports and briefings to the Security Council on progress in the peace process may sometimes appear antiquated, they are backed by first-hand data collection and vetted drafting processes. Such reporting can serve as a factual and analytical centre in information environments distorted by bias, misinformation, and disinformation, or the perception thereof. Peacekeeping operations are thus instrumental in “holding the centre” of geopolitical interests in the political, operational, financial, and informational aspects of geopolitically charged peace processes.

MINUSMA again provides a window into how peacekeeping operations “hold the centre” at the macro-level. The Malian crisis that MINUSMA was deployed to address was of geopolitical significance to several factors involved in political and military approaches to its resolution (Chauzal and van Damme 2015). MINUSMA itself replaced AFISMA (African-led International Support Mission in Mali), an ECOWAS enforcement operation whose contingents – many from neighbouring countries – MINUSMA absorbed in a “rehatting” process. The United Nations Secretariat had recommended MINUSMA’s deployment only in parallel to Operation Serval (United Nations 2013b, paragraphs 69-70), a French operation that would continue focusing on counterterrorism while MINUSMA supported stabilization and political processes. Some observers, however, have suggested that

MINUSMA was conceived as part of a French “exit strategy” for Operation Serval (Shurkin 2014, 25); the African Union had also voiced the expectation that a United Nations peacekeeping operation replacing AFISMA would conduct counterterrorism (African Union 2013). Under these circumstances, Security Council members vigorously debated the proper place for the use of force under MINUSMA’s mandate, but then unanimously adopted resolution 2100 (2013) setting out the new Mission’s mandate (United Nations 2013a).

When MINUSMA was established on 1 July 2013, it began to support the implementation of the Ouagadougou Preliminary Agreement reached between the Government of Mali and northern armed groups on 13 June 2013, while facilitating further talks with a view to reaching a lasting settlement. After renewed clashes between the Government and northern rebel groups in May 2014, neighbouring Algeria formally took over as lead mediator at the request of the Government of Mali (International Crisis Group 2014, 6). For some observers, this recalled past agreements in Mali that had been signed under Algerian auspices and pointed to continued Algerian interest in the conflict in northern Mali (Boutellis and Zahar 2017, 6) – something that some Algerian officials have disputed, with reference to the supposed geopolitical interests of ECOWAS countries and France as motivations for their political and military engagement in Mali (Ayadi 2024).

In this context, and following Algeria’s decision to invite the UN, AU, ECOWAS, and regional countries to participate as co-mediators, MINUSMA worked with the co-mediators to troubleshoot problems that arose during the mediation, using its presence on the ground in northern Mali to engage with the parties (Boutellis and Zahar 2017, 6). After the Accord for Peace and Reconciliation in Mali was signed in June 2015, MINUSMA in its function as chair of the technical follow-up committee on security (*Comité technique de sécurité*, CTS) invited members of the diplomatic community participate to permit visibility on security issues affecting the implementation of the Accord (Gyllensporre 2024, 85). It also used its role as Secretariat of the main political follow-up committee (*Comité de suivi de l’Accord*, CSA) to ensure meetings were organized, maintain channels of communication between the parties (International Crisis Group 2023b), and provide a channel for civil society engagement (Devermont 2020). Through the Secretary-General’s regular reports to the Security Council, the Mission frequently provided updates on the status of implementation of the peace agreement against objective benchmark criteria (Gorur 2020, 143). When Security Council members became concerned over the stalled implementation of the Accord, MINUSMA worked with the parties to reach a Pact for Peace that initially helped to reinvigorate implementation of measures such as accelerated DDR, launched with MINUSMA assistance (United Nations 2018b, paragraph 5).

Throughout its lifecycle, MINUSMA was composed of uniformed personnel from every continent. Notably, MINUSMA marked the return of several

NATO member states to United Nations peacekeeping on the strength of diverse troop contributions. Reportedly, these contributions reflected NATO countries’ political and security interests and helped to foster greater financial and political engagement of these countries in addressing the crisis in Mali (Boutellis and Beary 2020, 1). Among the Permanent Five members of the Security Council, China (Cabestan 2018) and the United Kingdom (Campbell 2020) contributed contingents to MINUSMA, while French personnel occupied certain key uniformed officer positions. The Mission’s Force Commander was typically European, and its Deputy Force Commander was typically African; the Special Representative and his two deputies generally hailed from African or European nations.

Although MINUSMA’s action to support mediation and conduct operations appeared to “hold the centre” of diverse – and often divergent – geopolitical interests, Mali’s transitional authorities eventually asserted a stronger call for national ownership of the political process, urging MINUSMA to avoid substituting itself for Malian leadership (United Nations 2023b). Amidst tensions between the Malian transitional authorities and their partners in the AU, ECOWAS, G5 Sahel, the EU, and France, observers pointed out that a Malian security cooperation deal with Russia signified the playing out of geopolitical tensions in Mali’s conflict (International Crisis Group 2023c). In the background, misinformation, disinformation, and malinformation are circulating in particular on social media, linked to allegations of foreign interference in Mali (Sauter 2024). When the Malian authorities requested MINUSMA’s departure, they suggested that, in addition to failing to effectively address insecurity, the Mission had contributed to divisions in the country (Mohamed 2023).

#### **5.4 Conclusion**

This chapter has suggested that peacekeeping operations can contribute to resolving wars by “holding the centre”, creating space for interim understandings at the micro-level and moderating geopolitical interests at the macro-level. As this article has shown, peacekeeping’s contribution to resolving wars owes to the way its civilian and uniformed capacities combine to “hold the centre” at micro- and macro-level, within the theatre of conflict and on the geopolitical plane.

Going forward, the relevance of United Nations peacekeeping in resolving wars will continue to depend on “holding the centre” as an expression of its fundamental principles. As this chapter has shown, United Nations peacekeeping may be uniquely placed to maintain some semblance of moderation in contexts where there is “no peace to keep”. Indeed, the historical record and data on peacekeeping where there is “no peace to keep” suggest that claims of the irrelevance of impartial, multilateral operations that enjoy consent of the host government and parties and can resort to the judicious use of force exercised by multinational forces may be premature at this juncture.

The case of MINUSMA in Mali highlights these dynamics, particularly the contribution that peacekeeping can make in contexts where there is said to be “no peace to keep”. Yet the challenges MINUSMA faced, culminating in its withdrawal at the request of the Malian transitional authorities, underscore the limitations of “holding the centre”, regardless of how effective it is at reducing violence or how much it responds to the interests of diverse international stakeholders. When there is “no peace to keep”, an international force whose primary objective is not to neutralize the main security threat may be unwelcome: “holding the centre” within the theatre of conflict may not align with the expectations of segments of host state authorities and population. Furthermore, as geopolitical tensions often run high when there is “no peace to keep”, the geopolitical interests that peacekeeping helps to balance and channel towards productive purposes may become liabilities: “holding the centre” at the geopolitical level may become an impossible balancing act vulnerable to charges of bias from all corners. Thus, as the case of Mali shows, “holding the centre” draws its strength from the fundamental principles of peacekeeping but may be insufficient in sustaining what may, in contemporary peacekeeping contexts, be proving to be the most elusive of these: consent.

If the answer to this dilemma is to promote peace enforcement at the expense of peacekeeping, this chapter suggests that “the centre” may become even more distant. If the answer is to deploy peacekeepers and enforcers in parallel, there must be stronger safeguards to ensure that operational realities and geopolitics do not pull peacekeepers too far from “the centre”. And if the answer is to maintain the status quo, with United Nations missions variously expected to both keep and enforce the peace, the flawed prophecy of the impossibility of peacekeeping where there is “no peace to keep” may ultimately prove self-fulfilling.

## Notes

- 1 Consent, impartiality, and the non-use of force, except in self-defence and in defence of the mandate.
- 2 e.g. UNAMID in Darfur, Sudan. See Badescu and Bergholm 2009, 295.
- 3 e.g. MONUC in Democratic Republic of the Congo. See Tull 2009, 225-226.
- 4 e.g. MINUSTAH in Haiti. See Cockayne 2009.
- 5 e.g. UNMIL in Liberia. See United Nations 2018a.
- 6 e.g. MONUC became MONUSCO in 2010, and the Security Council created the Force Intervention Brigade, authorized to use offensive force, in 2013. See Russo 2021.
- 7 e.g. MONUSCO transported participants to Kenya for Nairobi process consultations and organized local consultations in eastern DRC. See United Nations 2022.
- 8 e.g. on talks MINUSMA hosted in Ogossagou, see AFP 2021, or on the Anéfis local peace process facilitated by MINUSMA, see International Crisis Group 2015, 3-4.

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# 6 Lessons Learned from the History of UN Efforts in Mediation of Smaller and Bigger Conflicts

*Bertrand G. Ramcharan*

## 6.1 Introduction

In an essay in the *Economist* magazine's survey of "The World Ahead 2025," the President of the International Crisis Group, Ms. Comfort Ero, offered "three lessons for peacemaking in an unstable world" (The Economist 2024, 72):

The first is that addressing conflicts before they escalate remains far more effective than waiting for them to burn out of control and trying to make peace. The second is that in almost all conflicts, it is useful to engage all the warring parties to hear how they articulate their perspectives, however hardline and obstreperous they may be. Third, as much as great power competition and middle power engagements are shaping the conflict landscape, local dynamics are often the key to understanding what makes parties fight, and how to persuade them to stop.

In Ms. Ero's assessment, the United Nations, "which was at the centre of international peace efforts 30 years ago, is now a marginal player in Ukraine and Gaza, and losing traction in Africa." This is taking place at a time when:

We are in the middle of a very violent decade. Since 2020 a series of major wars – in Ethiopia, Myanmar, Ukraine, Sudan and the Middle East – has claimed hundreds of thousands of lives. The number of smaller conflicts is also rising. Over a quarter of countries globally are afflicted by some form of serious violence. The year ahead is unlikely to see much of a let up.

(The Economist 2024, 72)

The 1990s and 2000s, she continued, had seen peacemakers and peacekeepers make real progress in countries from Liberia to Timor-Leste.

Today, such peacemaking successes are fading into the past. The last comprehensive peace agreement ending a civil war, between the

Colombian government and Marxist rebels had been signed in 2016. As conflicts have spiked in the years since, peacemakers have been able to do little more than craft temporary ceasefires or humanitarian pauses. (The Economist 2024, 72)

This is a sobering assessment of international peacemaking on the eve of 2025.

The website of the UN Department of Political and Peacebuilding Affairs (DPPA) notes that UN peacemaking had flourished in the decade following the end of the Cold War, as many longstanding armed conflicts were brought to an end through politically negotiated settlements. The UN, it claims, “continues to play a preeminent role in peacemaking,” working increasingly in partnership with regional organizations in order to bring ongoing conflicts to an end, and to prevent new crises from emerging or escalating. One has the impression that this was written some time ago.

DPPA, it continued, anchors the UN's peacemaking efforts, monitoring global political developments and advising the Secretary-General on the prevention and management of crises, including through the use of his diplomatic “good offices” to help parties in conflict settle disputes peacefully. The Department provides support to numerous envoys of the Secretary-General engaged in peace talks or crisis diplomacy, while overseeing field-based United Nations special political missions with mandates to help countries and regions resolve conflicts and tensions peacefully (UN 2024).

Indeed, even in a bleak situation, the United Nations may be seen constantly striving for peacemaking in diverse ways: through peacebuilding efforts globally, seeking to address the seeds of conflict; through efforts for the prevention of conflicts by deploying preventive diplomacy; through training and assistance in techniques of peacemaking and mediation; and through patient engagements in tackling actual conflicts, calling in aid approaches to peacemaking that are tailored to each situation.

This chapter will distil ten lessons from the history of UN efforts in the mediation of smaller and larger conflicts. I draw these lessons from my experience as Chief of the Speechwriting Service of the Secretary-General from 1988 to 1992, during which time I was a member of task forces, among others, on the Iran-Iraq conflict and on the Iraq-Kuwait conflict; as Director of the International Conference on the Former Yugoslavia between 1992 and 1996; as Director in the UN Political Department from 1996 to 1998; as Deputy and then Acting UN High Commissioner for Human Rights between 1998 and 2004; as Head of a UN Assessment Mission on the conflict in Georgia in 2008; as Member of a High Level Panel of the UN Human Rights Council on the situation in Darfur; and as Member of a Commission of Inquiry into the situation in Zimbabwe.

At the International Conference on the Former Yugoslavia, we were integrally involved in peacemaking, peacekeeping, peacebuilding, and humanitarian efforts in relation to the situations in Bosnia, Croatia, the former

Yugoslav Republic of Yugoslavia, Montenegro, and the delicate situation in Kosovo. During my time as Deputy High Commissioner for Human Rights, we undertook a mission to Ivory Coast in December 2002 in the midst of a raging war in that country.

I will now discuss the ten lessons in turn.

## **6.2 The UN is and Should Continue to Be Involved in the Ongoing Promotion and Practice of Preventive Diplomacy**

Preventive diplomacy, according to the website of the UN DPPA, refers to diplomatic action taken to prevent disputes from escalating into conflicts and to limit the spread of conflicts when they occur. While it is conducted in different forms and fora, both public and private, the most common expression of preventive diplomacy is said to be found in the work of envoys dispatched to crisis areas to encourage dialogue, compromise, and the peaceful resolution of tensions. Preventive diplomacy can also encompass the involvement of the Security Council, the Secretary-General, and other actors to discourage the use of violence at critical moments (See generally Merrills 2022 and Tanaka 2018).

The Secretary-General, the site adds, provides his “good offices” to parties in conflict both personally and through the diplomatic envoys he dispatches to areas of tension around the world. The DPPA, the website continues, is the principal support structure for those efforts in the UN, providing conflict analysis, planning and support to the work of peace envoys, and overseeing more than a dozen field-based political missions that serve as key platforms for preventive diplomacy. Of these missions, regional offices covering Central Africa, West Africa,<sup>1</sup> and Central Asia have explicit mandates for preventive diplomacy and strengthening the capacity of states and regional actors to manage sources of tension peacefully. Preventive diplomacy is also carried out frequently within the context of peacekeeping missions.

The website continues that the Security Council, as the UN organ with the primary responsibility for peace and security, also has a critical role to play in supporting preventive action. Recent years have seen increased Council engagement and flexibility in addressing emerging threats before they came on the Council’s formal agenda. Through its actions, the Council could send important signals that help discourage violence and open space for preventive action, including by the Secretary-General.

The website adds that the work of the United Nations in conflict prevention extends well beyond traditional preventive diplomacy to involve a broad constellation of United Nations entities operating across a wide range of relevant disciplines – poverty-eradication and development, human rights and the rule of law, elections, and the building of democratic institutions, and the control of small arms, to name just a few.

The idea of preventive diplomacy has captivated the United Nations ever since it was first articulated by Secretary-General Dag Hammarskjöld some

decades ago. Preventive diplomacy was presaged by Article 99 of the United Nations Charter, which allows the Secretary-General to bring to the Security Council's attention threats to international peace and security. From the outset of the United Nations, Secretary-General Trygve Lie used the competence under this Article to gather information about situations, to establish contacts with those concerned, to send emissaries to look closely at situations, and to do whatever he could to head off or contain crises of international concern.

Secretary-General Dag Hammarskjöld knew that the United Nations could do little where there was a direct clash of interests between the superpowers during the Cold War. But he had in mind that, if the opportunity presented itself, he might be able to head off disputes between lesser powers and prevent them from the gravitational pull of the superpowers' contest. Hammarskjöld put down markers on the practice of preventive diplomacy that are still very much in use today. *He* would decide if his efforts might be useful. Judgement was always involved; there was no automaticity about his involvement. He used representatives, whom he sent out on special missions or outposted in particular situations. He had in mind the deployment of a ring of representatives around the world.

Secretary-General U Thant moved Hammarskjöld's vision forward. His role in preventing a nuclear confrontation over the Cuban Missile Crisis must rank as the most spectacular example of preventive diplomacy in the annals of the United Nations, a critical episode that I will describe further later in this chapter. The UN archives contain dramatic materials on his efforts. I documented this in my book, *Preventive Diplomacy at the United Nations* (Ramcharan 2008).

Secretary-General Kurt Waldheim continued the practice of preventive diplomacy. He had his successes in the border disputes between Iran and Iraq in the 1960s. He resorted to appeals in dangerous situations such as the 1973 Arab-Israeli War. He acted speedily in dispatching UN peacekeepers to contain and control that situation and was praised for his efforts.

Secretary-General Javier Pérez de Cuéllar acted successfully when he sent a discreet fact-finding mission to Bulgaria and Turkey in 1989 to help head off the deterioration of a dispute between the two countries.<sup>2</sup> He called for the maintenance of a comprehensive global watch over threats to human security and welfare, and established a unit within the Office of the Secretary-General dedicated to the collection and analysis of information intended to help the Secretary-General provide alerts to the Security Council over situations that could threaten or breach international peace and security.

Secretary-General Boutros Boutros-Ghali took over shortly after the end of the Cold War, when there were hopes of a new world order. In January 1992, the first-ever summit meeting of the Security Council requested a report from him on the future role of the United Nations in conflict prevention, peacemaking, and peacekeeping, which led him to submit the widely-acclaimed *An Agenda for Peace*.<sup>3</sup> Boutros-Ghali practiced preventive

diplomacy in cases such as the war between Eritrea and Yemen, and he supported the establishment of the first-ever preventive deployment of UN peacekeepers in the former Yugoslav Republic of Macedonia.<sup>4</sup>

Secretary-General Kofi Annan furthered the work of his predecessors and submitted three reports on the topic. He exercised preventive diplomacy successfully in the border conflict between Cameroon and Nigeria over the Bakassi Peninsula.

Secretary-General Ban Ki-moon took forward the practice of preventive diplomacy at the UN, and gave courageous leadership on the issue of global climate change, which would be put into the category of preventive diplomacy. He also submitted reports to the General Assembly on preventive diplomacy.

Current Secretary-General Antonio Guterres has offered *A New Agenda for Peace*, in which he has highlighted the centrality of Preventive Diplomacy. I already referred earlier to the ongoing efforts of the current DPPA in the UN Secretariat to support preventive diplomacy.

In 1987, Secretary-General Pérez de Cuéllar advocated that the United Nations system should maintain a Comprehensive Global Watch over threats to human security. This idea retains its value and should be revived.<sup>4</sup> The United Nations has regional conflict prevention centres in some parts of the world, such as North, West, and Central Africa, and Central Asia. It would be sound policy to establish more of these centres. Enhanced cooperation with regional and sub-regional conflict prevention mechanisms would also be worthwhile. It is also important to increase the staff of the DPPA for preventive work.

The Secretary-General, spearheading the roles of the United Nations High Commissioner for Human Rights and of the UN Special Advisers on the Responsibility to Protect and the Prevention of Genocide, should foster a diplomacy of democracy and human rights at the country level. This would facilitate conflict prevention.

The alleviation of extreme poverty is crucial, as is the empowerment of women. These are issues of strategy, as well as of justice. Enhancing human dignity is key to successful prevention.

The idea of preventive diplomacy is one of the great UN ideas that will be around for as long as the world organization exists; for behind it is a simple faith that whatever might be done to prevent crises or conflicts should be considered.

### **6.3 The UN Strives, and Should Continue to Strive, to Address the Root Causes of Conflict Through Global Peacebuilding Efforts and Through Efforts to Prevent and Stop Gross Violations of Human Rights**

At the 2005 UN World Summit, UN Member States created the Peacebuilding Commission, an intergovernmental body tasked with establishing mechanisms to help countries sustainably recover and rebuild from conflicts.

To support this process, the United Nations established the Peacebuilding Support Office and the Peacebuilding Fund, resourced with funding from Member States.

Since then, according to the website of DPPA, the Peacebuilding Fund has financed projects in over 70 countries, in partnership with national institutions, the UN System, civil society, and others. The project's focus is on a range of peacebuilding and nation-building initiatives, including conflict resolution, community reconciliation, justice, human rights, socioeconomic empowerment, and gender equality.

Peacebuilding, the website continues, is also about prevention. Addressing poverty, inequality, discrimination, and injustice – all potential drivers of violence and conflict – is a long-term investment in preventing conflicts. At the end of 2023, the United Nations estimated that more than 360 million people globally needed humanitarian assistance – an increase of over 30 per cent from 2022. Ongoing wars have since exacerbated human suffering and increased humanitarian need.

The human cost of conflict is devastating, and the economic toll is staggering. According to the independent Global Peace Index, wars cost the world nearly US\$20 trillion in 2023. That's over 13 per cent of global GDP, or an estimated \$2,380 per person. To put this in perspective, the cost of violence per person exceeds the average annual income per capita in Africa.

The 2018 UN and World Bank report, *Pathways for Peace*, highlighted the cost-effectiveness of prevention. For example, research by the Institute for Economics and Peace on post-genocide Rwanda found that every \$1 invested in peacebuilding saved the country \$16 over two decades – money that would have been lost in a recurrence of war.

Despite the evidence and the common saying that “an ounce of prevention is worth a pound of cure,” the world military expenditure continues to skyrocket. In 2023, it increased for the ninth consecutive year, reaching a total of \$2.4 trillion.

In comparison, the Peacebuilding Fund asked for \$1.5 billion to support at least 40 countries from 2020 to 2024. By the end of this funding cycle, it was projected to receive less than \$800 million – a little over half.<sup>5</sup>

The Office of the UN High Commissioner for Human Rights and the Offices of the Secretary-General's Special Advisers on the Prevention of Genocide and on the Responsibility to Protect are engaged in ongoing work for the prevention of gross violations of human rights (UN 2024).

#### **6.4 The UN Provides, and Should Continue to Provide, Ongoing Training and Support for Peacemakers**

The website of the UN DPPA records that since the inception of the United Nations, it has played a crucial role in helping to mediate inter- and intra-State conflicts at all stages: before they escalate into armed conflict, after the outbreak of violence, and during implementation of peace agreements.

The Secretary-General and his representatives carry out good offices and mediation efforts at the request of parties to disputes, on the Secretary-General's initiative, or in response to a request from the Security Council or the General Assembly. The Department of Political Affairs (DPA) was established in 1992 to assist in this work, and in 2019, DPA joined forces with the Peacebuilding Support Unit (PBSO) to form the new DPPA.

Successful conflict mediation requires an adequate support system to provide envoys with the proper staff assistance and advice, and to ensure that talks have the needed logistical and financial resources. The United Nations, led by DPPA, has moved over the past several years to sharpen its ability to provide such support to its own mediation efforts as well as to those of partner organizations.

DPPA's Mediation Support Unit (MSU), established in 2006, works closely with the Department's regional divisions to plan and support mediation efforts in the field. Among its functions, MSU provides advisory, financial, and logistical support to peace processes; works to strengthen the mediation capacity of regional and sub-regional organizations; and serves as a repository of mediation knowledge, policy guidance, lessons learned, and best practices.

The Department manages the United Nations Standby Team of Mediation Experts – an “on call” group of experts established in 2008 that can be deployed to assist mediators in the field. Team members have provided support in dozens of negotiations, and have expertise on issues including power-sharing, natural resources and conflict, constitution-making, cease-fires and other security arrangements, and gender issues as they relate to conflict. In addition, all Standby Team experts are expected to mainstream gender considerations in all of their deployments.

Standby team members have the flexibility to deploy on short notice to assist UN or non-UN mediators globally, or to provide analysis and advice remotely. Starting in 2020, the practice of remote or virtual deployments of the Standby Team was substantially expanded so as to meet the evolving needs of mediation actors. With support from donors, the Department has also established a rapid response fund to start up mediation processes at short notice. Advance planning and ready resources are a key to effective early mediation when crises are brewing.

DPPA provides backing to the High-Level Advisory Board (HLAB) on Mediation, established by Secretary-General António Guterres in September 2017. The 18 members of the HLAB – current and former global leaders, senior officials, and renowned experts – back specific mediation efforts around the world with their range of experience, skills, knowledge, and contacts.

DPPA also developed and maintains the online mediation support tool UN Peacemaker. Intended for peacemaking professionals, it includes an extensive database of close to 800 peace agreements, guidance material, and information on the UN's mediation support services.

The UN Secretariat, in cooperation with the UN Staff College, has an ongoing programme of training for UN staff in early warning and preventive diplomacy. This programme started when this author was a Director in the then DPA. The proposal for such a programme of training emerged from his Division in the Department.

The UN Office of Legal Affairs, in cooperation with the Hague Academy of International Law, has an ongoing programme of international and regional training courses on the fundamentals of international law and the peaceful settlement of disputes.

### **6.5 The UN Works, and Should Continue to Work, with Partners to Help Defuse Dangerous Situations of Concern**

Historians acknowledge that the Cuban Missile Crisis was the most dangerous period in human history, when the world came closest to blowing itself up during 13 days, from 16 to 28 October 1962. On 22 October, President John F. Kennedy announced that he had ordered a naval quarantine around Cuba to come into force on 24 October. American and Soviet naval vessels came into close proximity, with a USSR submarine captain authorized, as is now known, to use nuclear weapons in defence of Soviet ships or in self-defence. The efforts of UN Secretary-General U Thant contributed greatly to defusing the crisis.

On 24 October 1962, in his address to the Security Council, U Thant stressed that what was at stake was the very fate of mankind. He called for urgent negotiations between the parties directly involved and informed the Council that he had sent urgent appeals to President Kennedy and Premier Nikita Khrushchev for a moratorium of two to three weeks. On the part of the USSR, it would entail the voluntary suspension of all arms shipments to Cuba. On the part of the United States, it would entail the voluntary suspension of the quarantine, especially the searching of ships bound for Cuba. He also appealed to the USSR Premier and the Prime Minister of Cuba to suspend the construction and development of major military facilities and installations in Cuba during the period of negotiation. He offered to make himself available to all parties concerned for whatever services he might be able to perform.

On 25 October 1962, Premier Khrushchev wrote to U Thant accepting his proposal. President Kennedy also wrote that day that, while he appreciated the spirit that had prompted U Thant's message, the key to the solution of the crisis lay in the removal of the weapons from Cuba. Soviet vessels continued on their way to the quarantined waters. That very day, U Thant followed up with an urgent appeal to the two leaders. He was concerned that Soviet ships already on their way to Cuba might challenge the quarantine and produce a confrontation between Soviet and US vessels, thereby destroying the possibility of negotiations. He therefore requested Premier Khrushchev to instruct any Soviet ships already sailing towards Cuba to stay away from the interception

area for a limited time. He also asked President Kennedy to instruct the US vessels in the Caribbean to do everything possible to avoid direct confrontation with Soviet ships. To each, he stated that if he received the assurance sought, he would inform the other side of it.

President Kennedy immediately accepted his proposal, contingent upon acceptance by the Soviet Government. Premier Khrushchev also accepted the moratorium. He informed U Thant that he had ordered Soviet vessels bound for Cuba to stay out of the interception area temporarily. The next day, on 26 October, U Thant sent a message to Prime Minister Fidel Castro of Cuba informing him of the encouraging responses he had received to his appeals and asking that construction of major military installations in Cuba, and especially those designed to launch medium- and intermediate-range ballistic missiles, be suspended during the period of negotiations.

After the American and Soviet acceptances of U Thant's appeal, and during the crucial time he had obtained for them, President Kennedy and Premier Khrushchev had their own exchange, through letters and messengers, and managed to reach an agreement on the formula that eventually ended the missile crisis. Still, during the evening of 27 October, still seriously worried about the situation, President Kennedy asked Secretary Rusk to secretly contact the former UN chef de cabinet, Andrew Cordier, and provide him with a statement that U Thant might issue if necessary in dire circumstances calling for the removal of American Jupiter missiles in Turkey and the Soviet missiles in Cuba. Rusk contacted Cordier, and they agreed that if Rusk received a further message, he should contact Secretary-General U Thant to issue the statement. In this way, President Kennedy would be seen to agree to a UN proposal rather than a Soviet one regarding the removal of the Jupiter missiles. Ultimately, this was not needed, but this initiative illustrates another way the Secretary-General could offer face-saving solutions in a major conflict.

U Thant travelled to Cuba from 30 to 31 October 1962 for meetings with Cuban leaders. His visit was of importance inasmuch as it gave the Cuban leaders an opportunity to let off steam.

As the agreement was being consolidated, President Kennedy, in his letter of 28 October 1962 to Premier Khrushchev, wrote: "The distinguished efforts of Acting Secretary-General U Thant have greatly facilitated both our tasks." When all of the details had been settled and the crisis was over, the American and Soviet negotiators sent a joint letter to U Thant that said:

On behalf of the Government of the United States of America and the Soviet Union, we desire to express to you our appreciation for your efforts in assisting our Governments to avert the serious threat to peace which arose in the Caribbean area.

(Ramcharan 2008 and Ramcharan 2011)

U Thant had helped save the world from nuclear annihilation in 1963. In similar situations in the future, the Secretary-General could also use Article

99, as a last resort if necessary, if quiet diplomacy does not work. The UN, indeed, must be prepared for this kind of dangerous eventuality. The Russia-Ukraine war, in October 2022, was a particularly grave situation that rapidly approached the risk of nuclear confrontation. According to CIA estimates, the likelihood of Russia using a tactical nuclear weapon was 50 per cent – or even more if the Ukrainians had succeeded in reaching Crimea during a period of their rapid advances on the battlefield (Sanger 2024).

#### **6.6 The UN Assists, and Should Continue to Assist, in Negotiations, Assemble Building Blocks, and Bring Them Together in a Peace Agreement**

A classic case of patient and persistent UN peacemaking that eventually led to great success was Diego Cordovez's negotiation of the withdrawal of Soviet Forces from Afghanistan. Cordovez documented this in his memoirs, written with S. Harrison. Over a number of years, Cordovez met with representatives of the parties in conflict, recorded successive understandings with them in UN press releases, and, when the situation on the ground permitted, consolidated the elements that had been patiently negotiated with the parties into the Afghan peace accord (Cordovez and Harrison, 1995).

#### **6.7 The UN Can Help Assemble Building Blocks for Peace, Even if it Does Not Itself Achieve a Peace Agreement in the End**

In 1992, as war raged in the Former Yugoslavia, the UN and the European Union jointly launched the International Conference in the Former Yugoslavia (ICFY). For the next four years, the leaders and personnel of the ICFY engaged in ongoing peacemaking efforts in relation to Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Serbia, especially Kosovo, and Montenegro. The ICFY did one very important thing in UN peacemaking: it proposed to Secretary-General Boutros Boutros-Ghali the deployment of a preventive peacekeeping force in Macedonia that helped to prevent that country from descending into conflict. This author was involved in drafting the proposal to the Secretary-General.

The ICFY helped negotiate the agreement that led to peace in the Eastern Slavonian region of Croatia. The ICFY also helped in the organization of dialogue between different ethnic communities and nationalities in Bosnia, Croatia, and Macedonia.

Because of divergences among the Great Powers, the ICFY was not able to get the parties to sign a peace agreement for Bosnia-Herzegovina. But it proposed successive draft peace agreements that the US State Department drew upon in crafting the Dayton Peace Accords. This author, as Director of the International Conference on the Former Yugoslavia, personally forwarded the ICFY documentation and draft peace agreements to the US State Department. He was present at the Dayton Peace Conference and can affirm

that the Dayton Peace Accords built upon the ICFY blueprints. The UN, along with the EU, thus helped to assemble the building blocks for peace in Bosnia and Herzegovina (Ramcharan 2014).

### **6.8 The UN Can Sponsor or Co-sponsor an International Peace Conference on a Situation of Concern**

The example of the International Conference on the Former Yugoslavia, discussed in the preceding section, shows that one of the options available to UN peacemaking is to sponsor an international peace conference in relation to conflicts such as those taking place currently in Ukraine, the Middle East, Myanmar, and Sudan (Ramcharan 2014).

### **6.9 The UN Can Work With Regional Organizations or Regional Initiatives, as Happened in Central America with Oscar Arias Sanchez and the OAS**

The UN registered great successes in the negotiation of peace agreements in Central America by working in cooperation with the OAS and with then-Costa Rican President, Oscar Arias (Sanchez et al., 1987). A UN General Assembly resolution of 23 October 1989 on “The situation in Central America: threats to international peace and security and peace initiatives” records the range and successes of the UN efforts. In the Preamble to the resolution, the General Assembly recalled the initiative of the Secretaries-General of the United Nations and of the Organization of American States of 18 November 1986.

The Assembly took note of reports of the UN Secretary-General of 26 June 1989 and 17 October 1989, submitted in pursuance of its requests. The Assembly noted the action taken by the Secretaries-General of the United Nations and of the Organization of American States in support of the agreements of the Central American Presidents, in particular those relating to the establishment and functioning of the International Verification and Follow-up Commission entrusted with the implementation of the Joint Plan for the voluntary demobilization, repatriation or relocation of the members of the Nicaraguan resistance and their families, and of other irregular forces when they request it.

The General Assembly specifically recognized the

importance of the action taken by the Secretary-General for the establishment of the United Nations Observer Group in Central America at the request of the Governments of the region, with a view to the adoption of the necessary measures for setting in motion the on-site verification machinery in fulfilment of the security commitments emanating from the agreement signed at the Esquipulas II summit meeting and subsequent declarations.

The General Assembly also welcomed the invitation extended through a sovereign decision by the Government of Nicaragua to the Secretary-General to establish, within the context of the Central American peace process, a group of observers to verify each and every stage of the electoral process in Nicaragua, a process that is to culminate in national elections scheduled for 25 February 1990, as well as the positive response of the UN Secretary-General.

The General Assembly noted with interest the agreement signed on 15 September 1989 at Mexico City by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional to continue the process of dialogue in an effort to reach an understanding through political agreements that would put an end to the armed conflict by political means in the shortest possible time, as well as to encourage the democratization of the country and to reunify Salvadorean society, and appreciated the decision of the UN Secretary-General to accept the invitation extended to him by the above-mentioned parties for the United Nations to participate as a witness in the meeting held at San Jose from 16 to 18 October 1989.

In its operative part, the General Assembly:

- 1 Commends the desire for peace expressed by the Central American Presidents in signing on 7 August 1987 at Guatemala City the agreement on “Procedures for the establishment of a firm and lasting peace in Central America” and in issuing their subsequent declarations and agreements;
- 2 Expresses its strongest support for these agreements;
- 3 Exhorts the Governments to continue their efforts to achieve a firm and lasting peace in Central America and expresses its fervent hopes for the effective implementation of the agreements signed at Tela, Honduras, on 7 August 1989;
- 4 Appeals to the countries which are outside the region but which have links with it and interests in it to facilitate the implementation of the agreements concluded by the Central American Presidents and to abstain from any action which may impede such implementation;
- 5 Fully supports the Secretary-General of the United Nations in the performance of the functions which the Central American Presidents, at the Tela summit meeting, entrusted to him as a member of the International Verification and Follow-up Commission, together with the Secretary-General of the Organization of American States;
- 6 Requests the Secretary-General to continue to afford the fullest possible support to the Central American Governments in their efforts to achieve peace, especially by taking the measures necessary for the establishment and effective functioning of the verification machinery in respect of security, through the United Nations Observer Group in Central America;
- 7 Supports the agreement of the Secretary-General with the Government of Nicaragua concerning the establishment of the United Nations Observer Mission to verify the electoral process in Nicaragua, contained in the letter dated 6 July 1989 from the Secretary-General to the President of the General Assembly;

- 8 Requests the Secretary-General to report to it periodically during the present session on the progress of the United Nations Observer Mission to verify the electoral process in Nicaragua, which he established as an extraordinary measure related to the maintenance of international peace and security, as well as on the electoral process in Nicaragua, and to submit a final report to it on the results thereof;
- 9 Urges the international community and international organizations to increase their technical, economic, and financial co-operation with the Central American countries for the implementation of the goals and objectives of the Special Plan of Economic Co-operation for Central America, as stipulated in General Assembly resolution 42/231, and as a way of assisting the efforts being made by the countries of the region to achieve peace and development;
- 10 Requests the Secretary-General to submit a preliminary report to the General Assembly during the first two weeks of December 1989 on progress made in implementing the present resolution and to submit a report thereon to the Assembly at its forty-fifth session;
- 11 Decides to include in the provisional agenda of its forty-fifth session the item entitled "The situation in Central America: threats to international peace and security and peace initiatives."

One will have seen in the above resolution of the General Assembly the partnership and leadership roles of the UN and its Secretary-General.

#### **6.10 The UN Must be Mindful of the Power Factors at Work in a Particular Situation and Be Attentive to the Issue of Ripeness in Efforts Towards the Termination of Conflicts**

The UN always has to be mindful of the distribution of power in any conflict situation, and of the attitudes of the major powers towards the parties in conflict. In the efforts of ICFY to negotiate peace in Bosnia-Herzegovina, the fundamental reason why no peace agreement was signed between 1992 and 1995 was that the USA opposed this and actively blocked the conclusion of a peace agreement until it was itself ready for the conclusion of the Dayton Peace Accord. This author, as Director of the International Conference on the Former Yugoslavia between 1992 and 1995, witnessed this personally.

In such a situation, the UN is obliged to continue its engagement with patience and persistence, while being mindful of the power factors impacting the particular conflict (de Rossanet 1997).

#### **6.11 The UN Must Be Mindful of the Need to Find a Way of Being Relevant in Conflict Situations**

We saw, at the outset of this chapter, the President of the International Crisis Group lamenting that the United Nations "is now a marginal player in

Ukraine and Gaza, and losing traction in Africa.” One of the lessons to be learned from the experience of the UN in dealing with conflict situations is that even when the configuration of forces makes it difficult for the UN to make headway in solving a conflict, the faith of “We the Peoples” is such that they expect to see the UN striving, even in difficult circumstances. “We the Peoples” are disappointed and frustrated when the UN and its Secretary-General are absent from a conflict situation.

Discreet diplomatic missions by the UN Secretary-General give “We the Peoples” a sense that the organization they believe in is trying to “do something.” The designation of a Special Representative of the Secretary-General is another way of communicating to “We the Peoples” that the UN is striving for solutions, even in difficult situations.

Discreet UN contacts with parties to a conflict are part of the process of finding ways of bringing about peace. Such contacts can also, over time, help the UN assemble or contribute to building blocks for peace. When the UN is totally absent from conflict situations, “We the Peoples” find this perplexing, disappointing, and frustrating. This is something that Secretaries-General must keep in mind.

## 6.12 Conclusion

In addressing lessons from the history of UN peacemaking, we have sought to show that the UN is engaged on an ongoing basis in foundational efforts for the promotion of peace and the prevention of conflicts. The UN does this through the promotion and exercise of preventive diplomacy; through efforts for peace-building globally; and through a variety of ways and means of assembling building blocks for peace. The UN contributes to assembling building blocks for peace and works with partners in this process. Sometimes the UN achieves successes on its own; sometimes it does so along with partners; and sometimes it contributes building blocks that are used by partners in crystallizing peace.

One lesson comes through distinctly from the foregoing discussion: “We the Peoples” are disappointed and frustrated when they see the total absence of the UN and its Secretary-General in conflict situations. This is a lesson to be learned from the current UN experience with respect to peacemaking in Ukraine and the Middle East. “We the People” expect their organization to be seen to be striving for peace, even when the going is rough.

## Notes

- 1 Our understanding is that the centre for West Africa now covers North Africa and the Sahel as well. See on this (Ramcharan 2020).
- 2 The author was a member of this mission and worked on its report.
- 3 The author worked on the drafting of this report.
- 4 The author worked on the proposal to establish this preventive deployment.
- 5 See General Assembly approves \$5.4 billion UN peacekeeping budget for 2025-2026 | UN News.

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Part III

# The Conflict in Gaza/Israel/ Palestine



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# 7 The Origins and Evolution of the Modern State of Israel\*

*Chas Freeman*

## 7.1 Introduction

To understand the conflicts in the Middle East, one needs to understand where the main protagonists “come from,” their reference points, self-perception, and aspirations. In this chapter, I delve into the Israeli psyche and examine the dominant ideology that underlies the creation and development of the State of Israel, namely Zionism. This particular kind of nationalism that pertains to a religious community, the Jews, has acquired notoriety over the past hundred years. Often the focus of conspiracy theories, Zionism has given strength to and helped organize an otherwise often persecuted group of people.

It is no conspiracy theory to refer to two competing nationalisms in the small but historically and strategically significant land of Palestine, in its geographical sense. Is it inevitable for these nationalisms to keep confronting each other? Is the only real solution that one of them wins absolutely? What can be said and what can be done about the two-state solution, in the context of these competing nationalisms? What is the role of external actors, especially the United States, but also the United Nations (UN) and the world at large?

In this chapter, I try to provide some answers to the above questions, keeping in mind the Zionist dimension and using historical and contemporary references, as well as my first-hand experience with diplomacy and the Middle East region.

## 7.2 An Abbreviated History of Zionism – The Pre-WWII Period

The first Christians were Jews, as was Christ himself, but European Christendom never applied the brotherly love Jesus taught to the Jews in its midst. Instead, it classified them as socioreligious pariahs – an alien *caste*.

\* Adaptation of remarks delivered online under the title “Is the Zionist State Now Doing Itself In?” to the Community Church of Boston by Ambassador Chas W. Freeman, Jr. (USFS, Ret.) on 4 October 2024.

Like the castes of India, Jews married only each other, had a distinctive religious identity, and were restricted to specialized socioeconomic roles. In the case of European Jews, this meant occupations involving money lending and other sorts of financial engineering. European xenophobia, called “antisemitism” when directed at Jews, resulted not just in their persecution but in their occasional pillage and murder, for example by Crusaders preparing to conquer the Holy Land from its mostly Muslim inhabitants. It is fair to say that the Holocaust – the greatest atrocity of the 20<sup>th</sup> century among many – was less an innovation than the culmination of centuries of prejudice and persecution of Jews by other Europeans.<sup>1</sup>

Against this backdrop, it is easy to understand the appeal of Zionism – an effort to transform Jewish religious identity into a national identity and to set up a state in which Jews would be a ruling majority rather than a vulnerable minority. Zionism’s proponents argued that Jews, like other European ethnolinguistic groups, were entitled to self-determination. Ironically, Zionism thus embraced European Christendom’s antisemitic designation of Jews not as adherents of a religious faith but as a “people” distinct from other Europeans.

Most of the original Zionists were not themselves religious, but they judged correctly that locating their proposed state in the mythic homeland of Judaism – Palestine – would grant it a religious legitimacy it would otherwise lack. As Ilan Pappé, the noted Israeli historian, has quipped: they did not believe in God but insisted that He had promised Palestine to them (Pappé 2016, 206). And, with the racist condescension typical of European imperialism, they ignored the presence of an indigenous population in their proposed homeland, describing Palestine as “a land without people” for the “people without land” that they were in the process of inventing (Godfrey 2017). This worked well for European anti-Semites, too, as they saw an opportunity to get rid of the Jews in their midst by “exporting them” to a European overseas colonial dominion.

As the Ottoman Empire imploded during the First World War, Britain – in an act intended to undermine Jewish support for Germany – declared already in 1917 its support for “the establishment in Palestine of a national home for the Jewish people,” provided that “nothing shall be done ... [to] prejudice the ... rights of existing non-Jewish communities” there.<sup>2</sup> For the Jews, though, the whole point about colonizing Palestine was to establish Jewish supremacy there, not to affirm the rights of its non-Jewish inhabitants. A multifaceted Zionist campaign to dispossess the indigenous Palestinian Arab population was soon underway.

In the late 1930s, the increasingly brutal Nazi persecution of Jews in Germany led to a surge in Jewish emigration to Palestine. This set off the 1936–1939 “Great Palestinian Revolt” against both British rule and Zionist colonization. Britain reacted in 1939 by issuing a “White Paper” proclaiming a policy of establishing a Jewish homeland through regulated Jewish immigration to an unpartitioned, independent state of Palestine, which was to

come into being within ten years.<sup>3</sup> Palestinian leaders feared this policy would dispossess them and firmly rejected it. For their part, armed Zionist settlers violently resisted its implementation, charging that it would put them at the mercy of Palestine's Arab Muslim and Christian majority.

### **7.3 An Abbreviated History of Zionism – Establishment of the State of Israel and Israel-Arab State Wars**

Prior to World War II, most European Jews opposed Zionism or were indifferent to it. The Nazi Holocaust understandably convinced them that to protect themselves and their posterity from genocide they needed to set up an exclusively Jewish state in Palestine.

After the war, with more desirable safe havens – like the United States – denied to them, a mounting flood of European Jews sought resettlement in Palestine. Zionist paramilitaries simultaneously launched violent campaigns against the British authorities, Palestinian Arabs, and Jewish dissenters. Their aim was to achieve self-determination and establish an exclusively Jewish state by ridding Palestine of its indigenous inhabitants. Their targets included civilians as well as security personnel, government figures, and infrastructure. In 1991, Yitzhak Shamir, a participant in this terrorist campaign who had become the Prime Minister of Israel, justified Jewish terrorism on the grounds that the Jews, stateless and persecuted, had no choice but to engage in it. By contrast, he asserted, the Palestinians are “fighting for land that is not theirs. This is the land of the people of Israel” (Leebaert 2024).

In the face of this, in 1947, the British threw up their hands and tossed the problem of Palestine into the lap of the United Nations. The UN – then dominated by colonial powers – imperiously recommended the partition of Palestine into two states, one Jewish and one Arab, with the city of Jerusalem under international control. At the time, the population of Palestine was two-thirds Arab and one-third European Jewish. The UN plan nonetheless awarded fifty-six percent of the territory, including most of its best agricultural land, to Jewish colonists, while allocating only forty-two percent of it to its native Arabs.

Palestinian leaders, joined by every state in the region and newly independent India, opposed both partition and the UN plan for it as unfair. For newly independent states, the award of territory in Palestine to European Jewish settlers was a terminal affront as the age of racist Western colonialism sputtered to an end. Eventually, the UN General Assembly voted to approve the plan (UN General Assembly resolution 181 (II) of 29 November 1947).<sup>4</sup> Zionist leaders accepted it, while complaining that it would burden their proposed state in Palestine with a forty percent Arab minority.

The British right to rule in Palestine was due to expire at midnight on May 14, 1948. In April of that year, newly augmented Zionist forces began an offensive to secure the cities and territories the UN partition plan had allotted to the proposed Jewish state, to encourage its indigenous inhabitants to leave,

and to position themselves to seize even more land if the opportunity presented itself. A few hours before the British began their scheduled withdrawal from Palestine, the World Zionist Organization proclaimed the State of Israel and mobilized its armed forces. The next day, military contingents from Egypt, Jordan, Syria, and Iraq entered Palestine. In the ensuing conflict, Zionist forces – many of them battle-hardened by warfare in Europe – took not only the territory assigned by the UN to a Jewish state but sixty percent of the territory designated for Palestine’s Arabs.

The new Israeli armed forces and Jewish militias conducted over seventy documented massacres of Palestinians and forced over 720,000 of them to abandon their homes and flee to neighboring countries. Israeli forces also seized West Jerusalem, voiding its proposed status as part of an international city and complicating Jerusalem’s continuation as a point of pilgrimage for the world’s Muslims and Christians, for whom it was also a holy city. No surprise, therefore, that Palestinians describe these developments as *The Catastrophe* – النكبة (the Nakba) – and commemorate Nakba Day on 15 May each year.<sup>5</sup> While Jews in the new state of Israel celebrated, those in the broader Arab world almost at once suffered the consequences of their European coreligionists’ violent expulsion of over half of Palestine’s Arab Muslim and Christian populations. Over the course of the next decade, the hate-filled reaction in Arab countries to this catastrophe led increasing numbers of Jewish Arabs to abandon their homes and flee to Israel.

Israel’s surprise attacks on Egypt in 1956 and on Egypt, Jordan, and Syria in 1967, as well as its several invasions of Lebanon, cemented Arab enmity to the Zionist state, fomented Arab and Muslim antisemitism, and resulted in the departure of all but a few of the ancient Jewish communities in the Islamic world. Once in Israel, Arab Jews were assimilated into a national culture based on fear of renewed killings of Jews by hateful antisemites, as had happened in the European Holocaust.

In its 1967 “Six Day War,” Israel gained control of all of Palestine, including East Jerusalem, as well as Syria’s Golan Heights. This marked a fateful choice for Zionism. Having invented a “Jewish people” to populate what it had proclaimed was “a land without people,” Zionists now faced the inconvenient reality that the land they had seized was, in fact, already populated. Israel could use its victory and its control of Palestine to dictate a basis for Israeli-Palestinian coexistence. Or it could persist in implementing policies designed to rid the West Bank and Gaza of their captive Arab populations. True to its Zionist origins, Israel chose to pursue the goal of eradicating all but a vestigial Arab Muslim and Christian presence in the Holy Land.

In the territories of pre-1967 Israel, a system of apartheid evolved, in which the twenty percent Israeli Arab Muslim and Christian minority is discriminated against, segregated from Jewish Israelis, and denied many of the benefits available to Jewish citizens. In the West Bank, martial law evolved into a system of checkpoints that oppressed and atomized its Palestinian inhabitants by separating them into 165 or so disconnected enclaves and

progressively evicting them to make way for Jewish settlements and outposts in hundreds of places selected for their military value to the Israeli occupation and its annexationist agenda.

#### **7.4 Zionism and the State of Israel in the 21<sup>st</sup> Century**

The cumulative result of all presented above is the Israel of today, in which non-Jewish Arab Israelis are second-class citizens, Arabs in the occupied West Bank are disenfranchised and subject to Jewish settler and military violence, while the inhabitants of Gaza are being killed and starved to death following the heinous October 7, 2023, attack by Hamas in southern Israel.<sup>6</sup> Occupation brutalizes the forces conducting it. Israel has been no exception. As time has gone on, the Israeli occupation forces and the conscripts that staff them have become ever less constrained by morality or empathy for those they violently oppress.

In the beginning, Israel used pseudo-legal procedures to dispossess Palestinians in Jerusalem and the West Bank but as time went on, it came to rely ever more on violence by Jewish settlers, aided and abetted by the Israeli military. After the withdrawal of Israeli settlements from Gaza in 2005, Israel transformed it into what some have called the world's largest concentration camp. It controlled Gaza with periodic invasions and mass killings of its inhabitants in a strategy that it sardonically called "mowing the grass" (Washington Post 2021). The October 7, 2023, attack saw Palestinians in Gaza – a persecuted people without a state of their own – respond by applying the logic of Yitzhak Shamir's justification of Zionist terrorism to the Israeli settlers and military reservists on Gaza's periphery.

The Zionist state's aim has been to create conditions so intolerable that Palestinians would voluntarily leave, transforming Palestine into the "land without people" it originally envisaged. In its effort to rid Palestine of its non-Jewish inhabitants, Israel has emerged as a clear violator of the norms enshrined in international law and the post-war Geneva Conventions. Ironically, the world enacted these conventions precisely to preclude a recurrence of the cruelties that the Nazis and Japanese militarists had inflicted on occupied populations during World War II – most notably the genocide of Europe's Jews. With its behavior, Israel has turned the star of David on its flag into a global symbol not of resilience and redemption but of genocide and other crimes against humanity, as the International Criminal Court (ICC) arrest warrants for Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant issued on 21 November 2024 indicate (ICC 2024).

#### **7.5 Israel's Treatment of the Palestinians Today**

Israel's policies toward its captive Palestinian populations now clearly violate the norms the post-war conventions enshrine. To cite a few obvious examples:

- Article 49 of the Fourth Geneva Convention<sup>7</sup> stipulates that an occupying power must not transfer parts of its own civilian population into the territory it occupies, yet the Zionist state's settlement of occupied Palestinian lands is still its central mission and activity. Some 720,000 illegal Israeli settlers have dispossessed and now lord it over Palestinians in the West Bank.
- The same article provides that "collective penalties and all measures of intimidation or terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited." Yet these measures are the very means by which Israel has long subjugated the inhabitants of both Gaza and the West Bank.
- Article 76 of the same Convention prohibits an occupying power from murdering, torturing, mutilating, beating, or otherwise brutalizing the population under its control. Yet Israel relies on such practices to punish Palestinian prisoners, many of whom are detained without charge.<sup>8</sup>
- The separate Convention on the Prevention and Punishment of the Crime of Genocide of 1948<sup>9</sup> defines genocide as intentionally destroying a national, ethnic, racial, or religious group in whole or in part. It criminalizes this behavior, public incitement of it, the attempt to commit it, or complicity in it. The government of Israel and its army are currently committing these crimes. The foreign governments supplying Israel with arms and protecting it in the United Nations have yet to face formal charges at The Hague, but are full accomplices in this apparent genocide.
- The United Nations Charter demands that all states refrain from the threat or use of force against other states. Customary international law requires reprisals for violations of this prohibition to be proportional to the injury suffered. It restricts preemptive or anticipatory defensive actions to circumstances in which there is "a necessity of self-defense, instant, overwhelming, leaving no choice of means, and no moment of deliberation." Yet Israel repeatedly retaliates disproportionately to any affronts, attacks its neighbors preemptively without regard to whether there is evidence of an imminent threat from them, and assassinates both their own officials and Palestinians on their soil.

This is not, by any means, a complete list of Israel's violations of international law and human decency. Israel offends these norms – to which the United States and Europe loudly proclaim allegiance – because it has Western backing to do so.

The Zionist state is getting away with such behavior because:

- Europeans guilty of antisemitism, including aiding and abetting the round-up and slaughter of Europe's Jews, have conferred compensatory immunity on the Jews of Israel.
- A powerful lobby in the United States and the United Kingdom has made it politically fatal to criticize the behavior of the Zionist state.

- The Western bloc among the permanent members of the UN Security Council – the United States, United Kingdom, and France – has protected Israel by vetoing attempts to hold it accountable for its illegal behavior.
- Until recently, Israel – aided by self-censoring Anglo-American media – was careful to keep its gross violations of Palestinian human rights below the radar screen. But the October 7 violent breakout of Palestinians from their incarceration in Gaza inevitably focused global attention on the outrageous Israeli treatment of them that had inspired their criminal atrocities against Israelis just outside Gaza. Israel’s subsequent merciless attack on the Palestinians in Gaza has indelibly shattered the image of Israeli and other Jews as eternal victims. The world now sees Israelis not only as survivors of genocide but as vengeful perpetrators of it.

Israel is not a casual scofflaw. Since its establishment, it has systematically sought to normalize behavior that contravenes international law. As a former head of the Israeli Defense Forces’ (IDF) Legal Department argued:

If you do something for long enough the world will accept it. The whole of international law is now based on the notion that an act that is forbidden today becomes permissible if executed by enough countries .... International law progresses through violations.<sup>10</sup>

A colleague of his pointed out that:

The more often Western states apply principles that originated in Israel to their own non-traditional conflicts in places like Afghanistan and Iraq, then the greater the chance these principles have of becoming a valuable part of international law.<sup>11</sup>

This Israeli strategy of “lawfare” has succeeded in eroding international law and eliminating American compliance with it. Tolerance of illegality abroad fosters tolerance of it at home and *vice versa*. American enablement of Israel’s oppression of its captive Arab population and its warfare on its neighbors has corrupted American politics and constitutional democracy in the United States, as much as it has deformed American foreign policy.

## 7.6 The Role of the United States

The result is the current U.S. advocacy of an autocratic, so-called “rules-based order” as an alternative to traditional consensus-derived international law. The United States and its close allies assert the right to proclaim the rules and decide to whom they should and should not apply. “Might is right” once again. The strong are to do what they can, and the weak are to suffer what they must.

For Israel and its neoconservative supporters in the United States, the ends justify the means, and the ends transparently equate to the establishment of Jewish supremacy not just in Palestine but in West Asia. Since its founding in 1948, Israel has steadily expanded without agreeing on borders with either the Palestinians or its Arab neighbors. The stripes on the Israeli flag symbolize bodies of water – a river and a sea, or another river. The uniforms of some Israeli troops are adorned with a notorious map that depicts the State of Israel as extending from the Euphrates to the Nile. This reflects the belief of religious Zionists that God once promised this vast territory, consisting of part of Egypt, most of Iraq, all of Jordan, Lebanon, and Syria, as well as northern Saudi Arabia, to the Jews (Pilichowski 2024; Pfeiffer 2024).

Israel now exists. Does Israel justly claim “a right to exist?” Not if that implies that no one else has the right to exist “between the river and the sea.” Does it deserve to exist? Not if its existence depends on clear violations of human decency and international law. Can the world tolerate the existence of a state that has institutionalized an ethnoreligious democracy that survives by violating standard human rights of a disenfranchised captive population?

These questions have become, I believe, the transcendent moral issues of our times. The world is watching and weighing the amorality of American enablement of Israeli genocide, persecution, and ethnic cleansing of its captive Arab populations. America’s reputation and global leadership are at a historic nadir. Ever more Americans of conscience object to Washington’s complicity in Israel’s gross violations of human rights and international law. The blank check the United States has given to Israel is not a strategy. It is a tragedy in the making. And it is one for which the world will justly hold the United States responsible.

Israel has been and still is by far the largest single recipient of U.S. foreign aid. In 1964, in return for financial support from wealthy Jewish American donors for his presidential campaign, then President Lyndon Johnson agreed to drop America’s post-Suez arms embargo on Israel. Since then, the United States has provided about \$250 billion in military aid to Israel. Keeping Egypt at peace with Israel has cost the United States another \$165 billion or so.

In normal times, Washington funds about fifteen percent of the Israeli defense budget while unofficially suspending the Leahy Law, which prohibits arms transfers to countries using them to violate human rights and international law.<sup>12</sup> The International Court of Justice and the International Criminal Court have both found that that is exactly what Israel is doing. Washington has nonetheless continued to support Israel’s extermination campaign in Gaza, turned a blind eye to its violence in the West Bank, and backed its attacks on Syria and, recently, Lebanon again with at least another \$40 billion in emergency aid and over 50,000 tons of weaponry. The government of the United States is funding, arming, and excusing Israel’s inexcusable behavior toward both the Palestinians and its neighbors.

## 7.7 Concluding Thoughts

There will always be an Israel. It is a theological ideal and mythic memory that has survived millennia in the minds of observant Jews. Some Christians link Jewish dominance of Palestine to the second coming of Christ and the End of Days. The multinational religious communities that profess Judaism will ensure Israel's permanence as an idea. But both the Zionist State of Israel and the Jews who inhabit it are now in jeopardy. Palestine is where the humane values of Judaism have gone to die. One can only hope, against evidence to the contrary, that there is a chance of resurrecting those values of equal human rights for all people – both Israelis and Palestinians – and in the process saving numerous human lives on all sides. For that, much more effort is needed on the part of the rest of the world, with minimal trust placed on the pro-Israel United States to change its inconsistent moral behavior any-time soon.

## Notes

- 1 For a comprehensive overview of Jewish history see Brenner (2012) and Ben-Sasson (1985).
- 2 The “Balfour Declaration,” 2 November 1917; see *inter alia* <https://balfourproject.org/wp-content/uploads/2022/02/Balfour-Declaration-pages-18-25.pdf> (visited 26 November 2024).
- 3 White Paper, May 1939, stating British policy in Mandatory Palestine – see [https://avalon.law.yale.edu/20th\\_century/brwh1939.asp](https://avalon.law.yale.edu/20th_century/brwh1939.asp) (visited on 26 November 2024).
- 4 See <https://www.un.org/unispal/document/auto-insert-185393/> (visited on 26 November 2024).
- 5 See overview in <https://www.dw.com/en/what-is-the-palestinian-nakba-and-why-does-it-matter/a-65539735> (visited 26 November 2024).
- 6 This chapter was completed in November 2024, while Israel's military campaigns against Hamas in Gaza and Hezbollah in Lebanon continued at full intensity, with tens of thousands of civilian victims and widespread destruction, in Gaza in particular.
- 7 See <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949> (visited on 26 November 2024).
- 8 See examples quoted by Amnesty International in <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-horrifying-cases-of-torture-and-degrading-treatment-of-palestinian-detainees-amid-spike-in-arbitrary-arrests/> (visited on 26 November 2024).
- 9 See [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1\\_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf) (visited on 26 November 2024).
- 10 Daniel Reisner cited in Jeff Halper, 2010 “The Second Battle of Gaza: Israel's Undermining of International Law,” <http://mrzine.monthlyreview.org/2010/halper260210.html> (visited on 26 November 2024).
- 11 Asa Kasher, cited in Jeff Halper, 2010 “The Second Battle of Gaza: Israel's Undermining of International Law,” <http://mrzine.monthlyreview.org/2010/halper260210.html> (visited on 26 November 2024).
- 12 See <https://www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/human-rights/leahy-law-fact-sheet/> (visited on 26 November 2024).

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# 8 History of UN Involvement in the Israeli–Palestinian Conflict

*Georgios Kostakos and Fotini Zarogianni*

## 8.1 Introduction

The situation in the Middle East, with the “Question of Palestine” at its core, was and remains one of the main items on the agenda of the United Nations (UN). However, the UN has over time lost its main actor role vis-à-vis the Arab-Israeli and, later, Palestinian–Israeli conflict and the overall Question of Palestine. Despite decades of political and humanitarian involvement, at the global diplomatic level and on the ground, despite showing innovativeness and flexibility in the tools used to address the conflict, including several “firsts” (e.g., first peacekeeping operation in 1956), and despite the UN’s immense contribution to the recognition of the inalienable rights of Palestinians (Imseis 2023; UN n.d.), the international geopolitical context and great power dynamics have sidelined the UN’s political involvement.<sup>1</sup>

These dynamics have gradually transformed the UN intervention from a so-called peaceful implementation of a partition plan, to early efforts of objective mediation for truces, ceasefires, and negotiations for peace, to an extensive and strong peacekeeping and humanitarian commitment, to, eventually, a humanitarian aid operation with almost no relevance to the core of the conflict as such. Fast forward to today’s reality: the UN remains incapable of surmounting these dynamics, UN personnel are being directly targeted and/or killed in the Hamas-Israel war in Gaza, and the Organisation’s badly needed humanitarian involvement is facing severe obstacles.

Of course, what really matters is not whether the UN plays the main role in resolving the question of Palestine or not, but whether the Question itself gets answered in a way that is just for all concerned, with sustainable peace established for the sake of the region and the world. The UN’s fortunes vis-à-vis the question of Palestine remain, however, a key gauge of progress towards a fair, legitimate, and sustainable resolution of the conflict. It is the UN, with its principal organ decisions, that has set the framework for such a resolution and is the final global arbiter of conflict resolution legitimacy and success.

In the sections that follow, we start with a chronological overview of the UN’s involvement in addressing the Question of Palestine, including references to actions taken by the UN’s predecessor, the League of Nations (LoN).

We continue with sections that analyse the attitudes and actions of the key organs of the UN involved in the question of Palestine, namely the UN Security Council (UNSC), the UN General Assembly (UNGA), the International Court of Justice (ICJ), and the Secretariat in the form of the UN Secretary-General (UNSG), but also departments like political affairs and peacekeeping that the UNSG oversees. We close with a special section on the role of the UN Relief and Works Agency for Palestine Refugees in the Middle East (UNRWA), after which we wrap up with a concluding section on the way forward.

## 8.2 The UN and the Question of Palestine – A Chronological Overview<sup>2</sup>

### 8.2.1 *The Initial Years – UN Partition Plan and Mediator*

The UN's involvement in Palestine commenced in 1947, when the United Kingdom brought to the world body's attention the end of the British mandate in the region, established in 1922 through the LoN (Quigley 2024).<sup>3</sup> The mandates were envisioned in Article 22 of the LoN Covenant for former Ottoman and German territories as a temporary status on their way to independence. British mandatory rule and overlapping promises to both Jewish and Arab populations exacerbated ethnic tensions on the ground and created extensive expectations by the Jewish population, given the incorporation of the Balfour Declaration of 1917 into the mandate. Unable and unwilling to address the escalating situation, especially in the face of growing Arab resistance to the swelling Jewish immigration to Palestine, Britain reached out to the UN and, in May 1947, the latter created the UN Special Committee on Palestine (UNSCOP n.d.) consisting of 11 member states as a subsidiary organ to the UNGA.

Consultations within UNSCOP resulted in its infamous report with a majority proposal for the termination of the British mandate and the partition of Palestine into an Arab and a Jewish state, with Jerusalem under an internationalised status, while the minority proposal incorporated a federal state structure.<sup>4</sup> The UNGA adopted the partition plan (A/RES/181 (II)), and UNSCOP was tasked with investigating the process of its implementation. However, the plan was almost stillborn. Its implementation was doomed to fail amidst a complete rejection by the Arabs – expressed through threats to forcefully reject it – coupled with a bearhug by Zionists, a quickly waning US support in the face of rising tensions, a British will to disengage quickly from Palestine, and a lack of a strong mandate and toolbox for UNSCOP (Ben Dror 2007).

It all boiled down to the creation of the state of Israel in May 1948, expanding to take over 77% of the territory of mandate Palestine, including the larger part of Jerusalem (Fletcher-Cooke 1973; Fischer 2014). This was achieved through massacres perpetrated by Zionist groups and the forced

displacement and expulsion of over half the Palestinian Arab population (in what came to be called “the Nakba”). The remaining territory fell under the control of Egypt and Jordan, through what came to be known as the first Arab-Israeli war. The UNSC and UNGA were immediately involved in the efforts to secure a ceasefire and mediate between the parties involved.

Already in May 1948, Count Folke Bernadotte of Sweden was appointed UN mediator in Palestine, with a complex mandate: to develop a plan and mediate for a peaceful resolution of the conflict, all the while ensuring the safety of the holy places and humanitarian assistance to the affected populations and to observe the truce that was to be agreed upon (Fletcher-Cooke 1973). In fact, the combination of mediation and truce supervision under one mandate was quickly put into question. Thus, with the agreement of a truce in summer 1948, the UNSC established the UN Truce Supervisory Organisation (UNTSO), with a committee of military observers from the US, France, and Belgium taking over from the mediator the truce supervision task.<sup>5</sup>

Count Bernadotte produced the so-called “Bernadotte Plan,” submitted for consideration to the UNGA on 16 September 1948, just one day before his assassination by Zionist extremists. His plan was built on the proposal for two independent states, with Jerusalem under a special international status, while encompassing a recognition of the Palestinian Arabs’ right to return to the territory from which they had been forcefully expelled. Count Bernadotte further suggested the creation of a UN Palestine Conciliation Committee and set the foundation for a strong UN humanitarian presence in Palestine. This started with a field visit by Raphael Cilento, the Director of the UN Department of Social Affairs, to investigate the situation of Palestinian refugees (United Nations 1948), the gathering of funds (e.g., through UNICEF), and the establishment of the UN Disaster Relief Operation (1948). With the humanitarian needs quickly exceeding the capacities of this body, the UNGA established the UN Relief for Palestine Refugees (UNRPR), a special fund for assistance to over 500,000 Palestinian refugees, while formally recognising their right to return.

Following Bernadotte’s assassination, Ralph Bunche was appointed Acting Mediator (Ben-Dror 2019). His successful mediation of several armistice agreements in Rhodes (1949) with Israel and Egypt, Jordan, and Lebanon led to the defining of Israel’s borders until 1967, as well as to the establishment of the Green Line, which is relevant up to today (Caplan 1992). Following this, the UNGA created the UN Conciliation Commission for Palestine (UNCCP), composed of the US, France, and Turkey, terminating the mediator’s post (BADIL 2000; Nwobashi Nwefuru 2017; Hurewitz 1953).

Following Israel’s UN membership, the UNCCP made several attempts at negotiations, including the Lausanne separate talks (1949) that ended with no agreement, other than quite contested separate declarations of principles for further negotiations based on UNGA Resolutions A/RES/181 and A/RES/194 (1948). The UNCCP further established and facilitated, through good offices, bilateral working groups with Israel and the Arab bloc, and mediated further

separate talks in 1951, based on its Comprehensive Pattern of Proposals (Hurewitz 1953). UNCCP proposals, based on the two aforementioned resolutions, sought agreement on a joint revision of the 1949 armistice agreements, on the right to return for a number of refugees, and on the compensation for the property of non-returnees, as well as a strong non-aggression clause.

With no agreement in sight, the UNCCP declared itself unable to fulfil the political aspect of its mandate, and since the question of refugees remained unsolved, the UNRPR was replaced by UNRWA, originally tasked with resettlement and relief provision to Palestinian refugees (Richardson 1950).<sup>6</sup> Moreover, the UNCCP had not ceased working on the refugee question, appointing in 1961 Joseph Johnson as its Special Representative. His final report strongly endorsed the right to return, but it was not accepted by either side (Kenny 1973). Within this context, the UNGA eventually handed over the responsibility for a political solution to “the governments concerned” as per A/RES/512(VI) (1952).

### 8.2.2 *1967 and 1973 Wars, and More*

The 1955 Israeli attack on Gaza, then under Egyptian control, and the Suez war (1956) exacerbated tensions in the region, pushing the UN, under the leadership of Secretary-General Dag Hammarskjöld, to establish the first peacekeeping mission in history, the UN Emergency Force I (UNEF I) to operate on the Egyptian-Israeli border. The 1967 Arab-Israeli war (also known as the Six Day War), resulting in Israeli occupation of Gaza and the West Bank, the annexation of East Jerusalem, and once again in large numbers of Palestinian refugees, pushed the UNSC to revive negotiations efforts. Gunnar Jarring was appointed the UNSG’s Special Representative, and the “land for peace” Resolution (S/RES/242) was passed by the Council, calling for Israeli withdrawal from the occupied territories, a just settlement of the refugee question, and the cessation of hostilities. The UNGA followed on, reaffirming the “land for peace” principles, while also incorporating a very important clause in a 1970 Resolution A/RES/2949(XXVII), namely calling “all States not to recognize any such changes and measures carried out by Israel in the occupied Arab territories and invit[ing] them to avoid actions, including actions in the field of aid, that could constitute recognition of that occupation.”

The aftermath of the Six Day War led to a turning point for UN involvement in the Question of Palestine, namely a growing focus on Palestinian rights, including the right to self-determination (Bennis 1997). This was showcased through the establishment (1968) of the UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs in the Occupied Territories, and, following the 1973 war, with the continuous reaffirming of the right to self-determination within UNGA resolutions, the recognition of the Palestinian Liberation Organisation (PLO) as the sole representative of the Palestinian people (1974) and the

granting of observer status to it (1974), the establishment (1975) of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, and the designation (1977) of 29 November as the International Day of Solidarity with the Palestinian People (A/RES/32/40).<sup>7</sup>

UNGA A/RES/2628 (XXV) (1970) called for the end of Israeli occupation and all belligerencies in the region, coupled with a recognised respect for Palestinian rights and the sovereignty of all states in the region. Following the 3<sup>rd</sup> Arab-Israeli war of 1973, the impetus for a political solution was as strong as it could be, as indicated by UNSC S/RES/338 (1973) and S/RES/344 (1973), both products of cooperation between the Soviet Union (USSR) and the US, and both calling for an immediate ceasefire and peace negotiations. Consequently, based on the UNSC resolutions' provisions, the International Peace Conference on the Middle East was held in Geneva in 1973, under UN auspices but co-chaired by the US and the USSR, with the former clearly taking the lead through its mediator, Henry Kissinger. The conference resulted in two Egypt-Israel disengagement agreements (1974, 1975), and one between Syria and Israel for the Golan Heights, with UNEF II and a UN Disengagement Observer Force (UNDOF) deployed to oversee the implementation of these agreements, respectively.

Following intense US mediation between Egypt and Israel by then US President Jimmy Carter, Egyptian President Anwar Sadat and Israeli Prime Minister Menachem Begin signed the Camp David Accords in 1978 (US Department of State – Office of the Historian, n.d.). The Accords paved the way for the 1979 peace agreement between Egypt and Israel, but also included the so-called Framework for Peace in the Middle East (UNISPAL 1978). The parties recognised the need to allow for Palestinian “full” autonomy and self-governance and to fully implement UNSC Resolution 242. However, this never materialised, with different interpretations later offered by the parties concerned. Moreover, the UNGA criticised extensively this aspect of the Accords, due to the lack of participation by the UN and the PLO, the latter as the legitimate representative of the Palestinian people. It further condemned the content of the Framework as not being respectful towards the Palestinians' right to return and right to national independence and sovereignty (A/RES/33/28 A (1978), A/RES/34/65 B (1979), A/RES/34/70 (1979)).

In spite of this significant mobilisation, the Question of Palestine remained unanswered. The 1980s saw an Israeli invasion of Lebanon with the aim of eliminating the PLO, which resulted in the well-known massacres of the Sabra and Shatila refugee camps, and Israel's brutal response to the 1987 first popular uprising in the Occupied Palestinian Territory (OPT) (including the West Bank, Gaza, and East Jerusalem) or “intifada.” During this period, the UN focused on enhancing support for the recognition and realisation of Palestinian rights, mostly through the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Division for Palestinian Rights of the UN Secretariat that was created to support it.

They organised in 1983 an International Conference on the Question of Palestine, whose outcome was the Geneva Declaration on Palestine and the Programme of Action for the Achievement of Palestinian Rights, calling for a peaceful implementation of all the said rights (UN 1983).

### 8.2.3 *Madrid Peace Conference, Oslo Accords, and on to Today*

From 1983 until 1992, the UNGA would insist on calling for an international peace conference on the Middle East in an effort to internationalise the peace process. However, negotiations in the next decades up to the 2000s were held only under US mediation. The two-track process (Israel–Palestinians and Israel–Arab states) commenced with the 1991 Madrid Peace Conference and resulted in the 1993 Declaration of Principles on Interim Self-Government Arrangements (Oslo I) between Israel and the PLO. It led to the mutual recognition between Israel and the PLO, the establishment of the Palestinian Authority (PA) and its limited administration rights in Gaza and the West Bank, with a minimal UN role. The UN Special Coordinator in the OPT (later evolving into the Special Coordinator for the Middle East Peace Process), created just after Oslo I, was simply an observer to a US-led peace process (Urquhart 1995).<sup>8</sup>

The new millennium started off with the 2<sup>nd</sup> intifada (2000) and the construction by Israel of a Separation Wall in the West Bank (2004), immediately ruled illegal by the ICJ. Some momentum was generated when, in 2002, the UNSC strongly affirmed a two-state solution to the conflict. The UN, the European Union (EU), US, and Russia formed the Quartet on the Middle East, joining efforts towards the implementation of the Quartet’s Roadmap to Peace based on the two-state solution (Tocci 2013).<sup>9</sup> The very good result (44.45% of the votes) of Hamas in the 2006 Palestinian legislative elections led, about a year post-elections, to an internal Palestinian split expressed through a Hamas-dominated administration in Gaza and a Fatah-dominated one in the West Bank (Segura 2007). This was followed by an Israeli blockade of Gaza and a failed attempt to revive the Palestinian-Israeli peace process through implementing the Quartet’s Roadmap for Peace at the US-brokered Annapolis conference.

The Israeli military ground operation Cast Lead in Gaza (2008) and the serious violations of international humanitarian law perpetrated under it made it imperative for the UN Human Rights Council (UNHRC) to establish a fact-finding mission on the conflict. The famous Goldstone Report (2009) brought to light these terrible violations but was deeply contested by the Israeli government, which raised questions of bias against the UN. Following the granting of UN non-member state observer status to Palestine in 2012 (Szydzisz 2018), the UNHRC further created a fact-finding mission on the Israeli settlements, the moratorium on the construction of which had ended in 2010, while the UNSC issued a decisive resolution condemning settlement expansion as a “flagrant violation of international law” only in 2016 – previous references were mild at their best. Violent clashes in Gaza broke out in

2012 and 2014, followed by rounds of failed negotiations, and culminating in the US recognition of Jerusalem as the capital of Israel in 2017 and the infamous Abraham Accords of 2020 that normalised relations between Israel, Morocco, Bahrain, and Sudan.

A major escalation in the Israeli-Palestinian conflict came about by a brazen Hamas attack on Southern Israel on 7 October 2023, which resulted in some 1200 deaths and the taking of some 250 hostages. In response, Israel launched a massive offensive on Gaza, with tens of thousands of victims and a major humanitarian emergency. Amidst several UNGA and UNSC calls for a ceasefire, and US reluctance to put a stop to Israel's war machine, South Africa filed a case against Israel at the ICJ alleging genocide against the Palestinians in Gaza. The Court immediately ordered Israel to prevent genocide, curb incitements to genocide, and allow the provision of aid to Gaza, with full respect for international humanitarian law. A couple of months later and responding to a pre-October 2023 request by the UNGA for an advisory opinion (A/RES/77/247), the Court declared the Israeli occupation of Palestinian territory unlawful, calling for its immediate end, the ceasing of settlements' construction, the evacuation of settlers, and the provision of reparations for damages and losses caused. Israel ignored the ICJ in both instances, continuing its disproportionate "self-defence" with carpet bombings, direct targeting of UNRWA personnel and premises, a total blockade of Gaza, forced displacement and ethnic cleansing, with a parallel increase of settler violence in the West Bank.

The issuance of arrest warrants against Israeli Prime Minister Netanyahu and former Defence Minister Gallant, along with a warrant against a Hamas leader (two more Hamas leaders had been considered for arrest warrant issuance but were killed by Israel in the meantime) (ICC 2024, UN News 2024d), was received with defiance by Israel and some of its allies and did not have any visible impact on the situation on the ground.

### **8.3 The UN Security Council and the Question of Palestine – Criticising Israel up to a Point, with the US wielding the Damocles Veto Sword**

The UNSC, as the main guardian of international peace and security, is central to any conflict resolution process. However, the guardian's masters – also known as the P5 – and their geopolitical goals are the ones eventually shaping the Council's action, or inaction for that matter (Vayrynen 1985). The Palestinian question is no exception to this, with geopolitical power play having determined the extent and form of UNSC involvement, an involvement that appears limited, fragmented, and mostly reactive to developments on the ground (Security Council Report 2007). At the same time, developments in the conflict itself affect these great power dynamics, which in turn shape UNSC activity (Di Mauro 2012).

The 1940s can be described in one sentence: none of the P5 wanted to be fully involved in Palestine. The US-USSR initial consensus on the viability of the partition plan was quickly dissolved (Urquhart 1995); an avid supporter

of anti-colonialism, of course for its own interest, USSR was pro-Israel; in the face of growing violence on the ground, and a strong internal Jewish lobby, the US was indecisive; while Britain wanted to completely wash its hands of Palestine and France had its problems with its own regional mandate too. This led to a critically inactive UNSC until the creation of Israel, and to generally weak bodies – sometimes of questionable legitimacy of membership and/or mandate – tasked with the Palestine question.

The truce and armistice agreements by UN mediators were the only essential UNSC contributions, but the mediator-proposed peace plans were largely the fruit of their own and their teams' work. In the 1960s–1970s, growing East-West tensions and the decolonisation process shaped P5 approaches, with concerns over Palestinians' self-determination and rights rarely under the UNSC spotlight. Israel's survival had suddenly become key to US policy vis-à-vis Soviet expansion in the Middle East, with the US veto the most important shield against a South-dominated and anti-colonial UNGA.<sup>10</sup> In contrast, support for the Palestinians' and Egypt's struggle against Israel was central to the USSR's policy. At the same time, neither the US nor the USSR went to great lengths to curb violence by either Israel or the Arab states, resulting in a rather vague S/RES/242(1967), based on which exploratory negotiations, once again futile, started.

The shock of the 1973 Egyptian attack on Israel pushed the US and the USSR to take advantage of the impetus for negotiations, all the while formally recognising via the Nixon-Brezhnev Communique of June 1973 that any final settlement “should take in due account the legitimate interests of the Palestinian people” (UNSC 1974). The UNSC in itself was merely following the lead of the two superpowers and their chosen mediator, Henry Kissinger. In the meantime, from the 1970s onwards, all the way to the negotiations and agreements in the 1990s, the US fully took the lead in the negotiation efforts, stressing the need for “quiet diplomacy” and for avoiding an unnecessary duplication of efforts, thus pushing the UNSC far from the driver's seat – or any passenger seat – vis-à-vis Palestine (Afshan 2019).<sup>11</sup> However, this was not the case with other key conflicts in the 1990s, as in former Yugoslavia or sub-Saharan Africa, with multiple peace efforts operating in parallel (Zarogianni 2024). Moreover, the UN's overall impartiality was more and more contested by Israel, on the grounds of UNGA and UNSC resolutions focusing on the Israeli-Palestinian conflict and constantly condemning Israeli actions, while failing to condemn terrorist acts. Nevertheless, this changed after the 9/11 terrorist attacks in the US, with the UNSC P5 oftentimes coming together in clearly condemning acts of terrorism in Israel and Palestine. In fact, S/RES/1435 (2002) was the first time that the UNSC had adopted a resolution without any reservations condemning terrorist attacks against Israeli civilians and Israeli targets (Security Council Report 2007).

Overall, evidence shows that the UNSC’s output on the conflict is disproportionately low, while its efforts towards the implementation of resolutions passed are limited to none.<sup>12</sup> The US veto makes it a rare occasion for the Question of Palestine to be addressed by the UNSC and for strong condemnation against Israeli violations of international humanitarian law and other instruments (Cohen et al. 2024). From 1967 to 2020, the US has vetoed 44 UNSC resolutions related to Israel, out of which 16 since 1990, with four more being added to the list from 2020 to 2024.<sup>13</sup> This situation has resulted in a rather permissive environment for the expansion of illegal Israeli settlements, repression and oppression, and violations of international humanitarian and human rights law in Palestine. Consequently, the disproportionately larger number of resolutions condemning Israeli actions and violations issued by other bodies, notably UNGA and UNHRC, should be seen in this context (Geronik, 2020). Indeed, a considerable moment for the UNSC was the affirmation of the two-state solution via S/RES/1397 (2002). However, such affirmation without a clear plan to enforce it, and coupled with non-stop arming policies towards Israel, is no road to peace nor to justice.

#### **8.4 The UN General Assembly and the Question of Palestine – The Power of Numbers in a Balancing Act**

UNGA was involved in efforts to resolve the Question of Palestine from the very beginning. Having “inherited” the British mandate on the territory, UNGA tried, unsuccessfully, to bring about a Solomonic solution (pun intended), through its Partition Plan of 1947. Following the Plan’s rejection, UNGA established the Jerusalem-based UNCCP in 1948, headed by the UN Mediator (Franco 2024). The creation of UNRWA in 1949 responded to the need to provide services to both Arab and Jewish refugees in the region (see section on UNRWA below). With the consolidation of the state of Israel within borders much more extended than the Partition Plan foresaw, and Israel taking care of Jewish refugees in its territory, UNRWA began to exclusively support Palestinian Arab refugees. Similarly, UNGA gradually shifted from an equidistant position to one supporting the Palestinian Arabs that emerged as the underdog.

This was confirmed in 1975 with the establishment by the UNGA of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The Committee was seen as a counterweight to the support Israel got in the UNSC from the veto-wielding USA. The Committee recommended and UNGA agreed to the observance of 29 November, the Partition Plan adoption date in 1947, as the International Day of Solidarity with the Palestinian People. On that day, but also throughout the year and around the world, the Committee still organises discussions and other events bringing attention to the plight of the Palestinian people and encouraging support for a peaceful end to the Israeli occupation.

The Tenth Emergency Special Session of UNGA which goes under the title “Illegal Israeli actions in occupied East Jerusalem and the rest of the Occupied Palestinian Territory,” was first convened in April 1997, in response to an Israeli housing/settlement project in East Jerusalem.<sup>14</sup> Like all emergency special sessions, it was convened under the Uniting for Peace Resolution of 1950, which authorised UNGA to discuss matters of international peace and security that are on the agenda of the UNSC when the Council is unable to reach a decision on them because of the protracted use of the veto. ES-10 resumes its meeting in parallel to the regular UNGA sessions every time there is a development in the Israeli-Palestinian conflict that warrants it. Such was the case with the Oslo Accords, the three intifadas, recurring Israeli settlement activity in the OPT, the building of the Separation Wall, and extrajudicial killings of Palestinians.

ES-10 has thus held meetings every year in the period 1997–2004, as well as in 2006, 2009, 2017, and 2018. Following the Hamas attack on Israel on 7 October 2023 and the Israeli pounding of Gaza, UNGA ES-10 met several times in 2023 and 2024 and passed resolutions mainly demanding a humanitarian truce and the protection of all civilians, as well as the unhindered provision of humanitarian assistance. There is also a resolution that asks the UNSC to reconsider Palestine’s participation as a full member in the UN, blocked because of the US veto, and extends to Palestine the maximum possible privileges that can be afforded to an observer state (A/RES/ES-10/23). Another resolution responds to the advisory opinion of the ICJ “on the legal consequences arising from Israel’s policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel’s continued presence in the Occupied Palestinian Territory,” which UNGA had requested in 2022. In this resolution A/ES-10/L.31/Rev.1, adopted in September 2024, UNGA decided, among other things:

- 1 Welcomes the advisory opinion of the ICJ of 19 July 2024 on the legal consequences arising from Israel’s policies and practices in the OPT, including East Jerusalem, and from the illegality of Israel’s continued presence in the OPT;
- 2 Demands that Israel bring to an end without delay its unlawful presence in the OPT, which constitutes a wrongful act of a continuing character entailing its international responsibility, and do so no later than 12 months from the adoption of the present resolution...

Of course, one may be disappointed if one expects that Israel will “end its unlawful presence in the Occupied Palestinian Territory” by September 2025. The pressure of international public opinion, as expressed by the UNGA on numerous occasions and with very large majorities, does not seem sufficient to sway the Israeli government or the US government, which shields it from any negative consequences with its veto in the UNSC. It does build up further, though, a body of political and legal decisions that will have to be considered when, eventually, the current escalation subsides, and the search starts in earnest for a broadly acceptable solution.

## 8.5 The International Court of Justice and the Question of Palestine – A Voice Screaming in the Desert

ICJ's activity vis-à-vis the question of Palestine is a bit over 20 years old (Adem 2019). It is no wonder that this activity has largely come to life because of UNGA's pro-Palestinian majority. However, from the 2004 Advisory Opinion on the illegality of the Israeli Separation Wall to its 2024 Advisory Opinion on the illegality of the Israeli occupation and the obligation to withdraw troops, end the occupation, and be held accountable, the ICJ's voice is a mere scream in the desert. The construction of the Wall continued, coupled with expansion of illegal settlements and further annexation of Palestinian land; the occupation overall is as strong as ever; human rights and humanitarian law violations are Israel's everyday cup of tea in the OPT; while the 2018 contentious case brought to the Court by Palestine against the US on the relocation of the US embassy to Jerusalem led nowhere.

Nevertheless, the 2024 non-binding opinion did mark a shift in the ICJ's voice, by underlining that the end of the occupation must be immediate, and without the need to be accompanied by a bilateral agreement guaranteeing Israel's security (Hassan 2024). After all, any such agreement between the occupier and the occupied would be invalid under the international law of occupation. However, with the US dismissing this supposedly historic moment as "votes in international bodies that don't do anything," and with Israel passing legislation considering Palestinian sovereignty an existential threat, the Opinion's historical importance can easily be put into question (Hassan 2024; BADIL 2024). In fact, it might be more accurate to underline that it could further erode trust in international justice, simply because, as the situation stands, it would lead to no visible change on the ground (Bree Carlos 2024). However, based on the Opinion, all states must act towards ending this illegal occupation under international law (UN 2024b).

The illegality of the occupation and the violations of international human rights and humanitarian law that ensue are now seen as a given, a fact. Thus, states assisting or facilitating or accepting such an illegal situation could potentially, under certain circumstances, face backlash and/or other repercussions on both a legal and political level (Atlantic Council 2024). Another shift in the ICJ's activity was marked by the case of South Africa against Israel on violations of the Genocide Convention, considering the ongoing war. The Court issued provisional measures, namely requesting Israel's facilitation of humanitarian aid delivery to Gaza and implementation of measures to prevent genocide. However, the Court failed to order a ceasefire, the only remedy that could visibly prevent further bloodshed. Of course, implementation of these measures was nowhere to be seen, with genocidal discourse and continuous carpet bombing, obstruction of humanitarian aid, and tightening of the blockade, constituting the Palestinians' reality. Not surprisingly, the Court did not issue further such measures when Nicaragua filed a case against Germany – given its extensive military support to Israel – on genocide prevention.

Last but not least, international justice made another significant step when, in late November 2024, the International Criminal Court (ICC) issued an arrest warrant for Israeli Prime Minister Benjamin Netanyahu and former Defence Minister Yoav Gallant, together with a former Hamas commander based on reasonable grounds of war crimes and crimes against humanity (ICC 2024). While announcing the warrants, the Court rejected Israel's claim of lack of jurisdiction, as well as its claim that Israel was not given enough time or space to investigate the allegations itself. The warrants were immediately categorically rejected by Israel and the US, both stressing the lack of ICC jurisdiction on the matter, while France also claimed immunity for the Israeli officials as Israel is not party to the ICC Statute (US mission to the UN, 2024a, 2024b; Mao 2024; Borger 2024). Of course, reactions from the same countries to the ICC arrest warrant against Russian President Putin a year earlier for crimes committed in Ukraine were quite different. In general, the latest arrest warrants do put Western states in a difficult spot, in light of their continuing support for Israel's war amidst concrete evidence of war crimes and crimes against humanity, and in light of their obligation to execute the ICC warrant (Sachs 2024; Francavilla 2024).

### **8.6 The UN Secretary-General and the Question of Palestine – From Mediator to Initiator to Preacher and Aid Provider**

Implementation of UNSC and UNGA resolutions takes place through the UN Secretariat, which is headed by the UNSG. Depending on the geopolitical conditions and the respect/political capital enjoyed (or not) by each Secretary-General, his (no woman has occupied the post as of now) personality and the alliances that he strikes, he can be a substantive actor, a "General," or a glorified clerk, a "Secretary." A balanced combination of both roles is, of course, the ideal, because there are many procedural, bureaucratic tasks that need to be performed as part of the follow-up to intergovernmental body decisions, but there is also always some leeway that, if and when made good use of, can make a difference.

It should also be clarified that UN special envoys, peacekeeping mission heads, and other such dignitaries are coordinated by and provide regular briefings to the UNSG and his Executive Office (EOSG), even if, depending on the kind of appointment, some may report directly to an intergovernmental organ. The UNSG ensures that these people have the necessary human and material resources supporting them, so as to be able to carry out their assignments. This gives a proactive UNSG/EOSG the opportunity to shape things in the direction they favour, as they perceive the common good of the UN as an institution and of the world that the UN is supposed to serve.

In the 1940s and 1950s, we thus see a proactive UNSG, especially during the years of Dag Hammarskjöld, who does not shy away from confronting the two European colonial powers, and Israel, when it comes to their takeover of the Suez Canal. The first-ever peacekeeping mission is thus born, UNEF

I, and oversees the return of the Suez Canal to Egypt. Following the assassination of the UN Mediator for Palestine, Count Bernadotte, Ralph Bunche, a black American, took over, before returning to New York to become one of the closest associates of Dag Hammarskjöld. The investment in effort, persistence, and new ideas was huge during these first UN decades, even if no major breakthrough was achieved regarding the conflict itself.

From the 1960s onwards, it became clear, though, that Israel would not accept any mediation other than by its friend, the US, something more or less reluctantly agreed to by the other side, too. This reduced the actual or potential role of the UNSG, with his envoys playing second fiddle when it came to the actual negotiations, despite often grand titles like “UN Special Coordinator for the Middle East Peace Process.” Nevertheless, the UN remained a useful legitimiser of processes like the Oslo Accords, and the humanitarian/education-and-social-services work of UNRWA was appreciated for its appeasing influence on the Palestinians, if nothing else.

One has to recognise that the UNSG and the Secretariat’s position can be quite schizophrenic when there are discrepancies in the way different intergovernmental bodies approach a specific situation. The predominance of Israel’s interest in the UNSC, through the US veto, generally dictates inaction on the part of the Secretariat, while the General Assembly and its Committee on the Exercise of the Inalienable Rights of the Palestinian People tend to encourage action in support of the Palestinians.<sup>15</sup> Balancing on this tightrope is not always easy, with occasional falls, as in the case of UNSG Boutros Boutros-Ghali, who was denied a second five-year term – the only UNSG not to have started at least a second term – due to the veto cast by the US because of his anti-Israel attitude.

There was a “golden revival” period, when the UNSG became a central player again, for a few years. The creation of the Quartet – UN, EU, USA, and Russia – in 2002 gave Kofi Annan a recognisable role as the spokesperson of the group, when it met at the Principals’ level. The overall approach was “leave it to Kofi,” like the famous “leave it to Dag [Hammarskjöld]” aphorism, even though in Kofi’s case it was more about the presentation of decisions made rather than their actual making. The Quartet’s prominence gradually faded away, even if its Special Envoy for several years was the former UK Prime Minister Tony Blair (Elgindy 2012).<sup>16</sup>

Quite eloquent in his speeches admonishing world leaders to act, the current UNSG, Antonio Guterres, a committed humanitarian, seems unable to play the good offices and political broker role that the circumstances require. The fact that Israel has declared Mr. Guterres and several of his senior associates *personae non gratae* does not help, of course. A weak UNSG may be a blessing for a country like Israel, which does not want any authoritative and operational opposition. This may backfire, though, for all parties in the conflict, the US and Israel too, when it comes to “the day after” for Gaza and the Middle East. A largely discredited and weakened UN may not be a persuasive institution to put in charge, solely or jointly, of either reconstruction or of two-state solution implementation efforts.

## 8.7 The Special Role of UNRWA

Following the failure of securing a just and sustainable agreement on the question of Palestinian refugees after the Nakba (more than 750,000) and, considering the need to provide assistance in a coordinated manner, UNRWA was founded as a UNGA temporary subsidiary organ in 1949. After the 1967 war, which exponentially increased the number of Palestinian refugees in the OPT and in neighbouring countries, and in the decades that followed up to today, UNRWA's humanitarian footprint and provision of essential services, with education at the top of this list, has been monumental. In fact, UNRWA's history – also given that most of its personnel are locally recruited – is deeply engrained into Palestinian heritage as a quasi-public authority. In the absence of a political solution to the refugee question, the UNGA has repeatedly renewed UNRWA's mandate, most recently extending it until 30 June 2026. Moreover, today, over 5.9 million Palestinian refugees are eligible for UNRWA services, with the ongoing Israel-Hamas war rendering more and more Palestinians in need of UNRWA's assistance (International Crisis Group 2024). UNRWA operates in five locations, namely Jordan, Lebanon, Syria, the Gaza Strip, and the West Bank, including East Jerusalem – and employs close to 30,000 people. UNRWA is sometimes referred to as a “phantom sovereign,” given its nature as both a development and a humanitarian agency, and the volume and breadth of its work (Mattera 2016).

UNRWA did not and does not hold a political mandate, but its field of work is connected to the inherently political question of Palestinian refugees' right to return (Bocco 2010). UNRWA's original mandate was to carry out relief and works programmes, allowing for refugees' economic integration, and to consult with neighbouring countries on measures to be taken following the conclusion of these works. However, many saw this mandate, should it develop towards resettlement and integration projects, to be rendering the recognition by the UNGA through A/RES/194 of Palestinians' right to return a dead letter (Bocco 2010). After all, Israel remains firm on its policy of not accepting a single returnee, while Arab leaders – in a move that fuelled extensive Palestinian dissent – eventually moderated their insistence on the right to return post-1993. However, it is the very existence of UNRWA that has reinforced the idea of returning, especially as UNRWA shifted its efforts from refugee relief to providing essential services, most importantly, education and development projects, while it expanded its definition of refugee, and even developed refugee protection activities (Bartholomeusz 2010). In this context, UNRWA's existence and work have, in fact, strengthened Palestinian identity (Mattera 2016).

Moreover, the realisation of UNRWA's mission is heavily dependent on the status of the peace process, relations between the refugee population and their host countries, other regional conflicts, and the surrounding political goals of UN member states, on whose voluntary contributions UNRWA is

dependent. Funding crises have been repeating over the decades, with the 2023 one amidst the Israel– Hamas war being the worst so far. Thankfully, several international donors have by now resumed their funding, although the financial situation remains precarious (i.e., Sweden’s latest decision).<sup>17</sup> Of course, UNRWA’s work continues to face severe operating obstacles from Israel. Overall, though, UNRWA has proven to be quite pragmatic and flexible throughout its history, managing to evolve in response to developments on the ground.

Following the commencement of Israel’s war in Gaza and after the 7 October 2023 Hamas attack, UNRWA’s contribution to the newly forcefully displaced and to all Palestinians in need has been monumental. However, the flow of aid to Gaza has either dropped to record low levels or has been fully choked by the Israeli blockade. UNRWA premises and staff have been directly targeted, with some 237 UNRWA staff killed by the end of 2024 in action by Israeli armed forces, resulting in serious violations of international humanitarian law. In January 2024, Israel publicly accused UNRWA staff of participating in and aiding Hamas on 7 October 2023 (UNRWA 2024). The UN conducted an internal review that proved the inaccuracy of the accusations, as did the reviews conducted by several international donors (UN News 2024a; UN News 2024b). Israel’s attack on UNRWA culminated in the end of October 2024 laws by the Israeli Parliament practically banning the Agency from operating on Israeli soil and the OPT and prohibiting Israeli authorities from communicating with UNRWA staff. Then, on 4 November 2024, Israel informed the UNSC of its withdrawal from a 1967 agreement basically establishing and allowing for its cooperation with the Agency.

Israel’s decision can be understood as criminalisation of humanitarian aid, and has been severely criticised by the UN and individual countries (UNISPAL 2024; UN News 2024c; EEAS 2024; Amnesty International, 2024a, 2024b). It remains to be seen whether this legislation will be enforced by Israel, how the international community will react, and what the consequences on the ground will be. Indeed, further obstruction of UNRWA’s work at a time when Gazans are under bombing and famine, and at the risk of suffering from several health conditions, underlines Israel’s complete disregard for the lives and dignity of the Palestinians.

## **8.8 What Next? – Some Concluding Thoughts**

The UN is an imperfect organisation in an imperfect world, which more and more goes back to running on geopolitical great power whims (Kartini Abou and Mwango 2015). However, the UN does have, even if it does not always properly utilise – an array of tools and some success stories of conflict resolution. The Israeli–Palestinian conflict has been one of the toughest nuts to crack, and it remains unresolved. A balance of interests between a UNSC kept at bay by the US pro-Israel vetoes and a pro-Palestinian UNGA may be seen as normal at normal times. At times of active conflict, though, as from

7 October 2023, the status quo is neither viable nor useful in the medium term to either side. As the time for a ceasefire and reconstruction approaches, the UN must be in the picture to sanction whatever agreement is reached and oversee, alone or jointly with others, its implementation (Kostakos 2024; O'Donnell 2024).

Hopefully, most states will push for a specific plan with a timetable for ending the occupation and welcoming Palestine to full UN membership, while working out security guarantees for it and for Israel, and good neighbourhood agreements for the region as a whole. The above would require coordinated resolutions by the UNSC and the UNGA, and proactive implementation steps by the UNSG. UNRWA needs to remain in the picture and provide extensive support for reconstruction and social services, while the transition to a fully self-governing Palestine takes place. A revival of the Middle East Quartet, with additional members such as the Arab League and China, may be a useful way to bring together key actors that need to remain on the same page for the transition to succeed. Finally, the justice part should not be forgotten, and ICJ and ICC decisions should be carried out, even if somewhat deferred to allow for peace to take hold.

*Annex: Forms of UN Involvement in the Israel-Palestine Conflict*

| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i> | <i>Timeframe</i> | <i>Documents</i>   |
|---|------------------|--|
| LoN Mandate: United Kingdom                                     | 1919–1948        | Article 22 LoN Covenant, LoN Council Decision 1922.<br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv-document-source%5B0%5D=league-of-nations">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv-document-source%5B0%5D=league-of-nations</a>   |
| UN Special Committee on Palestine (UNSCOP)                      | 1947–1947        | UNGA Resolution 106 (1947).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-special-committee-on-palestine-unscoop&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-special-committee-on-palestine-unscoop&amp;wpv-wpcf-document-symbol=</a> |

(Continued)

| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>  | <i>Timeframe</i> | <i>Documents</i>  |
|--|------------------|---|
| Partition plan (two states solution, with Jerusalem under UN trusteeship) pursuant to UNSCOP Report  | 1947             | UNGA Resolution 181 (1947).   |
| UNGA Resolutions   | 1947–Present     | <a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=general-assembly&amp;wpv-document-category%5B%5D=general-assembly-resolution&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=general-assembly&amp;wpv-document-category%5B%5D=general-assembly-resolution&amp;wpv-wpcf-document-symbol=</a>   |
| UNGA Special Emergency Sessions: 1 <sup>st</sup> to 5 <sup>th</sup> , 7 <sup>th</sup> , 9 <sup>th</sup> to 10 <sup>th</sup> , 13 <sup>th</sup> to 14 <sup>th</sup> | 1947–Present     | <a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=general-assembly-10th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-13th-special-session&amp;wpv-document-source%5B%5D=general-assembly-14th-special-session&amp;wpv-document-source%5B%5D=general-assembly-1st-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-2nd-special-session&amp;wpv-document-source%5B%5D=general-assembly-3rd-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-4th-special-session&amp;wpv-document-source%5B%5D=general-assembly-5th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-7th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-9th-emergency-special-session&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=general-assembly-10th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-13th-special-session&amp;wpv-document-source%5B%5D=general-assembly-14th-special-session&amp;wpv-document-source%5B%5D=general-assembly-1st-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-2nd-special-session&amp;wpv-document-source%5B%5D=general-assembly-3rd-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-4th-special-session&amp;wpv-document-source%5B%5D=general-assembly-5th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-7th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-9th-emergency-special-session&amp;wpv-wpcf-document-symbol=</a> |

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| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>   | <i>Timeframe</i> | <i>Documents</i>  |
|---|------------------|---|
| UNSC Resolutions  | 1947–Present     | <a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=general-assembly-10th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-13th-special-session&amp;wpv-document-source%5B%5D=general-assembly-14th-special-session&amp;wpv-document-source%5B%5D=general-assembly-1st-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-2nd-special-session&amp;wpv-document-source%5B%5D=general-assembly-3rd-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-4th-special-session&amp;wpv-document-source%5B%5D=general-assembly-5th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-7th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-9th-emergency-special-session&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=general-assembly-10th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-13th-special-session&amp;wpv-document-source%5B%5D=general-assembly-14th-special-session&amp;wpv-document-source%5B%5D=general-assembly-1st-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-2nd-special-session&amp;wpv-document-source%5B%5D=general-assembly-3rd-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-4th-special-session&amp;wpv-document-source%5B%5D=general-assembly-5th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-7th-emergency-special-session&amp;wpv-document-source%5B%5D=general-assembly-9th-emergency-special-session&amp;wpv-wpcf-document-symbol=</a> |
| Mediation through UN Mediator (on partition plan, on truce and armistice agreements, on questions of Jerusalem, refugees, humanitarian situation): Count Folke Bernadotte; UN Acting Mediator: Ralph Bunche | 1948–1949        | UNGA Resolution 186 S-2 (1948).<br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv-document-source%5B%5D=united-nations-mediator-on-palestine">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv-document-source%5B%5D=united-nations-mediator-on-palestine</a>  |

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| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>   | <i>Timeframe</i> | <i>Documents</i>  |
|---|------------------|---|
| Truce observation through UN Mediator   | 1948–1949        | UNSC Resolution 50 (1948).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=truce&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-mediator-on-palestine&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=truce&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-mediator-on-palestine&amp;wpv-wpcf-document-symbol=</a>                     |
| Truce observation through UN Truce Supervision Organisation (UNTSO)   | 1948–Present     | UNSC Resolution 48 (1948).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-truce-supervision-organization-untso&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-truce-supervision-organization-untso&amp;wpv-wpcf-document-symbol=</a> |
| UNSC Truce Commission for Palestine   | 1948–1949        | UNSC Resolution 48 (1948).<br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=security-council-truce-commission&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=security-council-truce-commission&amp;wpv-wpcf-document-symbol=</a>   |
| Director of Department of Social Affairs of UN Secretariat (Sir Raphael Cilento) visit to investigate situation on the ground in Palestine regarding refugees | 1948             | <a href="https://www.un.org/unispal/document/auto-insert-199220/">https://www.un.org/unispal/document/auto-insert-199220/</a>   |

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| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>   | <i>Timeframe</i>                         | <i>Documents</i>  |
|---|--|---|
| UN Disaster Relief Operation  | 1948–1948                                | UN Mediator Report (Bernadotte Plan) (1948).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=disaster+relief+operation&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-mediator-on-palestine&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=disaster+relief+operation&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-mediator-on-palestine&amp;wpv-wpcf-document-symbol=</a> |
| UN Relief for Palestine Refugees (UNRPR)  | 1948–1950                                | UNGA Resolution 212 (1948).<br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-relief-for-palestine-refugees-unrpr&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-relief-for-palestine-refugees-unrpr&amp;wpv-wpcf-document-symbol=</a>  |
| UN Conciliation Commission for Palestine (UNCCP) as a subsidiary organ of the UNGA  | 1949–Present (rather inactive post 1965) | UNGA Resolution 194 (1949).<br><a href="https://www.un.org/unispal/document/auto-insert-177019/">https://www.un.org/unispal/document/auto-insert-177019/</a> ; <a href="https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine">https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine</a>  |
| UN membership for Israel  | 1949                                     | UNGA Resolution 273 (1949)  |
| UNCCP mediation of separate negotiations with Israel and Arab states in Lausanne, leading to Lausanne Protocols of 12 May 1949 as a declaration of principles for further negotiations based on UNGA Resolutions 181 and 194. | 1949                                     | <a href="https://digitallibrary.un.org/record/1327837?ln=en&amp;v=pdf">https://digitallibrary.un.org/record/1327837?ln=en&amp;v=pdf</a> ; <a href="https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine">https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine</a> . Negotiations ended with no agreement.   |

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| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>  | <i>Timeframe</i> | <i>Documents</i>   |
|--|------------------|--|
| UNCCP bilateral working committees between Israel and Arab bloc (with UNCCP good offices).                               | 1950             | <a href="https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine">https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine</a>  |
| UNCCP mediation of separate negotiations between Israel and Arab bloc based on UNCCP Comprehensive Pattern of Proposals. | 1951             | <a href="https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine">https://www.palquest.org/en/highlight/24260/united-nations-conciliation-commission-palestine</a><br>Negotiations end with no agreement.   |
| UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)   | 1949–Present     | UNGA Resolution 302 (1949)   |
| UN Emergency Force I (UNEF I) on the Israeli-Egyptian border – UN Peacekeeping Operation                                 | 1956–1967        | UNGA Resolution 1000 S-1 (1956).<br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv-document-source%5B0%5D=united-nations-emergency-force-unef-i">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv-document-source%5B0%5D=united-nations-emergency-force-unef-i</a>  |
| UNCCP Special Representative: Joseph Johnson   | 1961–1963        | May 1961 decision of the UNCCP.<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=johnson+joseph&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-conciliation-commission-for-palestine-unccp&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=johnson+joseph&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-conciliation-commission-for-palestine-unccp&amp;wpv-wpcf-document-symbol=</a> |
| Land for Peace UNSC Resolution   | 1967             | UNSC Resolution 242 (1967).  |

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| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>  | <i>Timeframe</i> | <i>Documents</i>   |
|--|------------------|--|
| UNSG Special Representative: Gunnar Jarring  | 1967–1971        | UNSC Resolution 242 (1967).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=jarring&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=special-representative-secco-resolution-2421967&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=jarring&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=special-representative-secco-resolution-2421967&amp;wpv-wpcf-document-symbol=</a> |
| UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories           | 1968–Present     | UNGA Resolution 2243 (1968).<br><a href="https://www.ohchr.org/en/countries/palestine/special-committee-reports">https://www.ohchr.org/en/countries/palestine/special-committee-reports</a>  |
| Non-recognition of changes/measures by Israel in the occupied territories and no action recognising the occupation by Israel                                     | 1972             | UNGA Resolution 2949 (1972).   |
| UNGA Resolution 242  |                  |  |
| International Peace Conference on the Middle East, held in Geneva under UN auspices (but with US mediation: Henry Kissinger, and co-chairmanship of US and USSR) | 1973             | UNSC Resolution 242 (1973), UNSC Resolution 338 (1973), UNSC Resolution 344 (1973).  |

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| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>  | <i>Timeframe</i> | <i>Documents</i>   |
|--|------------------|--|
| UN Emergency Force II (UNEF II) on the Israeli-Egyptian border – UN Peacekeeping Operation   | 1973–1979        | UNSC Resolution 340 (1973).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-emergency-force-ii-unef-ii&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-emergency-force-ii-unef-ii&amp;wpv-wpcf-document-symbol=</a> |
| United Nations Disengagement Observer Force (UNDOF) on the Israeli-Syrian border – UN Peacekeeping Operation   | 1974–Present     | UNSC Resolution 350 (1974).<br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-disengagement-observer-force-undof&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-disengagement-observer-force-undof&amp;wpv-wpcf-document-symbol=</a>   |
| UNGA recognition of PLO as the sole legitimate representative of the Palestinian people and “The Question of Palestine” becomes a permanent separate agenda item for the UNGA. | 1974             | UNGA Resolution 3210 (1974).   |
| UNGA grants observer status to the PLO   | 1974             | UNGA Resolution 3237 (1974).   |
| Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP)   | 1975             | UNGA Resolution 3376 (1975).<br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=ceirpp&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=ceirpp&amp;wpv-wpcf-document-symbol=</a>  |

(Continued)

| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>  | <i>Timeframe</i> | <i>Documents</i>   |
|--|------------------|--|
| International Day of Solidarity with the Palestinian People  | 1977             | UNGA Resolution 32/40 B (1977)   |
| UNGA – Division of Palestinian Rights  | 1979–Present     | UNGA Resolution 34/65 (1979)   |
| UNSC Commission on the situation in the Occupied Arab territories (and specifically on the situation related to settlements in the territories occupied by Israel since 1967)  | 1979–1980        | UNSC Resolution 446 (1979).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=security-council-commission-on-settlements&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=security-council-commission-on-settlements&amp;wpv-wpcf-document-symbol=</a>                         |
| UNESCO addition of Old City of Jerusalem to the UNESCO World Heritage Sites and World Heritage Sites in Danger Lists   | 1981/1982        | See here.<br>All UNESCO documents on the question of Palestine (Jerusalem, holy and historical sites in the occupied territories, journalists and freedom of expression, etc.) <a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-educational-scientific-and-cultural-organization-unesco&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-educational-scientific-and-cultural-organization-unesco&amp;wpv-wpcf-document-symbol=</a> |
| International Conference on the Question of Palestine, organised by the Committee on the Exercise of the Inalienable Bights of the Palestinian People, requested by UNGA, in Geneva. Ended with the adoption of the Geneva Declaration on Palestine and the Programme of Action for the Achievement of Palestinian Rights. | 1983             | UNGA Resolution 36/120 C (1981), UNGA Resolution ES-7/7 (1982), UNGA Resolution 37/86 (1982).  |

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| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>  | <i>Timeframe</i>            | <i>Documents</i>  |
|--|-----------------------------|---|
| Call for an International Peace Conference on the Middle East by UNGA, including UNSG reports.   | 1983–1992                   | UNGA Resolution 38/58 C (1983), UNGA Resolution 40/96 D (1985), UNGA Resolution 41/43 D (1986), UNGA Resolution 41/162 A (1986), UNGA Resolution 42/66 D (1987), UNGA Resolution 43/176 (1988), UNGA Resolution 44/42 (1989), UNGA Resolution 44/40 (1989), UNGA Resolution 45/68 (1990), UNGA Resolution 45/83 (1990), UNGA Resolution 46/75 (1991), UNGA Resolution 47/64 (1991)  |
| Madrid Peace Conference (under US auspices, UN not involved)   | 1991                        | UNGA Resolution 46/75 (1991), welcoming the initiative.   |
| UN Special Coordinator in the Occupied Territories, which in 1999 evolved into the Office of the Special Coordinator of the Middle East Peace Process and Personal Representative of the Secretary-General to the PLO and the Palestinian Authority. | 1994–Present                | UNSG Decision SG/A/585/SG/SM/5298 (1994), following signature of Oslo Accords (1993).<br><a href="https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-special-coordinator-in-the-occupied-territories-unsco&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-special-coordinator-in-the-occupied-territories-unsco&amp;wpv-wpcf-document-symbol=</a><br><a href="https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-special-coordinator-for-the-middle-east-peace-process-unsco&amp;wpv-wpcf-document-symbol=">https://www.un.org/unispal/documents/?wpv_view_count=4164&amp;wpv_post_search=&amp;wpv-wpcf-document-date_min=&amp;wpv-wpcf-document-date_min-format=d-m-y&amp;wpv-wpcf-document-date_max=&amp;wpv-wpcf-document-date_max-format=d-m-y&amp;wpv_sort_order=desc&amp;wpv-document-source%5B%5D=united-nations-special-coordinator-for-the-middle-east-peace-process-unsco&amp;wpv-wpcf-document-symbol=</a> |
| UN as part of the Quartet with EU, US, Russia. The UN is represented through the Special Coordinator for the Middle East Peace Process.  | 2002–Present (but inactive) | 10 April 2002 Ministerial Meeting of EU, US, Russia, UN - Statement. Endorsed by UNSC Resolution 1397 (2002). Quartet Office established in 2007. Quartet Roadmap for Peace (2003), endorsed by UNSC Resolution 1515 (2003).  |

*(Continued)*

| <i>Forms of UN Involvement in the Israel-Palestine Conflict</i>   | <i>Timeframe</i> | <i>Documents</i>  |
|---|------------------|---|
| ICJ Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories  | 2004             | Advisory Opinion – requested via UNGA Resolution ES-10/14.  |
| Deputy Special Coordinator, Humanitarian and Resident Coordinator of the Middle East Peace Process appointed leading 21 UN entities providing humanitarian assistance on the ground.  | 2006–Present     | UNSG Decision, Press release SG/A/1002 (2006).  |
| UNHRC UN Fact Finding Mission on Conflict in Gaza   | 2009–2009        | UNHRC Resolution S-9 (2009), Mission Final Report (Goldstone Report) (2009)   |
| UN Non-Member Observer State Status for Palestine   | 2012–Present     | UNGA Resolution 67/19   |
| International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory   | 2012-2013        | UNHRC Resolution 19/17 (2012). Final report <a href="https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session22/Pages/ListReports.aspx">https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session22/Pages/ListReports.aspx</a> . <a href="https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session19/israeli-settlements-in-the-opt">https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session19/israeli-settlements-in-the-opt</a> |
| South Africa v. Israel in ICJ: Application on the Convention on the Prevention and Punishment of the Crime of Genocide in Gaza  | 2023–ongoing     | <a href="https://www.icj-cij.org/case/192">https://www.icj-cij.org/case/192</a>   |
| ICJ Advisory Opinion on Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territories, including East Jerusalem. Opinion clearly stated the illegality of the Israeli occupation of Palestinian territory. | 2024             | Advisory Opinion – requested via UNGA Resolution 247  |

| <i>Issues</i>  | <i>Inclusion in the UN bodies' agendas</i> |
|--|--|
| Palestinian state sovereignty  | 1947–Present                               |
| Security   | 1947–Present                               |
| City of Jerusalem: Status  | 1947–Present                               |
| Palestinian refugees and displaced people                                      | 1947–Present                               |
| Truce, armistice, ceasefire agreements   | 1948–Present                               |
| Israeli settlements in West Bank, Gaza   | 1967–Present                               |
| Separation wall  | 2004–Present                               |
| Violations of International Humanitarian Law                                   | 1967–Present                               |
| Humanitarian assistance, including assistance to refugees and displaced people | 1948–Present                               |
| Access to water/responsibilities of occupying power                            | 2016–Present                               |

## Notes

- 1 UNISPAL n.d. Question of Palestine: History of the Question of Palestine. <https://www.un.org/unispal/historical-timeline/>. Interactive encyclopedia of the Palestine question n.d. <https://www.palquest.org/>. Council on Foreign Relations. n.d. 'Israeli-Palestinian Conflict Timeline'. <https://education.cfr.org/learn/timeline/israeli-palestinian-conflict-timeline>.
- 2 Please refer to the Annex to this chapter, including all relevant UN actions/decisions on the question of Palestine, with links to documents and bodies.
- 3 Communication of the Council of the LoN, 12 August 1922 (C. 529. M. 314. 1922. VI.) (League of Nations, 1922). There are, however, scholars who question the legal basis of Britain's mandate in Palestine, which was taken for granted by the United Nations in 1947, and also question the claim that this mandate or rule also envisioned a Jewish state (Quigley 2023).
- 4 It is interesting to note that the competence of the UN to proceed with recommendations and their enforcement of any solution that could be contrary to the will of the majority of the people of Palestine was put into question by the UNGA Sub-Committee II of UNSCOP. The latter's proposal to request an ICJ advisory opinion on the matter was widely rejected by the UNGA. See Quigley 2023.
- 5 United Nations Truce Supervision Organisation n.d. <https://untso.unmissions.org/about>
- 6 UNRWA's mandate back then raised several eyebrows among the Palestinian people, as it seemed to take the focus away from ensuring the right to return, given the integration and resettlement work (Bocco 2010).
- 7 UN Committee on the Exercise of the Inalienable Rights of the Palestinian People n.d. <https://www.un.org/unispal/committee/>
- 8 The Office of the United Nations Special Coordinator for the Middle East Peace Process. <https://unsco.unmissions.org/timeline>
- 9 Office of the Quartet n.d. <https://www.quartetoffice.org/page.php?id=4e3e7y320487Y4e3e7>
- 10 It is interesting to note that prior to the early 1970s, it was the USSR veto that was mostly blocking UNSC action on the Arab-Israeli conflict.
- 11 In 1994, then-Ambassador to the UN Madeleine Albright addressed a letter to the UNGA underlining that the US's aim was to render existing UN resolutions on the Israel-Palestine conflict irrelevant, since bilateral negotiations were underway.

- 12 “Since the beginning of 2010 till December 2019 [...] out of 596 UNSC resolutions on conflict issues worldwide, only 1 was adopted on Israel/Palestine; out of 239 UNSC presidential statements adopted, only 2 concerned Israel/Palestine.”(European Middle East Project 2020).
- 13 A list of US vetoes in the UNSC from 1972 to today for Resolutions that were seen as unfavourable to Israel can be found here: Jewish Virtual Library. <https://www.jewishvirtuallibrary.org/u-s-vetoes-of-un-security-council-resolutions-critical-to-israel>
- 14 United Nations General Assembly – Tenth Emergency Special Session. <https://www.un.org/en/ga/sessions/emergency10th.shtml>
- 15 Department for Political and Peacebuilding Affairs' (DPPA), Division for Palestinian Rights. <https://dppa.un.org/en/palestinian-rights>
- 16 The Office of the United Nations Special Coordinator for the Middle East Peace Process (UNSCO) n.d. <https://unsco.unmissions.org/mideast-quartet>
- 17 “Sweden ends funding for UN Palestinian aid agency UNRWA” (*Reuters* 2024). <https://www.reuters.com/world/sweden-will-no-longer-fund-unrwa-aid-agency-minister-says-2024-12-20/>

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# 9 Pathway to Peace

## The Two-State Solution in the Middle East\*

*Jeffrey D. Sachs and Sybil Fares*

### 9.1 History of the Israeli–Palestinian Conflict

To achieve a lasting solution for the Israeli–Palestinian conflict, it is essential to have an accurate understanding of its historical context. Prominent historians Rashid Khalidi and Ilan Pappé offer meticulous historical accounts of the origins of the conflict. The state of Israel arose in the context of British imperial power in the Middle East with the fall of the Ottoman Empire at the end of 1917. In that context, Britain promised a “Jewish homeland” in Palestine in the Balfour Declaration (1917), over the immediate opposition of the local Palestinian population. Britain subsequently implemented the Balfour Declaration during a period of British Mandatory Rule over Palestine (1921–1947) under the terms of the League of Nations. For this reason, historians describe the conflict as a case of settler colonialism backed by imperial power, starting with Great Britain as the imperial overseer, and with the US taking on that role after World War II (Khalidi, 2020; Pappé, 2017).

When the British Empire promised a Jewish homeland in Palestine in 1917, the Palestinian Arabs constituted more than 90% of the population (United Nations, 1980). By 1918, Jewish settlers were about 5 to 6% of the population (Pappé, 2017). Ilan Pappé maps the history of the Zionist movement and immigration to Palestine. He writes of the ambitions of leaders of the movement, David Ben-Gurion and Menachem Ussishkin, that “even in the first phase of Zionist colonization of Palestine (1882–1918), they were already imagining a Palestine without the Palestinians, and openly discussed how that could be achieved” (Pappé, 2024a, 2024b).

At the time of the 1947 UN Partition Plan for Palestine, the Palestinians were approximately 67% of the population, though the UN plan proposed to give them only 44% of the land. Then, prior to May 15, 1948, when Israel declared its independence, fighters and terror groups of the Jewish settlement

\* The authors’ contributions encompass original writings and research, as well as selected materials from previously published articles, all used with the explicit permission of the publishers. This chapter was submitted in January 2025 and does not reflect any geopolitical developments that may have occurred subsequent to that date.

ethnically cleansed 300,000 Palestinians from their homes. After May 15<sup>th</sup>, another 400,000 Palestinians were expelled (Khalidi 2020). During the 1967 Six-Day War, Israel captured the Sinai Peninsula, the Gaza Strip, the West Bank, East Jerusalem, and the Golan Heights.

The most recent escalation of the conflict is, according to historian Rashid Khalidi, a “continuation of the Nakba and of ethnic cleansing,” marking this genocide as “worse than any phase of Palestinian history” (Khalidi 2024). Israel is now in the dock at the International Court of Justice on the charge of genocide (technically, of its violation of the 1948 Genocide Convention) in a case brought by South Africa and joined by many other countries (International Court of Justice, 2024a, 2024b). The evidence brought by South Africa and others is overwhelming, though a final decision is yet to be adjudicated. In our view, the ICJ is very likely to find Israel in clear violation of the 1948 Genocide Convention.

In retaliation to the Hamas attacks on Israel on October 7, 2023, which claimed around 1,200 lives, Israel launched a devastating war on Gaza, including the civilian population, wherein the Israeli army has killed at least 45,000 Palestinians (70% women and children) and destroyed the health, education, agriculture, housing, and logistical infrastructure of Gaza (United Nations 2024). In very clear violation of international law, Israel continues its genocidal war in Gaza and its apartheid system in the occupied West Bank.

At each stage of the conflict from the Balfour Declaration until today, the Jewish Homeland and later the state of Israel aimed for territorial expansion to encompass all of Mandatory Palestine, and for some extremists in Israel, an even larger territory extending into Egypt, Lebanon, Syria, and Iraq, based on claims that God promised the Jewish people an extended territory from the Nile to the Euphrates River.

## 9.2 Netanyahu’s Plan to Change the Map of the Middle East

The fate of Palestinian statehood today conflicts with the Israeli right-wing project of “Greater Israel,” which claims Israel’s determination and right to hold permanently all of the land captured in the 1967 war. There are two main underpinnings of the Greater Israel project. The first is a secular security claim that Israel can be secure only if there is no state of Palestine and if Israel keeps the vital territory captured in 1967. The second is a religious claim, that according to the Bible (notably Genesis, Deuteronomy, and the Book of Joshua), God’s promise to the Jewish people is extensive, stretching from the “river of Egypt” in the west to the Euphrates River in the east. The Israeli politics of Greater Israel rests on both pillars – security and religious claim – with different parts of the political system weighing the two somewhat differently.

Benjamin Netanyahu, who as of early 2025 had been prime minister for 17 years since 1996, and who is a staunch supporter of Greater Israel, tends to represent mostly the security side of the politics. His coalition partners,

Itamar Ben-Gvir, the Minister of National Security, and Bezalel Smotrich, Minister of Finance and Minister in the Ministry of Defense, tend to represent the Biblical claims. Yet the two sides are deeply interconnected in rhetoric, policy, and politics.

The policies that Netanyahu represents today are widely popular in Israel, including the genocide in Gaza and the settlement expansions across the occupied territories. As Prime Minister, under indictment by the International Criminal Court for war crimes, he represents the current version of long-standing decades-old Israeli far-right policy (Khalidi 2024).

Upon becoming Prime Minister in 1996, Netanyahu and his American advisors issued the document “Clean Break: A New Strategy for Securing the Realm.” This new “clean break” strategy called upon Israel to reject the framework of “land for peace” (Institute for Advanced Strategic and Political Studies 1996). This effectively advocated that Israel would not withdraw from the Palestinian-occupied lands of 1967 in exchange for regional peace. Instead, Israel would continue with its policy of occupation until securing “peace for peace,” by reshaping the Middle East to its liking. Redrawing the map of the region consisted of toppling governments that were opposed to Israel’s dominance. The strategy clearly states:

“Our claim to the land – to which we have clung for hope for 2000 years – is legitimate and noble,” and goes on to state, “Syria challenges Israel on Lebanese soil. An effective approach, and one with which Americans can sympathize, would be if Israel seized the strategic initiative along its northern borders by engaging Hizballah, Syria, and Iran, as the principal agents of aggression in Lebanon....”

(Institute for Advanced Strategic and Political Studies 1996: 2)

In 1996, Netanyahu also published his book *Fighting Terrorism* (Netanyahu 1996). At the core of Netanyahu’s strategy would be to prevent the implementation of a Palestinian State and to hold permanently the territories occupied in 1967. This policy, he knew, would engender continued armed conflict, including with militant groups he characterized as “terrorists.” To fight the terrorists, it would be necessary to fight the states in the Middle East that backed them. This is the key to Netanyahu’s foreign policy: regime change throughout the Middle East to extinguish support for the Palestinian cause. “The first and most crucial thing to understand is this: There is no international terrorism without the support of sovereign states.... Take away all this state support, and the entire scaffolding of international terrorism will collapse into dust.”

Netanyahu’s plans for Greater Israel coalesced with the rise of neoconservatism in US foreign policy. Neoconservatism is the doctrine that the US is and should aim to remain the world’s sole superpower. As America’s ally, Israel would serve US hegemony by being the most powerful nation in the Middle East. In parallel, the Israel lobby would heavily influence the US through

political pressure, media, financing, campaign contributions, and policy formulations as documented in Pappé's *Lobbying for Zionism on Both Sides of the Atlantic* (Pappé, 2024a, 2024b). The lobby and the neoconservative movement made a lasting bond, each serving the other's core aims.

The strategy to reshape the Middle East was eventually implemented through US foreign policy (Fritz 2024; Pappé, 2024a, 2024b), notably through a series of wars of choice that aimed to topple regimes hostile to Israel. Former NATO Supreme Commander General Wesley Clark has provided the most direct description of this policy (Clark 2011). In September 2001, soon after the 9/11 attack, General Clark was told by a Pentagon official that “we’re going to attack and destroy the governments in 7 countries in five years—we’re going to start with Iraq, and then we’re going to move to Syria, Lebanon, Libya, Somalia, Sudan and Iran.”

Air Force Chief Command Dennis Fritz has elaborated on this in his book *Deadly Betrayal* (2024). He clearly writes that the “Iraq War was part of the neocon plan to dominate the Middle East in support of Israel.” He describes how the war in Iraq in 2003 was to be the first in a rapid-fire sequence of wars, but that the American forces became tied down in Iraq, slowing the shift to the other intended battlefronts. The war in Syria, which was originally to be started soon after the 2003 Iraq War, was delayed until 2011, when President Obama tasked the CIA, in Operation Timber Sycamore, to work with regional powers to overthrow Syria's Bashar al-Assad.

In fact, and essentially as outlined by Clark, though not on the five-year timeline, the US has been involved in several military interventions over the years, including the 2003 invasion of Iraq, where it led a coalition to oust Saddam Hussein. In Lebanon, the US supported Israel through funding and military aid during its conflicts. In Libya, the US participated in NATO bombing operations in 2011 as part of efforts to remove Muammar Gaddafi from power. The CIA conducted operations in Syria throughout the 2010s (code-named Operation Timber Sycamore). In Sudan, the US provided support to rebel groups aiming to fracture the country in 2011. Additionally, the US backed Ethiopia's invasion of Somalia in 2006.

In addition to reshaping the Middle East, the Israel lobby played a crucial role in ensuring the failure of US-brokered peace processes. The processes were based on direct bilateral negotiations, characterized by significant power imbalances. Every single attempt has failed, leading to perpetual conflict: the 1978 Camp David Accords, the 1991 Madrid Conference, the 1993–1995 Oslo Accords, the 2000 Camp David Summit, the 2003 Quartet Roadmap for Peace, and the 2007 Annapolis Conference.

Each of these processes is meticulously studied by historians and academics. Regarding the Oslo Accords, Pappé confirms in *Ten Myths About Israel* that

since the Oslo process was not a genuine peace process, the Palestinians' participation in it, and their reluctance to continue it, was not a sign of

their alleged intransigence and violent political culture, but a natural response to a diplomatic charade that solidified and deepened Israeli control over the occupied territories.

(Pappé 2017)

The 2003 Quartet Roadmap for Peace is discussed in Mearsheimer and Walt's *The Israel Lobby and US Foreign Policy* (Mearsheimer & Walt 2006), while the 2000 Camp David Summit is analyzed in Swisher's *The Truth About Camp David* (Swisher 2004). In 2003, the failure was a direct result of the Israel lobby's influence on the Bush administration – and in 2000, the failure was due to both Clinton's inability to transcend the lobby's pressure and Ehud Barak's failure to fulfill Israel's commitments under the Oslo Accords.

Throughout all the peace-process negotiations, Israel continued its policy of settlement expansion by creating “facts on the ground” to undermine the territorial integrity of the occupied Palestinian lands. Israel's systematic rejection of the two-state solution is not a fringe policy – but a core strategy of successive governments in favor of “Greater Israel.” In July 2024, as a culmination of this decades-old rejection, the Knesset voted overwhelmingly (68 in favor, nine opposed) against the two-state solution and Palestinian statehood.

In 2020, under President Trump, the US attempted a slightly different, yet altogether failed, peace process. By sidelining the Palestinians, the US carried on a “divide-and-conquer” strategy to attempt and normalize relations between the Arab world and Israel. The Abraham Accords had limited success in the UAE and Bahrain, but failed to address the root cause of the region's instability – the lack of a Palestinian state. The Accords were designed to eventually allow for diplomatic relations between the Kingdom of Saudi Arabia and Israel, yet it is now clear that this will never happen without the implementation of a Palestinian state. The approach was cynical, as it aimed to bypass the Palestinians; now it is surely impossible.

Emboldened by US neoconservatives, the Israel Lobby, and his far-right government, Netanyahu presented in September 2023 at the United Nations General Assembly a map of the “New Middle East” completely erasing a Palestinian state. In September 2024, he elaborated on this plan by showing two maps: one of a blessing, and one of a curse (Lebanon, Syria, Iraq, and Iran), advocating for the collapse of the latter countries. He confirmed his plans once again on December 9, 2024, after the collapse of the Syrian government:

The axis has not yet disappeared but as I promised – we are changing the face of the Middle East. The State of Israel is establishing itself as a focus of strength in our region, the likes of which have not been seen for decades. Whoever cooperates with us, gains greatly. Whoever attacks us, loses greatly.

(Netanyahu 2024)

Netanyahu still has one major war to achieve: drawing the US into a direct confrontation with Iran. This would be the culmination of his efforts to redraw the map of the region, ensure its fragmentation, and cement a power vacuum that could only be filled with Israel's dominance.

### 9.3 The Will of the World in Favor of a Two-state Solution

The only viable and lasting pathway to peace is the two-state solution. In 1947, marking the second anniversary of the United Nations, the organization assumed the task of addressing the Palestinian issue. Through Resolution 181, the UN General Assembly recommended the division of Mandatory Palestine into two sovereign states – one for Jews and another for Arabs. To this date, only one of those states has gained full sovereignty, and only one has joined the United Nations as a permanent member. It is time for Palestine to enjoy the same privileges and responsibilities.

The Arab and Islamic nations have long championed peace through the two-state solution and the 2002 Arab Peace Initiative (API), which was introduced during the Beirut summit. This initiative proposes that the region would establish diplomatic relations with Israel, ensure the security of all states, contingent upon Israel's complete withdrawal from the occupied territories of 1967. As the document states,

a just and comprehensive peace in the Middle East is the strategic option of the Arab countries, to be achieved in accordance with international legality, and which would require a comparable commitment on the part of the Israeli government... [and] Further calls upon Israel to affirm (*inter alia*) the acceptance of the establishment of a sovereign independent Palestinian state on the Palestinian territories occupied since June 4, 1967 in the West Bank and Gaza Strip, with East Jerusalem as its capital.  
(Arab League 2002)

This has been agreed to and endorsed by all 22 members of the League of Arab States (LAS) and all 57 members of the Organization of Islamic Cooperation (OIC). In 2023, it was reiterated during the 2023 Arab-Islamic Extraordinary Summit:

Emphasize the need for the international community to act immediately to launch a serious and genuine peace process to achieve peace on the basis of the two-state solution in a way that meets all the legitimate rights of the Palestinian people, especially their right to embody their independent, sovereign State along the borders of June 4, 1967, with East Al-Quds as its capital, living in security and peace side by side with Israel, in accordance with the resolutions of international legitimacy and the Arab Peace Initiative with all its provisions.

(Organization of Islamic Cooperation, 2023)

For decades, countries have been advocating for the two-state solution, but in light of the recent war, the support for this initiative has become almost universal. The two-state solution is enshrined in several UN Security Council and General Assembly resolutions. On July 19, 2024, the International Court of Justice issued a historic ruling calling for the end of Israel's illegal occupation of Palestinian lands (International Court of Justice, 2024a, 2024b). This ruling allows for a clear pathway to the implementation of the two-state solution – based on Palestine's statehood according to the 4 June 1967 borders. The majority of the world is in favor of the two-state solution. In 2024, we've witnessed the will of the global community for lasting peace in the Middle East through Palestinian statehood.

In June 2024, the Security Council adopted resolution 2735, whereby it reiterated

its unwavering commitment to the vision of the two-State solution where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders, consistent with international law and relevant UN resolutions, and in this regard stressed the importance of unifying the Gaza Strip with the West Bank under the Palestinian Authority.

(United Nations Security Council 2024)

The world has also shown its unity in the declarations this past year of the G20, the BRICS, and the 2024 Emergency Ministerial Meeting of the LAS and the OIC.

- G20 Rio de Janeiro Leaders' Declaration of November 2024 (G20 2024): "We reiterate our unwavering commitment to the vision of the two State solution where Israel and a Palestinian State live side by side in peace within secure and recognized borders."
- BRICS Summit Kazan Declaration of October 2024 (BRICS 2024): "the unwavering commitment to the vision of the two-state solution based on international law...that includes the establishment of a sovereign, independent and viable State of Palestine... in line with internationally recognized borders of June 1967 with East Jerusalem as its capital living side by side in peace and security with Israel."
- The Emergency Ministerial Meeting of the LAS and the OIC of September 2024, (LAS & OIC 2024): "realize the two-state vision and the independence of the State of Palestine on the borders of 4 June 1967, with Al-Quds as its capital, in accordance with relevant United Nations resolutions, including the Arab Peace Initiative."

In a historic vote in December 2024, the UN General Assembly overwhelmingly declared its support for Palestinian statehood, with a significant majority of member states backing the resolution. A total of 172 UN member states

voted in favor of the right of the Palestinian people to self-determination, with just seven opposed. The 172 countries have 91% of the world population. The seven opposed (Israel, US, Nauru, Micronesia, Papua New Guinea, Argentina, and Paraguay) have 5% of the world population (countries with 0.5% abstained, and countries with 3% did not vote).

#### 9.4 The Possibility of Peace Based on the Two-State Solution in 2025

On December 3, 2024, the UN General Assembly, in a strong affirmation of international law, passed a significant resolution. In addition to calling for the implementation of a two-state solution, this resolution provides a comprehensive framework for the implementation of a Palestinian state. It sets the stage for the High-level International Conference on the “Peaceful Settlement of the Question of Palestine and the Implementation of the Two-State Solution,” which will take place in June 2025 at the UN headquarters in New York (United Nations, General Assembly, 2024a, 2024b).

This conference, co-chaired by Saudi Arabia and France, will mark the UN's first concerted effort to lead an implementation process for the two-state solution. What distinguishes this initiative from past efforts is its foundation in international law and widespread global consensus. The emphasis is on *implementing* a Palestinian state rather than merely *negotiating* it. The right to self-determination serves as a fundamental starting point, while discussions would focus on minor details such as land adjustments and settlements.

With the recent escalations in Syria, Lebanon, and the occupied Palestinian territories, peace must be addressed comprehensively. It is not enough to stop the war or merely implement a Palestinian state. The UN Conference, equipped with its mandate, international law, and a variety of tools at its disposal, ought to address the deep-rooted security concerns of each state in the region. All UN member states must abide by its plan to ensure lasting peace. The simultaneous achievement of peace, security, and justice for all nations of the region must come with concrete steps.

- 1 An immediate UN-mandated ceasefire across all fronts of the conflict, including Israel, Palestine, Lebanon, Syria, Yemen, Iraq, and Iran, and the immediate release of hostages and prisoners of war across all entities;
- 2 The admission of a sovereign State of Palestine as the 194th UN Member State on the June 4, 1967 borders with its capital in East Jerusalem; the withdrawal of Israeli armed forces from territories occupied in 1967, with the simultaneous introduction of UN-mandated international forces and security guarantees to protect all populations;
- 3 The protection of the territorial integrity and stability of Lebanon and Syria, and the full demilitarization of all non-state forces, and the withdrawal of all foreign armies from the respective countries;

- 4 The adoption of an updated Joint Comprehensive Plan of Action (JCPOA) with Iran, and the end of all economic and other sanctions on Iran;
- 5 The termination, including defunding and disarmament of belligerent non-state entities, of all claims or states of belligerency, and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area, (without excluding the possibility of subsequent territorial adjustments, security arrangements, and cooperative forms of governance agreed by the sovereign parties);
- 6 The establishment of regional peace and normalization of diplomatic relations by all Arab and Islamic states with Israel; and
- 7 The establishment of an Eastern Mediterranean and Middle East Sustainable Development Fund to support the reconstruction, economic recovery, and sustainable development of the region.

The region has suffered decades of violence and wars. It is time to break the cycle of conflict and achieve lasting peace. On June 8, 2014, His Holiness Pope Francis gathered Israeli and Palestinian delegations, with then-President Shimon Peres and Palestine's President Mahmoud Abbas, at the Vatican Gardens. He said:

Peacemaking calls for courage, much more so than warfare. It calls for the courage to say yes to encounter and no to conflict: yes to dialogue and no to violence; yes to negotiations and no to hostilities; yes to respect for agreements and no to acts of provocation; yes to sincerity and no to duplicity. All of this takes courage, it takes strength and tenacity.

(Vatican, 2014)

The people of the Middle East deserve peace, along with leaders who possess the courage to embrace it. The global community stands united for the implementation of a two-state solution under the auspices of the United Nations, recognizing that a Palestinian state living in peace alongside an Israeli state is the only pathway to security and stability. Peace in the region is our only hope, and our best bargain.

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# 10 Should the United Nations Administer Post-Conflict Gaza?

## Establishing a UN Trusteeship in Gaza Would be a Mistake\*

*Larry D. Johnson*

In a 2024 article in *Foreign Affairs*, Lloyd Axworthy, Michael W. Manulak, and Allan Rock (2024) advocated for a United Nations (UN) trusteeship to govern post-conflict Gaza. To be sure, “post-conflict” Gaza can seem like a far-off fantasy as kinetic action continues to kill thousands – some civilians, some not – and Gaza remains a huge “prison” run by a terrorist organization, with little medical care, water, sanitation, or food. But dealing with the “day after” in Gaza is nearly as urgent a matter as ending hostilities.

Who would want to govern a place with such acute challenges? Palestinians governing Gaza themselves is a worthy goal, along with an end to occupation and an end to Hamas and other terrorists in Gaza. But with none of that within sight, the UN seems like a natural next choice, and the authors of the *Foreign Affairs* article are, thus, to be commended for starting this important conversation, at least in public. However, this course of action would be a mistake.

The Trusteeship Council is a principal organ of the UN entrusted with overseeing the operation of the “international trusteeship system” under Chapter XII of the UN Charter. Under that system, certain colonies (such as Tanganyika, Western Samoa, Nauru, and Cameroons) were placed under the administration of a state to promote the advancement of their people and, in particular, to promote “their progressive development towards self-government or independence as may be appropriate” (Article 76). Eleven trust territories have gone through that system and have become independent or decided on another form of self-government. But it is true that, at any time, a country could voluntarily place a territory it administers under the trusteeship system.

The problem is not with the Trusteeship Council, which has successfully managed the UN trusteeship system and guided its territories to independence, or “self-government” in the language of the Charter. It has not disappeared or been suspended. It continues to meet periodically, but with no trust

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territories left to manage, its agenda has only one item: the election of officers. The Trusteeship Council, for instance, met on December 5, 2023, when it elected the U.K. representative as president and the French representative as vice president “by acclamation” among its five members. The rules of procedure of the Trusteeship Council provide that it shall meet “as and where occasion may require.”

It is not a good idea to put Palestine under UN trusteeship, because the Palestinians, the Israeli government, and the U.S. government would almost surely oppose such a proposal. Instead, governments should consider other options, including an international transitional authority (ITA) established by the UN Security Council or another ITA, perhaps “blessed” (but not necessarily administered) by the UN.

### **10.1 Why the Palestinians Would Oppose a UN Trusteeship**

As indicated above, the goal of a trusteeship is to promote the progressive development of a territory’s inhabitants “towards self-government or independence as may be appropriate.” It assumes a given piece of land is in a colonial or non-self-governing status. The UN considers Palestine to be an independent state (United Nations 2024a) and that state includes “occupied Palestinian territories,” including the Gaza Strip. On May 10, 2024, the UN General Assembly accorded Palestine extensive procedural rights (United Nations 2024b), which basically bestowed on Palestine de facto “associate membership” status, even though no such category exists under the rules or the Charter.

In light of obtaining statehood in the UN, and the 2024 news of Ireland, Norway, and Spain joining approximately 140 countries in recognizing Palestinian statehood and wishing to establish bilateral diplomatic relations, the Palestinians would likely have little to gain from a UN trusteeship.

Any “day after” solution for Gaza must have Palestinian buy-in. Imposing anything by the UN, friendly Arab states, Israel, or the U.S. will not work. So why would any Palestinian state, authority, or leader give up all that status by asking the UN to establish a trust territory so that it could become independent when it and the UN already consider it to be an independent state? That defies logic and runs counter to the Palestinians’ own self-interest. What the Palestinians may want and ask for is international, temporary assistance in trying to turn Gaza into a governable and livable place. There is another more relevant option that should be considered for that purpose (see below).

### **10.2 Why Israel and the U.S. Would Oppose a UN Trusteeship**

Under Article 85 of the UN Charter, the Trusteeship Council operates under the authority of the General Assembly, a fact the *Foreign Affairs* authors view as an advantage. But the General Assembly has adopted resolutions that one might guess the current Israeli government considers antisemitic, biased, outrageous, and lacking any objectivity or credibility. The permanent representative of

Israel, speaking on 10 May 2024 before the General Assembly (United Nations 2024c), shredded a copy of the Charter and said, “[T]his shameless body has chosen to reward the modern-day Nazis with rights and privileges.” The General Assembly would, he said, have to explain how, in opposition to all morality and the Charter, it supported mass murderers. Why would Israel be interested in having the General Assembly exercise any authority, whether through the Trusteeship Council or not, over territory bordering Israel?

Similarly, the U.S. have voted against most, if not all, of the General Assembly resolutions opposed by Israel, suggesting a similar aversion to the General Assembly exercising authority over a Palestinian trust territory.

### 10.3 A More Relevant UN Option: An International Transitional Authority Established by the Security Council

Though the trusteeship option itself would be unpalatable to the parties involved, the UN could still be a viable source for ideas on governing Gaza. The 1947 Partition Plan for Palestine, adopted by the General Assembly, envisaged the UN administering Jerusalem “under a special international regime.” Relatedly, as the authors of the *Foreign Affairs* article note, in the face of armed conflicts between Arab and Jewish groups in Palestine following the adoption of the Partition Plan, in March 1948 the U.S. proposed to the Security Council a temporary trusteeship (United States Department of State 1948) for Palestine “to maintain the peace and to afford the Jews and Arabs of Palestine, who must live together, further opportunity to reach an agreement regarding the future government of that country,” not as a substitute for that plan but as an effort to fill the vacuum created by the withdrawal of the British as the mandatory power governing Palestine. Neither of these possible trustee-type UN administrations came to pass.

However, from 1962 to the present, the UN has been involved in the temporary administration of territory outside the trusteeship system, with varying degrees of administrative control. The first instance of a UN ITA was in 1962, when Indonesia and the Netherlands requested that the UN assume administration (United Nations 1962) of the territory of West New Guinea (West Irian), as a transitional administration (UNTEA) bridging transfer of that territory from Dutch to Indonesian sovereignty. In that case, the General Assembly authorized the Secretary-General to carry out the tasks entrusted to him by that agreement.

Since then, the Security Council has established UN ITAs in several cases. In some, the UN has been authorized to exercise complete plenary powers of administration – both civilian and military – in the territory. This was the case with UNTAES (Eastern Slavonia, 1996), UNMIK (Kosovo, 1999), and UNTAET (East Timor, 1999). In other cases, the UN shared responsibility, providing partial control or supervision, such as in UNTAG (Namibia, 1989) and UNTAC (Cambodia, 1992). In all cases, the UN administration was to be “transitional” – in other words, temporary.

Establishing an ITA for Gaza would make more sense than an ITA for all of Palestine. The challenges of governing Gaza would be enormous and enough to stretch the capacities of any administering authority, without taking on the additional challenges of the West Bank (e.g., settlements, borders, freedom of movement, payments, and Palestinian governance).

Another advantage of a traditional ITA is that it is headed by an individual, not a committee, and certainly not a committee of government representatives. Governance by a committee, even a committee of Arab country representatives, as the authors of the *Foreign Affairs* article suggest, sounds like a recipe for delay and inaction. If “like-minded” or donor countries wanted to be more formally involved, an advisory council could be established to assist the administrator. Who decides if there is disagreement among the “equal” administrators? By what majority? One relevant historical note: Nauru was a trust territory nominally administered by Australia, New Zealand, and the U.K. From the start, the three countries informed the Trusteeship Council that Australia would be in charge and do the governing and administering on behalf of all three, seemingly recognizing that it is better to have one authority act as the administrator rather than a committee.

Any Gaza governance structure would require a robust security or military component. Although Gaza does not seem in 2024 to be in a “civil war” situation, there is an obvious need for safety and security among its population, and between itself and Israel. Law and order are needed not only to maintain normal security in any governance structure but also to ensure that the territory is not used as a base for armed or terrorist attacks against Israel from groups such as Hamas and Islamic Jihad. In addition, it would help to ensure that Israel makes no illegal or unauthorized incursions into Gaza.

All of that would require negotiation and agreement on the rules of engagement for the troops deployed in Gaza. Most likely, there would be a need for an appropriate Security Council use-of-force mandate to cover different situations, more than what is provided to the traditional peacekeepers patrolling a cease-fire line in white jeeps with a limited use-of-force mandate. Examples of UN operations being supported by a strong military presence (a “robust” UN peacekeeping force or a military force authorized by the UN but outside UN command and control) would need to be examined. The relationship between normal law enforcement and enforced military security would have to be carefully delineated.

The military and civilian components would require separate mandates. The relationship between the two would be subject to negotiation and agreement between the council and the countries or organizations contributing troops.

ITAs are not a cure, and their record has been mixed. Some became unpopular with the local population, who saw them as foreign intervention forces or neo-colonialists. The UN Secretariat and interested governments should take a serious look at prior UN ITA experiences to address the particularities of the situation in Gaza.

The Security Council can establish an ITA for Gaza at the request of the State of Palestine, together with the “non-objection” of Israel and the U.S. This would exclude the General Assembly from any supervisory role and should enhance the chances of getting Israel and the U.S. on board.

#### 10.4 Another Option: A Non-UN, but “UN-Blessed” ITA

If Security Council oversight is not sufficiently objective and trustworthy, in theory, nothing prohibits other international organizations such as the League of Arab States or the Islamic Conference from establishing an ITA for Gaza, with the consent of the relevant parties. Such an ITA would be outside the UN framework, which would raise myriad other issues such as funding, organizational and logistical support, and legitimate use of force, among others. One historical example with regard to peacekeeping operations is the Multinational Force and Observers in the Sinai set up outside the UN in implementation of the 1979 peace agreement and its 1981 protocol between Israel and Egypt.

Any such non-UN ITA could receive Security Council approval or authorization, depending on how much political support it would receive within the UN itself, which would give the non-UN ITA a UN “blessing” or “international community approval” providing international credibility and support. An example of a non-UN security operation given a mandate by the Security Council but operating under the command and control of another organization (NATO) is the International Security Assistance Force in Afghanistan (Resolution 1386 of December 20, 2001).

As with a UN-established ITA, an “outside” ITA would still require buy-in first and foremost by the State of Palestine and by Israel, followed by the Arab League or at least Arab neighboring states, the U.S., the EU, and other stakeholders.

The most viable option, if one is looking for ideas for the “day after” UN governance for Gaza, is not to use the UN trusteeship system as a model but, rather, to look to the varied UN experiences in temporarily administering territory. The question is: Could those UN experiences be of any value in designing a solution to the seemingly unsolvable – the “day after” in Gaza?

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Part IV

# The Conflict in Ukraine



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# 11 Lessons in Peace and Justice from the Former Yugoslavia to Ukraine and Beyond

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## 11.1 Introduction

Until recently, the wars in the former Yugoslavia of the 1990s (often incorrectly referred to as the “Balkan wars”) were considered the largest military conflicts in Europe since World War II. Croatia, Bosnia and Herzegovina (BiH), and Kosovo experienced levels of violence and atrocities that shocked the world and tested the capabilities of the international system. Today, the Russian war with Ukraine represents “the largest war in Europe since 1945,” as Timothy Garton Ash put it (2024). While the civilian suffering and atrocities in BiH remain distinctive in post-war Europe,<sup>1</sup> the military complexity and geopolitical implications of the Russian war on Ukraine surpass those of the conflicts that accompanied the breakup of Yugoslavia. This current war marks a partial return to conventional warfare, including the significant role of infantry, despite advancements in military technology such as drones. Unlike the ex-Yugoslav conflicts, where civilians bore the brunt of the war, the military now suffers the most in this latest European conflict. Importantly, Russia’s war is not only a clear-cut case of aggression but has also been denoted as a systemic conflict with the potential to reshape the future of international politics (Verma and Düben 2024; cf. Bakalov 2024). This is due to the direct involvement of a nuclear power and a UNSC member, as well as the indirect involvement of many NATO members. The challenges to the “liberal international order” posed by this war are numerous and cannot be easily compared to the liberal consensus of the 1990s during Yugoslavia’s disintegration.

As this succinct comparison suggests, many differences and similarities between the two conflicts can be highlighted. Importantly for this chapter, the international dimensions of the Yugoslav wars provide valuable lessons for current and future external interventions in conflicts. Guided by the principles of liberal peacebuilding, the former Yugoslavia experienced extensive international engagement from various actors (Baker and Obradović-Wochnik 2016). These included not only the United Nations but also the Organisation for Security and Cooperation in Europe, the European Communities (later the European Union), NATO, and numerous humanitarian

and aid organizations such as the Red Cross and Physicians for Human Rights. The conflict also led to the creation of unprecedented international administrative and legal bodies. These included the Office of the High Representative with extensive governance powers in BiH, the ad hoc International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Commission on Missing Persons (ICMP), and many other institutions focused on justice.

In many respects, the former Yugoslavia seemed to be an accessible testing ground for peacebuilding and transitional justice approaches, which were in their infancy during the 1990s (Dragović-Soso and Gordy 2010). The relatively small territories and highly educated populations allowed for the deployment of various missions with mandates to manage regions or supervise peace deals while collaborating with locals. However, the challenges were manifold, ranging from non-cooperative local leaders and powerful criminal networks to regions marked by extreme trauma. While negative peace was achieved once treaties were signed, often with high success rates (for Bosnia, see, e.g., Boyle 2014, 119), establishing the rule of law over local vested interests became a significant obstacle to post-war democratic governance. Many international organizations, including the UN, became implicated in these challenges (Andreas 2008). Although corruption will be a key issue in Ukraine's future as well, the country faces a somewhat different set of challenges due to the nature of its conflict cleavages and the war itself.<sup>2</sup>

Still, there is some knowledge to be gained from studying the past, which is why I outline some of the issues and compromises that resulted in the complex conclusions of hot conflicts in the former Yugoslavia. This chapter highlights the convergence of experiences and needs between Ukraine and the former Yugoslavia, particularly regarding reliance on international institutions and the transition to peace. The lessons from the wars in the former Yugoslavia, especially BiH (1992–1995) and Kosovo (1998–1999), offer valuable insights into peacebuilding and transitional justice for the current conflict in Ukraine. Rather than prescribing specific guidelines, however, this chapter aims to foster a discussion on the relevance and limitations of drawing analogies with past conflicts. As will become evident, some of these approaches were flawed from the outset and resulted in future problems that have become entrenched in the political (though, importantly, rarely violent) disputes and intransigence that we observe in the post-Yugoslav space today. Indeed, the external engagement in the 1990s wars provides as many lessons to unlearn as to learn. In what follows, I offer five sets of lessons to consider.

## 11.2 The Importance of Battlefield and Timing

The first set of lessons from the resolution of the wars in the former Yugoslavia pertains to military affairs, particularly the timing of peace negotiations following military impasses or mutually hurting stalemates. The battlefield dynamics and domestic exhaustion of the warring parties played crucial roles

in their willingness to negotiate the end of the war in BiH in 1995, and similarly in Kosovo in 1999 after NATO strikes on Yugoslavia.

In BiH, although Slobodan Milošević, the leader of rump Yugoslavia, claimed his country was not involved in the war, it was evident through military support, paramilitaries, and security services how deeply Yugoslavia participated in the warfare (Vukušić 2022). His participation in the peace negotiations was thus critical. However, his agreement came only after allied military strikes in BiH and severe economic sanctions that crippled the Yugoslav economy. The Dayton Peace Agreement of 1995, which ended the war, provided Milošević with a way out of an increasingly precarious situation, allowing him to secure some victories, such as the creation of the Bosnian Serb entity “Republika Srpska” in BiH.

Later, when a peaceful resolution of the conflict in Kosovo seemed impossible, NATO military strikes – despite ongoing legal debates about their legitimacy – along with the devastation of Serbia’s economy (Djokić 2023, 501) forced Milošević to negotiate as well.

An important aspect of the peace design for Croatia, BiH, and Kosovo was International Territorial Administrations (ITAs). As Dirk Moses and I have argued in chapter 12, ITAs became useful tools for managing conflicting sovereignty claims and temporarily filling governance vacuums, though they rarely succeeded in achieving positive peace. In BiH, ITAs were instrumental in defusing conflicts around the disputed Brčko area, the city of Mostar, and formed the backbone of the overall Dayton Peace Agreement. In Kosovo, various ITA proposals were key to providing a temporary respite before Kosovo declared independence in 2008. In Croatia, the near-miraculous peaceful reintegration of the separatist Eastern Slavonia in 1998 through an ITA serves as a particularly good reminder of the importance of ITAs as a peacebuilding tool.

While one can imagine ITAs in Ukraine fulfilling similar functions at various times and for various disputed territories in the east, ITAs require at least some cooperation and acceptance from all warring parties (Caplan 2005), which often comes only after significant battlefield stalemates. In short, the lessons from the former Yugoslavia indicate that battlefield dynamics and domestic stability directed the appetite for negotiations of any sort.

### **11.3 Clear and Enforceable Peace-Making Mandates with Limited Governance Powers**

Second, clear and centralized mandates with sunset clauses make for effective peace missions. A good example is the case of Eastern Slavonia. Only after the Western-aided Operations Flash and Storm in Croatia in the spring and summer of 1995 did Milošević agree to the creation of an ITA for the disputed region of Eastern Slavonia. This region in northeastern Croatia, where the devastated city of Vukovar was located (drawing many parallels with Ukrainian Mariupol), was under the control of Croat Serb separatists from

1991–1995. While Belgrade supplied them with weapons and support, it never recognized or annexed their separatist republic in the way Russia has with Donbas and Crimea.

However, Eastern Slavonia remained a potential flashpoint with a large Serb population until the UN-mediated Erdut Agreement of 1995, which formed the basis for the highly successful UN-run mission, UNTAES (1996–1998). The agreement was signed by the separatist government rather than Yugoslavia, allowing Belgrade to distance itself from the separatists' demands and warfare. UNTAES was extremely effective, working in close cooperation with the OSCE, the EU, international organizations, and numerous local groups, focusing on improving local governance and security (Boothby 2004). The peaceful reintegration of Eastern Slavonia into Croatia without bloodshed – though following the large-scale flight of Serbs during Operation Storm – deserves more analysis for the context of Ukraine.

On the contrary, many of the problems with ITAs in BiH and Kosovo stem from contested legitimacies, unclear timeframes linked to changing international conditions, and imposed legislations that did not translate well to the local context (Caplan 2004; Ker-Lindsay 2010). These ITAs also suffered from duplicating efforts by various international actors whose priorities shifted over time, leading to dependency syndromes on international actors and parallel subnational governance systems (Sebastian-Aparicio 2014). For example, in BiH, the Dayton Agreement has resulted in the administrative dysfunctionality of the state. Still, while the problematic Annex IV, which is the current Bosnian constitution, is a flawed and overly prescriptive document, it was remarkably successful in stopping an extremely brutal and violent war – which remains to this day its positive legacy (Gilbert and Mujanović 2015). The lesson to unlearn from Dayton is that its complexity (such as a multi-tiered system of governance based on rigid ethno-territorial rights, severed decentralization and extreme power-sharing) has become crippling. The central Bosnian state-level authorities have been so weak that they have never been able to assert effective authority across the whole Bosnian territory.

Importantly, a new institution, the Office of the High Representative, was created to implement the peace accords. This institution has gradually turned into the main centralizing force, successfully introducing basic state symbols and national institutions such as a central bank, a central tax system, and standardized license plates in the immediate post-war period. Over time, though, the international High Representative has acted as an arbiter of domestic affairs, inadvertently undermining domestic policy-making by assuming far-reaching powers. The lack of its sunset clause or transformation of Dayton into a peace-time mechanism (notably due to domestic infighting rather than external interventions) has effectively delegitimized its initial peace-keeping and centralizing role.

Was such complexity needed at the time of the peace negotiations? Perhaps, as too many conflicting views and objectives have to be resolved in Dayton, as Richard Holbrooke, the key negotiator, reported (Holbrooke, 1999), but its

permanence has held Bosnian governance stuck in the past, eroding domestic trust in institutions. As I noted elsewhere, the international governance created in Dayton has left us with many unanswered questions that seem more than relevant for today: “how to quickly end a war without compromising a country’s post-war peaceful development; how to negotiate with leaders while ensuring justice; and how to provide international assistance without creating international protectorates” (Hronesova 2015). None of these questions has so far been conclusively answered.

#### **11.4 Peace Diplomacy is Built on Credible Response**

Thirdly, one of the main issues in negotiations is understanding the conflict dynamics and having enough credibility to implement a binding peace. In the former Yugoslavia, this was a key issue due to the initial reluctance of foreign actors to take sides. Unlike in the case of Ukraine, there was a clear lack of forceful external response to Croat and Serb separatist violence in BiH in particular. Despite numerous reports of atrocities in BiH, most Western actors and institutions chose to stay out of the wars until the spring of 1995, only engaging on the sidelines with peace proposals such as the Carrington–Cutileiro, Vance–Owen, and Owen–Stoltenberg plans.

This stance (opposed only by Germany and, partially, by Austria) was influenced by the misguided belief that the war was a “clash of civilizations” between Christians (Serbs) and Muslims (Bosniaks) and rooted in “ancient hatreds,” despite the initial conflict being between Catholic Croats and Orthodox Christian Serbs. This discourse undermined any forceful action to stop the war, as potential peacemakers insisted that all three warring parties were “equally guilty” (Williams and Scharf 2002, 50). Puzzlingly, the US State Department invested minimal resources to investigate the situation in Yugoslavia and even sought out information about Muslim atrocities to confirm its position, succinctly expressed by Secretary of State James Baker as having “no dog in this fight” (Williams and Scharf 2002, 65). Only when the realities of the war became impossible to ignore – exemplified by the New York Times’ message to the new administration of Bill Clinton with the headline “Bosnia alive or NATO dead” (cited in Hunt 2011, 11) – did diplomacy lead to various partial and eventually final peace negotiations.

The lack of a single actor capable of negotiating with a counterpart led to the creation of various *ad hoc* contact groups to lead the peace negotiations until the United States, under the Clinton administration, assumed the role of the key peacemaker. American stewardship was essential as several international institutions, such as the United Nations and the “blue helmets” in BiH, gradually lost legitimacy. Even the so-called Peace Implementation Council that was created for BiH to steer the Office of the High Representative has consisted of 55 countries, including Russia, and organizations such as UNHCR to ensure wider legitimacy. Today, this complexity has not only

stifled local governance but also further delegitimized international actors, whose reputation and credibility in BiH have often been questioned due to their lack of involvement.

However, lessons from BiH later aided Kosovo, where the response was much quicker and international actors initially maintained credibility, unlike in BiH. For its part, Ukraine benefited from a much more forceful initial reaction – certainly also due to its astounding resistance (Onuch and Hale 2022), but international credibility will hinge on the degree to which this response can be sustained.

### 11.5 Peace and Justice?

The fourth lesson is in the realm of the alleged peace versus justice dilemma. Historically, this classic peace vs. justice debate represents a tension between pragmatic and normative politics: peace, so the pragmatic argument goes, has often been jeopardized by efforts to seek punishment in unstable times when the balance of power is very volatile and peace fragile. Proponents of justice, on the other hand, such as Desmond Tutu, argued that without justice, there can be no legitimate and durable peace. The existing indictments against Vladimir Putin and other senior members of the Russian government for war crimes bring these dilemmas into focus and relevance for Ukraine (Taub 2023).

Yet these debates were also present in debates during international mediation in the BiH and Kosovo conflicts. In BiH in particular, as some noted, “[i]n no other peace-building process in history has there been so much political emphasis placed on the need to employ the norm of justice” (Williams and Scharf 2002, xviii). Yet unlike legal practitioners and human rights activists, the key architects of the peace agreements in the 1990s strongly opposed international criminal indictments and threats of prosecution against Yugoslav leaders such as Slobodan Milošević or Radovan Karadžić, fearing it would jeopardize their willingness to conduct peace negotiations (Hagan 2003, 73).

In BiH, justice formally preceded peace because the ICTY was created in 1993. Yet in reality, ICTY started working only after the Dayton Agreement was concluded. So, while the dilemma was there in theory, it did not play out in practice: Dayton was negotiated with individuals who were only later indicted for war crimes, such as Slobodan Milošević and Franjo Tuđman (who died before his indictment was delivered), but not Radovan Karadžić (the leaders of Bosnian Serbs, later found guilty of genocide in Srebrenica), whose indictment had already been issued at the time. Milošević did not fear or face prosecution in Dayton, unlike the Bosnian Serbs, which made it possible for him to negotiate peace.

Moreover, there was little belief that justice would be delivered. Aryeh Neier, an American human rights activist, summarized it in 1998 as follows: “It [ICTY] was a way to do something about Bosnia that would have no

political cost domestically” (cited in Rudolph 2001, 658). Only after the war did the ICTY gain the needed resources to indict and capture suspected war criminals. In contrast, Milošević did not negotiate an end to the Kosovo crisis, as by that time he had already been indicted by the ICTY.

Who can be invited to the peace talks will thus matter – and, ideally, they will not be individuals indicted for war crimes, as that would delegitimize the process. At the same time, the alleged dilemma of peace versus justice is a procedural one. The existing evidence suggests that while negotiating cessation of hostilities may be difficult with individuals indicted for war crimes, building durable peace is indeed difficult without at least some semblance of justice – as all the post-Yugoslav cases exemplify today (Baker and Obradović-Wochnik 2016).

### **11.6 Legal Transitional Justice Needs Reparative Justice**

The final lesson is not about securing a peace deal but about ensuring a durable and inclusive peace. Like the former Yugoslavia, Ukraine is currently focusing on legal justice – prosecuting the main orchestrators of the war and war crimes – as part of its transitional justice strategy (Mihr 2024). This is understandable, given the outrage over some of the reported war crimes, such as in Bucha.

However, the Yugoslav cases demonstrate that restorative and reparative approaches to justice and victim-centric mechanisms are imperative for repairing the social fabric of societies torn by warfare (Danieli 2014; Mani 2005; De Greiff 2006). While retribution in the form of legal justice is needed to ensure impunity is not tolerated and the rule of law respected, without focusing on restoring victims’ lives, a traumatized generation emerges whose main identity will be linked to victimhood (Čehajić-Clancy et al. 2011; Bar-Tal and Cehajic-Clancy 2014). Reparative approaches through socio-economic and psychosocial support bring the population on the journey for restoration. A team of seasoned journalists in Sarajevo has already shown that the approach of foregrounding legal justice is misguided (Dzidic 2024). In other words, while reparative and restorative justice that would directly target the needs of survivors and victims’ families may not bring as much symbolic capital for the government, it is more helpful for long-lasting positive peace.

Indeed, in the Yugoslav cases, the ICTY is often brought up as a positive comparison to delivering justice after wars (Wesslau 2023). However, ICTY’s legacy is deeply disputed. Despite initial grandiose statements about reconciliation, the ICTY was never mandated or capable of reconciling formerly warring parties. Instead, what it did achieve was removing the key orchestrators of the violence from the public sphere (though not all) and giving way to some new politicians (Nettelfield 2010). One could also argue that, at least initially, it generated a public demand for justice and developed a culture of rejection of impunity, especially as it was instrumental in setting up local judicial capacity (e.g., domestic war-crime chambers) and know-how (Clark

2009). This, however, has been recently questioned, too, with the increasing delay in war crimes prosecutions and lack of political willingness (OSCE 2022).

The assertion that the ICTY could conclusively resolve disputes regarding the origins and culpability of the 1990s conflicts has found scant support within domestic contexts. Rather, the “historical truth” – or more accurately, the legal truth – established by the Tribunal has often been a source of division and has been subject to political manipulation (Fletcher and Weinstein 2002, 600–601). Despite the vast amounts of documents and evidence presented by the Prosecutor’s Office, the ICTY has not significantly changed the local public discourse about the breakup of Yugoslavia or the divergent views on fundamental facts about the conflict (Clark 2014). Simply put, the Tribunal has not been accepted as an objective arbiter of the Yugoslav wars by all sides. While the overwhelming majority of Bosniaks have accepted its existence and most of its judgements, but have been disappointed with the pace of justice, most Serbs have consistently viewed it as victor’s justice (Kostić 2018). The ICTY Outreach Programme, which began in 1999, came too late and often failed to explain fundamental principles of international law and procedural rules, such as lengths of proceedings, plea bargains, and reduced sentences, to the local population, too. Consequently, the Tribunal has not fully succeeded in convincing the local populace of its impartiality. This challenge is not unique to the ICTY but is rather a common issue faced by judicial institutions, which often remain opaque and inaccessible to the broader public (Gordy 2013).

The focus on ICTY, though, has overshadowed the importance of victim support and reparations, which have remained on the margins of transitional justice considerations in the region until recently (Van der Auweraert 2013). As I argued elsewhere, this was a flawed approach (Barton Hronešová 2020). Without providing redress that directly impacts the lives of victims – such as enhancing economic welfare, improving health conditions, ensuring the protection of children, and facilitating access to education – there can be no genuine forward-looking “moving on,” and thus no true “reconciliation.” The emphasis on legal justice through the ICTY has impeded the healing process and the rebuilding of trust within communities. Effective transitional justice must balance legal accountability with tangible support for victims to foster genuine reconciliation and sustainable peace. By neglecting these aspects, the approach taken in the former Yugoslavia has left many victims feeling marginalized and unsupported, underscoring the importance of a more holistic approach to justice in post-conflict societies.

Nonetheless, the Tribunal has taught us important lessons. First, criminal prosecution does not automatically deliver a sense of justice, contrition, and reconciliation among survivors and victims as well as the wider society. Second, international courts are not immune to politics and political priorities. Third, international justice is slow and does not address underlying issues. Finally, international standards are difficult to transpose onto domestic institutions.

In Ukraine, the challenge will be not only addressing victims' needs, but especially reintegrating and supporting the vast military population, which has borne the brunt of this war. Here, a variety of lessons from other contexts need to be taken into account – especially with regards to reintegration, psychosocial support, and rehabilitation (Theidon 2009; Patel, De Greiff, and Waldorf 2009; Colletta, Kostner, and Wiederhofer 2004). In fact, there is growing evidence to argue that transitional justice and Demobilization, Disarmament, and Reintegration (DDR) programmes can reinforce each other, especially if reintegration is implemented alongside reparative programmes (Sriram and Herman 2009).

### **11.7 Conclusion**

The conflict in the former Yugoslavia was one of the first major conflicts after the end of the Cold War, which saw the United Nations Security Council act unanimously in some instances despite several underlying differences among the participants. It was also the first conflict where judicial intervention, in the form of an international ad hoc war crimes tribunal, was applied as a peace-building tool under the label of a “transitional justice” mechanism. The creation of an international tribunal – for the first time since the Nuremberg and Tokyo trials – was intended to usher in a new era of liberal peacebuilding based on the norms of justice and liberal democracy. For these reasons alone, despite many differences with the current war in Ukraine, assessing the lessons of the past merits our attention when addressing ongoing conflicts. While the Yugoslav conflicts had different global repercussions and occurred in the context of a functioning Security Council, the current war in Ukraine can benefit from some of the lessons outlined in this chapter.

As a matter of review, I outlined five lessons to learn and unlearn from the Yugoslav cases, focusing on (1) the role of military stalemates, (2) effective peacekeeping missions with clear mandates and terminations, (3) credible diplomacy, (4) the importance of justice for inclusive peace, and (5) the misguided focus on legal (retributive) transitional justice. Many mistakes were made in the peacekeeping and peacebuilding efforts in the former Yugoslav countries. Today, there is a palpable bitterness and mistrust towards international (mostly Western) actors, whose interventions have long been seen as patronizing and neo-imperialist (Jović and Uvalić 2023). However, this does not mean that the absence of international actors would have been a better solution. On the contrary, international actors played a key role in bringing peace to war-torn Yugoslavia. Yet, the mistakes made in their delivery and subsequent implementation need to be highlighted and understood to prevent them from being repeated elsewhere.

The central lesson is not one of inevitable failure regardless of action. Rather, it is that well-planned and contextually appropriate interventions with clear objectives, aims, and conditions can be effective (e.g., Eastern Slavonia), whereas protracted and poorly managed mandates may indeed

result in more harm than benefit (e.g., BiH). The purpose of this reflective chapter is not to prescribe specific pathways to peace for Ukraine. Instead, it aims to illustrate how well-intentioned international efforts can devolve into dysfunctional governance, crises of dependency on external institutions, and thus weakened democracies. The key takeaway from the Yugoslav experience is that while cessation of hostilities hinges upon external actors and the international order, inclusive peace cannot be externally imposed; it must originate domestically, albeit with judicious external assistance when necessary.

## Notes

- 1 During the 44 months of the Bosnian war around 99,940 people were killed, 41% of which were civilians, that is nearly 41,000 across the whole Bosnian territory (Tokača 2012). The ICTY records put the number at 104,732 in total (Tabeau and Bijak 2005; Tabeau and Zwierzchowski 2010). In other words, Bosnia has suffered a death toll of 2,272 per month on average (both civilian and military) and 22 deaths per 1,000 people. In Ukraine, by September 2024, that is during the 30 months of the Russian on Ukraine, UNHCR estimates 11,973 dead civilians, mostly concentrated in the eastern and southeastern parts of the country (OHCHR 2024). [This number is 15,838 if the war is calculated to have started in 2014, which I am not doing here but could do (OHCHR 2024).] The number of military death casualties are difficult to assess, but Ukrainian data from June 2024 suggest around 31,000 – which is most likely a grave understatement (The Kyiv Independent 2024). If we inflate the military casualties to the more realistic 50,000, this means that Ukraine – with the limited numbers we have – suffered 2,200 deaths per month on average (mostly military) but around 1.65 deaths per 1,000 people. For the latest figures and continuously updated numbers please see Uppsala Conflict Data Programme. <https://ucdp.uu.se>
- 2 For an outstanding overview of the various challenges see Gwendolyn Sasse's latest book on the war in Ukraine (2023) and Olga Onuch and Henry Hale's analysis of the first phases (2022).

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# 12 The International Administration of Occupied Ukrainian Territory as a European and United Nations Diplomatic Option\*

*A. Dirk Moses and Jessie Barton Hronešová*

## Introduction

The United Nations' (UN) engagement on Ukraine has been profoundly inadequate. Until the adoption of United Nations Security Council (UNSC) Resolution 2775 on 24 February 2025, no resolution on Ukraine had been passed for three years (United Nations 2025). Russia's veto has, of course, prevented a resolution that is critical of its full-scale invasion, and the General Assembly has passed many resolutions to that effect. But apart from the UN Secretary-General offering his good offices and support for humanitarian and judicial efforts, the UN has failed to put forward any concrete peace proposals. This is despite the fact that several options have been proposed.

Time has run out. The second Trump administration in the US has upended the European diplomatic strategy, tipping the balance in favor of the Russian Federation. Any hopes or scenarios envisioning Ukraine regaining its territory now seem far-fetched (Hedberg 2024; Howard and O'Hanlon 2024; Charap 2024; Toal 2024; Jenkins, 2023; Joshi, 2022). Yet, Ukraine's war aims remain unchanged, firmly grounded in international law: the recovery of all its occupied and annexed territories. These include not only areas seized since 24 February 2022 but also the Donbas region (comprising the self-declared Donetsk and Luhansk People's Republics) and Crimea, the peninsula illegally annexed by Russia in 2014. Western states in the UNSC, supported by Panama, reiterated these points in challenging the US position, which stressed the UN Charter's prioritization of peace and security. The US is now more focused on striking a deal with Russia and securing privileged access to Ukraine's rare minerals, without European and Ukrainian participation in the negotiations, than on countering Russia's aggression or weakening its economy.

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Even so, with consequential peace negotiations yet to begin, European and Ukrainian diplomacy have some remaining options (Hook 2024). Ukraine could continue its military efforts with European support to shift the dynamics on the ground and sway the pendulum in its favor (Buras et al. 2022). Donbas, but especially Crimea, represents the nub of the security predicament. In crude terms, leaving aside rival historical – and, for Ukraine, legal – claims, possession of valuable industrial assets and resources in Donbas, as well as access to the Black Sea and vital trade routes, is at stake. Crimea is also home to the cherished Russian Black Sea fleet (Economist 2022). Given the stakes, the difficulty of regaining and keeping Crimea, and the chances of Russia tolerating defeat there without disastrous escalation, make it likely that Russia’s annexation will be difficult to reverse.

If Europe were to commit to support Ukraine, there is an option – for the UN as well – that offers some partial guidance, many important lessons and warnings for a European and even Ukrainian position on Donbas: international territorial administration (ITA). ITAs have long featured in peace agreements in the past as an option to manage conflicting sovereignty claims and disputed territories, recently in ex-Yugoslavia, that have produced some of the most far-reaching, consequential – and for some highly controversial – ITAs (Caplan, 2005a, 2005b). While ITAs are not a definitive solution to the military and political dilemmas in Ukraine, they could serve as valuable stepping stones if genuine, multilateral peace negotiations were to take place. Their consideration is crucial before any steps toward peace are made – not only to facilitate dialogue but also to avoid repeating mistakes seen in previous ITA implementations. There are indeed historical lessons that can be learned and mistakes from the past that can be avoided.

ITAs are particularly relevant when military solutions are exhausted and political leaders are weakened, underscoring the importance of context in their application. Each ITA implementation has been unique, reflecting the specific circumstances of the conflict and the wider political context abroad. Although ITAs alone do not bring about peace, they provide crucial common ground for warring parties to converge, especially in conflicts with global implications. They share a common vision that international actors play a vital role in defusing emotionally charged situations, managing day-to-day administration, and paving the way for more enduring solutions.

Our aim is to draw historical lessons to highlight both the advantages and drawbacks of ITAs. While ITAs can facilitate peacemaking, they risk evolving into quasi-permanent neo-trusteeships that hinder effective governance and undermine domestic ownership. We examine past and ongoing European peace negotiations and international administrations, particularly in the former Yugoslavia since the 1990s, to illustrate these dynamics. As these cases demonstrate, the geopolitical context and the level of cooperation between states and international actors are crucial for the success of ITAs – posing a significant challenge for any such initiative in Ukraine.

### **The International Administration of Territory in the League of Nations and the United Nations**

The historical roots of ITA can be traced to condominiums of great powers governing disputed territory in order to stop wars and/or keep peace (Stahn 2010). For example, in 1815, the Congress of Vienna made Austria, Prussia, and Russia supervisory authorities over the “Free City of Cracow.” Other territories such as Shanghai, Crete, and Tangier were subsequently also governed by multi-national administrations, often linked to colonial politics. The latter example, which lasted from 1923 to 1957, was the result of a British-brokered compromise between France and Spain, both of which sought to control this Moroccan city. By agreement, it was demilitarized and eventually governed by eight European powers in the context of traditional regime of “capitulations” in which the Sultan of Morocco delegated broad powers to foreign consulates (Stahn 2010: 7). While a vestige of European imperialism cannot serve as a model today, the case teaches two lessons: internationalization can work if all parties are in agreement or incentivized to do so, and the denationalization of a territory with a diverse population fosters remarkable hybridity and cultural freedom – for which Tangier became renowned (Morocco News World 2012).

This respect for diversity and independent non-national identity was also evident in the case of Fiume, which had enjoyed autonomy as a port city of a mixed, predominantly Italian and Slavic population. With the collapse of the Austro-Hungarian Empire after World War I, Italy and the new Kingdom of Serbs, Croats and Slovenes (SHS) claimed it (Steiner 2005: 87–88, 336). As in Tangiers, the great powers proposed the establishment of a free state to remove this apple of discord. The Free State of Fiume was created by treaty in 1920 after some violence. Unlike Tangiers, the dispute was resolved by the partition of Fiume/Rijeka in 1924, with the city going to Italy and its hinterland to the Kingdom of SHS. The Fiume question was, of course, resolved only in 1947 (Steiner 2005: 87–88, 336)

The formal commencement of modern ITAs is the League of Nations’ (LoN) administrations of disputed territories after World War I. For the first time, an organization with an independent legal personality governed territory directly for the first time on behalf of the international community. The challenges faced by the LoN demonstrate the difficulties of ITA when dealing with expansionist or revisionist states, especially if they feel their co-nationals are “stranded” in neighboring territory. Since the organizing principle of the LoN was the nation-state and the principle of self-determination, the purpose of ITA was transitional: governance until the popular will could be determined and/or the diplomatic dispute could be resolved. Thus, the Saar region of Germany, which the French coveted for its coal, was governed by the LoN for 15 years until a plebiscite decided its fate. In the event, in 1935, 90% of the population voted to rejoin Germany. But the ballot offered the option of permanent international LoN administration (Park 2022).

Such permanence animated the solution for the disputed Danzig, a German city that found itself in the newly constituted state of Poland in 1918. To appease Germany, the Allies at Versailles made it and the surrounding territory a semi-autonomous free state. Because of its location, there could be no question of union with Germany, and because of its population, no incorporation into Poland was considered realistic. However rancorous the feelings between Danzig (today's Gdańsk) and Poland, it was governed peacefully by a LoN High Commissioner for 19 years until the Nazi invasion in 1939, which effectively symbolized the German claims to the city (Stahn 2010: 14).

As these examples suggest, such experiments were unsuccessful when the LoN lacked the political will or means to enforce them. It was also hamstrung by its own commitment to self-determination. The Treaty of Versailles established the former German seaport of Memel (Klaipeda), which the new states of Lithuania and Poland wanted, as a LoN-administered territory. It contained a majority Lithuanian-speaking population as well as a sizable population of Germans, but also Poles, Jews, and Russians. When, in 1923, Lithuanian forces marched in, the French administration did not resist. LoN protests and ensuing negotiations led to a compromise: the annexation was recognized while Memel enjoyed autonomous status in Lithuania (Stahn 2010, 66–67). This solution had parallels to the terms of the LoN Mandates about respecting minority protection treaties, and to the Sanjak of Alexandretta in the French mandate of Syria that gave cultural rights to the Turkish population. The layered sovereignty of minority rights needed to be considered in territories where populations did not match the national aspirations of the state.

The UN did not plan for ITA when it was founded in 1945. Instead, it envisaged an international trusteeship system under Chapter 12 of its charter, which established a *Trusteeship Council* to oversee the administration of territories until they could be independent (United Nations 1945). However, *Article 24* of the UN's charter confers "primary responsibility" on the UNSC for the "the maintenance of international peace and security" (United Nations 1945). Under this article, the UN could effectively institute ITA. As might be expected, the immediate aftermath of World War II called for UN involvement. Again, Italy's border with Yugoslavia proved a flashpoint. It was especially the mixed city of Trieste, which in 1947 the UNSC placed under its authority as the Free Territory of Trieste. However, Italian and Yugoslav forces, which continued to occupy and administer the territory by agreement, never left, and the UN governance never eventuated. It was partitioned and annexed by both states in 1954, in the same manner as Fiume before it.

UN internationalization also failed in Jerusalem, which the UN partition plan for Palestine called for in 1947 (Moses 2022). It was to be "a special international regime ... administered by the United Nations," as the UN General Assembly Resolution 181 in 1947 put it. Resolution 194 in December 1948 called for a UN Conciliation Commission to implement the special international regime constituted by demilitarization, free access, the right of return

for refugees, and maximal local autonomy for its “distinctive groups” with the cooperation of a UN representative. The Jerusalem plan failed because some Arab countries rejected partition (Arab Palestinians were not asked) and the new state of Israel repudiated UN involvement (Kamel 2022). Unlike the cases discussed above, the unrecognized Israeli annexation of the entire city and adjacent land after 1967 cannot be said to realize the wishes and self-determination of the population. The systematic discrimination against Palestinian Jerusalemites, for instance, makes questionable the ideal of national sovereignty in such a mixed population and contentious circumstances.

The UN has implemented ITAs in the form of transitional arrangements to administer disputed territories in preparation for plebiscites. This approach was first applied in West New Guinea (1962–63) and later in Cambodia, East Timor, Croatia, and Kosovo. The latter three, alongside other post-Yugoslav cases, constitute the most recent UN experiences with ITAs. These instances are particularly instructive as they showcase different models of international administration and their outcomes. We place greater emphasis on the Yugoslav cases, as they provide a range of complex and still relevant lessons about the challenges and opportunities of ITAs, particularly in ethnically divided and politically volatile contexts. However, these cases unfolded in a geopolitical environment markedly different from today. The 1990s represented the heyday of the “liberal world order” (Adler-Nissen and Zarakol 2021), characterized by post-1989 optimism about international cooperation and a multipolar global structure. During this period, Russia was relatively collaborative and did not act as a peace spoiler. This environment of consensus and cooperation among major powers contributed to the effectiveness of ITAs in the post-Yugoslav context. Since then, the international landscape has shifted to a more fragmented and unpredictable arena, marked by transactional politics and diminished respect for international legal standards. In this context, power dynamics are increasingly shaped by coercion and strategic maneuvering rather than collaboration. Ukraine finds itself in a particularly precarious position as geopolitical pressures mount, and a potential deal is looming without its full participation, highlighting the complexities of implementing ITAs in a world where international consensus is elusive. Despite these challenges, we consider ITAs as one of the remaining pieces of the puzzle, where Europe commits to Ukraine’s support and its participation in any peace deal.

### **International Administrations in the Former Yugoslavia**

Ending the wars that accompanied the break-up of Yugoslavia in the 1990s included frustrating and seemingly unsolvable disputes over multi-national territories (Cohen and Jasna Dragović-Soso 2008). Power politics clouded as ethno-territorial claims repeatedly derailed peace negotiations, and successful peace agreements were concluded only through a variety of ITAs, in conjunction with changes in the military and power balances. The Yugoslav

cases differ from Ukraine today, most obviously as the Yugoslav wars did not involve a UNSC member directly, but accompanied a break-up of a state. Yet, the break-up of Yugoslavia was a truly international phenomenon and saw some of the first modern attempts at complex international administration as a peacemaking tool that is useful for reflection (Caplan 2014). Moreover, the Yugoslav ITAs included the participation of several actors at once, such as the European Union (to administer or provide police forces), the UN (to govern and stabilize), NATO (to provide military protection), and OSCE (to run elections), among many others, reflecting the changing international importance of various organizations. They also point to the importance of timing and peacemaking that would reflect power balances and military victories that can pave the way to effective territorial management.

### *Croatia*

Today's Croatia offers some of the most instructive cases of success that can serve as examples of effective ITAs and territorial reintegration. Each of the Croatian cases presents a combination of ITAs at a time of changing power relations and military balance. Early on in the war in 1992, the Prevlaka peninsula, seat of an important fleet, claimed by the former Yugoslav republics of Croatia and Montenegro, was put under ITA already. It was subsequently divided between Croatia (control over the peninsula) and Montenegro (territorial waters) through a temporary agreement. This diplomatic solution was effective after all military solutions failed to produce a clear result, and diplomacy failed to end the war as such. Another reason was the change in motivation of the Montenegrin leadership that decided it was no longer beholden to Belgrade and decided to pursue independence. While Prevlaka – littleknown territory to many outside of the region – remains a pending territorial dispute (Kajosevic 2022), its ITA prevented the peninsula from becoming a sore point during later peace negotiations over the war, and (after political changes in the affected countries) is currently being resolved by judicial rather than military means. Effectively, a tense point was postponed and to be resolved later via an ITA.

A better-known case is that of Eastern Slavonia. The small border region of Eastern Slavonia with the pummeled city of Vukovar, a symbol of the war-time destruction in Croatia, was occupied by Yugoslav forces early on in 1991 and then became part of the Serb secessionist “Republika Srpska Krajina” (RSK). As a border region on the Danube with a significant Serb population, Eastern Slavonia became a key battleground until the end of the war. While Yugoslavia under Slobodan Milošević legally never recognized the separatist region, it provided it with vast financial and military support as documented in later war-crimes proceedings at the International Criminal Tribunal for the former Yugoslavia (ICTY). By early 1995, it became clear that RSK could not sustain its military secessionism and would have to be reintegrated into Croatia, later reinforced by military takeovers in Operations

Flash and Storm, where Croatian forces, aided mainly by the US, recaptured most of RSK and reintegrated it into Croatia. Yet Croatian forces did not advance into Eastern Slavonia proper, and the situation of the local Serb population, as well as the newly arrived Serbs from other parts of Slavonia, proved hard to resolve. Belgrade continued expressing concern over this population until late 1995 (although it provided no real support for their political cause after failed negotiations in the summer), and local separatist leadership has all but given up their ambitions.

The question remained how to manage the contentious region and its population. A five-country contact group (France, Germany, Russia, the US, and the UK) found a solution in an ITA for Eastern Slavonia in November 1995 in *Erdut* that guaranteed the security of the Serb population and oversaw the transfer of the territory into Croatia (eventually realized in 1998). The agreement was short on detail on how to govern, and a special UN mission was mandated (UNTAES 1996) with the support of 5,000 troops. While the changes in military and power dynamics on the ground paved the way to a settlement, Erdut defused the tense situation in the region and allowed for a peaceful reintegration into Croatia – a fact often forgotten and overshadowed by other events during the war. While Eastern Slavonia was relatively easier to resolve, as Croatia was its main destination and the main priority was to ensure the security of the Serb population, the ITA functioned as a trust-building mechanism and effectively managed to improve people's lives. This was secured through streamlined leadership of UNTAES, which was by some accounts “the most successful of all post-Cold War UN- or U.S.-led” efforts of its kind (Dobbins 2005: 123). It operated on a small territory, where demilitarization, security (through a police mission UNCIVPOL), civilian control, and return of refugees were all centrally coordinated (Boothby 2004).

### *Bosnia and Herzegovina*

Bosnia and Herzegovina (BiH) presents a mixed bag of successes and failures to draw lessons from: it offers a case for peace achieved through diplomacy where ITAs play a key role, but also unworkable governance structures (Caplan, 2005a, 2005b). BiH also serves as an example of some of the most extensive international administrative methods ever used, leading to frequent accusations of new colonialism and neo-trusteeship methods (Knaus and Martin 2003; Allsobrook and Camilla Boisen 2017). Once the US, European Union, and, finally, Russia decided to engage in the war and agreed on military intervention (unlike in the current case of Ukraine), the warring parties were finally brought to the negotiating table in Dayton, Ohio, in November 1995, which set out BiH's governance, power divisions, and territorial divisions.

The General Framework Agreement for Peace in BiH of 21 November 1995, signed in Dayton, Ohio, was the result of 21 days of bargaining that tried to make all sides sign in what some called “a cartography of convenience” because of the painstaking disputes over territories (Jeffrey 2006).

It was also the result of a military situation that was unfavorable to the Bosnian Serbs, who, some argue (Howard 2015), would (and should) have lost, had the war not been stopped by Western diplomacy in order to put an end to the bloodshed. Dayton's detailed 150 pages outlined issues such as demilitarization (NATO-led 60,000 force IFOR), refugee return, human rights, and international oversight through the civilian High Representative. Most importantly and problematically, Annex IV of Dayton represents BiH's constitution, probably the most consequential and unhelpful part of the agreement – written in English, the constitution has proven to be the main sticking point for Bosnia's development (rather than any other parts of the peace agreement). Its inherent link to the peace agreement has proven to be very harmful to Bosnian governance (Bieber 2006). The Dayton constitution divided the entire Bosnian territory into ethnicity-based “entities” – Croat-Bosniak Federation of BiH (FBiH) and Republika Srpska (RS), with a territorial distribution of 51% to 49% respectively, and introduced extensive power-sharing rights. The two entities became semi-autonomous while state institutions were given extremely weak powers, another major flaw. RS was ultimately granted significant territorial concessions in the spirit of a “compromised peace” (MacGinty 2008), while Bosniaks complained that Serbs were rewarded for their ethnic cleansing and genocide. No one party was fully satisfied with the deal, but all eventually agreed as the cost of war became too high.

Controversially, the Bosnian Serb leadership was at Dayton represented by Slobodan Milošević, a subsequently indicted war criminal, alongside some other participants. The issue of negotiating with those responsible for atrocities remains a painful one, but will have to be addressed in the Ukrainian case, too. In the Bosnian case, such actors were included for the sake of peace rather than justice, which came later – and for some too late (Martin-Ortega 2012). For many, this has delegitimized the peace agreement. Yet, the prevailing view remains that Dayton was not an ideal peace agreement to build trust and a functioning multi-national state, but an agreement that has been surpassingly effective in stopping the bloodshed. The pragmatic peace versus moral justice considerations have thus loomed large over Dayton and are still relevant.

Dayton was riven with other contradictions, such as the guarantee of returns to territories dominated by the other groups but in parallel constitutionally granting the dominant “constituent” groups (Croats, Bosniaks, and Serbs) governance priorities (no other groups can run for top state offices), leading to legal clashes between individual and collective rights that have been later recognized by international courts (Milanovic 2010). The extensive collective rights for “constituent peoples” subsequently paralyzed BiH's state-level governance. To allow for the strengthening of the state, the High Representative was granted extensive executive powers in 1997. Bosnia has since become a hybrid international protectorate where the High Representative can impose new laws, sack elected officials, and even change electoral

procedures – all in the spirit of peace implementation – while the country *de iure* functions as a democracy (Merdzanovic 2019). The Bosnian ITA, thus, presents an opportunity to learn from a successful cessation of war, but extremely problematic multi-ethnic governance contained in Annex IV.

### *Brčko and Mostar*

More instructive subnational cases within the Dayton peace settlement for today are two territorial sticking points – Brčko and Mostar. While Brčko provided a new way of creating a multi-ethnic local community under international administration and with limited formal power-sharing *after* Dayton, Mostar's administration was negotiated *before* Dayton and thus did not present a peace-blocking issue. And while Brčko may be seen as a comparatively successful case, Mostar has continuously struggled with its governance.

As part of the Washington Agreement in March 1994 that settled the Croat-Bosniak conflict in Bosnia, Mostar came under the EU Administration in Mostar (EUAM) (Court of Auditor 1996) and remained so until 1996. EUAM's main objective was to rebuild and reintegrate the city, but its capacities were constrained by the later negotiated Dayton Accords. Mirroring some of the most paralyzing aspects of power-sharing at the Bosnian level, Mostar's governance suffered from constant invocations of veto rights, impossible super-majority votes, and obstructions by the two dominant Croat and Bosniak parties, leading to governing impasses until the High Representative imposed a new statute in 2004. But governance in Mostar remained a matter of brinkmanship that effectively prevented elections from happening for 12 years. Ultimately, in 2020, the US and EU again interfered and oversaw negotiations over new electoral rules that unlocked elections but rendered divisive results (Behram 2020). In short, Mostar is not an example to follow in governance terms. Although Crimea and Donbas may not necessitate such extensive power-sharing clauses, it is important to be wary of trying to introduce inflexible group-based rights that will not be reflective of the evolving demographic and political situation, as in the case of Bosnia.

In contrast, Brčko bears some resemblance to the tricky status of Crimea, although it has remained a dispute within a state rather than between two states. Once dubbed the “mother of all difficulties in Bosnia” (Troncota 2010) and “the most likely flashpoint for any renewed warfare in BiH” (International Crisis Group 2003), the Brčko area is now surprisingly nearly forgotten. Yet, as the chief negotiator of the Dayton peace agreement, Richard Holbrooke noted, Brčko became the “toughest” of all the issues during the Dayton negotiations (Holbrooke 1999: 296). There is much to be learned from this historical precedent. While Brčko and its surrounding areas did not possess any cultural or historical significance in pre-war BiH to the same degree that Crimea does, it was also a strategic port on the Sava River with links to the Danube, located on the border with Serbia and close to Croatia. During the war, it was also a connector to the two parts of the secessionist

RS, leading to fierce contestation over its relatively small territory and brutal atrocities that displaced much of the pre-war population. By the end of the war, Serbs formed 97.5% of the Brčko area population, although before the war, they formed only 20% (International Crisis Group 2006).

Endangering the overall peace negotiations, the impasse was finally broken with Belgrade's agreement to postpone the Brčko solution to a later time and internationalize its administration via a multi-party arbitration, overseen by the US but negotiated by both entities within a year. Three arbitrators – one from RS, one from FBiH, and one internationally chosen by the International Court of Justice (ICJ) – were appointed in 1996 to the Tribunal. Initially, RS refused to participate as it assumed favoritism of FBiH (International Crisis Group 1997) (in the same way one might assume that Russia would), and a flare-up of the conflict was threatening. After reassurances that the process would consider all sides and constant engagement with RS authorities, RS cooperated. Due to poor security of post-war returns and explosive elections, the final decision took another four years. During that time, the Tribunal made three awards (Vail 2018) that set out a detailed ITA over the wider Brčko area (of the approximate size of Munich). To govern Brčko in the meantime, the Arbitration Tribunal decided to appoint an international Supervisor to be fully in charge of the local governance but govern through a multi-ethnic composition of the Brčko Municipal Government and assembly that were to be represented by the three main groups and the “other” minority groups. The American Supervisor had a British and Russian deputy, jointly assuming nearly unlimited powers.

The Final Award of 1999 (Arbitral Tribunal 1999) unified the three municipalities of Brčko in a “neutral” and multi-ethnic “Brčko District” as a condominium. The Tribunal specified that Brčko's territory would de facto belong to both entities, but BiH state authorities would have the dominant jurisdiction – it seemed like a Solomonic judgment as both entities gained territory but lost governance over the area. Brčko simultaneously belonged to neither and both entities. No party was satisfied, but no one was equally aggrieved to the degree that another conflict would flare up. The international Supervisor remained tasked (until 2012 when it was suspended) with turning Brčko into a single administrative unit through multi-ethnic governance and institutions. It is currently run as a self-governed area by a mayor and an assembly.

Brčko operates on different principles of power-sharing than the rest of Bosnia. It became close to self-governing as the only Bosnian territory where parity in multi-ethnic governance and policymaking is exercised, including multi-ethnic and multi-lingual education, including for the “others.” It also uses proportional elections. By 2003, Brčko had a very similar ethnic composition to its pre-war population and recorded the lowest unemployment in BiH (Avdic-Kusmus 2015) While Brčko remains plagued by similar problems of governing as in BiH where identities are perceived as rigid, its postponed multi-party arbitration saved the peace negotiated in Dayton, and the multi-national ITA ensured it was able to prosper in relative terms. Critics argue that Brčko's future

is uncertain because of Bosnian dysfunctionality. There is no denying that its prosperity hinges upon BiH's development, as it currently belongs under BiH's jurisdiction. Yet Brčko offers interesting and innovative ways to analyze, and crucially, a lesson similar to that of Prevlaka – ITAs can pave the way for peace and buy time so that when a more lasting solution is negotiated, emotions won't run as high, and the judicial option may be more palpable.

### *Kosovo*

The final set of lessons of a contested peace – and lessons that should, in general, be unlearned – provides Kosovo. Part of Yugoslavia as an autonomous region and later province (*de iure*, not a republic as Croatia and BiH), Kosovo sought a return to its previous extensive self-rule throughout the 1990s, eventually leading to a direct confrontation with Yugoslavia.<sup>1</sup> The 1998–99 war saw atrocities mostly committed by the Serb forces<sup>2</sup> that ultimately led to extensive international involvement and a proposed ITA in Rambouillet (Rambouillet Accord 1999). Among other demands, which were difficult to accept by the then-Yugoslav President Milošević, international negotiators in Rambouillet proposed far-reaching international powers on Kosovo's territory, including military control by NATO, and a referendum about Kosovo's status in three years. The agreement was unacceptable to Belgrade (Kosovo was still a part of Yugoslavia), and having failed to reach any solution, the alliance launched an air campaign over the remnants of Yugoslavia in March 1999, controversially labeled “humanitarian” (Wise 2013). Arguing based on atrocity prevention, the campaign did not receive UN backing, as it was directly opposed by Russia, leading to a disputed legal mandate. (To this day, Moscow sees the NATO intervention as a humiliation [Gessen 2014]) The crushing campaign eventually forced Belgrade to sign a peace treaty in Kumanovo.

While independence was not on the cards for the UN as outlined in the 1999 UN Resolution 1244 (UNSC 1999) that guaranteed Yugoslav territorial integrity and placed Kosovo under indefinite ITA of the UN, it soon became clear that Kosovo Albanians would not settle for anything but independence. After regional violence broke out in 2004 (started by ethnic Albanians), the UN commissioned a report written by Martti Ahtisaari (UNSG 1991), who proposed a supervised independence but without any meaningful consultations with Belgrade. The lack of consultations and Serbian buy-in has proven to be a critical obstacle for Kosovo's future and governance. Short of any other solutions to the impasse, Kosovo declared independence in 2008 unilaterally, later recognized by over 100 UN members, including the US, but excluding Russia and five EU states, together with Serbia. To this day, the legality of the independence remains disputed, although the ICJ deemed it not to be in violation of international law, and the Kosovo case stands as *sui generis* (ICJ 2008).

NATO (KFOR), UN (UNMIK), and later the European Union (2013 Brussels Agreement and EU Rule of Law Mission, EULEX) have all provided

military, political, diplomatic, and administrative backing for Kosovo's peace and governance. The various territorial arrangements in Kosovo to accommodate the Serb population on its territory have so far failed (such as the Association of Serb-Majority Municipalities that was agreed in Brussels in 2013 but that Kosovo refuses to implement) (Vulović 2023), and Kosovo remains a contested state in international politics. While peace was re-established through bombing, extensive foreign funding (World Bank n.d.) and administration, Kosovo is the most legally problematic of all the ex-Yugoslav cases, as many international rules and principles were bent and broken, justifiably leading to accusations of Western hypocrisy (McGlynn 2023). It provides more lessons about how *not to* behave rather than what to do. While an ITA and placing Kosovo under a protectorate stopped the bloodshed (similar to Dayton), the flawed international treatment of the Kosovo-Serbia dispute, lack of commitment, and changing priorities have crippled its governance and plagues the region to this day.

### Lessons Learned

Without a doubt, most of the cases reviewed here – and most notably the Yugoslav cases – would not have succeeded under different geopolitical circumstances. As for the former Yugoslavia, in the mid-1990s, Russia was politically re-opening and trying to cooperate with the West. Rump Yugoslavia (dominated by Serbia) was militarily and economically on its knees, crushed by economic sanctions and continuous fighting, isolated internationally, and short on allies. Both in BiH and, then, in Kosovo, negotiating various sets of compromised peace ended up as the only option for Belgrade. It allowed it to at least pretend victory when in fact on the brink of military defeats – an undeniable fact that eventually precipitated the fall of Slobodan Milošević in 2000. Yet the compromised peace kept several issues open – Kosovo is still in international limbo, RS keeps derailing Bosnian functioning through secessionist threats, and territorial disputes are still dealt with via courts. The role of the international administrators remains a sore point of dispute.

So, what purpose have the ITAs served? What have been the benefits? First, they were critical ingredients for peace negotiations over disputed territories. Without them, the prospect of endless wars was real. Second, some of them (e.g., in Danzig, Memel, and Croatia) prevented further expulsions of populations and accommodated for a mixed governance in multi-national areas. While the jury is still out on how such management will pan out in the future for other ITAs still in place today in the former Yugoslavia, they provided a creative option at the time that ruled out further homogenization of territories. Third, ITAs bought time. They can be effective in proposing a temporary solution that can be later resolved under situations with fewer animosities and emotions, and more lasting solutions can be found under different political constellations. The bottom line is that in some cases – such as in BiH – it was the only effective way at the time to stop violence. Without

the international backing and the often-convoluted formulas for governing that were painstakingly negotiated in Dayton, the fighting could have continued, and more lives would have been lost. Whether “giving war a chance” as Edward Luttwak argued (Luttwak 1999), would have been a preferable option from a long-term perspective is not only an exercise of virtual history but also ethically problematic. Suboptimal solutions they may be, but ITAs – at least in some cases – saved lives.

The joint experiences from the former Yugoslavia and elsewhere serve as lessons on what is feasible (demilitarization, security, and international arbitrations with set deadlines) and what is not (complex ethnic power-sharing and veto rights). International commitment and backing of any ITA are equally imperative. Investments in BiH and Kosovo, in particular, have been jaw-dropping. Committing to peace is costly, but certainly not as costly as the continuation of wars.<sup>3</sup> The option of any ITA in Donbas may sound radical or even unworkable at present, because Russia thinks it holds the cards now that the US has abandoned Ukraine. However, it all depends on whether Ukraine can continue to resist and even push Russia to negotiate on more symmetrical terms with European support. This is where the UN can step in and support an ITA option formulated by the Europeans, if Ukraine is prepared to accept it as the least-worst outcome.

The degree of radicalism turns on the question of sovereignty: whether it is a transitional, peace-keeping operation until a transparent arbitration is held, an autonomous region within Ukraine, or an internationally administered Donbas with a new international legal personality. While risks are unavoidable, we have sufficient experience from a raft of historical cases to draw important positive and negative lessons. The primary one is that a resolution can be found with sufficient international determination if equipped with significant resources and military backing for the long haul, if Ukraine engages with it, and if Russia reluctantly agrees to cooperate. Indeed, the latter question is the biggest challenge for ITAs, but if it were up to Russians, pre-war polling suggests there was a willingness to entertain many options (Levada Center 2021). There is hope for the future, too.

## Notes

- 1 It even declared independence in 1991 but was not recognized as it was not officially considered a republic.
- 2 “31600 documents undoubtedly confirm death or disappearance of 13535 individuals during war in Kosovo,” 6 February 2015, Humanitarian Law Center, <http://www.hlc-rdc.org/?cat=218&lang=de>
- 3 See Zürcher, Manning, and Evenson (2013).

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# 13 Competing Narratives about Ukraine and the Possibility of Dialogue and De-Escalation

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## 13.1 Introduction

Military solutions received the most attention in Europe and the US during the first two years following Russia's invasion of Ukraine in February 2022. In 2024, the situation started to change. In the West and Ukraine, peace negotiations were discussed a bit more widely than before. What would a lasting peace between Ukraine and Russia look like, and how could it be achieved? For example, after the June 2024 "Ukraine Peace Conference" (held in Bürgenstock Resort in Switzerland on 15–16 June 2024), both the Swiss organisers and President Zelensky said that Russia should be involved in the next phase of the Conference (Guardian 2024). In September 2024, Zelensky explained that Ukraine's attack on Russian territory was pre-emptive and part of his plan to force Russia to negotiate. President Putin has, in turn, said that he would be willing to revive negotiations on terms first discussed at talks in Istanbul at the start of the full-scale invasion.<sup>1</sup>

The shift also reflects changes in the domestic politics of various countries. According to reports, a deep war weariness emerged in Ukraine (e.g., Economist 2024); the tension between stated goals (winning the war) and actual actions (willingness to sacrifice for a common cause) was becoming sharper. Although Russia's economic situation has remained relatively good despite the war and sanctions – and probably also because of them (Galbraith 2024) – the long-lasting war of attrition is eroding the legitimisation basis of Putin's regime. In Western countries, right-wing populism favours peace negotiations, and it is difficult for conventional parties not to react to their proposals. This is particularly visible in the US, where President Donald Trump promised during his campaign to negotiate an end to the Russia-Ukraine war; and in Germany, where German Chancellor Olaf Scholz indicated before his government collapsed that it is time to rekindle diplomatic efforts to end the war in Ukraine, as a response to the rise of the nationalist-populist Alternative for Germany (AfD) and the more left-leaning party of Sahra Wagenknecht (Deutsche Welle 2024). Moreover, from a global perspective, it is clear that most of humanity is either ambivalent about the war or inclined to be critical of the West and its unilateralism, involving the

expansion of NATO. Russia is a key member of the expanding and evolving BRICS (Brazil, Russia, India, China, South Africa, later joined by Egypt, Ethiopia, Indonesia, Iran and the United Arab Emirates) coalition, which is increasingly partaking in articulating the voice of the global South.

Despite signs that the willingness of the parties to negotiate is increasing, the war continues and, simultaneously, the tendencies towards further escalation remain strong. Increasingly daring strikes and attacks on Russian territory, on the one hand, and threats of retaliatory strikes, on the other, mean that the war can further expand, possibly even into a nuclear war. And despite expressions of willingness to negotiate, many key Western actors have continued to bolster their commitment to exclusively military solutions. A case in point is the European Parliament, which in September 2024 called for lifting restrictions on the use of Western weapons and strengthening sanctions against Russia while neglecting diplomatic paths to end the war (The European Parliament 2024). This was also the direction chosen by the Biden/Harris administration, although it sought to minimise the risk of a sudden escalation. Moreover, still, after Trump took office in January 2025, NATO is considering concrete steps towards Ukraine's membership while the war is waging. Meanwhile, in Russia, there has been a vocal group both inside and outside the Putin administration demanding increasingly drastic measures to resolve the war in Russia's favour. Many in Russia have publicly suggested, for example, missile strikes on Western European cities or the use of nuclear weapons in Ukraine.

In this chapter, I discuss the possibility of telling better stories about the conflict and its possible solutions. In all conflicts, the parties have opposing stories about history, the causes of the war, and the just resolution of the war. Each claim regarding these also has multiple underlying assumptions that the parties often take for granted. A critical and reconstructive analysis of such narratives does not mean reducing the conflict to mere stories. The stories are anchored in social practices and structures that they, on the one hand, constitute and legitimise, but which, on the other hand, make it difficult to change the stories. Under these circumstances, de-escalation requires creative solutions, indicating the need to problematise the prevailing stories, to find room for negotiations where issues can be discussed, debated, and agreed upon. This requires reframing and reimagining goals. Also, new ideas regarding institutional arrangements are needed. I conclude by exploring the possibility of dialogue and de-escalation through reframing the Russia-Ukraine conflict.

### **13.2 Narratives about the War in Ukraine**

There is a rich literature on the role of narratives in conflicts (e.g., Bar-Tal 2007, 2013; Bar-Tal Oren, and Nets-Zehngut 2014; Kuusisto 2009; Ringmar 2006; Uluğ et al. 2021). It is not only known that the prevailing narratives in conflicts tend to be selective, biased, and simplistic, but also that they are

interactive and dynamic, i.e., that they evolve during the conflict. Narratives can be functional from the point of view of the unity of the political community as well as intertwined with established interests, or with interests that have developed as a result of a conflict. For instance, it can be argued that the false universalisms of the neoliberal West stem from corporate interests aligned with changing domestic coalitions in different OECD countries and that these interests have been favoured by the discrepancy between territorial states and globalising spaces of the liberal world economy (Patomäki 2021, 114–118). In Russia, the critique of the current world order and confrontation with the West can be seen to serve as an excuse for postponing domestic reforms of those asymmetric social relations that emerged in the 1990s and were consolidated in the 2000s, and in terms of a new patriotic contract between the state and its citizens (Romanova 2018, 78; cf. Patomäki 201, 49–52, fn 9 on 63, stressing the ambiguities and the role of securitisation in these developments). Apart from the actions of the other – framed and interpreted in terms of the dominant narrative within one’s own community – a variety of social mechanisms can maintain and reinforce particular narratives within the parties of the conflict. These mechanisms can involve anything from encouragement and reward to public shaming, punishment, and censorship. Although each conflict is historically specific, types of narratives are common and appear across many different conflicts. The war in Ukraine is no exception to the rule.

In the West, there are two different competing narratives about the war in Ukraine that started in 2014 and expanded into a full-scale invasion in 2022. Leaving aside both the deep-seated continuities and contingent historical developments (such as the geopoliticisation of the European Union (EU) and its enlargement; Diez 2004; Claessen 2023); and background theories such as the capitalist and democratic hypotheses of peace (Patomäki 2018, Chapter 4), or theories that revolve around the idea of US leadership and hegemonic stability (see Gills and Patomäki 2017); the currently prevailing Western narrative can be summarised as a struggle between the “bad guys” and “good guys” (about the logic of Manicheanism and the continuing relevance of the idea that the world is characterised by a simple dichotomic struggle between good and evil, see e.g., Aho 1990; Harle 2000). For many, Russia, led by dictator Putin, represents imperialism and is alone responsible for this unprovoked war, which violates international law, whereas Ukraine represents freedom and democracy as well as courage and heroism. The prevailing Western framing also involves the idea that countries are and must be free to join NATO or any military alliance if they so wish.<sup>2</sup> The forces of evil must be defeated decisively by military means, so NATO should be strengthened further. The likelihood of conflict escalation is played down as it would lessen the resolve to reach a total victory.

To the extent that the Ukraine war is seen through moral prescriptions, as a struggle between good and evil, tendencies towards further escalating the war are strong. This framing generates a curious mixture of liberal idealism

and power politics, which has no clear counterpart in International Relations theory. Ole Wæver (2023, 1192–1193) characterises such a belief system as “a weird kind of liberal-paleo-realism”, which has been dominant among Western policymakers, media, and experts. It is (neo)liberal and universalising in the sense that it assumes the superiority of “our side” in every confrontation, justifying moralising interventionism, while its paleo-realism consists of an asymmetrical cynicism and militarism: the evil others only understand the language of force. In this black-and-white, moralistic framework, it is not surprising that only a few peace proposals have been presented and that actors tend to resort to increasingly harsh military measures, stricter sanctions, and further escalation of conflict. Militarists have become the oracles of the future, and politicians and diplomats their servants. From the narrative-analysis viewpoint, what is of particular concern is that this narrative involves the negation of the narrative of the other party in the conflict; anything associated with the other’s narrative can then be labelled as propaganda or misinformation.

The main Russian narrative provides a sharply contrastive view of locating the good and the evil (e.g., Tyushka 2022). Attempts in the 1990s to seek Russian identity and place in the post-Cold War (neo)liberal world order were complicated and disturbed by developments such as the rapid concentration of wealth, major socio-economic difficulties, widespread crime and murder, partial state collapse, and a sense of humiliation. As the West-recommended reforms failed in the 1990s, all political forces in Russia started to stress the importance of *samobytnost*’ or the national distinctiveness of Russia (Tsygankov and Tsygankov 2021, 2). The counter-hegemonic framing and story emerged already in the 1990s but evolved further and started to shape developments visibly in the 2000s. During the Putin–Medvedev era, “the new Russia” of Boris Yeltsin has gradually been replaced by a discourse stressing long-term continuities in Russian history (Malinova 2016). This discourse has redefined the identity and aspirations of Russia.

A turning point was the 2007 Munich speech, where Putin warned against NATO’s eastward expansion and that the unchecked US dominance would lead to an arms race. Particularly since the turning points of the 2000s and early 2010s, the “nationally distinct” identity has included elements such as competitive victimhood (i.e., the belief that one’s own nation has suffered more than the others); a distinction between the decadent values of the post-modern West and the more authentic and traditional values of Russia; belief in the importance of a developmental state for economic stability and growth; the idea that a full recognition as an equal (great power) requires economic and military power; securitisation of Western attempts to interfere in the domestic politics of the former Soviet states and especially Russia itself; and concerns about EU and NATO expansion and Western exclusionary practices and double standards (e.g., Diesen 2017; Forsberg and Patomäki 2023, 12–17, 22–25, 28–29, 34–39, 54–57; Patomäki 2018, Chapter 3; Romanova 2018; Tsygankov and Tsygankov 2021). All this is consistent with a global

vision of cultural and political pluralism in a multipolar international system, sometimes associated with claims for more democratic decision-making,<sup>3</sup> sometimes with power balancing and exclusive great-power negotiations about the key issues of world politics.<sup>4</sup>

This sense-making narrative is not only itself historical (e.g., during the 2013–2014 events in Ukraine, the geopolitical othering of the EU and the West became stronger, and the majority of Russians turned against the EU and the West; see Claessen 2023; Locoman and Lau 2024). It also concerns world history and involves stories about Russia's place in the wider scheme of things. While various beginnings and conflicts are important for mainstream Russian stories, it is the Great Patriotic War (WWII) that has shaped most of them since the 2000s. Given the dominance of the prevailing framings and narratives, it is easy to understand how, from this point of view, the expansion of the EU and NATO and related episodes such as the Euromaidan have appeared as threatening to Russia's distinctive identity and security. Hence, the expanding West (both the EU and NATO) has increasingly, especially since 2013–2014, assumed the role of a potential or actual enemy. Also in Russia, anything associated with the enemy's narrative can then be labelled as propaganda or misinformation. Moreover, in Russia, the increasingly autocratic state (even if in its own official documents, Russia continues to be defined as a democratic country) has tended to forcefully prevent the presentation of dissenting views, especially so in times of war.<sup>5</sup>

### 13.3 **Alternative Storylines and the Role of Ukraine's Identity and Agency**

An alternative narrative, the minority view in the West and perhaps the majority view in the rest of the world outside the West, maintains that reality is more complicated than what the Western majority suggests. In this view, the unfortunate and shortsighted Russian invasion violates international law and has caused an enormous amount of suffering in Ukraine and turmoil for the warring states, Europe, the US, and the world, but this invasion was not unprovoked. There is, of course, a lot of variation. While some governments and populations condemn Russia's invasion, others have adopted more neutral or even pro-Russian stances. A significant number of countries have abstained from UN (United Nations) resolutions condemning Russia, favouring diplomatic solutions over direct condemnation. There is, thus, a lot of scepticism of the mainstream Western narrative. Some believe the war is part of a broader power struggle between NATO (North Atlantic Treaty Organization) and Russia rather than simply Russian aggression. Moreover, there is widespread distrust of the role of the West in this conflict due to historical experiences with colonialism, imposed regime changes, and economic pressures often imposed by Western-dominated institutions such as the IMF (International Monetary Fund) and the World Bank.

Some prominent public intellectuals in the West have systematically articulated such an alternative narrative, although the underlying assumptions of the narrative may vary somewhat. For example, John Mearsheimer and Jeffrey Sachs argue that Western policies, particularly US and NATO actions, have played a key role in escalating the war in Ukraine. Mearsheimer has consistently argued since 2014 that the West's failure to create a neutral Ukraine would lead to war.<sup>6</sup> Sachs (e.g., 2023) has criticised the West also for economic-political reasons, both in terms of aspirations (US global dominance) and actual effects of imposed economic policies and sanctions. These stories resonate, albeit in different and sometimes only indirect ways, with the views of many right-wing populist and leftwing parties in the West (while the parties currently considered centre-right or centre-left share the mainstream Western liberal-paleo-realist narrative). Moreover, the alternative view is professed by many alarmists who warn that the escalation has already continued or can continue to a point where the world is verging on nuclear war (Waslekar 2023). Whatever the variation, the alternative storyline supports efforts to start a peace process, one of the goals of which would be Ukraine's military non-alignment. As a by-product of the decline of the conventional parties in liberal democracies (e.g., Grzymala-Busse 2017), this storyline has been gaining some momentum (also, the Trump II administration has made remarks along these lines).

However, the conflict is not just between the West and Russia. There has been a low-intensity war in Eastern Ukraine since 2014. In February 2022, Russia started a full-scale invasion. The question of Ukraine's identity and agency complicates the picture, as does the suffering of the Ukrainian people. The main "competition" about victimhood is thus between Russia and Ukraine. Since the collapse of the Soviet Union, Ukraine's identity has been the subject of ongoing disputes, which have involved the entanglement of historical narratives about Ukraine with the relations between the West, Europe, and Russia and their definitions (e.g., Diesen and Keane 2017). Until 2014, perhaps a third of the Ukrainian population identified Russian as their native tongue (the Bolsheviks transferred large parts of Russian territory into Ukraine); moreover, a majority of citizens used Ukrainian and Russian interchangeably in different contexts. The economy of the Eastern part of Ukraine remained entangled with Russia, whereas the Western part was increasingly geared towards the EU. Economic and cultural orientations changed already in 2014–2022, and since February 2022, Russia has become associated with the aggressor, leading many Ukrainians to adopt Ukrainian more fervently, even in areas where Russian was traditionally spoken.

Following the failed negotiations of March–April 2022, and half a year after the full-scale invasion, Russia annexed four regions of eastern Ukraine, which have been Russianised by various means. As a consequence of the war, ethnic nationalism prevails in the rest of Ukraine (pro-Russian and also leftist

political parties are banned, etc.). The project of ethnic nationalism is aligned with the EU and NATO definitions of democracy and human rights (and civilisation) through the shared commitment to the idea of Ukrainian victimhood. The Western main narrative and support for the waging of the war and the Ukrainian economy are, thus, interwoven with an ethnic-nationalist narrative about Ukraine. Also, the Ukrainian narrative implies the goal of “winning the war” against Russia, and this narrative, too, is reinforced through autocratic mechanisms.<sup>7</sup>

### 13.4 The Problem of Revising the Prevailing Narratives

Contrastive or antagonistic narratives interact through words and actions. Given a negative spiral, the further the mutual collapse of trust among state-actors (or their coalitions) goes, the more each side begins to believe that the other’s behaviour can be modified by force and deterrence only.<sup>8</sup> However, no negative spiral or self-reinforcing process lasts forever. Sometimes, a turnaround only occurs after a massive crisis or disaster, but actors can also learn and change. It is important to understand the cracks in the apparent monolith, the nuances in both parties and situations, and the various indicators of potential for change. Alternative views and various (tacit or explicit) commitments can facilitate revisions and may open up opportunities for cooperation.

Although in mid-2020s Russia, an explicit foreign policy opposition is largely suppressed and excluded from the public sphere, Russia remains a neo-revisionist power, criticising unipolarity and the one-sidedness of the rules (“who makes them?”) and their application in the current system rather than trying to drastically change those rules (as explicated by Sakwa 2016, 30–34). The fact that Russia is committed to many of the existing rules and uses the inherent contradictions of the prevailing world “order” (for different accounts of these contradictions, see e.g., Lake et al. 2021; Parsi 2021) opens possibilities for dialogue and an eventual overcoming of the war. Russia’s challenge to US hegemony is in part based on the idea that Russia has the right to act like the West (i.e., it reserves the right to ignore rules that do not fit its priorities). Social (inter)activities are always based on certain background assumptions, and often these are considered self-evident – and may not even be noticed – by the agents. Even when A and B struggle violently against each other, they can share a number of the same, similar, or analogous background assumptions, some but not all of which may be conducive to dialogue.<sup>9</sup> On the other hand, resolving conflicts requires the capacity to change understandings, rules, and practices, at least in some respects. On the other hand, adjustments to the rules or their application presuppose the revisionist’s or challenger’s reciprocal readiness to shoulder responsibility for the reformed order (as suggested by Romanova 2018, 88, who also argues that “a reformed liberal international order will create the necessary context for Russian internal reforms, which in turn will feed Russian support for the reformed order”).

A mutual dialogue presupposes some readiness and willingness to revise, at least to a degree, the prevailing conflict narratives on each side.<sup>10</sup> The problem of transforming violence into politics and diplomacy faces many obstacles, however. In open systems, attempts at a dialogue may fail due to the factors intrinsic or extrinsic to the dynamics of negotiations themselves. Both entrenched interests and the drive for community unity (also for the sake of winning the conflict) can sustain – together with the various homogenising mechanisms – the prevailing stories. The effects of the revisions of the narrative depend on the context. There is, for example, evidence that although a more inclusive narrative about suffering tends to reduce the support for aggressive policies towards the other, a concern about outside support (some trusted third party or a grouping of states and organisations) may reverse this connection (Adelman et al. 2016). The other side of the coin is that the relevant third party can thereby be in a position to shape responses to the revision of narratives (in this case: Ukraine is not only dependent on the support from the West, but also the role of less involved outsiders such as Brazil, China, and Turkey can be important (see e.g., Motta and Succi 2023; Zhang 2023; Yanik 2023)). Moreover, the peace interest does not lie in the attempt to overcome all contradictions or causes of conflicts, but rather in handling the transformation from violence to politics and diplomacy in a sufficiently acceptable and sustainable way. This requires a degree of depolarisation and de-escalation of the conflict and thus at least some adjustments of the prevailing narratives, often in terms of reframing or reimagining goals (Galtung 1996, 89–95).

### **13.5 Conclusion: On the Importance of Reflexivity and Framings**

At a high level of abstraction, many of the prevailing narratives can be seen as belonging to a relatively limited set of familiar genres and schemes, though always with some variations.<sup>11</sup> For example, a Manichean story of a struggle between good and evil may be contrasted with a folktale in which the father (or king) looks after their own family (or community), which is threatened by an external dragon. In the Manichean story, the father or the king may represent evil if he is not liberal enough; whereas in the folktale, the threatened family members or the community may be rescued by a hero or heroes from the liberal dragon.

Different theories also shape stories about world history and current situations. For example, a political realist story about geopolitical rationality can be contrasted with liberal “optimism,” in which a harmonious world is achieved when everyone is equally firmly committed to universal (neo)liberal rules and principles. A political realist wants to preserve state-pluralism, whereas a liberal is inclined to impose universal rules and principles on others who do not believe in them, and in some contexts by means of force, if necessary. A typical liberal believes in Whig history (in which a selective distortion of the past is represented as a story of inevitable progress towards the present) and frames stories in terms of confrontation of good and evil,

whereas a realist is anti-Whig and tends to see world history as a repetitive tragedy, with little space for alternatives.<sup>12</sup>

As various stories shape the goals and actions of those involved and thus influence their conduct, they can clash in public political spaces or, if conflicts escalate to the point of violence, on the battlefield. In both cases, the overall outcome is likely to be unintended from the storyteller's viewpoint. Moreover, through practices and institutions, stories have real causal consequences that may affect millions, hundreds of millions, or even billions of people, not least through socio-economic developments and in terms of different conceptions of peace, justice, and freedom. The causal consequences feed into the processes of collective learning, where actors draw conclusions based on lessons drawn in the course of their own life path through different contexts. Furthermore, as already stated, narratives can serve to unify the political community while also being linked to established interests or those that emerge from conflict; i.e., they are materially grounded.

Reflexivity in this context means the ability to take a critical distance from all stories, including those one believes in (and which can transcend the simple structures of less reflexive stories). Reflexivity prompts individuals and communities to question their own assumptions, biases, and the origins of their narratives, making them more open to alternative perspectives. By examining how narratives are constructed and how they function within power structures, reflexivity can reveal commonalities, contradictions, or possibilities for reinterpretation, softening antagonistic divisions. Reflexivity allows actors to recognise that their narratives are shaped by specific contexts and interests, leading to more empathetic and constructive engagement with opposing views. When people become aware that their narratives are not absolute but socially and historically contingent, they may become more willing to adapt, negotiate, or integrate elements of other narratives. For all these reasons, reflexivity can help shift the focus from rigid “us vs. them” thinking to a more dynamic and relational understanding of conflicts, encouraging compromise and mutual learning.

Hence, in this chapter, I have sought to present the prevailing narratives regarding the war in Ukraine in a critical-reflexive light, in order to highlight the ambiguities within and parallels between them. Reflexivity does not mean Protagorean relativism. According to Plato (in *Theaetetus* 152a, 6–8), Protagoras thought that as “each thing appears (*phainesthai*) to me, so it is for me, and as it appears to you, so it is for you – you and I each being a man”. Radical Protagorean relativism is self-refuting because it allows for absolutist views that deny it. Epistemological relativism should be distinguished from the incorrect thesis of judgemental relativism, which asserts that all beliefs (or statements) are equally valid, in the sense that there can be no rational grounds for preferring one to another (Bhaskar 2009, 48–49). Epistemological relativism (compatible with ontological realism) only means the recognition that all beliefs and knowledge claims are socially produced, contextual, and fallible, and in that sense, relativism is a necessary counterpart to reflexivity.

Moreover, reflexivity does not eliminate the influence of the mechanisms that anchor stories in social structures and sustain prevailing meanings, but it can weaken the influence of those mechanisms and, thus, open a space in which meaning-making processes can be shifted towards a less antagonistic and more collaborative direction. Therefore, one of the key goals of the peace process is to increase, at least to some extent, the reflexivity of the parties regarding their own storylines.

It is possible to reframe the conflict in terms of alternative possibilities and place things in broader contexts. Reflectively conscious agents and organisations have the capacity for goal-changing feedback and learning that may lead to revising the stories they tell. Actors' lower-level goals are embedded in higher-level purposes. The lower-level individual purposes exist within a wider social whole, such as a nation or civilisation that precedes an individual self and continues to exist beyond its lifetime. Actors can also be concerned with still wider processes that make purpose-seeking as such possible. This wider context does not automatically mitigate conflicts. For example, above I mentioned that although a more inclusive narrative about suffering tends to reduce the support for aggressive policies towards the other, a concern about outside support (some trusted third party or a grouping of states and organisations) may reverse this connection. Despite these kinds of complexities, the recognition of common humanity and the agency and dignity of the other constitutes a wider context that can facilitate the resolution of the conflict.

Last but not least, the reframing and definition of goals and objectives can also extend to disputed territories and competing sovereignty claims in Ukraine in a more concrete manner (see Barton Hronešová and Kanninen and Patomäki in this volume on the possible application of the concept of International Territorial Administration). Moreover, actors may recognise that in the wider world-historical setting, the war in Ukraine is also a consequence of decades of conflict escalation between Russia and the West, and the escalation of conflicts in world politics and global political economy more generally (Patomäki 2018; Patomäki 2025; Forsberg and Patomäki 2023). The importance of confidence-building and security-building measures and resolving the conflict in Ukraine also lies in the fact that they provide time and create opportunities to solve major global problems concerning the environment, economy, security, and new technologies.

## Notes

- 1 As discussed also in other chapters of this volume, Russia seems to have been agreeable to a ceasefire and to withdraw from most of Ukraine, on the condition that Ukraine does not join NATO, that Ukraine is disarmed, and that international security guarantees for Ukraine would not extend to Crimea, Sevastopol, or certain areas in the Donbas. The then-Israeli Prime Minister Naftali Bennett served as a mediator and later disclosed many details about the negotiations (the interview is available at Naftali 2023). The West was sceptical or outright hostile

about the negotiations and the Western stance hardened already before the withdrawal of Russian forces from certain areas led to the revelation of the war crimes in Bucha on 1 April (see Funke and Kujat 2023). In June 2024, *The New York Times* published translations of the key documents of these negotiations with a detailed analysis (Troianovski et al. 2024), indicating that negotiations did not stop at the revelations in Bucha: “But Mr. Zelensky, visiting Bucha on April 4, said the talks would go on, even as Russia dismissed the Bucha atrocities as a staged ‘provocation’”. Boris Johnson visited Kyiv on 9 April 2022, which has been seen as a turning point in many accounts. While a lot of uncertainty remains, based on this evidence it seems plausible that the strong pressure from Western countries and NATO to end negotiations, combined with the Bucha revelations and some Russian moves in the negotiations which may have evoked suspicions, made Ukraine abandon the negotiations soon after mid-April.

- 2 Arguably, however, the OSCE documents do not grant an absolute or subjective right to ally militarily or, for that matter, to enlarge NATO. Rather these documents emphasise also common and cooperative security involving developments such as disarmament. This can be reinterpreted in a minimalistic manner in terms of the standard liberal no-harm principle (derived from J. S. Mill). The enlargement of NATO towards Russia’s borders and related changes in terms of relative power can be taken to be causing harm in a situation where it was made clear that Russia will stay outside NATO; where nuclear deterrence between the US and Russia continued to define their relationship, and where trust between Russia and NATO/the US had begun to erode. The more competitive the situation has become over time, the more harm NATO expansion has caused. For a more detailed discussion and evidence, Patomäki 2024a, 137–141.
- 3 From this point of view, the idea of a hegemon contradicts the very core of the liberal-democratic ideology, which assumes equality and majority decision-making – while for Russia, equality means equality among (at least the powerful) states and adherence to the principles of the UN. One paradox is that liberal democratic countries have often resisted the democratisation of international relations because they alone feel they can speak for democracy (for Russian criticism, see e.g., discussions in Romanova 2018, 77–87; about global democracy more generally, e.g., Held 1995).
- 4 Power-balancing is a geo-historical social practice constituted, in part, by an analogy to Newton’s third law, in part by various and historically varying other concepts and practices. While the geo-historical effects of which are context-dependent, power-balancing has also been associated with such international institutions as great powerness and spheres of interest. In the 21st-century conflict between Russia and the West, accusations revolving around the outdated and problematic concept of “sphere of influence” have been common, and have not only been levelled in one direction. The concept originated from the Monroe Doctrine (1823), became prevalent during the era of European neo-imperialism 1870–1914, and was discredited by the violent practices of fascism and Nazism in the 1930s and 1940s. After World War II, there was a tacit and reciprocal understanding between the US and the USSR about “spheres of interest” but, although they recognised these spheres in practice, neither side used the term. The US has held on to its version of the tacit concept all along, and in a sense even globalised it, while Russia has returned to geopolitical doctrines that, at least to an extent, resemble some of the ways in which the concept was used from the 1870s until 1945. For a brief history of the concept and its current uses, and subsequent debate, see Forsberg and Patomäki 2023, 36–37, et passim.
- 5 The decline of democracy in Russia is part of an overall global trend. As the US is now, in the mid-2020s, classified as a flawed democracy, in general, the so-called

- third wave of democratisation is over. Advances in global levels of democracy made over the last 35 years have been wiped out. The world as a whole is back to the situation of the mid-1980s. 72% of the world's population – 5.7 billion people – live in autocracies by 2022. (V-Dem 2023) This decline was preceded by rising inequalities in most countries and a rapid global concentration of wealth. Globally, disintegrative tendencies, securitisation of issues, and weaponisation of interdependence have accompanied it.
- 6 Mearsheimer (2014, 84) actually refers to George Kennan's much earlier prediction: "In that same 1998 interview, Kennan predicted that Nato expansion would provoke a crisis, after which the proponents of expansion would 'say that we always told you that is how the Russians are'". For a critical discussion of Mearsheimer's offensive realism and his theoretical inconsistencies – but also genuine insights – regarding the conflict about Ukraine, see Patomäki 2024b.
  - 7 In 2022, Ukraine was classified as an electoral autocracy by V-Dem (2023, 39–40). In 2024 also elections were suspended under the conditions of war and martial law and under the pretext that "we need unity" (e.g., Gessen 2024).
  - 8 Ecaterina Locoman and Richard Lau (2024) report that before the 2014–15 hostilities, Russian media tended to portray EU and US leaders as reliable partners. This changed during the first phase of the Ukrainian crisis and war in 2014–2015. The negative framing started to outweigh the positive one (also the framing of Kyiv as "fascist" emerged at this time, at first based on the role of some fascist or neo-Nazi organisations in Euromaidan). However, in Russian public opinion, "positivity resurfaced when French and German diplomats aided ceasefire negotiations in Eastern Ukraine a year later", indicating the significance of also relatively momentary words and actions for reliability and trust.
  - 9 Many taken-for-granted preconceptions based on reification and mystification, as well as violent symbols and practices (including modern militarism), can for their part produce the sort of social background which, almost unnoticed, can maintain violence and preparation for violence and thereby take part in generating an overall insecurity community. Hence, emancipation from violence may require – and often necessitates a commitment to – the starting of dissensus *within a political community*. In violence-prone *inter-community contexts*, however, the task is rather to build elements of a consensus by drawing on the shared background assumptions and to devise compromise settlements in bargaining situations (any peace dialogue also involves consequence-oriented and strategic considerations). For an explanation of the idea, Patomäki 2001, 731–733; applied to the context of Ukraine, Forsberg and Patomäki 2023, 64–65.
  - 10 The proponents of the first Western narrative tend to respond that it is impossible to negotiate in good faith with the Putin regime. The point of ever more extensive military aid to Ukraine and (the failed) sanctions against Russia has been to undermine the Putin regime in the hope of the emergence of a more peaceful and democratic government in Russia. However, an (unlikely) unconstitutional change (coup d'état or a sudden revolution) would likely destabilise Russia. It could result in more radically nationalistic and militaristic forces assuming power; or, it may also result in a repetition of the chaotic 1990s, involving the possibility of dissolution of central political authority and fragmentation, civil strife, and even war. Any loss of central control of Russia's nuclear weapons could have nightmarish consequences. It is important to stress that the collapse of trust has been a mutual process and on the Russian side, the collapse of trust is equally serious. For example, at the meeting of the Valdai Club in 2017, Putin stressed that Russia's "most serious mistake in relations with the West is that we trusted you too much. And [the West's] mistake is that [it] took that trust as weakness and abused it" (quoted in Romanova 2018, 83).

- 11 This claim comes close to the structuralist idea that meaning arises from the structure of relationships between elements rather than from individual elements themselves, and that possible combinations and relationships between relational elements form frequently recurring patterns (see, e.g., Alker 1996, Chapters 3 and 8). Regarding some of the terms, Manicheism was a major religious movement founded in the 3rd century CE by the Persian prophet Mani, but today “Manichean” is often used metaphorically to describe a black-and-white worldview that divides everything into good and evil (Harle 2000). Alker uses oral (Russian) fairy- or folktale traditions, originally studied by the structuralist Vladimir Propp in the 1920s, and which focus on community, dragon, heroes, and king, as a key example of generative structures of meaning which can be repeated in modern contexts, although the names of the components change.
- 12 Herbert Butterfield developed the concept in his *The Whig Interpretation of History* (1959/1931). Whig history is past-oriented and often serves to legitimise the present X as the best of possible worlds (where X can refer to science, economy, nation, etc.). According to Butterfield, the Whig history leads very quickly to the division of the world into supporters and opponents of the story of progress towards the present, goodies and baddies, and the narrative of heroes from this perspective. Neoclassical economics and related philosophies of neoliberalism, which constitute the currently dominant (self-)understanding of liberal world order, abounds in Whig stories about the history of the discipline and of the economy itself; whereas in international relations, the anti-Whiggish reaction has been, time and again, about resuscitating the reason of state, power balancing, and great power politics against the rationalistic tendencies and the philosophy of history of the Enlightenment and international law (Guilhot 2015).

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# 14 The Potential Role of the UN in Resolving the Conflict in Ukraine

*Tapio Kanninen and Heikki Patomäki*

## 14.1 Introduction

Over the past decades, the United Nations (UN) and other international and regional organisations have participated in attempts to resolve or transform conflicts. Often, these attempts have involved a temporary international administration (TIA) of conflict areas. It is important to consider whether such a solution could, in some form, also be part of the process that begins the peace process and ends the war in Ukraine. Our intention is not to suggest this as the only option. However, a TIA type of arrangement could offer an opportunity to avoid a simple zero-sum game where the parties either win or lose territory. The war in Ukraine will, in any case, end with negotiations, the opening of which may be facilitated by the fact that there are other options on the agenda than territorial cessions or returns. Regardless of what kind of agreement the war in Ukraine ends with, the analysis of the TIA as a possibility may also be relevant in other contexts.

Although the recent historical experiences of TIAs may not be very well known among diplomats, politicians or international relations researchers, there are several reports and research publications on the topic (e.g., Chesterman 2003; Wolfrum 2005; Kostovicova 2019; Mross et al. 2022; Hronešová and Moses in this volume; and Hronešová in this volume). With some modifications, the idea is applicable to the conflict in Ukraine. In the January 2023 *Le Monde Diplomatique* issue, we considered peace prospects in the Ukraine–Russia war through UN involvement and by employing the idea of TIA as a potential option for making a breakthrough in peace negotiations. In this chapter, we expand and refine this proposal, which may also apply to a degree to other present or future major violent conflicts and wars.

At the end of the chapter, we also analyse the prospects of President Donald Trump's initiative to open up a dialogue with Russia and initiate a peace process. We focus on the complexity of such a process, including the role of facilitators, the UN system and the OSCE (Organization for Security and Co-operation in Europe), and the option of establishing TIA in Eastern Ukraine. We argue that although there are tendencies towards returning to

the past era of great power (imperial) dominance, a state of peace on a sustainable basis can best be achieved through cooperation and institutions dedicated to the common good.

In Chapter 13 of this volume, Heikki Patomäki analyses different narratives each warring party has developed about the reasons for the war. We summarise and simplify the discussion here in terms of two competing narratives of the root causes of the Ukraine–Russia war, the most devastating and polarising war since WWII in Europe. These (and other) narratives are very much part of the processes that determine possible solutions to end the war:

- 1 The dominant perspective in Western discourse attributes sole responsibility for the war to President Putin, framing it as driven by his imperial ambitions to expand Russia's territory and influence. Consequently, the proposed pathway to peace involves the complete withdrawal of Russian forces from occupied territories and the provision of security guarantees to Ukraine, potentially through NATO (North Atlantic Treaty Organization) membership. However, the assumptions underlying this narrative, particularly regarding the motivations and decision-making processes of the Russian leadership, remain contested. Furthermore, the envisioned resolution appears improbable. As of early 2025, the most plausible military outcomes include either a prolonged stalemate or a partial Russian victory.
- 2 An alternative narrative, though a minority view in the West, is widely held in many parts of the world outside of it. This perspective acknowledges that President Putin initiated the war and warrants condemnation for this aggression. However, it identifies the prospect of NATO expansion into Ukraine – an explicit objective for the Biden Administration and for President Zelensky, but less so for the Trump II administration – as the underlying cause of the conflict, together with some other legitimate grievances. Accordingly, the proposed resolution involves Ukraine adopting a neutral status, renouncing its aspirations for NATO membership, and securing the rights of Russian-speaking Ukrainians, especially in the Eastern parts. Advocates of this approach argue that such a framework offers a viable path to ending the war.

In March–April 2022, Russia seemed to have been agreeable to a ceasefire and to withdraw from most of Ukraine, if Ukraine had agreed not to join NATO and if international security guarantees for Ukraine would not extend to Crimea, Sevastopol, or certain areas in the Donbas. Regarding these areas, the parties accepted the existence of different interpretations and the need for future negotiations. The exact time or main reason for the end of these negotiations is unclear, but based on the available evidence, it is plausible that the strong pressure from Western countries and NATO to end negotiations, including Boris Johnson's surprise visit to Kyiv to press Zelensky to continue the war, combined with the Bucha revelations in early April 2022 and some Russian moves in the negotiations that may have evoked suspicions,

made Ukraine abandon the negotiations soon after mid-April (e.g., Balachuk and Romaniuk 2022; Funke and Kujat 2023; Troianovski et al. 2024). Zelensky and his advisers were also at that time convinced that a battlefield victory with continued Western military and economic aid is quite likely (Charap and Radchenko 2024).

From April 2022 to February 2025, the time of this writing, there have been several changes on the battlefield and in terms of administrative and political arrangements, changing the negotiation positions of the parties. Before analysing directly the prospects for peace under the current circumstances at the end of this chapter, we first offer an analysis of factors other than military gains or losses that affect the possibility of a dialogue and peace process.

## 14.2 Overcoming the Problem of Territorialising the Resolution of the Ukraine War

To the extent that this war, or any war for that matter, aims to achieve control over an area of land or sea using force, normative and political issues become territorialised. Also, the conflict in Ukraine has often been framed in territorial zero-sum terms. While the “land for peace” deal is a possible way of trying to resolve a territorial conflict, it is too limited a starting point for negotiations and is likely, therefore, to contribute to weakening the chances of success.

To reiterate, in the winter-spring 2022 negotiations, Russia would have been satisfied with the situation that existed before the February invasion, assuming Ukraine’s commitment to neutrality and disarmament, and some other conditions, such as ensuring the status of the Russian language. However, after Ukraine ended negotiations under pressure from Western leaders, NATO, and domestic opinion, Russia decided to annex the four oblasts in clear violation of international law. In 2024, Russia regards the newly annexed oblasts of Kherson and Zaporizhzhia, in addition to Donetsk and Luhansk, within their administrative borders, as part of its territories, while Ukraine and the West regard the internationally recognised borders of 1992 as valid.

The diametrically opposed perceptions of the other party’s actions and related understandings of justice appear to mean that the territorially defined zero-sum situation can only be rectified through military force. In such a context, partial deterritorialisation of the conflict and involving regional and global organisations has the potential to facilitate a transformation from violence to politics and diplomacy.

Russia’s view of international cooperation has traditionally relied on the UN system, where it has a special status as a permanent member of the Security Council. Also, Ukraine, the EU (European Union), NATO, and the US are committed to the principles of the UN. Commitment to rules and principles of international law does not mean that they are always followed or that they

are interpreted impartially and consistently, but they can nevertheless provide, in principle, a basis for dialogue, some kind of cooperation, and a possible agreement.

Dialogue and negotiations regarding the situation in Ukraine can also be facilitated by creating a less threatening and more cooperative context for a peace process in Ukraine. Such efforts would help build the basic elements of trust and confidence needed to initiate meaningful negotiations. For example, Oscar Arias and Jonathan Granoff (2022) have proposed that NATO could start to plan and prepare for the withdrawal of all US nuclear warheads from Europe and Turkey before negotiations. The actual withdrawal would be carried out once peace terms were agreed between Ukraine and Russia. In the situation of 2025, this proposal could also include a tentative promise to refrain from placing new American military bases in the Nordic countries (partly right next to the Russian border, where the permanent military presence of the US and NATO especially on Finnish territory constitutes, from a Russian viewpoint, in line with the standard security dilemma, a “significant threat to Russia’s national security” (Konyshev 2024).

These kinds of moves would not weaken NATO militarily but could get Russia’s attention and might facilitate dialogue and the ensuing negotiations. In the academic literature, this kind of strategy is called “altercasting”. The point is to persuade the other (alter) by casting/positioning them in a new way in relation to oneself. The idea is to propose a new relationship so that the other will be inclined to act in that new role, in this case involving a move from the logic of deterrence to a more cooperative orientation. This is what Mikhail Gorbachev did with regard to Ronald Reagan in the mid-1980s (Wendt 1999, 129, 329, and 346). Any reciprocal action on such an initiative from the Russian side could restore confidence to the point where dialogue and negotiations may be recommenced. This idea can be extended to scientific and economic cooperation.

### **14.3 The Potential Peace-Making Role of the UN**

The war in Ukraine concerns peace and security not only in Europe but also in the world. The UN was built to tackle such problems. The conflict between the permanent members of the Security Council prevents the UN’s effective functioning, but that does not mean that the UN cannot have other ways to intervene in the course of events. For example, as the current situation involves the risk of nuclear escalation, the UN Secretary-General could resort to a rarely used leadership measure the founders of the UN Charter endowed him with: Article 99 of the Charter (Kanninen and Talvitie 2022).<sup>1</sup>

Article 99 says that the Secretary-General can “bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security”. It is difficult to imagine a more urgent and appropriate use of Article 99 than the increased risk of nuclear war in Europe. Secretary-General Antonio Guterres has himself warned

about the risks of escalation and nuclear war several times, arguing that “it is time for a global compromise”, adding that the world now needs “statesmanship, not gamesmanship and gridlock” (UN 2023; UN 2024). This option, of course, requires an autonomous initiative from the Secretary-General.

Assuming such an initiative, there are further contingencies and possibilities. Even if the Security Council is unable to act despite the warnings of escalation and the use of Article 99 by the Secretary-General, the UN General Assembly could also take things forward. At the current stage of the war in Ukraine, a possible innovation would be to use General Assembly resolutions to bring peace to Ukraine, as was done earlier in a major war in the Middle East. During the Suez crisis in 1956, it was the General Assembly that mandated a peacekeeping operation called the UN Emergency Force through “United for Peace Resolution no. 1001”. At that time, the Security Council was facing a stalemate because of British and French vetoes.

In the 2020s, this scenario of a peace process through UN involvement could be supplemented with new phases. First, the General Assembly could ask the Secretary-General to undertake a fact-finding mission to Russia and Ukraine, and propose various options for a peacekeeping and peacebuilding operation based on the UN’s vast experience in the field. After the Secretary-General has shared his findings from the war zone and the capitals of those involved in the conflict, and presented his ideas for peacekeeping, demilitarisation, and transitional administration in Ukraine, international support could grow for using the UN’s overlooked methods for peace-making. Eventually, the Security Council might also pass a resolution to end the conflict.

Nonetheless, despite the potential peace-making role of the UN, it is unlikely that the keys to the solution will lie solely in the hands of the UN. Many peace processes require third parties to act as mediators. Third-party facilitators and mediators should come primarily from countries that are seen by all parties as being sufficiently outside of the conflict. They could also include representatives from institutions such as the International Court of Justice or the Permanent Court of Arbitration. In addition, various attempts at Track 2 diplomacy and related networks and ad hoc contact groups could facilitate the peace process. Even if many phases of the peace process were implemented without the direct role of the UN, the UN framework would still be needed for authorising the UN presence on the ground and coordinating a large-scale peacekeeping mission.

#### **14.4 How Deterritorialisation Could Help Transform the Conflict**

On 11 November 2022, the Foundation for Global Governance and Sustainability issued a Call for Armistice in Ukraine, which was later signed by five former heads of State or Government.<sup>2</sup> The initiative asked for a transition from a general ceasefire to a final peace settlement between Russia and Ukraine, which is to be supervised by the UN and possibly other

international organisations. Demilitarisation of the occupied areas and a larger demilitarised zone of disengagement between the armed forces of the belligerents could be a part of a wider agreement. The plan also called for immediate efforts to be focused on repairing civilian infrastructure, including in the areas to be placed under temporary international administration, and on securing an adequate supply of food, water, health care, and energy for the inhabitants.

A somewhat similar proposal was made by Indonesia in June 2023 (Reuters 2023). Indonesia's then-Defence Minister Prabowo Subianto, now President of Indonesia, proposed establishing a demilitarised zone by withdrawing 15 kilometres from each party's forward position, observed and monitored by a peacekeeping force deployed by the UN that should also organise elections in disputed areas. This proposal could be expanded towards a wider UN involvement.

It is possible to go beyond establishing a demilitarised zone by applying the concepts of demilitarised zone and UN-managed TIA to either all or at least some of the main areas contested in the war. Their long-term status can be specified later in diplomatic and democratic terms, following the principles of dialogue, cooperation, and the rule of law. In effect, this would mean applying the idea of the transitional administration to (parts of) Eastern Ukraine. The idea is to provide principal governance or functions of government by an inter- or supranational organisation for a limited period of time. In this case, the aim would be to facilitate a future resolution and provide governance and functions of government during the transitional period.

Every conflict is different, and as the TIA concept has been applied in different situations, it has taken diverse forms. The exact functions, powers, and responsibilities of TIA and the stages of the process vary. TIAs are sometimes introduced to act as neutral arbitrators and mediators, ensuring that no particular ethnic group dominates the political process while the region transitions to a peaceful settlement. Important historical precedent cases include the UN Transitional Authority in Cambodia (UNTAC) (1992–1993), United Nations Transitional Administration in East Timor (UNTAET) (1999–2002), and various similar authorities and administrations that were established in the former Yugoslavia in the 1990s. As also stressed by Jessie Barton Hronešová (Chapter 11 in this volume), TIAs typically serve one of two purposes: they can manage conflicting sovereignty claims leading to a future resolution, or they can provide legitimate governance where there is none or is lacking for some reason.

It is also clear that TIA should not be considered a panacea. Rather, in every context, TIA also faces various difficulties and problems. For example, the legitimacy of TIA is anything but automatic. It must be demonstrated in practice through clear processes and context-sensitive management that requires sufficient resources. A major problem has been the unwillingness of the relevant states to commit adequate funds and troops (Chesterman 2003). Without such resources, the interim administration cannot secure peace,

build the infrastructure of society, or provide basic services such as education or healthcare (about the importance of the latter, see Swenson and Knies 2021). Another problem stems from the very fact that international administration is needed at all. Such a need indicates that the local population lacks the capacity for self-determination and self-governance. Moreover, as a result of profound demographic changes due to conflict and violence, it might even be unclear what the local population is.

The example of East Timor is instructive, although there are also significant differences between the cases and required processes. The tasks in East Timor included maintaining security and order, providing relief assistance, assisting in rebuilding physical infrastructure, administering the territory based on the rule of law, and assisting in the drafting of a new constitution and conducting elections. A key problem in East Timor was that locals often felt that they had no say in decision-making, even during the TIA (e.g., Lemay-Héber 2017, 482–483). The problem was at least partly solved with the swift transfer of power to the locals. In eastern Ukraine, this issue may be even more complex, due to changes in the composition of the population (including those changes that have already occurred and those that will occur after the situation has become stabilised under the rubric of the UN). A longer transition period is probably needed. For success, it is of paramount importance that the stages of the process are clearly explained in advance, and that the parties know exactly how and when international control of the area will end.

In addition to East Timor, the Eastern Slavonia case in Croatia during the wars in the former Yugoslavia also has some useful lessons, as also mentioned by Jessie Barton Hronešová in this volume. It remained a potential flashpoint with a large Serb population along with the Croats until the UN-mediated Erdut Agreement of 1995. This formed the basis for a successful UN-administered mission, UNTAES (1996–1998). The agreement was signed by the separatist government rather than Yugoslavia, allowing Belgrade to distance itself from the separatists' demands and warfare. UNTAES was very effective, working in close cooperation with the OSCE, the EU, other international organisations, and numerous local groups, focusing on improving local governance and security (Boothby 2004). The peaceful reintegration of Eastern Slavonia into Croatia without bloodshed – though following the large-scale flight of Serbs during Operation Storm – deserves more analysis for the context of Ukraine.

The war between Russia and Ukraine and the regions of eastern Ukraine constitutes a *sui generis* case, and previous models cannot be applied directly or as such. If some regions are taken under temporary international control, then it is not a question of nation-building or state-building, contrary to many other cases (for the role of such processes, see Wolfrum 2005). Moreover, compared to, for example, East Timor, in Ukraine, a longer period of transition is required, possibly as long as 10 to 20 years. Eastern Ukraine is also a large land area and would require large peacekeeping and other resources and administrative personnel. The operation would thus be

demanding and would require significant resources and troops. “The UN Transitional Administration of Eastern Ukraine” would also have the task of assisting in negotiating and drafting a new legal basis for the status of these regions and conducting elections, as well as a possible referendum in the future. Ukraine’s military non-alignment remains a key issue and must be part of negotiations.

The reframing and definition of goals and objectives cannot, of course, be limited only to those questions that concern disputed territories and competing sovereignty claims in Ukraine, especially in Eastern Ukraine. The war is a consequence of decades of conflict escalation between Russia and the West, and in world politics and global political economy more generally. Such positioning, narratives, and prevailing interests are intertwined in many ways (see Patomäki in this volume). The construction and reproduction of the dominant narrative on each side involve interpretations of history and other elements (for a debate about assessing and explaining these narratives, see Forsberg and Patomäki 2023). Stories and narratives can play an important role in maintaining the unity of a political community. At the same time, they are often connected to existing power structures or tied to new interests that emerge as a result of conflicts. When a certain narrative is taken as the (self-evident) starting point for thinking and action, any deviation from it is easily seen as untruth or even as conscious lying (disinformation, propaganda).

The transformation of violent conflicts into peaceful discussions and political processes requires that prevailing narratives change at least to some extent. The central task of common global institutions is to provide a space where different narratives and frames of reference can meet peacefully and through dialogue, debate, and compromise. The UN may be in some or perhaps many ways anachronistic, but it remains the main institutional framework for reframing and reimagining possibilities to resolve conflicts peacefully.

#### **14.5 Guidelines and Proposals for a Peace Process in 2025 and Beyond**

The Istanbul April 2022 principles for a peace agreement were based on the premise that the most important reason for the war was the attempt by Russia to block the expansion of NATO to Ukraine. In addition, we also know that Russia justified the war with various historical analogies and in terms of the mistreatment of the Russian-speaking population. The invasion was also supposed to resolve the conflict that began in 2014 once and for all. The failure of negotiations in April 2022 and the subsequent Russian annexation of the four regions have complicated the situation by further territorialising the conflict.

Contrary to expectations in Ukraine and the West, and despite extensive military and economic support for Ukraine, Russia has advanced militarily, even if only slowly, during the long war of attrition. If and when a peace

process is reached, both sides will seek to save face and show that the war they fought was not in vain. In addition, in the US, the most important ally of Ukraine, both the Biden and Trump administrations have had and will have different goals and motives to show their success in managing the war. Even if the prolongation of the war would no longer seem to make sense from anyone's perspective, the prolongation of the war has in itself complicated the peace process that will nonetheless begin sooner or later. For example, we could assume that saving face and the goals of each party could be combined by proposing something like the following:

**Russia:** Emphasise that Russia's concerns about NATO expansion have been addressed through Ukraine's military non-alignment.

**Ukraine:** Emphasise that Ukraine's sovereignty and territorial integrity are preserved, with international backing for reconstruction and security.

**The West:** Emphasise that the resolution avoids further destabilisation and upholds international norms of sovereignty and peace.

These goals in various interpretations tend to be aporetic, meaning that they constitute a logically inconsistent set of claims.<sup>3</sup> Providing security guarantees and forming an alliance easily mean the same thing. Ukraine's territorial integrity is not compatible with the annexation of territories. Stabilisation can mean a return to the borders of the early 1990s, or it can mean EU and NATO enlargement, although many earlier disputes have concerned the legitimacy (or arbitrariness) of borders and the enlargement of NATO (and the EU). When the parties discuss such claims and their interpretations, a degree of openness to dialogue is needed at the level of the stories, and when it comes to interests and goals, the actors must be able to make compromises.

The peace process should also address the prolongation of the war. The prolonged war has created new grievances and hardened the positions of many, making peace more difficult, even when public opinions may have turned against the wisdom of continuing the war. It would thus be important to acknowledge mutual losses by encouraging both sides to openly recognise the human and economic costs of the war. It would also be important to promote narratives that focus on shared humanity and the benefits of peace over continued fighting. This goal is compatible with the deterritorialisation of conflict and the strengthened roles of regional (OSCE) and global (UN) institutions.

President Donald Trump's administration has expressed a desire to expedite a resolution to the ongoing conflict in Ukraine. However, contrary to promises made during the election campaign, achieving a peace agreement is anticipated to take several months or longer, reflecting the complex realities of the situation on the ground. A proposed strategy involves initiating direct communication between the main parties, including the leaders of Russia, Ukraine, and other main parties, including the US, key European countries, a possible impartial facilitator, and others. At this writing, the aim seems to be to establish an initial ceasefire by Easter Sunday, April 20, 2025.

The Trump administration's approach seems to include several key elements. First, there is a focus on implementing a ceasefire along the existing frontlines to halt further hostilities. So far, there does not seem to be any discussion about peacekeeping or a demilitarised zone between the parties, which may be essential for any lasting solutions. A ceasefire would be accompanied by peace negotiations between Russia and Ukraine to address ongoing disputes. US military aid to Ukraine would continue, but made conditional upon Ukraine's agreement to a ceasefire and active participation in the peace process. Additionally, the plan seeks to encourage Ukraine to postpone its pursuit of NATO membership for an extended period. While the proposal does not require Ukraine to formally cede territories currently under Russian control, it acknowledges the status quo by allowing those areas to remain under de facto Russian administration. This would not resolve the underlying aporia and may contain the seeds for further continuation of the war.

The Trump "plan" is likely to change. Whatever the specifics, Trump's initiatives are compatible with a feasible peace process to the extent that the rationale for this plan stems from concerns that the conflict has devolved into a protracted war of attrition with devastating human costs. By halting the fighting and initiating dialogue, the Trump administration aims to prevent further loss of life and create the groundwork for a sustainable resolution, thereby also lessening US commitments, in part through shifting the burden to the Europeans. However, the feasibility of this plan remains uncertain. Russian officials, including President Putin and Foreign Minister Sergey Lavrov, have stated that merely deferring Ukraine's NATO membership would be insufficient for a peace agreement. They do not want a ceasefire but a more comprehensive peace settlement.

While the Trump administration may be pursuing a strategy to resolve the conflict, the complexity of the situation indicates that achieving a lasting peace will require careful negotiation among many parties and may take considerable time. From the perspective of the analysis in this chapter, it would be essential to find a sufficiently external or impartial facilitator and a role for key international organisations, above all the OSCE and the UN. Moreover, any framing that deterritorialises the conflict could significantly contribute to the peace process.

It is evident that managing the ceasefire requires international peacekeepers, while peacekeeping forces cannot involve parties to the conflict. In other words, troops from NATO countries are out of the question. A possible compromise is that some soldiers could come from NATO countries, but officers would not – though whether this would be acceptable is uncertain. Sufficiently impartial external parties are also needed for the task. The UN has a major role to play regardless of the current US administration's skeptical view of international organisations. Also, the Trump administration's proposal does not contain any automatic logic through which the complexity and aporetic interests of the parties could be reconciled, although such reconciliation is essential to resolving the conflict. Any attempt to move past difficult issues towards a quick resolution likely means that it will be relatively short-lived. In contrast, our TIA proposal could facilitate the required reinterpretations and compromises that might, in time, lead to more long-lasting solutions.

## Notes

- 1 For a brief history of the use of Article 99 see <https://www.securitycouncilreport.org/monthly-forecast/2019-08/in-hindsight-article-99-and-providing-the-security-council-with-early-warning.php>
- 2 The Call is available at <https://www.foggs.org/armistice-call-11-nov-2022/>
- 3 An aporia is a group of contentions that are individually plausible but collectively inconsistent. In aporetic situations, unlike elsewhere, the option of a suspension of judgment is foreclosed; the mere rejection of a thesis is tantamount to the acceptance of its negation. Nicholas Rescher (2006, 18-19) argues that “When one confronts an aporetic situation there are only two rationally viable alternatives: one can throw up one’s hands, become a skeptic, and walk away from the entire issue, or else one can settle down to the work of problem solving, trying to salvage what one can by way of cognitive damage control and thereby make the best of a difficult situation”.

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Part V

# The Uses of International Law in Resolving Major Wars



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# 15 The Role of the International Court of Justice and the International Criminal Court in Managing the Crisis in Palestine/Gaza and Ukraine

*Roy S. Lee*

## 15.1 Introduction

Managing an international crisis is, by its very nature, a complex undertaking. The pursuit of justice and peace in that context may be elusive for a while. A wide range of tools and multifaceted measures are required to cope with changing circumstances and divergent demands from the parties, long before a realistic peace negotiation becomes possible.

Seeking the Security Council's protection and enforcement, which is our only collective measure, is always the first resort when a state is attacked by a neighboring country. But what else can the victim state do when the Security Council itself is unable to act? This was the situation Palestine/Gaza and Ukraine faced in 2022 and 2023: several draft resolutions calling for a ceasefire, humanitarian aid and cessation of fighting were repeatedly vetoed in the Council.

Recourse to the International Court of Justice (ICJ) and International Criminal Court (ICC) was made in the absence of more effective political options. In deciding to take this action, the General Assembly and states concerned were well aware of what the ICJ and ICC can and cannot do, their composition and membership, their decision-making process and the possible end results. They also considered geopolitical implications for the different regions, reactions of the members of the Security Council, the likelihood of a veto being exercised, and the support from the Assembly.

Ukraine filed two contentious cases against Russia in the ICJ: one about Russia's racial discrimination and Russia's failure to prevent financing terrorists. In its second application, Ukraine filed a counterclaim rejecting Russia's accusation that Ukraine had applied acts of genocide to Russian-speaking Ukrainians. As will be seen, there were good strategic reasons why Ukraine took these legal actions.

In 2024, South Africa, based on the Genocide Convention, brought a contentious case in the ICJ against Israel's actions in Gaza and requested the world Court to prescribe binding provisional measures. The Court ordered Israel to comply with certain specific measures. Concurrently, the General Assembly requested the ICJ to give an advisory opinion on the legal consequences of Israel's policies in occupied Palestine. The World Court again

prescribed binding provisional measures ordering Israel to implement those measures.

As was to be expected, these provisional measures were ignored. No further action may be expected from the ICJ until the Court takes up the merits of the cases, which may take some time because of pending cases filed ahead of them.

Within the ICC, Palestine and Ukraine, supported by many ICC members, referred to the ICC the situation in Gaza and the situation in Ukraine. The results of the investigations have led the ICC to issue warrants of arrest for the leaders of Israel and Russia, allegedly involved in the commission of the crime of genocide. The ICC members are legally obligated to cooperate with the Court in making the arrest when the accused is present in their territory. There are, however, real difficulties in making an arrest.

Notwithstanding all these actions, a new criminal tribunal on aggression has been initiated by the Council of Europe to reinforce the ICJ and ICC efforts and to boost Ukraine's negotiation strength, and to increase political pressure on Russia. The processes and issues to create such a tribunal would be complex and difficult institutionally and politically. It would also be expensive. Since 1993, the United Nations has created and managed the operations of criminal tribunals for addressing situations respectively in the former Yugoslavia, Rwanda, Cambodia, Sierra Leone and Lebanon. The experiences and lessons from these tribunals and those of the ICJ and ICC are instructive for the new tribunal and should be considered. Relevant points will be raised and discussed, as appropriate.

The purpose of this chapter therefore, is to explain how this stage was reached, what has been accomplished, and how further actions from the ICJ and ICC could be organized to create pressure and momentum in cooperation with the new tribunal on the crime of aggression.

## 15.2 The International Criminal Court

### 15.2.1 *What it Can and Cannot Do*

The ICC is the first and only permanent ICC structured as an intergovernmental organization supported by 124 states from five geographical regions.<sup>1</sup> Palestine (since 2014) and Ukraine (since 2022, and ad hoc ICC jurisdiction since 2014) are contracting parties and have the full rights and duties provided by the 1998 Rome Statute. Both countries have also ratified the Kampala amendment to activate the crime of aggression. They are, therefore, in a good position to utilize the ICC to the full extent. But Israel and Russia are not ICC members and are not subject to the ICC's jurisdiction.

Palestine and Ukraine resorted to the ICC at the first opportunity open to them,<sup>2</sup> because it addresses ongoing conflicts and can respond almost immediately without waiting. This is critical for taking timely necessary actions, including preservation of evidence, reaching out to witnesses and assisting victims, and issuance of warrants of arrest.<sup>3</sup>

The Court performs all substantive work and determines and carries out all the actions required for investigation, prosecution, trials and punishment.

The ICC's jurisdiction is limited to contracting parties and their territory. The Court itself has no power of enforcement and must rely on the cooperation of its members to carry out its treaty obligations and decisions of the Court.

The Assembly of States Parties reviews the Court's work and makes policy decisions, which are negotiated by states parties inside and outside of the Assembly. Collective sanctions may be taken by the contracting parties, and the Assembly can address non-cooperation of member states in case of failure to make an arrest.

Of the five permanent members of the Security Council, only France and the UK are members of the ICC. China, Russia and USA voted against the creation of the Court and are still unlikely to support the ICC or its decisions.

### *15.2.2 ICC Investigations and Issuance of Warrants of Arrest*

To issue an arrest warrant, the ICC must fulfill several prerequisites. There must be an official investigation of a "situation" either initiated by the Prosecutor or based on a "referral" from an ICC member. The Prosecutor, an individual, is responsible for conducting investigations and for proposing warrants for arrest when appropriate. To avoid arbitrary or improper decisions, the Prosecutor's recommendations must be approved by a three-judge pre-trial Chamber to have any effect. Once approved, the Prosecutor may proceed to investigate and issue warrants of arrest in the name of the Court.

To have a situation investigated, the Prosecutor must prove to the satisfaction of the Pre-trial Chamber that the state with jurisdiction (including a non-contracting party like Israel and Russia) is indeed *unable or unwilling* to exercise jurisdiction.<sup>4</sup> Stringent tests of admissibility are set out in Article 17 of the ICC Statute and are strictly applied.<sup>5</sup> Palestine and South Africa, in making the referral, must provide preliminary information to show why the situation must be investigated. The ICC has the final say on the fulfillment of the conditions.<sup>6</sup>

Israel and Russia strongly objected to the ICC's jurisdiction, arguing that the conditions were not met and that the ICC had no jurisdiction, but the ICC, having reviewed all the requirements, ruled otherwise.

Once jurisdiction has been established, the ICC may then investigate crimes, collect evidence and issue warrants of arrest with the effect of restraining travel and movements. Trials may begin, and punishment may be imposed when the accused is in custody. But if an arrest cannot be made and the accused is not in custody, no trial or punishment can take place.

#### *15.2.2.1 Arrest Warrants for Russian Leaders*

On 17 March 2023, Pre-Trial Chamber II issued warrants of arrest for Mr. Vladimir Putin and Ms. Maria Lvova-Belova on the ground that each

suspect “bears responsibility for the war crime of unlawful deportation of population and that of unlawful transfer of population from occupied areas of Ukraine to the Russian Federation, in prejudice of Ukrainian children.” Four other Russians are also on the suspect list. The warrants of arrest were based on investigations of many years, starting in 2014.<sup>7</sup>

#### 15.2.2.2 *Arrest Warrants for Hamas Leaders*

On 20 March 2024, on the basis of evidence collected and examined, the ICC Prosecutor filed an application for arrest warrants for Yahya Sinwar (Head of the Islamic Resistance Movement (“Hamas”) in the Gaza Strip), Mohammed Diab Ibrahim Al-Masri, more commonly known as Deif (Commander-in-Chief of the military wing of Hamas, known as the *Al-Qassam Brigades*) and Ismail Haniyeh (Head of Hamas Political Bureau) for committing war crimes and crimes against humanity committed on the territory of Israel and the State of Palestine (in the Gaza strip) from at least 7 October 2023, including specifically extermination, murder, taking hostages, rape and other acts of sexual violence, torture, cruel treatment and outrages upon personal dignity. Pre-trial Chamber II approved the application on 21 November 2024 and issued warrants of arrest for the accused.

The ICC believed that public awareness of the warrants may contribute to the prevention of further commission of crimes, particularly when conflicts are ongoing. The warrants were therefore disclosed even before the official announcement and were reported in the media. The effect was, however, not known.

#### 15.2.2.3 *Arrest Warrants for Israeli Leaders*

The ICC Pre-trial Chamber I examined the Prosecutor’s submission and determined that Israeli leaders acted with the *intent* to starve, kill and cause widespread suffering to Palestinian civilians *and* that Israel is either unable or unwilling to credibly investigate and potentially prosecute those responsible for these policies. Bangladesh, Bolivia, Comoros and Djibouti also referred the situation in the State of Palestine (which encompasses Gaza) to the ICC.

On 21 November 2024, the ICC issued arrest warrants for Benjamin Netanyahu, Prime Minister of Israel, Yoav Gallant, Former Defense Minister of Israel and Ibrahim Al-Masri, a senior Hamas official. They are all charged with alleged war crimes and crimes against humanity, including the use of starvation as a method of warfare and other inhumane acts in Gaza.<sup>8</sup>

16 ICC members have indicated that they will comply with their obligation to support the ICC by arresting and turning over these individuals for trial if the opportunity arises. The US, Argentina, Hungary, France, Greece and Israel have said that they will not facilitate these cases. Australia, Germany and the United Kingdom continue to have concerns about the ICC arrest warrants, but Canada has indicated its willingness to enforce the warrants.

### 15.2.3 *Legal, Political and Physical Difficulties in Making an Arrest*

#### 15.2.3.1 *Access Limit: Territory of the States Parties*

Even though the ICC can investigate ICC crimes committed by the nationals of 124 states parties anywhere in the world (even if not committed on the territory of a state party), the Court has no right of investigation into the territory of Israel or Russia.

In theory, at least, this limitation may be overcome if the Security Council would “refer” these cases to the ICC to make them enforceable under Chapter VII of the Charter.<sup>9</sup> This scenario is, however, unlikely since the consent of all permanent members, including Russia and the United States, is required.

Universal jurisdiction can help, but it is also limited. More than 10 European countries and the United States have legislation in place that empowers their national courts to investigate and prosecute individuals for international crimes, even if the crimes were committed outside their territories and by non-nationals. Should any of the suspects travel to these countries, they may exercise jurisdiction based on their own legislation. It is known, however, that not many countries have included the crime of aggression in their universal jurisdiction.

#### 15.2.3.2 *Political and Physical Difficulties*

Part IX of the ICC Statute obligates its 124 members to cooperate fully with the Court, including investigation, the collection of evidence and the arrest and surrender of individuals sought by the Court when those individuals are on their territory.<sup>10</sup> This obligation applies across a state party’s land and maritime territory and airspace.

Israel and Russia are not obligated to cooperate with the Court or its member states. Nor are they likely to volunteer any cooperation.

The ICC’s record of arrests is not impressive. It has conducted 17 investigations and issued 58 publicly known arrest warrants. About 30 of the suspects remain at large. The Sudanese President Omar Hassan Ahmad Al Bashir was indicted and is currently in custody in Sudan, but not for ICC charges.

Arresting the Head of State is particularly difficult. For example, President Omar al-Bashir was not arrested when he visited South Africa or by any African state that is an ICC member.<sup>11</sup> These countries believed that al-Bashir, as a sitting head of state, enjoyed immunity from arrest under international law, even though the ICC Statute mandates the arrest and surrender of individuals indicted by the ICC irrespective of their status or position. Both the ICC and the South African Supreme Court ruled that al-Bashir should be arrested.<sup>12</sup>

The Security Council and the ICC Assembly of States Parties are empowered to impose sanctions on non-compliance, but they were not asked to take a stand in the al-Bashir case, which presumably indicates the lack of support.

Some neighboring countries were also worried that the arrest could destabilize the country and/or the region or strain political or diplomatic relations with Sudan and other African countries.

Recently, President Putin was not arrested when he visited Mongolia, which is an ICC member. An ICC Trial Chamber ruled that Mongolia's inaction constituted "non-cooperation" and submitted its ruling to the Assembly of States Parties stating that personal immunity, including that of Head of State, is not opposable before ICC and no waiver is required, and that states parties are duty-bound to arrest and surrender individuals subject to ICC warrants, irrespective of their official position or nationality.<sup>13</sup> The case is before the ICC Assembly, but is unlikely to lead to any real action for various reasons mentioned above and below.

An EU Action Plan stressed that "the EU and its member states will undertake consistent action to encourage full cooperation of States with the ICC, including the prompt execution of arrest warrants."<sup>14</sup> Non-cooperation may also be reported to the Assembly of States Parties. While the EU can impose more serious sanctions, political considerations weigh more.

Making an arrest requires physical constraints. Using force cannot be avoided since high-ranking officials are usually well guarded. It is questionable that states would be willing to use force to make an arrest.

The ICC Assembly is competent to impose measures that can lead to isolation of accused leaders or restrictions on their diplomatic or financial activities. The question is whether there is political will.

The difficulties of making an arrest notwithstanding, the failure to make an arrest also has serious consequences. The ICC does not permit trial *in absentia*. The accused must be in custody to begin a trial. So, if there is no arrest, no custody, no trial and no conviction.

Two points relevant to the new tribunal on aggression should be mentioned at this juncture. First, it is critical that the new tribunal on aggression should be able to impose powerful sanctions to enforce the tribunal's decisions, in view of strong commitments of the Council and its member states the contracting parties would be its main support. What the ICC Assembly may develop in this regard would be instructive for the new tribunal.

The other relevant point is whether *preliminary* or *provisional* trials could be introduced when there is overwhelming evidence to support such a trial. Once the accused is in custody, the final trial will be conducted. This is an effective way to strengthen the impact of the warrant of arrest. The rights of the accused continue to be protected if there is no final trial.

#### 15.2.4 *Is ICC Contributing to Political Resolutions to the Current Conflicts?*

The investigations, collecting evidence, documenting the violations, issuing warrants of arrest and naming and shaming in public the alleged offenders are important and represent world opinion on the importance that justice

must be maintained. At least, this may strengthen the negotiation power and leverage of Palestine and Ukraine.

The ICC warrants of arrest are unlikely to influence in a definitive way the political resolution of either the Palestine/Gaza situation or the Ukraine situation. The real test is whether the accused leaders are satisfied with what they have. The presence of an accused leader at an international gathering – as the Prime Minister of Israel speaking at the UN General Assembly in New York in September 2024 – does not necessarily signify his willingness to negotiate peace. It only confirmed that he felt in no danger of being arrested.

Presenting an arrest warrant before or after a leader has negotiated or signed a peace agreement – as Milosevic did in Dayton – is not the deciding factor either. An accused leader will negotiate only if it suits him, or if he sees no better alternatives. Fear does not seem to be an issue in the present cases.

### 15.3 The International Court of Justice (ICJ)

The ICJ is the principal judicial organ of the United Nations. All UN members, including Ukraine, are entitled to make use of the ICJ in contentious (state-to-state) and advisory (institution-to-institution) proceedings.

Palestine was an Organization, then an Observer State and only recently has it been able to sponsor GA resolutions for requesting advisory opinions. Palestine still cannot bring a contentious case before the ICJ, though it has been invited by the Court to participate in written and oral proceedings on matters affecting Palestine.

Until recently, each P5 had a seat on the Court. The UK and then Russia lost their seat in the last elections. They have no seat in the present composition.

In *Ukraine v. Russia* and *South Africa v. Israel*, all parties are entitled to appoint a national judge since they don't already have one. This does not apply to advisory proceedings which follow the Court's regular composition. So, none of them has a national judge in the advisory proceedings on Legal Consequences for the occupied Palestinian territory.

Both contentious and advisory proceedings have been utilized to address directly or indirectly the Russian–Ukraine war and the Palestine/Hamas–Israel war.

#### 15.3.1 *ICJ's Jurisdiction is Based on Consent: No Consent, No Jurisdiction*

Taking someone to court is a fundamental right at the national level in a domestic situation. But at the international level, all applicant and respondent states must have given their specific consent; otherwise, the ICJ cannot exercise jurisdiction.

Finding ICJ jurisdiction is not an easy task, as states give their consent in different ways, if any:

- a by a special agreement between the parties in a dispute, which refers the case to the Court;
- b in a compromissory clause in a treaty to which the states concerned are parties, and the clause provides for the jurisdiction of the Court;
- c by a declaration made under Article 36.2 of the Statute<sup>15</sup> and
- d by *forum prorogatum*: filing an application with the hope that the other side might accept.

To be helpful, the Court publishes hundreds of treaties and documents containing relevant information and dispute settlement clauses referring to ICJ jurisdiction.<sup>16</sup> The applicant states must conduct careful and diligent searches in these sources to find pertinent jurisdiction. An even more difficult issue is to sort out the different conditions attached to the respective permissions given by the parties, since only a few states gave their permission unconditionally.<sup>17</sup> Only then would the Applicant state be able to decide how to use this, but not on that basis and for what purpose.

Strategy involves in how to use the available jurisdictional bases. For example, Israel, Palestine, Russia, South Africa and Ukraine have ratified and are contracting parties to the Genocide Convention, which also contains a clause giving jurisdiction to the ICJ. So, the Genocide Convention provides a jurisdiction base for Palestine and South Africa to bring a contentious case before the ICJ. But Ukraine decided to use other jurisdictional bases in 2014 when Russia occupied Crimea. Why? There were good reasons.

One critical element that distinguishes genocide from other crimes is that there must be “a specific intent to destroy, in whole or in part, a national, ethnic, racial, or religious group” – as defined in the Genocide Convention. The burden of proof of intent for genocide is very high, whereas it was easier, comparatively speaking, to prove Russia’s violation of its obligations under 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 (ICERD).<sup>18</sup> Since Ukraine had already utilized the ICC to investigate Russia’s advance in Crimea, it was a better legal strategy for Ukraine to open another front, pointing out additional crimes under different treaties violated by Russia, and making Russia look like a frequent offender.

Article 36.2, above c., is often regarded as the best source for jurisdictional basis because it provides so-called “compulsory jurisdiction.” None of the four countries under discussion has made a declaration accepting the Court’s compulsory jurisdiction. This is not surprising because only 73 UN members have made such a declaration, and only about 18 or so countries’ Declarations are full consent without any reservations. The rest of the 56 or so declarations all contain restrictive conditions. Some of the conditions are so stringent that there is little possibility that they will be suited.

15.3.2 *Securing Provisional Measures through South Africa v. Israel; Ukraine v. Russia*

Ukraine instituted a counterclaim against Russia in 2022, and South Africa filed an application against Israel in 2023. Both are contentious cases and are based on the Genocide Convention. There are certain advantages in so doing, including appointing a national judge on the bench, presenting a written submission and oral arguments before the Judges, written and oral submissions from states and organizations supporting the claims, a legally binding judgment from the Court and importantly, the right to request the Security Council to enforce the binding judgment pursuant to Article 94 of the Charter.

But the main difficulty is that the ICJ has 21 pending cases, which are taken up in order of submission. South Africa and Ukraine would have a long wait before they can be heard. But when provisional measures are requested, the request for provisional measures may be taken up first if the Court considers that the request is justified.

In their submissions, South Africa and Ukraine presented strong arguments on the urgency of the cases and why provisional measures were required. The Court was convinced and prescribed provisional measures. This also enabled the Court to take up that phase of the cases almost immediately.

The World Court made clear in this and previous cases that provisional measures are *binding* and must be complied with. The UN General Assembly has also adopted resolutions in support of the Court's provisional measures. The combination of the ICJ provisional measures and the endorsement of the Assembly provided the strongest possible evidence of the world's opinion on the subject.

Violations of the Genocide Convention have now been invoked many times before the ICJ. Each time we learn more about the value of the Convention and the reach and contents of its obligations. Each time, we see increased support from the regions. Now Israel and Russia are confronted by a combination of ICJ ruling on genocide at the state-to state level and ICC orders of arrest warrants at the level of an individual person's responsibility and liability.

The following jurisprudence is particularly instructive:

In *Bosnia and Herzegovina v. the Federal Republic of Yugoslavia* (later Serbia and Montenegro), the Court found that while Serbia was not directly responsible for committing genocide, it had violated its obligations under the Genocide Convention by failing to prevent the Srebrenica genocide and by not cooperating with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the arrest of Ratko Mladić.<sup>19</sup>

In *The Gambia v. Myanmar*, the ICJ found that The Gambia has standing to bring the case of genocide on behalf of the Rohingya Muslim population against Myanmar. This is historic in that Gambia is not an affected or injured state, but the Convention recognizes its interest on behalf of the community.<sup>20</sup> This paved the way for South Africa, a non-victim state, to take Israel to the Court.

Russia's occupation of Ukraine in 2014: Russia occupied regions of Eastern Ukraine and the Crimea peninsula in early 2014. Ukraine immediately asked the UN Security Council for protection. Although it had strong support from the EU and the US, no action could be taken because Russia had a veto. Developing countries in the Council either abstained or did not take a strong stance. As mentioned, Ukraine decided to rein in Russia on the grounds of racial discrimination and its violation of not financing terrorists.

Russia's occupation of Ukraine in 2022: When Russia invaded Ukraine in 2022, claiming that Ukraine had committed genocide of Russian-speaking Ukrainians in Luhansk and Donetsk, Ukraine skillfully brought a case to the ICJ as counterclaim against Russia's accusation under the Genocide Convention. The burden of proof was shifted to Russia, and the counterclaim entitled Ukraine to nominate a judge on the Court and to address issues of aggression, though indirectly.

On March 16, 2022, the Court ordered Russia to immediately suspend its military operations in Ukraine and further ruled that Ukraine's request for a declaration that it did not breach its obligations under the Convention is not inadmissible.<sup>21</sup> This would enable Ukraine to argue its case regarding Russia's invasion of the eastern part of Ukraine.

Some 32 countries have intervened in support of Ukraine's claims. Many of them have confirmed Russia's violations, including moving Ukrainian children to Russia as alleged by the ICC.<sup>22</sup> Even though the real issue is Russia's invasion of Ukraine, the Genocide Convention provided the basis to bring Russia to the Court, giving more credence to Ukraine's claims.

South Africa v. Israel: On 29 December 2023, South Africa instituted proceedings against Israel concerning alleged violations by Israel of its obligations under the Genocide Convention in relation to Palestinians in the Gaza Strip. Article IX of the Convention provided the basis.<sup>23</sup> South Africa is not a victim state but has standing to bring a case on behalf of Palestine and its people, just as the Gambia did on behalf of the Rohingya Muslims in Myanmar.

Some 14 countries intervened in the proceedings in support of South Africa's action, including Chile, Mexico, Colombia, Nicaragua, Libya, Spain and Türkiye.

The ICJ prescribed sets of provisional measures and ordered (Order of 24 January 2024) that Israel must, in accordance *with its obligations under the Genocide Convention in relation to Palestinians in Gaza*, take all measures within its power to prevent the commission of all acts of genocide, in particular:

- a killing members of the group;
- b causing serious bodily or mental harm to members of the group;
- c deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part and
- d imposing measures intended to prevent births within the group.

The Court also ruled that:

- a these acts are committed with “the intent to destroy in whole or in part a group as such;”
- b Israel must ensure, with immediate effect, that its military forces do not commit any of the above-described acts;
- c Israel must take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip;
- d Israel must take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip and
- e Israel must report to the Court its implementation of those provisions and measures that the Court indicated.

These are all solid grounds on the side of Palestine. When the Court turns to the merits of the case, the judgment will be binding on the parties and will add considerable pressure on Israel. If not implemented, the non-compliance can be submitted to the Security Council for enforcement. The right to request enforcement from the Security Council is legally important even though the request may be vetoed. Politically, the debate in the Council could generate world support for the victim state.

The sooner the merits of these cases are examined in public by the Court, the greater the impact of the examinations and the Court’s judgments. How to enable the Court to hear the merits of these cases as early as possible is, therefore, of critical importance. Those countries on the side of Palestine and Ukraine are called upon to explore ways to advance the hearing time. One possibility could be that some states parties involved in the pending cases may wish to postpone or delay their proceedings for reasons of their own, leaving room for other cases to be heard ahead of the schedule. An earlier final judgment could create pressure on the respondents and give rise to debates in the Security Council and possibly intervention by the General Assembly. All this would help increase the leverage of the applicant states.

### *15.3.3 Securing Provisional Measures through Advisory Opinions with a Large Majority Support*

Advisory opinions, given by the ICJ at the request of the General Assembly, are legally authoritative because they are given by the world’s Court and politically powerful and influential because they are requested by a large majority of states.<sup>24</sup>

On the surface, an advisory opinion is only advisory and not binding, and state consent to jurisdiction is not required even where the request is related

to a legal question pending before states. Further, the opinion is not given to a particular state or a group of states, but to the body requesting it, namely, the General Assembly. Also, no state can prevent the giving of an Opinion which the requesting body considers desirable to obtain as to the course of action it should take.

In recent years, the UN General Assembly, with large support from its members, has requested advisory opinions from the ICJ on issues of major concern: the legality of nuclear weapons (1996), the construction of a wall in occupied territory (2004), the Kosovo's declaration of independence (2010), the decolonization process in Mauritius's Chagos Archipelago (2019) and the climate change (2024).

Most relevant is, of course, the General Assembly's request on Consequences of Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem (2023).

The impact and usefulness of advisory opinions are evident and can be seen in all these events. The most recent requests are discussed briefly here to demonstrate why the General Assembly resorted to an advisory opinion in the Legal Consequences case.

#### 15.3.3.1 *Climate Change*

On 29 March 2023, at the initiative of Vanuatu and supported by over 100 countries and international organizations, the General Assembly by resolution A/77/276 requested the ICJ to give an advisory opinion on the obligations of States concerning climate change which aims to clarify the legal responsibilities of States under international law to protect the climate system from anthropogenic emissions of greenhouse gases. The World Court was also asked to rule on the legal consequences for States that have caused significant harm to the climate system, particularly affecting small island developing States and future generations.

Cross-region small island and landlocked states prepared the initial draft resolution. They had more than 70 meetings before they agreed on the questions and their formulation. They considered all factors having a bearing on the outcome of the request, including views of international law experts, negotiation strategy and ICJ politics.

The Court has invited all interested states and organizations to make written submissions and participate in its oral proceedings. This helps inform the Court of all views and positions on the case and provides a rich basis for the Court to formulate its own opinion. Indeed, 99 countries and over 12 political regional organizations (many had never been involved before) participated in the written and oral proceedings.

The Court is currently in the process of reviewing all the information and materials before it and will deliver its opinion upon completion of its examination.

*15.3.3.2 Terminating the Decolonization Process*

The 2019 Chagos case is an example of addressing decolonization and the use of military bases through an advisory opinion. The ICJ found that the process of decolonization of Mauritius was not lawfully completed when Mauritius was granted independence in 1968, due to the separation of the Chagos Archipelago from Mauritius, and that the United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible. While the case was about colonization and the sovereignty of the Chagos Islands and the rights of the Chagossian people, it has serious political and military implications because the UK-US military base hosted on Diego Garcia provides security for the entire region of the Indian Ocean.

This landmark case has drawn significant attention and participation from many nations and organizations that had never before been involved in ICJ proceedings.

In October 2024, the United Kingdom and Mauritius reached an agreement returning the Chagos Archipelago to Mauritius, but the base will remain under UK control for its use for 99 years. It is doubtful that the same outcome would be reached without involving the General Assembly and an authoritative ICJ advisory opinion.

*15.3.3.3 Legal Consequences of the Occupied Palestinian Territory*

In July 2024, the ICJ gave its opinion on the legal consequences arising from the policies and practices of Israel in the occupied Palestinian Territory (including East Jerusalem). 49 States, the African Union, the League of Arab States and the Organization of Islamic Cooperation took part in the proceedings. The Court declared that:

- i the State of Israel's continued presence in the Occupied Palestinian Territory is unlawful.
- ii Israel is under an obligation to end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible.
- iii Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned in the Occupied Palestinian Territory.
- iv all States are under an obligation not to recognize as legal the situation arising from the unlawful presence of the State of Israel in the Occupied Palestinian Territory and not to render aid or assistance in maintaining the situation created by the continued presence of the State of Israel in the Occupied Palestinian Territory.
- v international organizations, including the United Nations, are under an obligation not to recognize as legal the situation arising from the unlawful presence of the State of Israel in the Occupied Palestinian Territory.

Moreover, the ICJ also advised that the General Assembly and the Security Council should *consider the precise modalities and further action required to end as rapidly as possible the unlawful presence of the State of Israel in the Occupied Palestinian Territory*. The advice thus created a basis for the Assembly and the Security Council to take further action to end the unlawful occupation. In this way, the opinion of the Court is much more than just legal advice on the subject.

Indeed, on September 18, 2024, the General Assembly convened its tenth emergency special session and adopted a resolution demanding that Israel *end its unlawful presence* in the Occupied Palestinian Territory. The resolution, which passed with *124 votes in favor, 14 against and 43 abstentions*, calls for Israel to comply with international law, withdraw its military forces, cease all new settlement activities, and dismantle parts of the separation wall in the West Bank. Israel was also requested by the Resolution to return land and other property seized since 1967, allow displaced Palestinians to return to their homes and make reparations for the damage caused by its occupation.<sup>25</sup> Here is an example of how an advisory opinion can lead to world opinion.

#### 15.3.3.4 *Criticism of Advisory Opinions*

Some academics consider that advisory proceedings are one-sided, not adversarial and have no specific respondent to present counterarguments.<sup>26</sup> Some also asserted that the advisory proceedings circumvent the principle of consent and that the ICJ process may, in fact impede international negotiations, for instance, about climate change.<sup>27</sup>

There is a certain objectivity and comprehensiveness in the ICJ advisory proceedings. The documents and materials are prepared and collected by the UN Secretariat for the information of the Court in support of the Assembly's request. This submission contains all relevant developments leading to the request and pertinent to the questions or the subject matter of the advisory opinion. The ICJ's open and public proceedings help meet some of those contentions. All interested states and invited organizations are entitled to and do comment and submit information or materials they deem relevant to the Court's consideration; they may also participate in oral hearings to present their views and positions. The Court prepares and delivers its Opinion after having reviewed all information, materials, views and comments.

#### 15.4 **Lessons Learned from Chapter VII Tribunals and Mixed Tribunals: Instructive for the Proposed New Tribunal on Aggression**

Notwithstanding the ICJ and ICC just discussed, since 1993, the United Nations has created *two* international and *three mixed* criminal tribunals, which were designed to prosecute and punish individuals responsible for specific crimes committed in the countries concerned. Some decision-makers had

hoped that the work resulting from some of these tribunals could deter or stop the fighting and killings.

While each tribunal had a specific function to fulfill, the experiences gained from the institutional setups, organizations, jurisdiction and operations offer important lessons which are instructive and can serve as reminders, guidelines or inspiration for planning the new criminal tribunal to address the crime of aggression.

#### *15.4.1 Main Objectives: Prosecution and Punishment*

The ICTY focused on prosecuting individuals, including leaders, responsible for serious violations of international humanitarian law committed during the then ongoing conflicts in the Balkans in the 1990s, with the hope of discouraging further atrocities.<sup>28</sup> The Tribunal indicted heads of state, prime ministers, army chiefs-of-staff, and government ministers, and prosecuted 161 persons, of whom 90 from various ethnic backgrounds, such as Serbs, Croats, Bosnians and others, were convicted.

The International Criminal Tribunal for Rwanda (ICTR) was created to prosecute those who were responsible for the genocide in Rwanda and other serious violations of international humanitarian law including rape as an instrument for genocide and other sexual offences. As genocide had already occurred, the tribunal was reactive to atrocities that had already taken place. ICTR indicted 93 individuals and convicted 61 persons, and acquitted 14 cases.

In response to government requests, the United Nations assisted in the setting up of criminal tribunals in Cambodia, Sierra Leone and Lebanon for the specific purpose identified by the government.

The Extraordinary Chambers in the Courts of Cambodia (ECCC) was created in 1997 to prosecute senior leaders and those most responsible for the crimes committed during the Khmer Rouge regime (1975–1979). Five high-ranking officials were indicted, and three were convicted.<sup>29</sup>

The Special Court for Sierra Leone (SCSL) was created in 2002 to prosecute those responsible for serious violations of international humanitarian law and Sierra Leonean law during the country's civil war. 13 individuals of high-ranking officials were indicted, and 9 were convicted. It was the first international court to convict a former head of state from a different state: Charles Taylor, former President of Liberia, who was arrested in March 2006 in Nigeria, in exile, which was based on an indictment issued by the Special Court in 2003 and enforced by Security Council Resolution 1688. He was convicted in April 2012 on 11 charges of war crimes and crimes against humanity (including conscription of child soldiers and forced marriage) and was sentenced to 50 years in prison in the Hague.<sup>30</sup>

The Special Tribunal for Lebanon (STL) was established in 2007 to prosecute those responsible for the assassination of former Lebanese Prime Minister Rafik Hariri and related attacks on 14 February 2005. It was the

first international tribunal to prosecute terrorism as a distinct crime and the first to use a mix of Lebanese and international law. Four individuals were indicted, and one was convicted. The tribunal did not convict the indicted as “terrorists” but rather focused on specific individuals and their roles in the assassination and related crimes. The tribunal closed after 15 years of work due to financial as well as internal political difficulties.

Given that the specific purposes of these tribunals were prosecution and punishment of international criminal acts, reconciliation, contrition or reparation were not part of the mandate or tasks that they could have addressed. Nor were they equipped to deal with disarmament, reconstruction or rehabilitation. At that time, the main goal for most of these tribunals was the hope to stop fighting and shorten the conflicts. Peacebuilding as a recognized science just started. These tribunals should not be criticized for what was not their assignment at the time. Victim protection and assistance, and due process, had been, for example, part of human rights long before they became *international* standards for criminal justice. Progress at the international level is slow and takes place in small increments.

The new tribunal will have many challenges to face, and it would be difficult to include those that are not germane to a criminal tribunal on aggression. This author suggests that the new tribunal should focus only on acts of aggression. Mixing or expanding objectives into rehabilitation would not be productive. But reparation would be justified.

#### *15.4.2 Important Role of the Security Council*

Both ICTY and ICTR were created under Chapter VII of the UN Charter as enforcement measures that legally obligated all member states to comply with and implement decisions of the Tribunals. Their work was reported to and directed by the Council, which, importantly, also helped enforce the decisions of the Tribunals through its resolutions.

While each Tribunal is independent and its operations are governed by its Statute, the Security Council’s political influence was also important because the tribunals needed the Council’s support and enforcement.

Whether the new tribunal would have the support of the Security Council is a critical issue.

#### *15.4.3 The Difficult Issues: Institution, Funding and Sustained Support*

The methods used to create the five criminal tribunals were challenging both institutionally and procedurally. A resolution from either the Security Council or the General Assembly was necessary to provide a legal basis for its establishment, operations and assistance from member states. Each tribunal had a Statute to govern such issues as jurisdiction, crimes, the prosecutor, judges, registry, trial procedures, due process, punishment and sentencing. A treaty between the Organization and the requesting state was needed in some cases.

It would be ideal if this new tribunal could be established as a UN body and have the support of both the Security Council and the General Assembly. This may be difficult. The idea would not escape a veto, as some permanent members are directly or indirectly involved in the present conflicts.

Whether there would be large support in the General Assembly for a UN-assisted criminal court on aggression is difficult to predict. Many ICC members have not ratified the Kampala amendment on aggression. There would be descending views in the Assembly cast for political, financial or other reasons. This may have been the reason why states and the Council of Europe sought to create the tribunal as an independent treaty body composed of contracting parties outside the Organization. If so, certain implications must be considered.

Whether a similar tribunal for Gaza or Palestine should be created is far more complicated because of the long historical background and the UN's Two-State solution, and the divergent interests of the respective allies. Careful studies are needed.

Further, the new tribunal must have the support of as many Permanent Members as possible. If this new tribunal were to be called upon to address aggression in both the Middle East and Ukraine, it would have no support from either the United States or Russia. It would still be criticized if its jurisdiction were limited to Ukraine. But it might have US support.

Absent the Security Council's enforcement, the new tribunal would have to rely on individual or collective sanctions from the contracting states themselves. If the United States were to join, the strength of the tribunal would be greatly increased.

Funding would be an important issue. The ICTY and ICTR were funded as peace missions mainly by the Security Council, where the P5 bore a major share of the expenses. In the mixed tribunals, the costs were borne partly by the requesting government and partly from voluntary contributions from UN members. As a treaty body, the new tribunal would have to rely on funding from the contracting parties themselves, like the ICC, which is modeled on the UN membership assessment scheme based on ability to pay.

If this new tribunal were established as a treaty body between the contracting parties, the Rome Statute could serve as a model with necessary modifications. Presumably, the Council of Europe would take the lead in organizing a diplomatic conference to adopt the tribunal's statute and to bring it into operation. Records show that a minimum of 2–3 years or even longer was needed before a tribunal could be in full operation.

The inclusion of national judges and local laws was an important feature in mixed tribunals and would enhance the participation of Ukraine's government and its people in the operation of the new tribunal<sup>31</sup> – a point to be considered.

Because the ICTR had its seat in Arusha, Tanzania, which is closer to the crime scenes, the impact of the trials and sentencing fell more on the local population.<sup>32</sup> Common sense suggests locating the tribunal within the

territory of the victim nation. Most of the previous tribunals were in the Hague for security and political reasons. It is important that the new tribunal be located not too far away from the crime scenes.

#### *15.4.4 Valuable Achieves of Investigation, Testimonies and Evidence*

The work of the five tribunals enabled thousands of victims to have the opportunity to be heard, to speak about their suffering and to have their testimonies preserved in court transcripts and video recordings. Tribunals' judgments, testimonies of eyewitnesses, survivors and perpetrators, as well as forensic data and documentary evidence, were all valuable collections. The new tribunal should consider how to preserve such materials on a large scale.

#### *15.4.5 Effects on Peace Negotiation?*

The Dayton peace agreement was negotiated and successfully concluded with the participation of Slobodan Milošević and Franjo Tudman. Since the ICTY was created in 1993, they were aware of the possibility of prosecution, and they were later indicted by the ICTY. It was the Chapter VII decision and its enforcement power of the Security Council that likely forced or at least contributed to their willingness to negotiate a peace agreement.

Absent of likely active support from the Security Council or the General Assembly, the contracting parties would have to generate incentives for peace negotiations.

### **15.5 Creating A Special Tribunal on Aggression: Justifications and Challenges**

Strategic and coordinated deployment of the ICC and ICJ has resulted in their most helpful prescription of provisional measures requiring the Respondent states to implement, and the issuance of warrants of arrest for the leaders of Hamas, Israel and Russia. Regrettably, such provisional measures have not been implemented, and the warrants have not led to any arrest or conviction.

Final ICJ judgments and advisory opinions will come in due course and are useful but as discussed, this may take some time because of the pending cases ahead of them, unless the cases could be advanced.

In the circumstances, to keep up the interest and pressure, the Council of Europe is right to propose a special tribunal on aggression in support of Ukraine. There are also substantive reasons.

The first substantive reason justifying this new tribunal is to support and complement the ICC's work, particularly in the crimes of aggression.

Under the ICC, individuals may now be prosecuted for the use of armed force by a state against the sovereignty, territorial integrity or political independence of another state. Heads of state and government officials can be

held accountable for their actions if they are involved in planning, preparing, initiating or executing acts of aggression. But this newly activated *crime of aggression* applies only between those states that have ratified the Kampala Amendment of the crime of aggression. Palestine and Ukraine are therefore bound by their activation. The ICC may investigate crimes committed by its nationals and in its territory. The ICC has, however, no jurisdiction over the territory of either Israel or Russia.

The proposed tribunal, a forum external to the ICC but complementary to its work, would help expand the undertaking more effectively. For instance, any evidence or materials already assembled by the ICC or by other entities may be used by the new tribunal to initiate *provisional or preliminary* prosecution or trials, which may then be finalized when the accused is in custody.

The other substantive reason is that this new tribunal would force the world to respond to acts of aggression in Ukraine. Although the Security Council is de jure empowered to determine the existence of acts of aggression under Article 39 of the UN Charter, the crime has never been applied, not even in 1990 when Iraq invaded Kuwait. Acts of aggression have never been tested in any international judicial body. This new tribunal would provide a solid basis for the examination of acts of aggression and would be historic and unprecedented. International law would have attained a new high.

The third substantive reason to support this new tribunal is that Europe needs to demonstrate to the world that it firmly supports Ukraine legally in the name of justice, in addition to its financial, military and political contributions.

As a forum of like-minded states, mostly from Europe, the Assembly of States Parties of the new tribunal could minimize the complex geopolitical dynamics and maximize resources and political will. Decisions could be adopted faster and more easily. Importantly, more powerful sanctions, including freezing assets, trade embargo, applying diplomatic pressure and economic and financial restrictions, would be helpful to increase pressure on Russia.<sup>33</sup> If the support of the Security Council or of the General Assembly is unlikely, the contracting parties would need to provide enhanced sanctions to strengthen the tribunal's decisions.

As discussed, if the new tribunal were to disallow trial in absentia, it should explore the possibility of *preliminary* or *provisional* trials when there is overwhelming evidence for a conviction but for the absence of the accused in custody. Once the actual presence and participation of the accused are assured, the trial would be conducted again. Due process is observed, and the rights of the accused are not violated.

The fact that a core group of 40 states, the Council of Europe and other international organizations are already working on the development of this new tribunal demonstrates that there is already realistic, substantial and firm support. This group would provide a solid treaty base for the tribunal. The structure and operation of the tribunal could be modeled on the ICC but adjusted to suit the current purpose.

There may not be sufficient time to settle all the key issues of the new tribunal, but it is urgent to bring the tribunal into operation as soon as possible. The contracting parties may wish to construct a framework treaty for now, but leave some of the residual issues or issues that cannot be resolved at present to the Assembly of States Parties to manage later at the appropriate time. Detailed provisions would be too rigid and inflexible to change. Once the foundation and essential operations have been agreed upon, a framework convention has much to offer.

Would this new tribunal enhance or deter peace negotiations in Ukraine? The critical issue is whether Russia would be ready to negotiate. The real test is whether its multifaceted interests are satisfied, or whether it has no better solution. Only then would it be ready to negotiate.

A new tribunal with powerful sanctions would pressure Russia to think more seriously and would increase Ukraine's negotiation strength. The performance of the tribunal is unlikely to be a deciding factor for a peace negotiation. Despite Ukraine's firm determination and self-reliance, it relies on its allies for weapons, funds and political support. The stronger its negotiation power and leverage, the better the result for peace. Increasing bargaining power is more important than worrying about timing or the result of negotiations, which are still in the air. The choice is very limited, and Ukraine must take what it can.

Peace in Ukraine is, of course, important for Europe and particularly for those countries next to Russia. The fact that Finland and Sweden have given up permanent neutrality and have joined NATO demonstrates how severe the situation is for them. Russia must have realized that its actions against Ukraine have brought NATO even closer to its border, making peace negotiations even more difficult for all countries concerned.

## 15.6 Conclusions

Applying retributive justice of prosecution and punishment is only a last resort when all other more effective measures have been exhausted. But, when both sides in the present conflicts seem to have committed themselves to continue to commit egregious crimes, there is little hope even for retributive justice to have any effect.

Not long ago, international crimes were mainly recognized on paper, and prosecution and punishment were hardly ever applied. The process has now moved from definitions to application. The contents of crimes have also been expanded from war crimes to crimes against humanity, from ethnic cleansing and sexual offences to prosecution for genocide and to the activation of the crime of aggression. It is highly significant that government leaders are now held responsible for their alleged role in committing serious crimes in Palestine/Gaza and in Ukraine.

However, this small progress in law can never be weighed against the millions of deaths, murders, injuries or displacements, or the wanton destruction of cultures and properties. We must do our best to help whenever possible.

International law seems to have peaked when the Security Council is paralyzed, while the world order is left with no means of collective enforcement. The moral authority of the General Assembly stands alone even when it is supported by a large majority of states. The world Court has prescribed what the Respondents must do, and the ICC has issued warrants of arrest of leaders who allegedly have committed war crimes and acts of genocide. But the warrants have been ignored. Without the accused in custody, no prosecution can take place. No trials, no conviction. Retribution is hardly a threat. Perhaps, the ICC should explore preliminary or provisional trials when overwhelming evidence justifies a provisional trial, which would remain as is unless the perpetrator is in custody to conduct a final trial.

Nor is it enough to hold high the standards that the ICC and ICJ have prescribed for Israel and Russia to observe. A tribunal to prosecute the crime of aggression is needed to work side by side with the ICC and ICJ, to spur Europe's unity and support for Ukraine, and to strengthen Ukraine's negotiation power.

## Notes

- 1 The 1998 Diplomatic Conference on the Establishment of the International Criminal Court adopted the Rome Statute creating the Court. The cooperation of the members of the International Law Commission and members of the Sixth Committee also facilitated greatly the preparatory work. The current 124 members: 33 are African States, 19 are Asia-Pacific States, 19 are from Eastern Europe, 28 are from Latin American and Caribbean States, and 25 are from Western European and other States. The United States used to be hostile to ICC, but it now supports a separate treaty for crimes against humanity.
- 2 ICC has received 32 cases, indicting 57 (individual) defendants of which 20 are still at large. Currently 12 cases are under investigations of which 5 have been concluded. 3 cases are under preliminary examination (situations in DRC, Nigeria and Venezuela).
- 3 Article 12.3 of the ICC Statute provides that "If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court *with respect to the crime in question.*" (emphasis added). The ICC is able to handle on-going conflicts whereas the entire process of Nuremburg and Tokyo trials after WWII was ex-post facto and could not have any impact on the conduct, killings or destruction which had already been committed in Europe and in Asia. The ICC prosecutes and punishes *individuals* for committing the crime of genocide, crimes against humanity, war crimes and the crime of aggression, which are all relevant to the present crisis in Palestine/Gaza and Ukraine.
- 4 Prosecution and punishment of crimes are one of the most carefully guarded prerogatives of a State's sovereign rights. Despite numerous proposals submitted to the General Assembly in the first fifty years of the Organization, none was seriously considered. The project became alive in 1994 when the International Law Commission clarified that national criminal jurisdiction must be given priority over international jurisdiction. States welcomed and supported this idea which became the principle of complementarity and the foundation of the Rome Statute. For legislative history, see Lee 1999.

- 5 In plain language, a case is inadmissible if it is being investigated or prosecuted by a state with jurisdiction over it. A state is considered *unwilling* if the proceedings were undertaken or the decision was made for the purpose of shielding the person concerned from criminal responsibility. A state is considered *unable* if its judicial system has collapsed or is not functioning properly. Moreover, the case must be of sufficient gravity to justify further action by the ICC.
- 6 For insiders' views from both the Office of the Prosecutor and the Registry focusing in detail on the situations in Colombia, Darfur, Democratic Republic of Congo, Uganda, and Kenya, see Stahn and El Zeidy, 2011.
- 7 Forty-three States parties had referred Ukraine situation to the ICC. See Ukraine International Criminal Court n.d.
- 8 The two Israeli defendants were also charged with the use of starvation as a method of warfare and other inhumane acts. Israel claimed that the Hamas official was killed in an aerial attack.
- 9 This notwithstanding, a referral from the Security Council is useful in cases where the permanent members are not in disagreement, or if they abstained in the voting. Indeed, the Council has referred Darfur (Sudan) in March 2005 by its resolution 1593, Libya in February 2011 under Resolution 1970, and Central African Republic in December 2004 by Resolution 1598. These referrals allowed the ICC to investigate and prosecute individuals for war crimes and crimes against humanity in those countries.
- 10 The following persons were indicted but are not in custody: Mr. Joseph Kony, the leader of the Lord's Resistance Army in Uganda for war crimes and crimes against humanity, Muammar Gaddafi, the former leader of Libya for crimes against humanity during the 2011 Libyan civil war (he was killed in 2011 before he could be arrested), Uhuru Kenyatta, the former President of Kenya, indicted for crimes against humanity related to the 2007-2008 post-election violence in Kenya but the charges against him were eventually dropped. For views on arrest from an international organization's standpoint (Kawai 2021).
- 11 See Part IX on International Cooperation of the ICC Statute.
- 12 See ICC website: International Criminal Court.
- 13 See Ukraine situation: ICC Pre-Trial Chamber II finds that Mongolia failed to cooperate in the arrest and surrender of Vladimir Vladimirovich Putin and refers the matter to the Assembly of States Parties | International Criminal Court.
- 14 Quoted by the Human Rights Watch 2024.
- 15 Article 36.2 under the ICJ Statute provides the following: "The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning: a. the interpretation of a treaty; b. any question of international law; c. the exercise of any fact which, if established, would constitute a breach of an international obligation; d. the nature or extent of the reparation to be made for the breach of an international obligation."
- 16 Many of the cases before the Court are in fact related to armed conflicts, occupation, or the threat or use of force. Examples are the fishery cases involving several European countries in the 1970s, the hostage case involving Iran and the United States in the 1980s, and a series of cases of legality of use of force in the former Yugoslavia in the 1990s. Serbia and Montenegro brought cases against Belgium, France, Italy, Germany and the Netherlands for NATO's bombing in the 2000s. Democratic Republic of Congo brought a case against Uganda for its alleged armed activities in Congo.
- 17 Up to 2022, about 88 cases have been referred to the Court based on a compromissory clause. Since 1946, 23 cases have been brought on that basis but only two were accepted. In the 1980s and 1990s, the Court dismissed 20% of the cases it received, reportedly, due to lack of jurisdiction.

- 18 In *Ukraine v. Russian Federation*, the Court indicated in its provisional measures that “[w]ith regard to the situation in Crimea, the Russian Federation must ...[r]efrain from maintaining or imposing limitations on the ability of the Crimean Tartar community to conserve its representative institutions, including the Mejis” and “[e]nsure the availability of education in the Ukrainian language.” This also help demonstrate Russia was not on the right side of justice.
- 19 The case was brought on 10 March 1993 and the Judgement was given in 2007, see <https://www.icj-cij.org/case/91>
- 20 In November 2019, The Gambia filed an application accusing Myanma of committing genocide against the Rohingya Muslim population. The Court ruled in 2022, that it has jurisdiction to hear the case even though The Gambia was not a victim state.
- 21 See *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine)*, ICJ website.
- 22 The ICJ said in the beginning of its 2024 decision that the present proceedings were instituted by Ukraine following events which occurred from early 2014 in eastern Ukraine and in the Crimean peninsula. The situation in Ukraine is very different today than it was when Ukraine submitted its Application in January 2017. The Parties are presently engaged in an intense armed conflict that has led to a tremendous loss of life and great human suffering. The Court made clear that with regard to the situation in eastern Ukraine and in the Crimean peninsula, the case before the Court is limited in scope and is brought only under the provisions of the ICSFT and CERD. Consequently, the Court reframed itself from ruling in this case on any other issue in dispute between the Parties.
- 23 Article IX of the Genocide Convention states: “Disputes between the Contracting Parties relating to the interpretation, application, or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”
- 24 All the four principal organs of the Organization (i.e., the General Assembly, the Security Council, the Economic and Social Council, and the Trusteeship Council) and the 17 special agencies are authorized to request advisory opinions from the ICJ. The Secretary General is not authorized to request advisory opinions despite the argument that the clarification of core legal issues by the Court can be extremely useful as a basis for managing or building solutions to resolve international crises to which the Secretary General may be involved.
- 25 See *A/es-10/l.31/Rev.1*, 13 September 2024.
- 26 Cf. *Stoeger, 2023*; *Aust, 2010*.
- 27 These two issues were raised in the Written Statement of the United States of America to the case about legal consequences of the policies and practices of Israel in the Occupied Palestinian Territory. See also <https://www.c2es.org/wp-content/uploads/2022/10/an-icj-advisory-opinion-on-climate-change-ten-questions-and-answers.pdf> for Bodansky’s views about possible effect of ICJ advisory opinion on climate change negotiations and the Palestine situation.
- 28 The breakup led to brutal conflicts in Slovenia, Croatia, Bosnia and Herzegovina, and later Kosovo and the Former Yugoslav Republic of Macedonia, and led to widespread atrocities such as massacres, rape, torture, and the displacement of hundreds of thousands of people in these conflicts. Based on the findings of a UN Commission of Experts, in reference to the Security Council Resolution 827 on 25 May 1993 establishing ICTY.
- 29 See *Lobba and Pons, 2020*.
- 30 See *Julloh 2004*.
- 31 References may also be made to the Kosovo Specialist Chambers and Specialist Prosecutor's Office which represents another national endeavor to address crimes

- committed by or against citizens of Kosovo or the Federal Republic of Yugoslavia during 1998-2000. It was created in 2015 as part of the Kosovo judicial system but included international judges and prosecutors to handle cases of war crimes and crimes against humanity and to ensure impartiality and independence in the handling of cases. It seats in the Hague, Netherlands.
- 32 In 1994, an estimated 800,000 Tutsis and moderate Hutus were killed in Rwanda in just 100 days. This horrific genocide was marked by widespread atrocities, including mass killings, rape, sexual offences and other forms of violence. The UN Security Council recognized the situation as a threat to international peace and security and adopted Resolution 955 on 8 November 1994, establishing the ICTR to prosecute those responsible for genocide and other serious violations of international humanitarian law committed in Rwanda and neighboring states between 1 January and 31 December 1994.
- 33 For a summary of the last ICC session of the Assembly of States; see [www.coalitionfortheicc.org](http://www.coalitionfortheicc.org)

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# 16 The Russia–Ukraine War and the UN Charter Provisions for the Peaceful Settlement of Disputes\*

*Tapio Kanninen and Georgios Kostakos*

## 16.1 Introduction – UN Charter Provisions for the Peaceful Resolution of Disputes

It is eye-catching and utterly frustrating that the numerous methods for the peaceful settlement of disputes between states foreseen in the UN Charter have not been deployed, at all or not successfully, toward ending the Russia–Ukraine conflict that actually pits the West against the East and has the potential of escalating to another Europe-originating world war, even a nuclear war.

Chapter VI of the UN Charter is entitled “Pacific Settlement of Disputes”. Its first article, 33.1, already enumerates the methods that can be used by “The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security”, namely “[they] shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice”. Furthermore, “The Security Council may... recommend appropriate procedures or methods of adjustment” (Article 36.1).

In 1992, the UN Office of Legal Affairs published the *Handbook on the Peaceful Settlement of Disputes between States* (United Nations, 1992), which identified the following methods: (a) Negotiation and consultation, (b) Inquiry, (c) Good offices, (d) Mediation, (e) Conciliation, (f) Arbitration, (g) Judicial settlement, (h) Resort to regional agencies or arrangements and (i) Other peaceful means. Below, we examine whether any of these peaceful means were used to resolve the Russia–Ukraine War, why they failed if they were used, and if they were not, why not. The article concludes with some thoughts about a possible revival of negotiation/mediation efforts.

\* This chapter was originally published under the same title in May 2024, as a Discussion Paper in the *FOGGS Papers* series (see [https://www.foggs.org/wp-content/uploads/2024/05/FOGGSPaper\\_RussiaUkraineWarandUNCharter\\_May2024.pdf](https://www.foggs.org/wp-content/uploads/2024/05/FOGGSPaper_RussiaUkraineWarandUNCharter_May2024.pdf)). It is republished here with minor updates, following permission granted by FOGGS-Foundation for Global Governance and Sustainability. In turn, the FOGGS paper drew heavily on a Guest Article by Tapio Kanninen published in the Finnish on-line law journal and legal service platform “Edilex. fi” on 19 April 2024 under the title “Resolution of the Ukraine War through the Methods of Peaceful Settlement of Disputes provided by Chapter VI of the UN Charter”.

## 16.2 Background to the Russia–Ukraine Conflict

The Russia–Ukraine conflict did not start in February 2022. It was a sore point in a difficult relationship that developed between the West and Russia soon after the end of the Cold War. The US, UK and other Western countries continued to regard Russia as a military threat, succeeding the Soviet Union in that respect too, as became clear from successive waves of NATO expansion into former Warsaw Pact and Soviet Union territory. Some respected US foreign policy experts – such as the chief architect of the containment policy and the Marshall Plan, George Kennan – viewed NATO’s expansion as a fundamental mistake, as they thought it would start a new Cold War. Kennan even called NATO expansion “a strategic blunder of possible epic proportions” (Talbot 2012).

The West and Russia have held completely different views on Ukraine’s political, strategic and military status and importance. The long-term objective of NATO has been Ukraine’s accession, while Russia systematically opposed NATO’s enlargement and had made clear that Ukraine’s eventual membership in NATO would be a “red line”, which, if crossed, would have serious consequences. Similarly, minority opinion in the West has regarded NATO’s threat of enlargement into Ukraine as the real cause of Russia’s aggression in 2022. But also, NATO Secretary-General Jens Stoltenberg said the same in his speech to the European Parliament on September 7, 2023, “So he [President Putin] went to war to prevent NATO, more NATO, close to his borders. He has the exact opposite. He has got more NATO presence in the eastern part of the Alliance...” (Stoltenberg 2023).

Another bone of contention, in terms of politics and trade, was Ukraine’s becoming a candidate country and eventually joining the European Union, or joining the Russia-dominated Eurasian Union. These two opposite pathways, in a country divided internally in its orientation, were personified by its third and fourth Presidents, Viktor Yushchenko (2005–2010) and Viktor Yanukovich (2010–2014), respectively, with the latter forced to flee the country in February 2014.

Moreover, the existence of significant Russian-speaking populations within Ukraine and their claimed unequal treatment compared to Ukrainian speakers was a source of internal tension and a lever used by Russia to meddle in Ukraine’s affairs. The high concentration of Russian speakers in the Donbas region of Ukraine, on the border with Russia and in the strategic Crimea Peninsula, enabled Russia to use the card of Russophile autonomist movements and eventually to declare possession of these territories, Crimea already since 2014, and the Donetsk and Luhansk areas (collectively “The Donbas”) soon after the 2022 invasion.

The mainstream view among NATO members is that Russia is an imperialist nation that poses a military threat to the West, a threat that must be resolutely addressed. According to this view, negotiations are not needed, and NATO’s deterrence must instead be strengthened, including expansion of its membership. In addition to the military threat, several Western politicians stress that Russia is a morally corrupt evil empire – especially because of

President Vladimir Putin’s increasingly autocratic leadership that has turned Russia into a dictatorship. Therefore, it is impossible to negotiate with him.

Negotiations between Ukraine and Russia did take place, though, between 2014 and 2015 in Minsk, Belarus, with France, Germany and the Organization for Security and Cooperation in Europe (OSCE) as intermediaries. However, the Minsk I and II agreements that resulted from the negotiation process failed to prevent the continuation of the Donbas war. According to some accounts, notably an interview that former German Chancellor Angela Merkel gave, the West and Ukraine did not participate in these early negotiations in good faith but rather used them to buy time for Ukraine’s armament and preparation for war (Hildebrandt and di Lorenzo 2022).

Just before the start of the larger war, in December 2021, Russia presented a negotiating offer both to NATO and the US, which included, among other things, giving up NATO’s goal of Ukraine becoming a member. The US and NATO rejected the proposal. Steven Pifer of the Brookings Institution, however, believed that some of Russia’s proposals could well have been negotiated with the US and NATO, some would have been difficult to accept but could still be negotiated, and some would have been nonstarters to the West (Pifer 2021). But there was no desire for negotiations in the West at that point in time (Stoltenberg 2023; Kanninen and Patomäki 2023).

## 16.3 Peaceful Dispute Resolution Methods and the Russia-Ukraine Conflict

### 16.3.1 *Negotiation and Consultation*

Once the Russian invasion started, talks were held between Russia and Ukraine during February 2022 in Belarus, and later (March–April 2022) in Türkiye. Fiona Hill and Angela Stent stated in *Foreign Affairs* that a preliminary agreement between Ukrainian and Russian negotiators had already been reached. Ukraine would no longer seek membership in NATO but would receive security guarantees from several countries. Russia would, for its part, agree to withdraw to the military situation of 23 February 2022, that is, outside Ukraine’s borders (Hill and Stent 2022). Ukrainian pro-government newspaper *Ukrainska Pravda* explained why the negotiations collapsed (Balachuk and Romaniuk 2022). In early April 2022, British Prime Minister Boris Johnson made a surprise visit to Kiev and told President Zelensky that (a) Ukraine should not negotiate with a war criminal, President Putin; and that (b) the West would not support a negotiated solution, as Russia is militarily weaker than the West expected. Negotiations ended shortly after this visit.

### 16.3.2 *Inquiry*

The Russia–Ukraine war’s beginning can be traced back to the events of early 2014 – the Maidan Revolution in Ukraine and the Russian occupation of

Crimea. Inquiry or fact-finding regarding the origin of the war has not yet been officially resorted to, though, as a way of finding a settlement. Nor has inquiry been used to prove or disprove mutual accusations surrounding the destruction of the Nordstream pipeline, the shelling of the Zaporizhzhia Nuclear Plant and the destruction of the Kakhovka Dam along the lower Dnieper River. There was thus no chance to establish the facts in an objective way, leaving it to the belligerents to define their respective realities and feed their respective biases.

Nevertheless, in April 2023, 155 former UN officials proposed in a letter to the United Nations Secretary-General that he appoint, or request the General Assembly to appoint, a Commission of Experts to collect information from all parties to the conflict, as this would be useful for resolving the war (FOGGS 2023). Likewise, in June 2023 in an article entitled “Peace Prospects in Ukraine” Tapio Kanninen proposed that the UN General Assembly could ask the Secretary-General to embark on a fact-finding mission to the crisis area and the capitals of the countries concerned and to explore how various methods the UN customarily uses for a peaceful resolution of a conflict – peacekeeping operations, temporary administrations and peacebuilding offices – could be applied in Ukraine. The Secretary-General would report on the outcomes of his trip to the General Assembly and the Security Council. Such initiatives, if they had been undertaken, might have created momentum for the international community to consider employing the UN’s traditional methods of bringing peace to Ukraine (Kanninen 2023).

### 16.3.3 *Good Offices and Mediation*

This situation between the West/US and Russia regarding Ukraine’s geopolitical relevance and Russia’s “red line” is not that different from the Cuban Missile Crisis of the 1960s. At the time, of course, it was the US that was ready to take military action to prevent/redress the deployment of Soviet nuclear weapons next to its territory, on the island of Cuba, the US “red line”. According to the Monroe Doctrine, the US regarded Cuba as part of its sphere of influence and within its strategic national interests. When the Soviet Union brought nuclear missiles to Cuba and refused to withdraw them at the beginning of the crisis, US President Kennedy threatened with a military and even a nuclear response. Eventually, a confrontation was avoided, thanks also to the good offices of the then UN Secretary-General U Thant. The Soviet Union withdrew its nuclear missiles from Cuba, while the US/NATO also withdrew its nuclear missiles from the Turkish-Soviet border.

Before the Russian invasion, French President Emmanuel Macron tried to prevent the outbreak of the war with his talks and visits to Moscow. These efforts did not produce results. But the negotiations initiated by Israeli Prime Minister Naftali Bennett with both President Putin and

President Zelensky, starting already before the invasion, and especially immediately after it, were close to yielding results. Bennett himself considered a 50% success rate during the negotiations, but said in a long interview in January 2023 that the West had blocked his proposed solution to the war (Losonzi 2023; in the article, there is a video link to the interview with English subtitles).

Bennett's idea was to reach a ceasefire, which both Putin and Zelensky had agreed to. Bennett coordinated his mediation process with President Biden, President Macron, Chancellor Scholz and Prime Minister Johnson. Macron and Scholz were positive about the negotiations, Johnson on the side of the continuation of the aggressive policy of the West (i.e., supporting the war effort), and Biden in the middle, that is, supporting both approaches. Bennett was disappointed that the West did not support his proposal, but later said that continuing the war might have been the best option anyway.

Traditionally, the Secretary-General of the United Nations offers his good offices as a mediator to resolve wars and conflicts or appoints a special envoy for mediation. Furthermore, the Secretary-General does not traditionally strongly condemn either of the parties to a dispute; otherwise, he might compromise his image as an impartial third party. At the start of the Russia–Ukraine war, however, Antonio Guterres did not undertake any specific good offices/mediation initiative, nor did he appoint a special envoy for the task. Instead, he made statements strongly condemning the Russian invasion as a clear breach of the UN Charter.<sup>1</sup>

Such a stance seems to ignore the fact that the Charter of the United Nations has been violated several times over the decades by great powers or other states. This, however, has not prevented several previous Secretaries-General from presenting peace proposals and actively undertaking mediation efforts. But this has not been the case with Antonio Guterres, whose apparent passivity, cloaked in a shell of immaculate righteousness, has been increasingly criticized. Among the critics have been former UN officials, who sent a letter to the Secretary-General on 15 April 2022 asking him to start necessary mediation to end the war. A total of 283 former UN officials, including several former Under- and Assistant Secretaries-General, signed the letter (FOGGS 2022). Two days later, Guterres traveled to Moscow and Kiev through Ankara but achieved no positive results.

If no substantive mediation initiative can be expected from the UN Secretary-General, and the West has disqualified itself by fully aligning behind Ukraine, what about other countries and leaders from around the world? On February 24, 2023, China submitted a twelve-point proposal to end the war in Ukraine, including a ceasefire, the observance of the rules of war, the waiving of sanctions, the opening of peace negotiations and the prohibition of the use of nuclear weapons. The proposal has been criticized in the West as too general and even pro-Russian. Another proposal by the former Defense Minister of Indonesia, who won his country's February 2024 presidential

election, General Prabowo Subianto, put forward at the Shangri-La Dialogue Conference in Singapore in June 2023, would see the establishment of a demilitarized zone in Ukraine, with UN monitoring and UN administered referenda in the disputed areas in Ukraine. This proposal has also been criticized by Western security experts, and there have been no apparent steps yet in taking it further by the new Indonesian President at the time of this writing.

#### *16.3.4 Conciliation*

The English term “conciliation” generally refers to the Conciliation Commissions, which use both the investigative procedure and mediation to resolve conflicts. In the war in Ukraine, this method has not been used. Something along similar lines has been proposed, though, in the letter to the Secretary-General of 26 April 2023 by 155 former UN officials that was earlier referred to. The proposal was for the Secretary-General to ask the General Assembly to appoint a Mixed Armistice Commission, consisting of representatives from Russia and Ukraine and headed by a special envoy of the General-Secretary. The Commission would prepare a ceasefire agreement and would be assisted by a separate Commission of Experts (see Inquiry section above). However, the Secretary-General has not taken any such initiative nor responded to the letter.

#### *16.3.5 Arbitration*

In 1899, the Hague Peace Conference established the Permanent Court of Arbitration. In arbitration proceedings, the parties to the conflict agree to settle their dispute in accordance with international law and may themselves appoint judges who will give their evaluation on the dispute and its fair settlement. The resolution brought by this method is binding to both parties to the conflict. Arbitration may also be conducted in forums other than the Permanent Court of Arbitration, including in secret proceedings that could increase the confidence of the parties in the method. Nevertheless, this procedure has not been used in the settlement of the Russia–Ukraine war.

#### *16.3.6 Judicial Settlement*

Ukraine filed charges before the International Court of Justice (ICJ) on 27 February 2022, accusing Russia of manipulating the concept of genocide to justify its military aggression against Ukraine. On March 16, 2022, the Court ruled with a majority of 13 judges, with two against, that Russia must immediately stop its military operations. The Court’s decision, although a provisional protection order while the main trial is still pending, is binding. Russia has not complied, though, so there has been no positive impact on ending the conflict.

A second indictment procedure has taken place at the International Criminal Court (ICC). On February 28, 2022, the prosecutor of the Court announced that he was seeking permission to initiate investigations on the agenda item “Situation in Ukraine”. With 39 states “having sent referrals” and thus supporting the initiation of the investigation, the Prosecutor on 2 March 2022 officially opened an investigation into war crimes, crimes against humanity and genocide in the territory of Ukraine. Arrest warrants were eventually issued by the Court against President Putin and the Russian Commissioner for the Rights of the Child, Maria Alekseevna Lvovo-Belova, on March 17, 2023. According to the Court, it is reasonable to assume that both suspects are responsible for the illegal removal of Ukrainian children from Ukraine to the Russian territory. Rather than slowing down or even helping to end the war, one possible consequence of the arrest warrant has been that President Putin has not since participated in person in the UN General Assembly high-level debates or the G-20 meetings. This may be counterproductive in terms of reducing the chances of having him involved in any direct negotiation or mediation efforts.

#### *16.3.7 Resort to Regional Agencies and Agreements*

Regional organizations in Europe include the European Union, the OSCE, NATO and the Council of Europe. Ukraine is a member of the Council of Europe and the OSCE. Russia is only a member of the OSCE, following its expulsion from the Council of Europe through a decision of its Council of Ministers just after the invasion of Ukraine, on 16 March 2022. None of these regional bodies has been used for a peaceful settlement of the conflict. On the contrary, the EU and its member states have condemned the invasion of Ukraine, have imposed sanctions against Russia and are providing a wide range of support to Ukraine’s war efforts, including: (1) financial assistance, (2) humanitarian assistance, (3) civil protection assistance, (4) support for the Ukrainian armed forces, (5) refugee reception, (6) investigation and prosecution of war criminals, (7) protection of children and (8) recovery and reconstruction.

The OSCE has been in crisis since the Russian occupation of Crimea. Several member states would like to separate Russia from the Organization, but since the OSCE operates on the principle of consensus, it is not possible. In any case, the Organization’s Secretary-General and a large majority of its members have condemned the war launched by Russia and taken several actions to assist Ukraine, including in the investigation of war crimes. On the other hand, Russia delayed the election of the new Secretary-General and has been blocking the approval of the OSCE budget.

As mentioned above, Russia submitted a negotiating offer to NATO in December 2021, but the Organization rejected the proposal. NATO has strongly condemned the Russian invasion and supported Ukraine in numerous ways, including by coordinating aid to the country and by aligning

Soviet-era Ukrainian military equipment standards, training and combat exercises with NATO standards. NATO has also established a NATO-Ukraine Council to improve political relations. In a broader geopolitical sense, NATO has expanded with Finland and Sweden in response to Russia's 2022 invasion of Ukraine. At the Vilnius Summit in July 2023, NATO confirmed the earlier goal that Ukraine should join the Organization once necessary conditions were met. This longer-term objective has been, as mentioned above, a "red line" for the Russian leadership.

#### 16.4 Conclusions

As mentioned earlier, the Russia-Ukraine war's origin can be traced back to the events of early 2014 – the Maidan Revolution in Ukraine and the Russian occupation of Crimea. Immediately after these events, Henry Kissinger, in an opinion article in the *Washington Post*, saw the conflict severely escalating if the parties to it – the West and the East, as well as Ukraine and Russia – could not address its underlying causes. Addressing them would be the only way to prevent a greater catastrophe (Kissinger 2014). He proposed the following principles for a negotiated settlement:

- 1 Ukraine should be able to choose its economic and political alliances according to its wishes.
- 2 Regarding the military alliance, Ukraine should not join NATO.
- 3 Ukraine should form a government that heeds the preferences of the residents of both the Eastern and Western regions of the country, and, internationally, it should follow the model of the Finnish policy of non-alliance and neutrality, still in force at that time.
- 4 Crimea should remain part of Ukraine, but its autonomy should be guaranteed through a referendum monitored by international observers, and the status of the Russian naval base in Sevastopol should be clarified.

Ten years later and beyond, any settlement would most probably have to comply with these same principles. Has all the death and destruction of the last couple of years been for nothing, or for very little for both parties? In accepting the Charter of the United Nations, Member States are obliged to follow its methods of peaceful resolution of disputes. Of course, states have an inherent right of individual or collective self-defense, as per Article 51 of the UN Charter. Ukraine's supporters have put most emphasis on this, largely neglecting mediation and other peaceful methods of conflict prevention and settlement under the UN Charter's Chapter 6. Only the mediation efforts of Macron, Erdogan and Bennett before and immediately after the war have been in line with Chapter 6 of the Charter, but at the same time, some of the Western leaders have worked to torpedo any peaceful negotiating solution for geopolitical reasons.

Unfortunately, the attitude of the parties and their supporters is about who wins militarily and not how to settle for peace. Instead of mediation,

more arms are flowing into Ukraine, and there is an effort to isolate Russia completely, which brings it closer to China, Iran and other competitors/opponents of the West. In developing countries, however, the war is viewed differently, and there is still a desire in the Global South to seek peace and reconciliation in Ukraine so that efforts and resources can be focused on achieving the Sustainable Development Goals (SDGs).

The search for a peaceful and mediated solution to the war continues to be crucially important. The New York Times' respected veteran reporter David E. Sanger, in an article published on 9 March 2024 (Sanger 2024), stated that the nuclear Armageddon – the threat of first-use of tactical nuclear weapons by Russia and then the war's expansion into a global nuclear war – was much closer in October 2022 than is widely known as Ukrainians had a good chance according to CIA estimates to recapture Crimea, a “red line” to Russia.<sup>2</sup> As the war continues at the time of writing this chapter, the danger of nuclear war still exists and could increase considerably if the conflict expands.

Unfortunately, proposals for a peaceful negotiated solution to the war have been rare. Among them, the December 2022 article by A. Dirk Moses and Jessie Barnes Hronešová on how the UN's temporary administration model could be used to resolve the Ukraine–Russia war (Moses and Hronešová 2022). Similarly, Tapio Kanninen and Heikki Patomäki suggested in a January 2023 article in *Le Monde Diplomatique* that the United Nations' long-standing experience in peace negotiations, peacekeeping forces, establishment of demilitarized zones, organization of elections, reconstruction, interim administration and other such means could be used to resolve the war. In particular, they highlighted the very successful experience of the UN in East Timor (Kanninen and Patomäki 2023).

It is interesting that, as mentioned earlier, Section 16.3.3 the new President of Indonesia, General Prabowo Subianto, while still a defense minister at the Shangri-La Dialogue Conference in Singapore in June 2023, proposed a ceasefire and a demilitarized zone, and that the UN should monitor the zone and hold elections in the disputed areas in Ukraine. Remember that Indonesia conquered East Timor and occupied the country between 1975 and 1999. General Subianto himself had a much-criticized role during the military rule. Because of that, though, he may now see more clearly than others the potential and the necessity of the UN's neutral role in the settlement of the war in Ukraine. As in the case of East Timor/Timor Leste, a way out of the conflict and a lasting peace are urgently needed.

#### *16.4.1 Post Scriptum*

As we submit this article for publication, in February 2025, a lot of what was considered as given regarding the Russia–Ukraine war seems to be up in the air, because of a major departure effected by the Trump Administration from the positions of the previous US Administration under President Biden.

A major attempt at US–Russia rapprochement is apparently in motion, leaving out of the inner chamber Ukraine, the EU and the UK and stoking fears that a non-beneficial deal may be imposed on Ukraine and Europe without even a chance for those key actors to participate in the negotiations.

While this may increase the prospects of an immediate cessation of hostilities, if the US and Russia agree, the long-term viability of any solution depends heavily on a broad acceptance of the deal reached and on putting in place mechanisms that would guarantee respect in practice by all sides of the relevant terms. If something goes wrong in all this, the possibility exists that the military confrontation will resume with even higher intensity. Worst case scenario: the reignited hostilities may engulf Western troops providing security guarantees to Ukraine, and the threat of nuclear confrontation may reemerge, even strengthened.

Despite misgivings that any of the parties may have, the eventual involvement of the UN would be crucial for a sustainable peace, both through the Security Council’s sanctioning of any peace deal and the deployment of peacekeepers or monitors under a Security Council mandate (Kanninen 2025).

## Notes

- 1 After the International Court of Justice ruled on March 16, 2022, that Russia should immediately withdraw from Ukraine, the Secretary-General tweeted that the decision supported his several petitions for peace. (The ruling was not unanimous, as the Russian and Chinese judges opposed the decision.)
- 2 Sanger explains further: “This account of what happened in those October days – as it happened, just before the 60th anniversary of the Cuban Missile Crisis, the closest the United States and the Soviet Union ever came to a nuclear exchange in the Cold War – was reconstructed in interviews I conducted over the past 18 months with administration officials, diplomats, leaders of NATO nations and military officials who recounted the depth of their fear in those weeks.”

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# Conclusions

*Tapio Kanninen and John Torpey*

The chapters in this book make clear that the UN can still play a valuable role in resolving wars and in addressing existential crises like the increasing possibility of nuclear war and runaway climate change. The UN has a truly remarkable history in areas discussed in this book: in the mediation and negotiation of conflicts, in peacekeeping and peacebuilding, in creating legal norms, standards and institutions and in helping to enforce the peaceful resolution of international conflicts. That is not to say it has always been completely successful – or even successful at all. Each situation is unique, and external forces might undermine any positive role the UN might want to play. But it has a unique status in bringing together States Parties and major powers in settings that can promote conflict resolution and in organizing the enforcement of peace once it is obtained.

This book was written at a very complicated time, as the new Trump Administration has changed many parameters in the contemporary world's major wars and in the UN's potential role in these conflicts. Sadly, the wars in Ukraine and Gaza continue as of this writing. However, the Ukraine war has entered a new phase, as negotiations have started to make possible ceasefires and comprehensive peace deals. Israel and Hamas have had an on-again, off-again cessation of hostilities, and a new development has entered the scene: demonstrations by Palestinians in Gaza against Hamas and its place in the politics of the enclave.

## **Russia–Ukraine War**

The new Trump Administration completely changed the landscape around the Ukraine–Russia war, initiating peace negotiations between the US and the Russian Federation. At the same time, relations between President Trump and President Zelensky deteriorated, and military and intelligence assistance from the US stopped temporarily. A thirty-day ceasefire was proposed to the Russian side. The Russians accepted a ceasefire in principle and proposed a partial cessation of aerial bombardments against energy and infrastructure installations. President Zelensky accepted the plan after a telephone conversation with President Trump.

In response to the public disagreements between President Trump and President Zelensky, the key European countries expressed support for President Zelensky and started to draft a ceasefire proposal that took into account Ukraine's wish for strong security guarantees. It was doubtful that Russia would accept the European plan, as it included a peacekeeping force coming from NATO countries and stationed in Ukraine.

Both the General Assembly and the Security Council passed resolutions that reflected the new phase in the negotiations to resolve the war. The GA resolution of 24 February 2025, sponsored by Ukraine and condemning the Russian invasion, was supported by 93 countries, with 18 voting against and 65 abstaining, while the first similar resolution of 2 March 2022 was supported by 141 countries, with five voting against and 35 abstentions. These figures indicate a remarkable deterioration in support for Ukraine's position (from 141 to 93) and in votes against (from five to 18).

On 24 February 2025, with 10 votes in favor and five abstentions (Denmark, France, Greece, Slovenia and the UK), the Security Council adopted the US-authored Resolution 2774 (2025) urging a lasting peace between Ukraine and Russia. However, it did not address the key issues the Western supporters of Ukraine would have liked to include in the resolution, such as condemning the Russian invasion and securing the sovereignty and territorial integrity of Ukraine.

The UN Secretary-General has remained absent from peace negotiations and has not taken any recent public initiatives concerning the Russia-Ukraine war. The absence of the United Nations from peace negotiations might damage the reputation of the organization as a key international actor for the maintenance of peace and security in the world. Nevertheless, the US-sponsored Security Council resolution on the peace process could mark the beginning of the UN's public involvement.

References to the specific role of the UN in an eventual peace deal began to appear in the media in early 2025. For instance, a *New York Times* article on 17 February 2025 (Troianovski 2025) made reference to the draft peace framework of the "Cambridge Initiative on Peace Settlements", which foresees a major UN role in resolving the war and providing a peacekeeping force to monitor the peace deal. On 9 March 2025, the *New York Times* described another proposal by the Geneva Center for International Security that also foresaw a peacekeeping force under the mandate of the UN or another international organization.

One conclusion we might draw about the prospects of peace in Ukraine as of this writing (March 2025) is that they are uncertain at best. It appears to us that there is a long way to go before the achievement of a full ceasefire and a lasting peace deal in this conflict. In the months and years to come, the solutions offered in this volume might therefore become relevant – whether this takes the form of a Security Council resolution authorizing a peacekeeping or monitoring mission or establishing a transitional administration in parts of the Russian-occupied areas. The new Secretary-General, to be

appointed in 2026, might also take a much more active role than the present one; the General Assembly might also shift its posture away from just condemning the relevant actors and activities in the war and instead trying to be part of the solution to the conflict, as it did in the Suez crisis in 1956.

### **Israel– Hamas War**

As in the case of the Ukraine–Russia war, a dramatic change has taken place in Middle East politics since President Trump’s inauguration. In his joint press conference with Israeli Prime Minister Netanyahu on 5 February 2025, President Trump suggested that “the U.S. will take over the Gaza Strip” and that “we’ll own it”, and he has proposed that Palestinians should resettle “permanently” in “nice homes” somewhere else. President Trump’s plan to turn Gaza into a “Riviera of the Middle East” was welcomed by the Israeli Prime Minister, but provoked shock among many Arab leaders, Palestinians and most UN member states (Giordano 2025).

Immediately, the Arab countries started to draft a counterproposal to President Trump’s plan for Gaza. On 4 March 2025, at the Arab League Emergency Summit in Cairo, the main content of the counterproposal was announced:

- The plan calls for rebuilding Gaza but keeping the Palestinian population in place and turning it into part of a future Palestinian state, without Hamas in government.
- Arab countries approved an Egyptian plan to spend \$53 billion to rebuild Gaza.
- The plan also calls for the United Nations Security Council to deploy an international peacekeeping force to secure Gaza and the Israeli-occupied West Bank, but does not specify which countries might supply troops.
- The Arab framework envisions putting a committee of technocrats and other figures unaffiliated with Hamas in charge of Gaza for an initial period.

Both Israel and the US rejected the plan by the Arab League, while the UK, France, Germany and Italy expressed their support for it.

The ceasefire and hostage exchange that was negotiated in January 2025 between Israel and the Hamas leadership ended when Israel refused to continue it. By the time of this writing (end of March 2025), Gaza had returned to being a zone of active fighting. On 17 March, Israel started major aerial bombardments in Gaza with the potential for a wider war.

The Israeli parliament voted on 28 October 2024 to ban the operations of UNRWA, the chief humanitarian aid organization operating in the Gaza Strip, and the humanitarian situation deteriorated accordingly. The US contribution to UNRWA was already suspended during the Biden Administration, and the ban continued under the Trump Administration.

With regard to the peace process in the Middle East, the chapters in this volume by Chas Freeman on the origins and evolution of the modern state of Israel and Jeffrey Sachs' and Sybil Fares' on the two-state solution to the Middle East conflict raise major questions about how to move forward. They argue that the broader objective of the present Government of Israel is to prevent the establishment of a Palestinian state and to move the Palestinians out of Israel to the extent possible, and work toward a "Greater Israel" in the Middle East with the support of the US. The peace processes reviewed in this book might therefore have to wait until new Administrations are in power in both Israel and the US. But of course, any intensification of these developments may not wait for such a shift in power in those two key countries. In any event, Chas Freeman invokes the "humane values of Judaism" as a source of hope that an equitable resolution of the conflict might be found.

### The Reform of the United Nations

At the same time that there are new developments related to the Ukraine and Gaza wars, the Trump Administration has initiated a major effort to cut jobs in the federal government, an operation spearheaded by the Department of Government Efficiency (DOGE). A parallel initiative targeting the UN, dubbed DOGE-UN, was launched with the aim to "transform the UN deep state bureaucracy" and cut "the waste and rogue behavior of the UN bureaucracy" (see DOGE-UN, n.d. <https://doge-un.com/>).

Beyond possible cuts by the Administration in the expenditures of the US delegation to the UN, Republican Senator Mike Lee of Utah introduced in the US Senate a bill calling for the US' complete withdrawal from the United Nations. The proposal is co-sponsored by Republican Senators Marsha Blackburn and Rick Scott. Congressmen Mike Rogers and Chip Roy are slated to introduce the companion bill in the House of Representatives. Elon Musk, de facto head of the DOGE, has supported the US leaving both the UN and NATO.

The financial crises of the United Nations and the calls for the US to leave the UN entirely are not new and come up periodically. It is doubtful that a full withdrawal of the US will take place anytime soon, if ever, as long as the UN exists in its present form and shape. Republican control of the US Congress and the Presidency may not last forever, and the Democrats are traditionally more supportive of the UN.

But reforms once again might be inevitable. In the last major financial crisis of the UN in the mid-1980s, the organization's regular budget posts were cut by 15% and a major reorganization was undertaken, including the rearrangement of its political sector and the launch of a new budgetary process (see Kanninen 1995). The next UN Secretary-General will have to be a good manager and CEO of the organization in addition to his or her skills in diplomacy and peacemaking.

Our hope is that any reorganization that might happen will take into account the lessons provided in this book. The UN is indispensable in the maintenance of international peace and security. Therefore, proper resources are needed for efficient work in mediation, negotiations, peacekeeping and peacebuilding, including options for proper training of staff, research on lessons learned, and forward-looking policy planning. The cuts might be needed to streamline the bureaucracy, but not in key functions of the United Nations, according to its Charter – namely, in the maintenance of international peace and security.

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# Index

Pages in *italics* refer to figures, pages in **bold** refer to tables, and pages followed by “n” refer to notes.

- Abbas, Mahmoud 177  
The Abraham Accords 143, 173  
Accord for Peace and Reconciliation 97–98, 102  
Action for Peacekeeping (A4P) 74  
advisory opinions, of ICJ 259–262;  
    climate change xi, 260; construction  
    of wall in occupied territory 260;  
    criticism of 262  
decolonization process, termination of  
    260–261; Kosovo’s declaration of  
    independence 260; legality of nuclear  
    weapons 260; Occupied Palestinian  
    Territory, legal consequences of  
    146, 260–262  
Afghan peace accord 119  
African Union (AU) 30, 47, 102–103,  
    261  
al-Assad, Bashar 172  
al-Bashir, Omar Hassan Ahmad  
    253–254  
Algeria 97, 102  
Al-Masri, Mohammed Diab  
    Ibrahim 252  
Al-Quds 174–175  
Annan, Kofi 14, 33, 38, 46, 114, 149  
antisemitism 128, 130, 132  
apartheid 65, 130, 170  
Arab-Israeli war 32, 36, 59, 113,  
    139–141  
Arab-Israeli war of 1973 113, 141–142  
Arab states xix, 142, 144, 156, 174,  
    181, 184, 261  
areas of responsibility (AORs) 72  
Arias, O. 237  
armed conflicts 20, 31, 65, 71, 73–74,  
    79, 111, 115, 121, 171, 182  
armistice agreements 139–140, 144, 154  
arrest warrants, ICC investigations and  
    issuance of 269; access limit 253;  
    Hamas leaders, warrants for 252;  
    Israeli leaders, warrants for 131, 143,  
    148, 252  
political and physical difficulties  
    253–254; prerequisites 251; Russian  
    leaders, warrants for 251–252  
Article 12.3 of ICC Statute 269n3  
Article 22 of LoN Covenant 138  
Article 36.2 under ICJ Statute 256,  
    270n15  
Article 39 of UN Charter 267  
Article 49 of Fourth Geneva  
    Convention 132  
Article 76 of Fourth Geneva  
    Convention 132  
Article 99 113, 118–119  
Article 99 of Charter 237  
Article IX of Genocide Convention  
    258, 271n23  
Ash, T. G. 189  
Association of Serb-Majority  
    Municipalities 213  
Axworthy, L. 180  
Balfour Declaration of 1917 138  
Bapt, Emma 1  
Ben-Gurion, David 169  
Ben-Gvir, Itamar 171  
Bennett, Naftali 276–277  
Bernadotte, Folke 59

- Bernadotte Plan 139  
 Blair, Tony 16  
 Boot, Max 16  
 Bosnia and Herzegovina (BiH) and  
 Kosovo conflicts 197–198; challenges  
 190; credible diplomacy 193–194;  
 deployment of missions with  
 mandates 190; humanitarian and aid  
 organizations 189–190; international  
 administrative and legal bodies,  
 creation of 190; international  
 engagement 189; legal (retributive)  
 transitional justice, misguided focus  
 on 195–197; “liberal international  
 order,” challenges to 189; military  
 stalemates, role of 190–191; negative  
 peace 190; peacekeeping missions  
 with clear mandates and terminations  
 191–193; peace *vs.* justice  
 dilemma 194–195  
 Bosnia and Herzegovina (BiH), ITAs  
 role in 208–210  
*Bosnia and Herzegovina v. the Federal  
 Republic of Yugoslavia* 257  
 Bosnia-Herzegovina, peace agreement  
 for 119–120  
 Bosnian Serb leadership 209  
 Boutros-Ghali, Boutros 13–14, 32–33,  
 37–38, 113, 119, 149  
 Brahimi report of 2000 74  
 Brazil, Russia, India, China, South Africa  
 (BRICS) 8, 16, 19  
 Brčko and Mostar, ITAs role in 210–212  
 Bretton Woods agreement of 1944 15  
 BRICS Summit Kazan Declaration of  
 October 2024 (BRICS 2024) 175  
 British Empire 16, 169  
 Browne, Stephen 34  
 Brussels Agreement 212  
 Bukele, Nayib 31  
 Bulgaria and Turkey, dispute between  
 113  
 Bulletin of the Atomic Scientists 2025 20  
 Bull, Hedley 7, 13  
 Bunche, Ralph 32, 36, 59  
 Bush, George W. 15  
 C-34 Special Committee on  
 Peacekeeping Operations 99–100  
 Cadre Strategique Permanent (CSP) 86  
 Cameroon and Nigeria, border conflict  
 114  
 Camp David Accords in 1978 141  
 Capstone Doctrine of 2008 74  
 Carr, E. H. 11  
 Castro, Fidel 118  
 ceasefires 63, 95, 98, 111, 137, 284  
 Central African Republic in 2014 94  
 Central America, peace agreements  
 in 120–122  
 Chancellor Scholtz 277  
 Charter Review Committee 40  
 China 15–16, 39, 277  
 Chirac 14  
 CIA 119, 172, 281  
 Clark, Wesley 172  
 Clean Break: A New Strategy for  
 Securing the Realm 171  
 climate change xxi–xxii, 21, 23, 33–34,  
 38, 72, 114, 260, 262, 284  
 Clinton administration 11, 13, 193  
 Clinton, Bill 11, 13, 193  
 Coate, Roger 29  
 Cockell, John G. 71–89  
 Cold War xxii, 7–11, 19, 55–56, 60,  
 62–63, 64, 65–66, 68–69, 274  
 Collier, Paul 42  
 Committee on the Exercise of the  
 Inalienable Rights of the Palestinian  
 People 141, 145, 149  
 Comprehensive Pattern of Proposals 140  
 compulsory jurisdiction 256  
 Conciliation Commissions 139, 156,  
 205, 278  
 Congress of Vienna 7, 18, 204  
 Convention on the Prevention and  
 Punishment of the Crime of Genocide  
 of 1948 132  
 Cordovez, Diego 119  
 corruption 42, 86, 190  
 cosmopolitan democracy 13  
 Council of Europe 250, 265–267, 279  
 crimes against humanity 131, 148, 252,  
 263, 268  
 criminal tribunal on aggression 250,  
 262–263, 269; institution, funding  
 and sustained support 264–266;  
 investigation, testimonies and  
 evidence, valuable achieves of 266;  
 justifications and challenges  
 266–268; peace negotiation, effects  
 on 266; prosecution and punishment  
 263–264; Security Council,  
 role of 264  
 Croat-Bosniak conflict in Bosnia 210  
 Croat-Bosniak Federation of BiH (FBiH)  
 209, 211  
 Croatia, ITAs role in 207–208

- CSA 102  
 CT Operations 76  
 CTS (*Comité technique de sécurité*) 102  
 Cuban Missile Crisis 23, 32, 36, 113, 117–119  
 Cuéllar, Javier Pérez de 113  
 Cusimano, Salvator 92–104
- Darfur region of Sudan 66  
 Dayton Peace Accords 119–120, 210  
 Dayton Peace Agreement of 1995 191–192, 266  
 Dayton Peace Conference 119  
*Deadly Betrayal* (2024) 172  
 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation 40–41
- decolonization process 144, 260–261  
 de Cuéllar, Javier Pérez 37  
 demilitarisation 238–241  
 demobilization, disarmament, and reintegration (DDR) programmes 197  
 democracy and human rights, diplomacy of 114  
 Democracy Without Borders 14–15  
 Department of Peacekeeping Operations (DPKO) 76, 84  
 Department of Political Affairs (DPA) 116  
 Department of Political and Peacebuilding Affairs (DPPA) 111–112, 114–115  
 disarmament, demobilization, and reintegration (DDR) 95  
 Division for Palestinian Rights of the UN Secretariat 141  
 Dorn, A. Walter 53–69  
 DR Congo (MONUSCO) 75, 78–79, 82, 85, 88  
 DR Congo/Democratic Republic of the Congo 66–67, 71–72, 74  
 Duursma, Allard 95
- East Al-Quds 174  
 Eastern Slavonia, ITA for 207–208  
 East Timor 2, 21, 64–66, 71, 74, 89, 182, 206, 239–240, 281  
 Economist Intelligence Unit (EIU) 31  
 ECOWAS 97, 101–103  
 Egypt and Israel, peace agreement between 141  
 El Salvador 31, 121  
 The Emergency Ministerial Meeting of the LAS 175
- epistemological relativism 226  
 Erdogan 280  
 Erdut Agreement of 1995 192, 240  
 Eritrea and Yemen, war between 114  
 Esquipulas II summit meeting 120  
 ethical norm development 54  
 EU 103  
 EU Action Plan 254  
 EU Administration in Mostar (EUAM) 210  
 European diplomatic strategy 202  
 European Jews 128–129  
 European Parliament 15, 219, 274  
 European Union 19, 119, 142, 189, 207–208, 212, 220, 236, 274  
 EU Rule of Law Mission (EULEX) 212  
 Extraordinary Chambers in the Courts of Cambodia (ECCC) 263
- Fares, Sybil 169–177  
 Ferguson, Niall 16  
 field-based political missions 111–112  
*Fighting Terrorism* 171  
 financing terrorists 249, 258  
 First Cold War 36–37  
*Foreign Affairs* 1, 180–183, 275  
*Foreign Policy* xix  
 Foreign Relations Laws of the USA 43  
 former Yugoslavia and Ukraine wars: battlefield dynamics and timing of peace negotiations 190–191; challenges 190; credible diplomacy 193–194; Dayton Peace Agreement of 1995 191; deployment of missions with mandates 190; humanitarian and aid organizations 189–190; international administrative and legal bodies, creation of 190; International Criminal Tribunal for the Former Yugoslavia (ICTY) 190, 194–197; international engagement 189; international territorial administrations (ITAs) 191–192; legal (retributive) transitional justice 195–197; “liberal international order,” challenges to 189; negative peace 190; Office of the High Representative 190, 192; Peace Implementation Council, creation of 193; peacekeeping missions with clear mandates and terminations 191–193; peace *vs.* justice dilemma 194–195; “Republika Srpska” in BiH, creation of 191; UN-mediated

- Erdut Agreement of 1995 192;  
 UNTAES 192  
 former Yugoslavia, ITA in 206–213;  
   advantages/benefits 213–214; Bosnia  
   and Herzegovina (BiH) 208–210;  
   Brčko and Mostar 210–212; Croatia  
   207–208; Kosovo 212–213  
 Forsythe, David P. 29  
 Fortna, V. P. 92  
 Foundation for Global Governance and  
   Sustainability 238  
 fragile and conflict-affected states  
   (FCAS) 74  
 Framework for Peace in the Middle  
   East 141  
 France 7, 9–10, 14, 60–62, 76, 102–103,  
   133, 139, 144, 148, 176, 179, 204,  
   251–252, 275, 286  
 Freedom House's 2024 edition of  
   *Freedom in the World* 31–32  
 Freeman, C. 127–135  
 French Revolution 9, 13  
 Friedrich-Ebert-Stiftung xix  
 Fritz, Dennis 172  
 “From Containment to Expansion,” 11  
  
 G5 Sahel 103  
 G20 Rio de Janeiro Leaders' Declaration  
   of November 2024 (G20 2024) 175  
 Gallant, Yoav 131, 143, 148, 252  
*The Gambia v. Myanmar* 257  
 Garces, Maria Fernanda Espinosa  
   xxi–xxiii  
 Gaza xix, 170–171  
 Gaza Strip 175, 181  
 General Assembly's Fifth  
   Committee 99  
 General Framework Agreement for  
   Peace in BiH 208  
 Geneva Declaration on Palestine 142  
 genocide: definition of 132; to Russian-  
   speaking Ukrainians 249; in  
   Rwanda 272n32  
 Genocide Convention 249, 256–258  
 geopolitical rationality 225  
 global climate change, preventive  
   diplomacy on 114  
 global democracy: cosmopolitan sense  
   and its failure 12–15; waves and  
   counterwaves 9–11  
 The Global Digital Compact 34  
 global financial crisis (GFC) 15, 25  
 Global Peace Index 115  
 Global South 15, 281  
  
 Goldstone Report (2009) 142  
 Gorbachev, Mikhail 237  
 Government of El Salvador 121  
 Government of Mali 81, 102  
 Government of Nicaragua 121  
 Graduate Center of the City  
   University xix  
 Granoff, J. 237  
 Great Depression of the 1930 10  
 Greater Israel project 170  
 Great Palestinian Revolt 128  
 great power/great “powerness,” 7, 19,  
   23, 36; sphere of influence 18; sphere  
   of interest 18–19  
 Guéhenno, Jean-Marie 76  
 Guterres, António 22, 30, 33, 38–39,  
   69, 99, 114, 116, 149, 237  
  
 Hague Academy of  
   International Law 117  
 Hague Peace Conference 278  
 Hamas 170  
 Hamas-Israel war in Gaza 137  
 Hamas leaders, ICC arrest  
   warrants for 252  
 Hammarskjöld, Dag 36–37, 55, 60–62,  
   112–113, 140, 148  
 Haniyeh, Ismail 252  
 Hariri, Rafik 263  
 Harrison, S. 119  
 High-Level Advisory Board  
   (HLAB) 116  
 Hill, Fiona 275  
 Hitler, Adolf 10  
 Holbrooke, R. C. 192  
 Howard, L. M. 92  
 Hronešová, J. B. 189–198, 202–214,  
   239–240  
 human rights 43–44, 48  
 Human Rights Watch 32  
 Huntington, Samuel 9  
  
 imperialism 2, 15–17, 25–26, 128,  
   204, 220  
 imperialist era of 1871–1914 and  
   1999–2005 17  
 Independent High-Level Panel on Peace  
   Operations (HIPPO) 74–75, 79–80,  
   86  
 International Commission on Missing  
   Persons (ICMP) 190  
 international community xxi, 3, 13, 40,  
   54, 69, 73, 87, 89, 122, 151, 174,  
   184, 204, 276

- International Conference in the Former Yugoslavia (ICFY) 111–112, 119–120
- International Conference on the Question of Palestine 142
- International Convention for the Suppression of the Financing of Terrorism (ICSFT) 256
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 256
- International Court of Justice 41, 134, 238
- International Court of Justice (ICJ) xix, 8, 147–148, 170, 278; criminal tribunal on aggression *see* criminal tribunal on aggression; jurisdiction 255–256; securing provisional measures through advisory opinions 259–262; South Africa *vs.* Israel 249–250, 253, 257–259; Ukraine *vs.* Russia 249, 253, 257–259
- International Criminal Court (ICC) xix, 8, 134, 148, 171, 249–250, 279; arrest warrants, investigations and issuance of 251–252, 269; can and cannot do 250–251; composition and membership 250–251; criminal tribunal on aggression *see* criminal tribunal on aggression; current conflicts, political resolutions to 254–255; decision-making process 251; legal, political and physical difficulties in making an arrest 253–255
- International Criminal Tribunal for Rwanda (ICTR) 263, 265
- International Criminal Tribunal for the Former Yugoslavia (ICTY) 190, 194–197, 207, 257; funding 265; prosecution and punishment 263
- International Day of Solidarity with the Palestinian People 141, 145
- international humanitarian law 142–143, 145, 151, 163, 263
- international law 40, 43–44
- International Law Commission, in 1946 40
- International Monetary Fund (IMF) 15
- international organizations (IOs) 54
- international peace and security 21–22, 29, 35, 39, 54, 59–60, 62, 67, 73, 93, 113, 120, 122, 143, 146, 205, 237, 273, 288
- international peacemaking, UN role in *see* mediation of smaller and larger conflicts, UN efforts in
- International Security Assistance Force in Afghanistan 184
- international territorial administration (ITA): advantages/benefits 203, 213–214; Bosnia and Herzegovina (BiH) 208–210; Brčko and Mostar 210–212; challenge 214; Croatia 207–208; in former Yugoslavia 206–213; implementation 203; Kosovo 212–213; League of Nations (LoN)-administered territory 204–205; peace agreements, featured in 203; United Nations (UN), implementation in 205–206
- international territorial administrations (ITAs) 191–192
- international transitional authority (ITA) 181–184
- international trusteeship system 180
- Iran-Iraq border disputes 113
- Islamic Conference 184
- Israel-Arab state wars 129–131
- Israeli Arab Muslim 130
- Israeli leaders, ICC arrest warrants for 131, 143, 148, 252
- Israel-Palestine conflict, UN's involvement in: Arab-Israeli war of 1967 and 1973 140–142; forms of 152–163; humanitarian aid operation 137; International Court of Justice (ICJ) activity 147–148; international geopolitical context 137; Madrid Peace Conference, Oslo Accords 142–143; peacekeeping operation in 1956 137; political and humanitarian involvement 137; UN General Assembly (UNGA) involvement 145–146; UN partition plan and mediator 138–140; UNRWA, special role of 150–151; UN Secretary-General (UNSG) 148–149; UN Security Council (UNSC) involvement 143–145
- Istanbul April 2022 principles, for peace agreement 241
- Jerusalem-based UNCCP in 1948 145
- Jewish refugees 145
- Jews 127; antisemitic designation of 128; European Jews 128–129; immigration 128–129, 138;

- Nazi persecution of 128; religious identity 128; and state of Israel *see* state of Israel; terrorism 129
- Jin Ping, Xi 30
- Johnson, Boris 275, 277
- Johnson, L. D. 180–184
- Joint Comprehensive Plan of Action (JCPOA) 177
- Judaism 127, 135
- judgemental relativism 226
- Kampala amendment 250, 267
- Kanninen, T. xix–xx, 7–26, 234–244, 273–282
- Keal, Paul 18–19
- Kennedy, John F. 23, 117–118
- Khalidi, Rashid 169–170
- Khrushchev, Nikita 23, 117–118
- Kigali Principles 77
- Ki-moon, Ban 33, 38, 114
- Kissinger, Henry 280
- Kniess, J. 240
- Korean War 55
- Kosovo, ITAs role in 212–213
- Kosovo's declaration of independence 260
- Kostakos, G. 137–163, 273–282
- Lake, Anthony 11
- Latin America 10, 31
- Lau, R. 229n8
- Lausanne separate talks (1949) 139
- League of Arab States (LAS) 174–175
- League of Nations (LoN) xxi, 19, 54–55, 138, 169; international territorial administration (ITA) 204–205
- Lee, R. S. 249–272
- The Legal Committee of the UN General Assembly 40
- Le Monde Diplomatique* 281
- liberal international order 189, 224
- liberalism 17
- Libya 72, 172, 258
- Lie, T. 37–39, 113
- Lobbying for Zionism on Both Sides of the Atlantic* 172
- Locoman, E. 229n8
- Lvova-Belova, Maria 251–252
- Macron, Emmanuel 276–277, 280
- Madrid Peace Conference 142–143
- Maidan Revolution in Ukraine 280
- Mali 72, 74, 76
- Mali (MINUSMA) 75–78, 81, 88
- Malian leadership 103
- Malone, David 30
- Mandatory Palestine 170, 174
- Manulak, M. W. 180
- martial law 130, 229n7
- Mauritius's Chagos Archipelago, decolonization process 260–261
- Mearsheimer, J. 229n6
- mediation of smaller and larger conflicts, UN efforts in: Afghan peace accord 119; Bosnia-Herzegovina, peace agreement for 119–120; Central America, negotiation of peace agreements in 120–122; Colombian government and Marxist rebels, peace agreement between 110–111; crisis management and prevention, advising on 111; Cuban Missile Crisis 113, 117–119; gross violations of human rights, prevention of 114–115; International Conference in the Former Yugoslavia (ICFY) 111–112, 119–120; international peace conference, sponsor/co-sponsor an 120; investment in conflicts prevention 115; mindful of power factors impacting conflict situations 122; monitoring global political developments 111; peace talks/crisis diplomacy, engagement in 111; post-genocide Rwanda, peacebuilding investment in 115; preventive diplomacy, promotion and practice of 111–114; training and support for peacemakers 115–117; “We the People,” 123
- Mediation Support Unit (MSU) 116
- metaphor of “pole,” 8
- Middle East 93; Israeli–Palestinian conflict 169–170; Netanyahu's plan to change the map of 170–174; possibility of peace based on two-state solution in 2025 176–177; will of the world in favor of two-state solution 174–176
- Military Staff Committee 54
- military-to-military 96–97
- millennium declaration 33, 38, 42
- millennium development goals 42–43
- Millennium Development Goals 38, 42–43

- Milošević, Slobodan 191, 194–195, 207, 209, 212–213, 266
- MINUSCA mission in CAR 75, 83
- MINUSMA (United Nations Multidimensional Integrated Stabilization Mission in Mali) 75–76, 78, 81–82, 85, 92–93, 97–98, 101–104; *see also* “no peace to keep,” case of MINUSMA in Mali
- MINUSTAH, Haiti 71, 75, 104n4
- Mission HQ (MHQ) 83–84
- Mission Plan 82–83
- Mixed Armistice Commission 278
- Mobile Task Force (MTF) 78
- Monroe, James 18
- MONUC/MONUSCO 71
- Moses, A. D. 202–214
- Multinational Force and Observers in Sinai 184
- multi-national ITA 211
- Naftali, Bennett 280
- Napoleons 7
- national human rights protection system 42–46
- neoconservatism 171
- Netanyahu, Benjamin 131, 143, 148, 170–171, 174, 252
- 1947 Partition Plan for Palestine 182
- 1947 UN Partition Plan for Palestine 169
- 1948 Genocide Convention 170
- 1967 Arab-Israeli war 140
- 1967 Six-Day War 170
- 1993 Declaration of Principles on Interim Self-Government Arrangements (Oslo I) 142
- Nixon-Brezhnev Communique of June 1973 144
- non-cooperation 251, 254
- non-Jewish Arab Israelis 131
- non-UN ITA 184
- “no peace to keep,” case of MINUSMA in Mali 92–94, 104; moderating geopolitical interests 99–103; peacekeeping missions 95–98; peacekeeping operations role in “holding the centre,” 94–95
- norms commentary 62–63
- North Atlantic Treaty Organization (NATO) 10–12, 17, 20, 37, 79, 103, 172, 184, 207, 212, 220, 222, 229n8, 235, 237, 242–243, 268, 274–275, 279–280
- Obama 172
- Occupied Palestinian Territory (OPT) 141, 146; advisory opinions, of ICJ 146, 260–262
- occupied Ukrainian territory, international administration of *see* international territorial administration (ITA)
- Office of the High Representative 190, 192
- Organisation for Economic Co-operation and Development (OECD) 12
- Organization for Security and Co-operation in Europe (OSCE) 18, 275
- Organization of American States 120–121
- Organization of Islamic Cooperation (OIC) 174–175
- Oslo Accords 172–173
- P-5 143
- Pacific Settlement of Disputes 273
- The Pact 34–36
- The Pact for the Future 82, 93
- Palestine/Hamas–Israel war 255
- Palestinian Arabs 128–129, 139, 145, 169
- Palestinian Authority (PA) 142, 161, 175
- Palestinian-Israeli peace process 142
- Palestinian Liberation Organisation (PLO) 140, 142
- Palestinian question, UN’s involvement in: Arab-Israeli war of 1967 and 1973 140–142; International Court of Justice (ICJ) activity 147–148; Madrid Peace Conference, Oslo Accords 142–143; UN General Assembly (UNGA) involvement 145–146; UN partition plan and mediator 138–140; UNRWA, special role of 150–151; UN Secretary-General (UNSG) 148–149; UN Security Council (UNSC) involvement 143–145
- Palestinian refugees 139–140, 150–151
- Pappé, I. 128, 169, 172
- Paris agreement 34
- The Paris Principles 45
- Patomäki, H. 218–230, 234–244
- Patomäki, Heikki 7–26, 281
- Peacebuilding Commission 35, 114

- Peacebuilding Fund 115  
 Peacebuilding Support Office 115  
 Peacebuilding Support Unit (PBSO) 116  
 peace for peace 171  
 Peace Implementation Council 193  
 peace, justice and strong institutions 46–47  
 peacekeeping fatigue 47–48  
 peacekeeping-intelligence (PKI) 56, 67  
 peacekeeping operations (PKOs) 55–56, 61–62, 69, 93, 103  
 peacekeeping practice challenges:  
   political strategies 80–82; protection of civilians 77–80; stabilisation 74–77  
 peacemaking, UN efforts in *see* mediation of smaller and larger conflicts, UN efforts in  
 peace operations (POs) 53–54, 68; evolution of peacekeeping norms 55–56; force in robust operations 67–68; Four-Generations Model 56–62; military forces under international control 54–55; modern missions/third generation of UN operations 63–67; norms commentary 62–63; political strategies: thinking small from middle out 86–88; restoration and extension of state authority 84–86; strategic management and mission planning 82–84  
 Pearson, Lester B. 53, 55, 60–61  
 Pease, Kelly-Kate 29  
 Peres, Shimon 177  
 Permanent Court of Arbitration 238, 278  
 Physicians for Human Rights 190  
 Pifer, Steven 275  
 Piketty, Thomas 12  
 PKI Policy 67  
 Polanyi, Karl 9  
 political environment 75, 206  
 post-Cold War 65, 71  
 post-conflict Gaza 180–181  
 post-conflict Gaza, UN trusteeship in: international transitional authority (ITA) 181–184; Israel and U.S. 181–182; non-UN ITA 184; Palestinians 181  
 post-genocide Rwanda, peacebuilding investment in 115  
 poverty alleviation 114  
 power-balancing 7, 24n2, 228n4  
 preventive diplomacy, UN efforts in 111–114; Article 99, 113; Bulgaria and Turkey, dispute between 113; Cuban Missile Crisis 113; democracy and human rights, diplomacy of 114; Eritrea and Yemen, war between 114; field-based political missions as platforms 112; global climate change 114; “good offices” to parties in conflict 112; Iran-Iraq border disputes 113; lesser powers, head off disputes between 113; patient engagements in tackling conflicts 111; peaceful resolution of tensions 112; peacemaking and mediation, training and assistance in techniques of 111; poverty alleviation 114; regional and sub-regional conflict prevention mechanisms, cooperation with 114; Security Council, role in 112; women empowerment 114  
 Programme of Action for the Achievement of Palestinian Rights 142  
 protection of civilians (POC) 56, 67, 71, 77–80  
 Putin, Vladimir 218, 251–252, 254, 275, 277  
 Quartet’s Roadmap to Peace 142  
 racial discrimination 37, 43, 249, 256, 258  
 radical Protagorean relativism 226  
 Ralph Bunche Institute xix, 1  
 Ramcharan, B. G. 29–49, 110–123  
 Reagan, Ronald 237  
 Red Cross 190  
 reflexivity 225–227  
 regional and sub-regional conflict prevention mechanisms, cooperation with 114  
 regional conflict prevention centres 114  
 regional organizations in Europe 279–280  
 relativism 226  
 Republika Srpska (RS) 209, 211  
 “Republika Srpska” in BiH 191  
 “Republika Srpska Krajina” (RSK) 207  
 restoration and extension of state authority (RESA) 84–86  
 right to self-determination 140, 176  
 river of Egypt 170  
 “robust” UN peacekeeping force 183

- Rock, A. 180  
 Rock, Allan 180  
 Roland Paris 72, 93, 95, 99  
 Rome Statute 250, 265, 269n1  
 Rouge, Khmer 65, 263  
 “rules based order,” 38–39, 133  
 Russia: development 11; economy 11, 218; nuclear weapons by 20; and Ukraine 29; and the West 15, 17, 19  
 The Russian experiences 12  
 Russian leaders, ICC arrest warrants for 251–252  
 Russian occupation of Crimea 280  
 Russian–Ukraine war 255  
 Russia–Ukraine conflict 255, 274–275; arbitration 278; conciliation 278; good offices and mediation 276–278; inquiry 275–276; judicial settlement 278–279; negotiation and consultation 275; Post Scriptum 281–282; resort to regional agencies and agreements 279–280  
 Russia–Ukraine war 119, 273–282, 284–285  
 Rwanda 65, 67, 77, 88, 94, 115, 250, 263, 272n32  
  
 Sabra and Shatila refugee camps, massacres of 141  
 Sachs, J. 223  
 Sachs, Jeffrey D. 169–177  
 Sanchez, Oscar Arias 120–121  
 Sanger, David E. 20, 281  
 Saudi Arabia 134, 173, 176  
 The Second American Restatement 44  
 second cold war 30, 32, 36, 38–39  
 Second Reform Act (1867) 10  
 The Second Restatement of the Foreign Relations Laws of the USA 43  
 Security Council Resolution 1688 263  
 shock therapy 11–12  
 Sierra Leone 74, 77, 263  
 Sierra Leonean law 263  
 Sinwar, Yahya 252  
 Six Day War *see* 1967 Arab–Israeli war  
 Smotrich, Bezalel 171  
 South Africa *vs.* Israel 249–250, 255, 257–259  
 Special Court for Sierra Leone (SCSL) 263  
 Special Drawing Rights (SDRs) 15  
 Special Plan of Economic Co-operation for Central America 122  
 special political missions (SPMs) 55  
  
 Special Tribunal for Lebanon (STL) 263–264  
 special tribunal on aggression 266–268  
 Srebrenica 77, 94, 194, 257  
 S/RES/242(1967) 144  
 S/RES/1397 (2002) 145  
 S/RES/1435 (2002) 144  
 state of Israel: in 21st century 131; establishment and Israel–Arab state wars 129–131; policies toward Palestinians 131–133; United States, role of 133–134  
 State of Palestine 128, 170, 175–176, 184, 252  
 state policy 43  
 Status of the Force Agreements (SOFAs) 62–63  
 Stent, Angela 275  
 Stern Gang 59  
 Subianto, Prabowo 278, 281  
 Suez Crisis of 1956 xix, 22, 53, 60, 238  
 superpower 7–8, 13, 17–18, 33, 113, 144, 171  
 Sustainable Development Goals (SDGs) 30, 33, 41, 47–48  
 Swenson, G. 240  
 Swisher, Clayton 173  
  
 Talvitie, Heikki 7–26  
 Taylor, Charles 263  
 Tela summit meeting 121  
 temporary international administration (TIA) in Ukraine 234, 239  
*Ten Myths About Israel* 172  
 Thant, U. 32, 37, 113, 117–118, 276  
 The 2015 HIPPO report 74  
 Third Republic 10  
 tit-for-tat violence 54  
 “Tommy” Burns, E. L. M. 59  
 Torpey, John xix–xx  
 transitional administration (UNTEA) 182  
 transitional administration to eastern Ukraine 239, 241  
 transitional justice strategy 195–197  
 Treaty of Versailles 205  
 troop contributing countries (TCCs) 76, 79  
 Troops and Police Contributing Countries (T/PCCs) 100  
 Trump administration 30, 66, 173, 243, 281  
 Trump, Donald 218–219, 234, 242

- The Trusteeship Council 180–183, 205;  
 goal of 181; international transitional  
 authority (ITA) 181–184;  
 international trusteeship system 180;  
 Israel and U.S. 181–182;  
 Palestinians 181
- The Truth About Camp David* 173
- Tudman, Franjo 266
- Turkey 31, 113, 118, 139, 225, 237
- 2000 Camp David Summit 173
- 2002 Arab Peace Initiative (API) 174
- 2023 Arab-Islamic Extraordinary  
 Summit 174
- 2003 Quartet Roadmap for Peace 173
- “Ukraine Peace Conference,” 218
- Ukraine–Russia war, competing  
 narratives about 235; alternative  
 narrative and Ukraine’s identity and  
 agency 222–224; black-and-white,  
 moralistic framework 221;  
 contrastive/antagonistic narratives  
 224; counter-hegemonic framing 221;  
 domestic politics, changes in 218;  
 ethnic-nationalist narrative about  
 Ukraine 224; functional 220; good  
 and evil, struggle between 220–221,  
 225; identity and aspirations of  
 Russia 221; interactive and dynamic  
 220; liberal idealism and power  
 politics, mixture of 220–221;  
 liberal-paleo-realist narrative 221;  
 military solutions 218–219;  
 “nationally distinct” identity 221;  
 one’s own community, narrative  
 within 220; peace negotiations,  
 Western countries favours in 218;  
 prevailing narratives, revision of  
 224–225; propaganda/  
 misinformation, enemy’s narrative as  
 221–222; reflexivity and framings,  
 importance of 225–227; selective,  
 biased, and simplistic 219; “Ukraine  
 Peace Conference,” 218; Western  
 narrative 220–221
- Ukraine–Russia war, UN role in:  
 demilitarisation, and transitional  
 administration 238–241; guidelines  
 and proposals for peace process  
 241–243; North Atlantic Treaty  
 Organization (NATO) 235, 237;  
 peace-making role 237–238; problem  
 of territorialising resolution 236–237;  
 temporary international  
 administration (TIA) 234, 239;  
 Trump’s initiative 234
- Ukraine *vs.* Russia 249, 255, 257–258
- Ukrainian victimhood 224
- UNAMID in Darfur 81
- UNAMIR 88
- UN Charter 8, 14, 21–22, 29, 32–34,  
 36, 39–42, 54–55, 60, 63, 67, 77,  
 180–181, 277
- UN Charter provisions for peaceful  
 resolution of disputes 273
- UN Conciliation Commission for  
 Palestine (UNCCP) 139–140,  
 156–157, 205
- The UN Conference 176
- UN Development Programme (UNDP)  
 36, 85
- UN diplomacy of the first Cold  
 War 36–37
- UN Director of the International Crisis  
 Group xix
- UN Disaster Relief Operation (1948)  
 139
- UN Disengagement Observer Force  
 (UNDOF) 141
- UN East Timor (UNTAET) 65
- UN Emergency Force 22, 238
- UN Emergency Force I (UNEF I) 140,  
 157
- UN Emergency Force II (UNEF II) 159
- UN Headquarters 21, 60, 62, 88, 176
- UN High Commissioner for Refugees 33
- UNHQ 76, 78, 85
- UN Human Rights Council (UNHRC)  
 35, 142
- UNICEF 46, 139
- unilateralism 17, 218
- UN International Law  
 Commission 40–41
- Union of Soviet Socialist Republics  
 (USSR) 10–12, 18–19
- UN ITAs 182–183
- “United for Peace Resolution no 1001,”  
 238
- United Nations (UN) xix–xx, xxi, xxiii,  
 7–9, 53–55, 59–69, 74; continued  
 relevance of 19–24; diplomacy 30,  
 32, 36–39; G-20 and BRICS  
 groupings 39; High Commissioner  
 for Human Rights 114; Israel-  
 Palestine conflict, involvement in  
*see* Israel-Palestine conflict, UN’s

- involvement in; member states 29, 31–32, 46; network of NGOs 29; Observer Group in Central America 120; Observer Mission 121–122; Office of Legal Affairs 117; Peacemaker 116; political 29–30; Secretariat 29, 46; Special Advisers 114; Staff College 117; Standby Team of Mediation Experts 116; Sustainable Development Goals 30, 33; system xiv–xv, 9, 14, 19, 23, 69, 115, 234, 236; Ukraine–Russia war, role in *see* Ukraine–Russia war, UN role in
- The United Nations and Changing World Politics* 29
- United Nations Emergency Force (UNEF) 53, 60, 65
- United Nations Framework Convention on Climate Change 34
- United Nations General Assembly (UNGA) xix, 21, 23, 40, 42, 60–61, 63, 94, 173–175, 181–182, 276; A/RES/2628 (XXV) (1970) 141; International Day of Solidarity with the Palestinian People 145; “one state, one vote,” 8; Pact of the Future 22; Partition Plan 138, 145; resolution A/ES-10/L.31/Rev.1 146; Resolutions A/RES/181 and A/RES/194 (1948) 139; Summit of the Future 22; tenth emergency special session of 146; UN Conciliation Commission for Palestine (UNCCP), creation of 139; UN Relief and Works Agency for Palestine Refugees in the Middle East (UNRWA) 140, 145, 150–151; UN Relief for Palestine Refugees (UNRPR), establishment of 139; UN Special Committee on Palestine (UNSCOP) 138
- United Nations Mission in Ethiopia and Eritrea 2000–08 62
- United Nations Operations in the Congo (ONUC) 93
- United Nations Parliamentary Assembly (UNPA) 14
- United Nations (UN) peacekeeping 36, 48, 53, 71–89; Affecting, Exogenous Challenges Outcomes 72; Endogenous Challenges 74–82; endogenous challenges in peacekeeping practice *see* peacekeeping practice challenges; evolution of POs *see* peace operations; “holding the centre,” 92–104; *see also* MINUSMA in Mali; internal and external reflections 71; missions 72, 76; missions in twentieth century 57; operations in 2025 58; outcomes challenges 73; policy development 72; policy-facing research 72
- United Nations Security Council (UNSC) xix, xxiii, 7–8, 13, 21–22, 33, 37, 39, 41, 54, 56, 59–60, 63, 67–68, 74, 87, 92–94, 112, 116, 175, 181–184, 202, 205, 282; international transitional authority (ITA) 181–184; non-UN ITA 184; tribunals, role in 264; Trusteeship Council 180–182
- United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) 182, 192, 240
- United Nations Transitional Administration in East Timor (UNTAET) 239
- United Nations Truce Supervision Organization (UNTSO) 59, 61
- United Nations (UN) trusteeship: International Transitional Authority by Security Council 182–184; Israel and U.S. oppose 182–184; non-UN, but “UN-Blessed” ITA 184; Palestine under 181; system 180
- United States (US) 12, 18; and China 20; foreign policy 10–11, 171–174; hegemony 8, 11, 13, 171, 224; and the Soviet Union 18
- Universal Declaration of Human Rights 36
- UN-mediated Erdut Agreement of 1995 240
- UN Mediator for Palestine 62
- UN Millennium Declaration 38, 42
- UN missions in Kosovo (UNMIK) 65
- UN norm development 68
- UN Office of Legal Affairs 40, 273
- UN operations 56, 59, 63
- UN Palestine Conciliation Committee 139
- UN Parliamentary Assembly 23

- UN peacekeepers 49, 61, 65–66, 113–114
- UN Peacekeeping Force in Cyprus (UNFICYP) 62–63
- UN peacekeeping forces 68–69
- UNPROFOR 88
- UN Relief and Works Agency for Palestine Refugees in the Middle East (UNRWA) 140, 145, 150–151
- UN Relief for Palestine Refugees (UNRPR) 139
- UN's Department of Public Information 56
- UN Secretary-General (UNSG) 23–24, 34, 36, 39, 47, 55, 62–63, 148–149
- UN Secretary-General operational control (UNSG OPCON) 55
- UN's legitimacy xxiii
- UN's mission xxii
- UN Special Committee on Palestine (UNSCOP) 138
- UN Summit 34–36
- UN Transitional Authority in Cambodia (UNTAC) 239
- UN Truce Supervisory Organisation (UNTSO) 139
- Unvanquished* 14
- UN Women 46
- US-China trade war 16
- Ussishkin, Menachem 169
  
- V-Dem Democracy Report 2023 10
- violations of human rights, prevention of 114–115
- violence 94–95
  
- Wæver, O. 221
- Waldheim, Kurt 37, 113
- Walter, B. F. 92
- war crimes 148, 194–196, 252, 263, 268
- war in Ukraine 9, 20, 197, 218–223, 226–227, 234, 237–238, 277–278, 281
- Washington Agreement in March 1994 210
- Washington Post* 280
- Weiss, Thomas G. 29
- Western Europe 10, 31, 219
- “We the People,” 42, 123
- women empowerment 114
- Women Peace and Security (WPS) 56
- world's premier political theater xx
- World War II xxi, 18–19, 55, 59
- World Zionist Organization 130
  
- Yeltsin, Boris 11
- Yushchenko, Viktor 274
  
- Zaporizhzhia Nuclear Plant 276
- Zarogianni, F. 137–163
- Zelensky 275, 277
- Zionism: in 21st century 131;
  - establishment of state of Israel and Israel-Arab state wars 129–131;
  - pre-WWII period 127–129; pro-Israel United States 133–134
- Zionist colonization of Palestine 169