THE IMPACT OF THE RUSSIAN INVASION OF UKRAINE ON PEACE AND SECURITY IN AFRICA

Policy Brief
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CONTENT

EXECUTIVE SUMMARY

The African Union and African countries play an important role in global governance and international security. The escalation of Russia's invasion of Ukraine into a full-scale war in 2022 rippled into multiple complex crises and underscored the need for collective action to ensure global peace. The high-level Africa Peace Mission, the first of its kind to address the conflict outside the continent, proves the importance of finding a long-lasting solution to the ongoing war. However, a solution for peace is yet to be found.

This policy brief explores three existing challenges to the international security system highlighted by the Russian invasion, examining their potential impacts on the continent and proposing measures to mitigate the negative effects.

1. The United Nations Security Council (UNSC), paralysed by one of its permanent members' veto rights, proved unable to respond efficiently and promptly to the war, causing further global damage to the institution's credibility and rendering threats more challenging to address. **Delays in implementing systematic UN reforms to overcome the UNSC members' veto rights will likely further deteriorate global security and humanitarian conditions. As a first step, this document suggests giving the UN General Assembly the right to overturn a UNSC permanent member's veto.**

    While the UN system aims to maintain international peace and security worldwide, the number of conflicts in the last decade has increased precipitously. This is partially due to the unequal distribution of power among countries, as the five permanent members of the UN Security Council (UNSC)—China, France, the Russian Federation, the United Kingdom, and the United States—have more power through their right to veto any UNSC decision.

    Russia's veto blocked the UNSC's action against the Russian invasion of Ukraine in 2014. On 24 February 2022, Russia, while holding the presidency of the UNSC, launched a full-scale war by invading a fellow UN member.

2. **The neglect of international obligations and the continuous threat of violence and nuclear blackmail by a nuclear-armed state against non-nuclear nations endangers the core of international non-proliferation, increasing the risk of non-nuclear nations pursuing their own weapons of mass destruction.**

    The Russian invasion of Ukraine was the first war of a state with nuclear weapons against a country that gave up its nuclear weapons and joined the Non-Proliferation Treaty (NPT). As a result of the 1994 Budapest Memorandum[1], Ukraine completely denuclearised as it gave up the world's third-largest nuclear arsenal, while the US, the UK, and Russia signed security assurances to defend Ukraine's territorial integrity and sovereignty. The invasion of the denuclearised country and the increased number of nuclear threats by global powers undermines the barriers against nuclear escalation and promote proliferation.

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1 Memorandum on security assurances in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons (1994) p.169 https://treaties.un.org/doc/Publication/UNTS/Volume%203007/Part/volume-3007-I-52241.pdf

3. **Never since 1945 has a permanent member of the UN Security Council used military aggression to annex territory and redraw the borders of a sovereign state that gave up nuclear weapons.**

- In October 2022, Russia signed changes to its Constitution claiming four regions of Ukraine: Luhansk, Donetsk, Zaporizhzhia, and Kherson oblasts being part of the Russian Federation[2]. Russian forces do not control the whole territory they claim they annexed.

- In March 2014, Russia militarily annexed the Crimean Peninsula, a territory of Ukraine.

Russia's war against Ukraine is part of the Vladimir Putin regime's geopolitical strategy to restore the "Great Russian Empire" by deconstructing sovereign neighbouring countries. The annexation of territories is done by:

- Sending the para-military non-registered groups like Wagner or similar to create the impression of internal conflict;

- Organising election-like events that are used to justify the land-grabbing;

- Approving national legislation to legitimise the annexation.

Such actions endanger the fundamentals of international law and the universal principles of the UN Charter. Being a colonial land grab at its core, the Kremlin's aggression, if unpunished, opens a "Pandora's box" of modern-day precedents that could spark hundreds of military conflicts worldwide, many involving nuclear powers. **To reduce the number of conflicts globally, the UN Charter's pillars of sovereignty and territorial integrity must be the cornerstone of the future Russian-Ukrainian war peace resolution.**

The Ukrainian case shows how global powers can abuse their dominant position against a smaller state and that there is a lack of mechanisms to defend the country under attack by global powers. It is in the interest of all African states and Ukraine to change the geopolitical power balance in a way that prevents the abuse of the global powers in the future.

The mechanism for a provisional review and amendment of the UN Charter is also built in Article 109, which enables a special "Charter Review Conference" to be convened by a two-thirds majority of the UN General Assembly and a single vote from the nine-member Security Council. Such a vote cannot be vetoed by the permanent members and would be relatively democratic, since Article 109 states that "each member of the United Nations shall have one vote".

African countries, in partnership with Ukraine, can draft a General Assembly resolution to put a Charter Review Conference on the agenda and secure a two-thirds majority in the General Assembly. Such a Review Conference would have the power to alter the UN Charter and introduce new provisions that would provide more power to the UNGA, increase the representation of

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2 'Putin approves ratification of treaties to admit new regions to Russia' Tass. 5 October 2023 https://tass.com/politics/1517899

African countries at the UNSC, and transform the UNSC into a more multilateral system. The amendment of the UN Charter should also introduce a "conflict-of-interest" rule that would preclude a state from vetoing a draft resolution on a conflict in which the state is directly or indirectly involved.

Key objectives:

- Provide an understanding of the key challenges that the Russian invasion poses for global governance, and the African continent;
- Build a better understanding of the challenges on the way to long-lasting peace in Ukraine;
- Identify the common grounds for the reform of the UN;
- Provide concrete steps that can be taken by the governments of African countries and the AU to reduce the negative impacts of the Russian invasion on the continent and to amplify the African voice in global governance.

ACRONYMS

AU – African Union

UN – United Nations

UNSC - United Nations Security Council

UNGA - United Nations General Assembly

NPT - Non-Proliferation Treaty

WMD – Weapon of Mass Destruction

NWFZ - Nuclear Weapons Free Zone

INTRODUCTION

In May 2024, the United Nations Security Council (UNSC) unanimously adopted a statement aimed at strengthening the role of African countries in addressing global security and development challenges. There is no doubt that representing the youngest continent, the African Union and African countries play an important role in global governance and international security.

The existing international security system - the United Nations and the UN Security Council - was created in 1945 to maintain international peace and security and to achieve cooperation among nations on economic, social, and humanitarian problems. It does not reflect the current economic, demographic, and geopolitical reality that has changed significantly over the last 80 years. Moreover, there has been a dramatic increase in conflict and violence during the last decade[3], proving it is high time to re-balance the current international security system.

The imbalance of the international security system is built via the UN Security Council power distribution. China, France, Russia, the United Kingdom, and the United States have, through their permanent member status and veto rights, exerted outsize influence over African nations as well as over many other countries, including Ukraine.

The imbalance created by the veto rights of the permanent members of the UNSC allowed major powers to use force despite claiming to uphold an international system of global governance based on rules. Controversies of the military interventions can be found in the NATO bombardments of Yugoslavia and Libya, the U.S.-led invasions of Afghanistan and Iraq, the Russian invasions of Georgia and Ukraine, and the many powers fighting in the territory of Syria. It is a critical time for reforming the UN system in a way that would allow for the increase of African agencies and a re-balance of the UNSC to prevent the use of force.

The Russian invasion of Ukraine was done at the time when Russia was holding the presidency of the UNSC and demonstrated how a large-scale military intervention results in a negative impact on complex social-environmental-economic systems. Africa has been disproportionately affected by the Russia-Ukraine war due to higher sensitivity to the interrupted supply of food, fuel, and fertilisers from the two countries.

The two countries at war provided 30% of the global wheat supply, and blocking the Black Sea completely cut off Ukraine's 9% share and disrupted supply from Russia[4]. By the end of 2023, Russian forces launched about 7,400 missiles and 3,900 Shahed drone strikes[5]; the war cost Russia at least USD132bn[6]. However, an even more significant impact came in the increases of global military spending by 6.8% worldwide in 2023, with a record-high of USD2.4tn[7], resulting in a substantial decrease in expenditures for developmental, social, and environmental goals globally.

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3 The Uppsala Conflict Data Program (UCDP) https://ucdp.uu.se/encyclopedia
4 What does the future of food security look like after the collapse of the Black Sea grain deal? July 2023. Anna Nagurney, Eugene M. Isenberg Chair in Integrative Studies, University of Massachusetts Amherst https://www.weforum.org/agenda/2023/07/food-security-black-sea-grain-deal/
5 Russia has fired 7,400 missiles, 3,700 Shahed drones in war so far, Kyiv says. Reuters. Dec. 2023. https://www.reuters.com/world/europe/russia-has-fired-7400-missiles-3700-shahed-drones-war-so-far-kyiv-says-2023-12-21/
6 Shatz, Howard J. and Clint Reach, The Cost of the Ukraine War for Russia, RAND Corporation, RR-A2421-1, 2023. As of June 13, 2024: https://www.rand.org/pubs/research_reports/RRA2421-1.html
7 SIPRI 2024: https://www.sipri.org/sites/default/files/2024-04/2404_fs_milex_2023.pdf

The African peace mission to Ukraine and Russia on June 16-17, 2023, the first mission from African states that addressed a conflict outside the continent, is a testament to the importance of finding a solution to the war that puts the international world order at such a risk. The delegation that met with both President Volodymyr Zelensky of Ukraine and then with President Vladimir Putin of the Russian Federation included leaders from seven countries: Comoros, Congo-Brazzaville, Egypt, Senegal, Uganda, and Zambia and was led by South Africa.

The mission announced a 10-point proposal and indicated a willingness to work together on resolving the conflict. Many points proposed by the African peace mission correspond to the Ukraine Peace Formula points proposed by Ukrainian President Volodymyr Zelensky a year earlier, in November 2022.

*Table 1. **African Peace Mission Proposal announced in June 2023***

1. It is imperative that all sides listen to each other respectfully.
2. The ongoing conflict can only be settled through dialogue and negotiations.
3. Steps towards de-escalation on both sides must be prioritised.
4. The sovereignty of countries in terms of the UN Charter and internationally recognised principles should be recognised.
5. Security guarantees are essential for all countries in the world.
6. The movement of grains across the Black Sea must be opened up to remove blockages so that commodities can reach markets.
7. Humanitarian efforts must be set up for those affected by the conflict.
8. Steps must be taken to release prisoners of war by both Russia and Ukraine, and children affected by the conflict must be protected and returned to where they are from.
9. Post-war reconstruction efforts must be prioritised following a cessation of hostilities.
10. Further engagements should be held to encourage more dialogue through the Africa Peace Mission.

Many African countries are part of the regular meetings of the National Security Advisors and Foreign Policy Advisors on the Ukrainian Peace Formula[8].

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8 These meetings took place in Denmark (June 2023), Saudi Arabia (August 2023), Malta (October 2023), Switzerland (Jan. 2024)

*Table 2. **Ukraine Peace Formula proposed by Ukrainian President V. Zelensky** [9]*

1.   Radiation and nuclear safety, focusing on restoring security around Europe's largest nuclear power plant, Zaporizhzhia in Ukraine, which is now Russian-occupied.
2. Food security, including protecting and ensuring Ukraine's grain exports to the world's poorest nations.
3. Energy security, with a focus on price restrictions on Russian energy resources, as well as aiding Ukraine with restoring its power infrastructure, half of which has been damaged by Russian attacks.
4. Release of all prisoners and deportees, including war prisoners and children deported to Russia.
5. Implementation of the UN Charter and restoration of Ukraine's territorial integrity and the world order
6. Withdrawal of Russian troops and the cessation of hostilities, the restoration of Ukraine's state borders with Russia.
7. Justice, including the establishment of a special tribunal to prosecute Russian war crimes.
8. Immediate protection of the environment and the prevention of ecocide, with a focus on demining and restoring water treatment facilities.
9. Prevention of an escalation of conflict and building security architecture in the Euro-Atlantic space, including guarantees for Ukraine.
10. Confirmation of the war's end, including a document signed by the involved parties.

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9 Ukraine's Peace Formula Philosophy. President Zelenskyy Peace Formula. Nov. 2022. https://www.president.gov.ua/storage/j-files-storage/01/19/53/32af8d644e6cae41791548fc82ae2d8e_1691483767.pdf

2. UN REFORM: AFRICAN AGENCY AND BALANCING UNSC AND UNGA

The UN's collective security system is at risk of being de-legitimised by the egregious actions of some of its most powerful members who indiscriminately yield the veto power to pursue their own interests. This system not only excludes a majority of the world's population from international decision-making but also often leaves them at the mercy of hostile powers and forces. It is a critical time to correct the balance at the UNSC by ensuring better power distribution and representation. That does not necessarily mean throwing the UN baby out with the bathwater, but it does mean reimagining multilateralism and redesigning international institutions to create a more balanced global system of collective security.

The UNSC holds the highest authority within the UN, able to demand actions, authorise sanctions, and employ force, including deploying peacekeepers and conducting voluntary military operations by member states. In many ways, the UNSC is exclusionary towards the African continent despite more than 60% of its agenda focusing on Africa[10]. Yet there are no African states among the Security Council's permanent members who are empowered to veto any resolution. The continent must make do with three rotating non-permanent member seats that lack veto powers.

It is a travesty of justice that African countries can only participate in deliberations and negotiations about their own futures on such unequal terms. For the UNSC system to be more balanced, there is a need for a counterweight for permanent members with veto power.

Africa has made the case for reform of the UN system before. In March 2005, the AU issued a proposal for reforming the world body named Ezulwini Consensus: "in 1945, when the UN was formed, most of Africa was not represented and that in 1963, when the first reform took place, Africa was represented but was not in a particularly strong position."[11] The AU stated that "Africa is now in a position to influence the proposed UN reforms by maintaining her unity of purpose," adding that "Africa's goal is to be fully represented in all the decision-making organs of the UN, particularly in the Security Council."[12]

The proposal calls for a more equal distribution of seats, requiring two permanent seats, with full veto rights and at least three additional non-permanent seats for the African continent. Despite some of the veto-right countries being more supportive of reform than others, for almost 20 years, there has been no breakthrough in introducing African countries to the UNSC.

Partially, the lack of progress might be due to the proposed concept, which accepts the idea of regional superpowers that some African countries would have more power than others. If accepted, this proposal might create an imbalance between African countries and legitimise the subjugation of neighbouring countries.

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10 Africa can become more influential in the UN Security Council. Institute for Security Studies. 2020. https://issafrica.org/iss-today/africa-can-become-more-influential-in-the-un-security-council
11 The Common African Position on the UNSC Reform. Ezulwini Consensus. African Union Commission. 2005. https://papsrepository.africa-union.org/handle/123456789/2103
12 Ezulwini Consensus.2005.

Instead, a new system might consider shifting power to collective structures, such as the African Union, rather than selected countries.

In practice, African states are not the only ones suffering from the unequal distribution of power in the UNSC and from the veto right. As the Ukrainian case proves, any country that does not have the veto power is at risk of being unable to defend its basic rights.

2.1 CASE 1. UKRAINIAN SOVEREIGNTY AND THE CRISIS
OF THE UN SECURITY SYSTEM

Russia militarily invaded Ukrainian territory in February 2014, but being at the UNSC council allowed Russia to block any resolutions that would lead to restriction of the invasion. Moreover, when in February 2022, Russia escalated its invasion to a full-scale war against Ukraine; it was holding the presidency seat at the UNSC.

Contrary to the UNSC stalemate, the United Nations General Assembly (UNGA) remains an effective UN body capable of reaching reasonable and objective decisions. In the Ukrainian case, in striking contrast to the UNSC, the UNGA numerously voted to condemn Russian unjust aggression against Ukraine with a vast majority of votes.

Table 3. ***Examples of how the majority of the UNGA is overpowered by the UNSC members with the veto-right***

UNSC	UNGA
March 15, 2014 The UNSC resolution on Crimea reaffirmed Ukraine's "sovereignty, independence, unity and territorial integrity" and declared that a referendum which could lead to Crimea's break with Ukraine and union with Russia, "can have no validity". **13 members supported. Russia - vetoed**	**March 27, 2014** the UNGA approved a resolution declaring invalid the March 16 Crimean referendum to secede from Ukraine (A/RES/68/262). **100 in favour, 11 against**
February 25, 2022 The UNSC resolution on Ending Ukraine Crisis, which recognised that the Russian Federation's aggression violated Art 2, p 4 of the UN Charter and called on Russia to immediately cease its use of force against Ukraine, and withdraw all its military forces immediately, completely, and unconditionally from that country's territory. **11 members supported. Russia - vetoed**	**March 2, 2022** UNGA adopted a resolution on Aggression against Ukraine, where it condemned Russia's invasion of Ukraine and demanded a full withdrawal of Russian forces and a reversal of its decision to recognise the self-declared People's Republics of Donetsk and Luhansk (A/RES/ES-11/1). **141 in favour, 5 against**

September 30, 2022 The UNSC draft resolution on "Maintenance of peace and security of Ukraine" (S/2022/720), which addressed the "Illegal So-Called Referenda in Ukraine''. The draft text condemns Russia's annexation of four Ukrainian regions, as "a threat to international peace and security", demanding that the decision be immediately and unconditionally reversed. **11 members supported. Russia - vetoed**	October 12, 2022 UNGA adopted a resolution on Territorial integrity of Ukraine: defending the principles of the Charter of the United Nations where its demanded the reversal of the illegal annexation of Ukrainian territories (A_RES_ES-11_4). **143 in favour, 5 - against**

Resolutions adopted in the UNGA carry political weight, but they are not binding, unlike UNSC resolutions, which is where the real power resides at the United Nations. Currently, nations directly involved in any specific matter - subject to the UNSC decision are not prevented from using the veto right in such cases.

As this case shows, the UN Security Council cannot restrict the aggression of members with the UNSC veto right and should be updated so that none of the UNSC permanent members could block the entire UN mechanism.

2.2 POTENTIAL RESOLUTIONS FOR THE UNSC CRISIS

Unlike the UNSC, the UNGA is more inclusive and includes a wide representation of the respective African nations. UNGA is the main policy-making body of the UN system. It includes all Member States and offers a unique platform for multilateral discussion of the full range of international issues in the UN Charter.

The UNGA can serve as an alternative instrument to balance off the UNSC when and if the latter is eventually blocked by one of its permanent members and is unable to reach a decision effectively. UNGA's role and effective status need to be increased by providing it with the right to overpower the veto right by two-thirds of all members. In such cases, the UNGA resolution should be binding for all member states.

The current crisis of the international security system also provides an opportunity for African countries to begin a new process for reforming the multilateral system. The mechanism for a provisional review and amendment of the UN Charter is also built in Article 109, which enables a special "Charter Review Conference" to be convened by a two-thirds majority of the UN General Assembly and a single vote from the nine-member Security Council. The permanent members cannot veto such a vote, and it would be more balanced since Article 109 states that "each member of the United Nations shall have one vote".[13]

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13 United Nations Charter, Chapter XVIII: Amendments Article 109 https://www.un.org/en/about-us/un-charter/chapter-18

A reform of the United Nations Charter requires a two-step process. Firstly, the UN General Assembly needs to adopt the reform by at least two-thirds of the members. Secondly, the changes must be ratified domestically by at least two-thirds of the UN members, including all five permanent members of the UNSC.[14]

While the second part of the reform might be a long-term process, it is important that African countries, in partnership with Ukraine, draft a General Assembly resolution to put a Charter Review Conference on the agenda and secure a two-thirds majority in the General Assembly to reduce the veto rights of UNSC permanent members. Such a Review Conference would have the power to substantially alter the UN Charter and introduce new provisions that would provide more power to the UNGA increase the representation of African countries at the UNSC, and transform the UNSC into a more multilateral system.

The amendment of the UN Charter could also introduce a "conflict-of-interest" rule that would preclude a state from vetoing a draft resolution on a conflict in which the state is directly or indirectly involved. Ukrainian President Zelensky has already voiced the desire to implement such changes.[15]

14 U.N. Charter, June 26, 1945, art. 108.
15 The use of veto power requires reform, and this can be a key reform in the UN – address by the President of Ukraine at the UN Security Council meeting. President of Ukraine (2023) https://www.president.gov.ua/en/news/zastosuvannya-prava-veto-potrebuye-reformuvannya-i-ce-mozhe-85745

3. NON-PROLIFERATION & AGGRESSION OF THE NUCLEAR STATE AGAINST THE STATE THAT JOINED NPT

In July 1964, the African heads of state and government adopted the Cairo Declaration, which subsequently led, in 2009, to the adoption and ratification of the Pelindaba Treaty, which outlines a policy position to render Africa a Nuclear Weapons Free Zone (NWFZ), with a specific commitment to not manufacture, acquire or control nuclear weapons.[16] African leaders are committed to the Nuclear Non-Proliferation Treaty, but they also recognise the inalienable right of countries to utilise nuclear energy for peaceful purposes, including scientific and technological development. African leaders have highlighted the double standards and hypocrisy of nuclear-wielding states in not upholding the NPT and have consistently criticised its discriminatory nature. In this regard, the African continent has expressed concern when major powers and nuclear states are aggressive against nuclear-free countries.

3.1 CASE 2. UKRAINE GAVE UP NUCLEAR WEAPONS AND JOINED THE NPT

Besides the veto right, the possession of nuclear weapons by certain states is another reason for the unequal distribution of power between countries.

In the 1991 national referendum, 90.3% of the Ukrainian population voted in support of independence from the Soviet Union[17]. At the time of independence, Ukraine possessed the world's third-largest nuclear arsenal, almost 5,000 nuclear weapons. After being a part of the Soviet Union for many years and playing part of the Cold War proxy, Ukraine, in its 1996 Constitution[18], committed to having no military bases on its territory. The only existing military base was the Russian fleet in Crimea. Thus, Ukraine and Russia signed the agreement requiring the Russian fleet to move out of the Ukrainian territory by 2017.[19]

On December 5, 1994, Ukraine signed the Memorandum on security assurances in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons, also known as the Budapest Memorandum.[20]

This agreement, established in accordance with the 1975 Helsinki Accords, was signed by the UK, the USA, and the Russian Federation and provided their "obligation to refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, and that none of their weapons will ever be used against Ukraine".[21] France and the People's Republic of China have issued separate letters of support to the Budapest Memorandum in exchange for Ukraine's full nuclear disarmament and accession to the NPT.

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16 African Nuclear Weapon Free Zone Treaty (1995) https://treaties.unoda.org/t/pelindaba
17 On December 1, 1991 the All-Ukrainian Referendum took place in which 90.32% of citizens supported the Act of Independence of Ukraine adopted by the Verkhovna Rada (Parliament).
18 Article 17, Constitution of Ukraine. 1996. https://faolex.fao.org/docs/pdf/ukr127467E.pdf
19 Article 25. The Partition Treaty on the Status and Conditions of the Black Sea Fleet consists of three bilateral agreements between Russia and Ukraine. 28 May 1997 https://zakon.rada.gov.ua/laws/show/643_076#Text
20 Memorandum on security assurances in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons (1994) p.169 https://treaties.un.org/doc/Publication/UNTS/Volume%203007/Part/volume-3007-I-52241.pdf
21Ibid

This decision underscored Ukraine's commitment to non-proliferation efforts and paved the way for international cooperation on nuclear issues. By joining the treaty, Ukraine reaffirmed its dedication to the principles of disarmament, nuclear energy development, and peaceful international collaboration.

Under the Budapest Memorandum, Ukraine received several key assurances:

- Territorial Integrity: to "respect the independence and sovereignty and the existing borders of Ukraine".

- Non-Aggression: to "refrain from the threat or use of force against the territorial integrity or political independence of Ukraine".

- Economic Cooperation: The parties undertook to promote economic cooperation with Ukraine.

- Defence: to seek "*immediate United Nations Security Council action to provide assistance to Ukraine*" (the Russian Federation blocked such actions).

- In return for these assurances, Ukraine made specific commitments, including:

- Nuclear Disarmament: Ukraine agreed to eliminate its strategic nuclear weapons, becoming a non-nuclear-weapon state.

- NPT Accession: Ukraine is committed to becoming a party to the NPT and adhering to its principles, including pursuing nuclear energy for peaceful purposes.

Figure 1. Budapest Memorandum - assurance guarantees and nuclear disarmament

In February 2014, Russia invaded Ukraine. In response to the Russian invasion of Ukraine on **Mar 1, 2014**, Ukraine called for the meeting of parties of the Budapest Memorandum[22]. Canada, France, Germany, Italy, Japan, the UK, and the US stated that Russian involvement was a breach of its Budapest Memorandum obligations to Ukraine and in violation of Ukrainian sovereignty and territorial integrity.

On **Mar 4, 2014**, Russian President V. Putin denied attendance at the party meeting, challenging the existence of Ukraine as a state and the necessity to comply with the bilateral agreements *"And this would be a new state with which we have signed no binding agreements."*[23]

Events in Ukraine, starting with Russia's annexation of Crimea in 2014, have raised questions about the effectiveness of the Budapest Memorandum in ensuring Ukraine's security. The annexation was a direct violation of the territorial integrity of Ukraine; however, no effective defence mechanisms were provided due to the limitations of the guarantees.

Moreover, after the full-scale invasion in 2022, Moscow utilised the tactical nuclear delivery systems brought from Ukraine after December 1994 to target Ukrainian civilians. According to the Military Intelligence of Ukraine and journalists' investigations, Russia used the X-55 cruise missiles formerly stored in Ukraine to target Ukrainian civilian infrastructure. [24]

3.2 IMPLICATIONS OF UKRAINE'S EXPERIENCE FOR GLOBAL NON-PROLIFERATION POLICIES AND AFRICAN NWFZ MEMBERS

What message does Ukraine's experience send to other states asked to participate in non-proliferation policies? The prioritisation of nuclear disarmament has diminished, and future efforts toward it may stagnate. Additionally, the invasion may have reinforced other countries' commitment to their own nuclear deterrents, thereby limiting the scope for dialogue and diplomacy.

This is significant as it undermines the safety of all countries that are part of the non-proliferation treaty, including members of African NWFZ. To protect the interests of African countries that are part of NWFZ, it is important that:

- Any nuclear-capable nation waging open aggression against a non-nuclear state is held accountable for its actions so as not to reaffirm other nuclear armament pursuits.

- A set of internationally institutionalised instruments to guarantee security (preventing possible aggression or providing the nation under attack all means necessary to repel any foreign hostile act successfully) for non-nuclear nations needs to be discussed and established.

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22 U.S./U.K./Ukraine Press Statement on the Budapest Memorandum Meeting. 05 March 2014 https://mfa.gov.ua/en/news/18939-zajava-dlya-presi-ssha-velikoji-britaniji-ta-ukrajini-za-pidsumkami-zustrichi-stosovno-budapeshtsykogo-memorandumu
23 Vladimir Putin answered journalists' questions on the situation in Ukraine. March 4, 2014. http://en.kremlin.ru/events/president/news/20366
24 Andrushko S. Tolstiakova K. '23 years ago Kyiv gave to Moscow the missile for gas debts. Now Russia strikes Ukraine with them / 23 роки тому Київ віддав Москві ракети за газові борги. Тепер Росія обстрілює ними Україну' https://www.radiosvoboda.org/a/skhemy-23-roky-tomu-kyyiv-viddav-moskvi-rakety-za-hazovi-borhy-teper-rosiya-obstrilyuye-nymy-ukrayinu-/32532453.html

4. PRINCIPLES OF SOVEREIGNTY AND TERRITORIAL INTEGRITY

Kenya's ambassador to the UN, Martin Kimani, won widespread praise in the run-up to Russia's all-out invasion in February with a <u>speech to the Security Council</u> noting that African countries had "settled for the borders we inherited from European colonial powers, in part because the alternative would have been 'new forms of domination and oppression'".[25]

4.1 SOVEREIGNTY, TERRITORIAL INTEGRITY, AND INTERVENTION: INSIGHTS FROM AFRICA

Respect for the borders of nation-states is one of the fundamental aspects of international law and is enshrined in various treaties and declarations, such as the United Nations Charter. It upholds a state's sovereignty and political independence, ensuring each state's territory is respected and not subject to external aggression or fragmentation.

> *Article 2 (4) of the Charter prohibits the threat or use of force and calls on all Members to respect the sovereignty, territorial integrity, and political independence of other States.[26]*

However, this principle did not stop conflicts within the African continent; the number of conflicts remains high. For many countries, a pressure cooker effect can be observed in situations when increasing internal tensions have fostered cutthroat contestation to capture the state for the benefit of specific social groups (ethnic, religion, class, or other such groupings). In Africa, the worst consequences of this pressure cooker effect were witnessed in the 1994 genocide in Rwanda, as well as unresolved conflicts in the east of DRC, Burundi, South Sudan, Somalia, CAR, Mali, and historically in conflicts in Sierra Leone, Liberia, Mozambique, and Angola. This effect of contested sovereignty is also evident in forgotten conflicts in the Casamance region of Senegal, the Caprivi Strip in Angola, and secessionist tensions in the Comoros. In December 2008, President Abdullahi Yusuf resigned, stating that Somalia had been overrun by armed militia and that he could not legitimately exercise power or control, which are key attributes for a state that claims to have sovereignty over a particular territory.

Sovereignty implies that all states are equal in status and possess the right to determine their own destiny, free from external coercion or domination.

On the African continent, the AU has taken the primary responsibility for establishing and operationalising the continent's peace and security structure. The 2002 Constitutive Act of the AU <u>has entrenched the right to intervene</u>,[27] which means that African countries have to agree to give up some of their sovereign powers to enable the AU to act as the ultimate guarantor and protector of the rights and well-being of the African people. The intervention can be done in response to war crimes, genocide, and crimes against humanity.

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25 Kenyan U.N. ambassador compares Ukraine's plight to colonial legacy in Africa (2022) <u>https://www.npr.org/2022/02/22/1082334172/kenya-security-council-russia</u>
26 Charter of the United Nations 1953. <u>https://legal.un.org/repertory/art1.shtml</u>
27 <u>https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf</u>

In those situations, the defending of universal human rights of the population is, to a certain extent, restricting the principles of Sovereignty. The cases of interventions of the regional bodies into the sovereign state happened in the case of Burundi, Darfur, Somalia, and Comoros. Allowing the AU or UNSC to intervene in conflicts in which the respective governments not only failed but in fact, perpetuated violence against certain groups of people allowed them to save lives and protect peace.

The significant difference between the AU and UNSC interventions and the Russian invasion of Ukraine is that no significant human rights violations were recorded in Ukraine. In contrast, the 2016 UNOCHA report clearly states:

> *"The armed conflict in certain districts of Donetsk and Luhansk regions, which has been ongoing since mid-April 2014 and which is fuelled by the inflow of foreign fighters and weapons from the Russian Federation, including former servicemen and servicemen on leave, accounts for the majority of violations of the right to life in Ukraine over the last two years."* [28]

Secondly, the Russian invasion is the invasion of one state and not a collective decision. The interventions conducted by the AU and UNSC do not aim to annex the territory of another state and should not be equated to the situation when one country is grabbing (colonising) the land of another country.

The case of the Russian invasion and annexation of the territory of Ukraine provides a dangerous precedent of land grabbing while pretending the reason is the protection of human rights.

4.2 CASE 3. TERRITORIAL CLAIM AS A KEY CHALLENGE FOR THE LONG-LASTING JUST PEACE IN UKRAINE

Over the past two decades, there has been a significant increase in the deployment of hybrid warfare tactics, where paramilitary groups are paid/supported by aggressor states/actors to destabilise other countries. Unregistered private military groups do not have to comply with any international legislation as they are not officially linked to the government. At the same time, if those companies are not registered in the country, they are also not regulated by the national legislation. The deployment of these paramilitary groups claimed as independent, provides aggressor states with plausible deniability and shields those states from accountability for the acts of violence that were committed.

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28 Office of the United Nations High Commissioner for Human Rights (OHCHR). "Report on the human rights situation in Ukraine." January 2014 - May 2016. https://www.ohchr.org/sites/default/files/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016_EN.pdf

The case of Russian invasion of Ukraine that started in 2014 used such hybrid warfare to annex the territory of an independent state via three stages:

1. Invasion by the Russian government-controlled paramilitary groups.

2. Staging sham referenda that do not comply with the democratic election processes.

3. Annexing territory by the Russian legislation.

4.2.1 Paramilitary groups and hybrid war

According to Putin's own account, on the night of February 20, 2014, he personally gave the order to seize Crimea.[29] However, the recognition of Russian military involvement only came in March 2015; in March 2014, despite the overwhelming evidence of a Russian military presence in Crimea and the eastern part of Ukraine, Putin denied the presence of Russian military forces in Crimea, suggesting that the military forces present in Ukraine can look like Russian military forces, as "There are many uniforms there that are similar. You can go to a store and buy any kind of uniform."[30]

But if buying the uniform sounds realistic, the Russian mercenary groups also possessed heavy weaponry. One of the mercenary groups led by Igor Girkin/Strelkov was responsible for shooting down the civilian MH17 flight, killing 283 passengers and 15 crew members using the Russian-supported "Buk" SAM system on July 17, 2014. On November 17, 2022, the District Court of The Hague ruled that the three individuals associated with Russia (Igor Girkin, Sergey Dubinsky, and Leonid Kharchenko) were found guilty and sentenced to lifetime imprisonment; one was acquitted.

In 2016, the International Criminal Court recognised that Crimea was occupied by Russia within the meaning of International Humanitarian Law and that Russia was militarily involved in the conflict in the eastern part of Ukraine[31]. Two days later, Russia has withdrawn its signature from the Rome Statute and ICC[32].

To disguise its involvement in the east of Ukraine, Russia has established intelligence services-controlled paramilitary and mercenary groups (PMC) that were not registered. One of the most known PMCs that was initially established to conduct military activities in Ukraine[33] and now is largely present on the African continent is PMC "Wagner Group".[34]

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29 In movie "Crimea. The return home" released in March 2015 Putin explained that in Feb 2014 he told his colleagues, 'We are forced to begin the work to bring Crimea back into Russia'.

30 Vladimir Putin answered journalists' questions on the situation in Ukraine. March 4, 2014. http://en.kremlin.ru/events/president/news/20366

31 ICC (14 Nov 2016) Report on Preliminary Examination Activities. https://www.icc-cpi.int/sites/default/files/iccdocs/otp/161114-otp-rep-PE_ENG.pdf

32 Russia has withdrawn from ICC (2016) https://ria.ru/20161116/1481485239.html

33 Marten, K. (2019). Russia's use of semi-state security forces: the case of the Wagner Group. Post-Soviet Affairs, 35(3), 181–204. https://doi.org/10.1080/1060586X.2019.1591142

34 Bryjka F. Czerep J. 'Africa Corps – A New Iteration of Russia's Old Military Presence in Africa'. Pims Report. May 2024 https://www.pism.pl/webroot/upload/files/Raport/PISM%20Report%20Africa%20Corps_.pdf

Private military companies are illegal in Russia. Vladimir Putin has multiple times denied the links between the PMC "Wagner" and the Russian state[35]. Nevertheless, on 27 June 2023, following Eugeniy Prigozhyn's - the leader of the PMC Wagner - appraisal, Putin confirmed that the Russian state fully funded "Wagner" from the country's state budget. According to Putin, from May 2022 to May 2023 alone, the Russian state paid 86.262 billion Rubles to the group, approximately USD 940 mn[36]. Such PMCs continue to work in the Kremlin's interest in various parts of the world, including on the African continent, while remaining invisible to international law.

Even after this acknowledgement, Russian irregular military assets continued to operate virtually unchecked, carrying out open terrorist missions against Ukrainian and foreign civilians as part of the Russian aggression campaign.

Such PMCs played a key role in the first stage of hybrid aggression against Ukraine in 2014, providing the Kremlin with the necessary deniability potential to further claim certain parts of Ukrainian sovereign territory as Russia's own. They also became a go-to instrument of Russian intelligence services' influence operations, an integral part of the Kremlin's foreign policy.

Wagner's involvement in Africa has been marked by controversial and often brutal tactics, which have exacerbated violence and instability in regions already facing severe security challenges. The group's operations have led to increased civilian casualties and human rights violations, undermining the supposed security they provide[37]. Additionally, Wagner's presence has disrupted local military dynamics, causing internal conflicts and morale issues within national armed forces due to perceived reliance on foreign mercenaries.

Overall, the Wagner Group serves as a critical tool in Russia's strategy to gain political and economic footholds in Africa, supporting regimes in exchange for access to valuable resources while furthering Moscow's global strategic interests.

Patterns of Russia's using irregular/mercenary paramilitary forces as a hybrid aggression tool to achieve its foreign policy could be applied to any nation where the Kremlin sees its potential for influence.

4.2.2 Sham referendums as a pretend for annexation

On September 30, 2022, Russia, amid an ongoing invasion of Ukraine, unilaterally declared its annexation of areas in and around four Ukrainian oblasts (provinces)—Donetsk, Kherson, Luhansk, and Zaporizhzhia[38].

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35 https://www.reuters.com/world/africa/putin-says-moscow-has-nothing-do-with-russian-military-mali-2022-02-08/

36 "Putin says Wagner group fully financed by Russian government" 2.06.23 TASS https://tass.com/defense/1639345

37 Faulkner C. et all. Africa Faces the Unintended Consequences of Relying on Russian PMCs. FPRI https://www.fpri.org/article/2024/05/africa-russian-pmcs/

38 Address on Day of Reunification of the Donetsk People's Republic, Lugansk People's Republic and the Zaporozhye and Kherson Regions with Russia (30 September 2023) http://en.kremlin.ru/events/president/news/72403

According to Russia, the annexation is based on referenda. However, the chronology of the process and the implementation of the so-called popular vote show the manipulations used to claim the territories of another country.

September 20, 2022 Heads of military administrations (appointed by Russian military forces, not official local authorities) announce the referenda in the Zaporizhzhia, Kherson, Donetsk, and Luhansk regions.[39]

September 23-27, 2022 the so-called referenda took place during the full-fledged military conflict.

September 27, 2022 Russian officials claimed that the accession "referendum" in Zaporizhzhia Oblast passed, with 93.11% of voters in favour of joining Russia[40], even though 65% of the population of Zaporizhzhia were not at the Russia-occupied territory and did not participate in the so-called referenda[41]. In addition, this process of annexation was happening during the heavy military activities, and when 6,3mn Ukrainians from the affected territories were registered as refugees and another 3,7mn as internally displaced people[42].

September 30, 2022 Russian authorities announced the four Ukrainian regions as part of the Russian territory.

This 10-day annexation process does not resemble free and independent voting; rather, the Russia-appointed representatives self-declared the results.

4.2.3 Annexation of territories

After Russia-appointed authorities declared the results of "voting", **Russia changed its constitution to include Ukrainian territory as its own**. At the same time, Russia does not control all territories that it has currently recognised as its own (see map). Large parts of Zaporizhzhia, Donetsk, and Kherson regions have never been occupied by Russia, none of the so-called referendas took place in those territories. Nevertheless, they are now declared by the Russian constitution as the territory of Russia.

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39 20 September 2022 - Head of the military administration of Zaporizhzhia signed the document that the referenda has to take place 23-27 September 2022 https://tass.ru/mezhdunarodnaya-panorama/15810305
40 Russian occupation authorities announce first results of sham referendums. Ukrainska Pravda (2022) https://www.pravda.com.ua/eng/news/2022/09/27/7369364/
41 The main city of Zaporizhzhia region was not occupied https://www.pravda.com.ua/rus/news/2022/08/29/7365190/
42 Ukraine situation. UNHCR. Global Focus (2023) https://reporting.unhcr.org/operational/situations/ukraine-situation

This situation opens the opportunity for the Kremlin to activate its military doctrines and nuclear posture as an excuse to escalate the situation with threats of use of the nuclear weapons to "defend" these territories from being liberated by the Ukrainian Armed Forces.

Figure 2. **Russia claimed territory vs Russia occupied territory**

The Russian constitution forbids the Russian Federation from giving back any territory that is declared to be a part of the country. It also allows the Kremlin to activate its military doctrines and nuclear posture as an excuse to escalate the situation with threats of the use of nuclear weapons to "defend" these territories from legitimate Ukrainian authorities. Thus, unless Russia changes its constitution, the conflict cannot be resolved, and Ukrainian territorial integrity cannot be reinstalled.

In September 2023, in New Delhi, India, the leaders of the G20 agreed by consensus on a declaration that respect for the UN Charter, specifically the acquisition of land through the use of force, is prohibited and should be condemned. This highlights the importance of having a global consensus on the matter. However, when discussions involve specific conflicts, the consensus at the international level becomes less agreeable.

Lack of collective action and a strong stance from the AU and its members to defend the principle of territorial integrity pose a risk of 'opening Pandora's box' of many conflicts worldwide,

including on the African continent.

To prevent military aggression on the continent and other parts of the world, a set of mechanisms that would be activated in case any country attempts to violate another state's sovereignty and territorial integrity can be pre-designed.

All of Putin's ultimatums (including the most recent one), which Russian propaganda tries to portray as "peace proposals", are aimed at legalising Moscow's land grab in Ukraine, demanding even more land than Russian occupying troops were able to conquer.

To justify escalating the situation, Russia is using its military doctrines and nuclear position as a pretext to threaten the use of nuclear weapons to "defend" these territories from being taken back by the Ukrainian Armed Forces.

5. KEY POLICY RECOMMENDATIONS

1. The existing international governance system provides additional power to five states that have the right to veto in the UN Security Council. The balance between the UN General Assembly and the UN Security Council should be adjusted, <u>granting UNGA resolutions more authority to overcome the veto power of the UNSC members</u>. This can be achieved via the activation of Article 109 of the UN Charter, which will launch the General Review Conference.

2. The African Union should contribute to initiating wide-ranging discussions on establishing a new multilateral system by activating Article 109 of the UN Charter to convene a Review Conference to map out the pathway to UN 2.0.

3. The annexation of a country that is a Nuclear Non-Proliferation Treaty (NPT) member by a nuclear-armed state undermines NPT efforts. All African states except South Sudan are NPT members. In 1994, Ukraine gave up its nuclear weapons, with France, Russia, the UK, and the USA assuring guarantees to protect its territorial integrity. A new mechanism is needed to <u>restart the global non-proliferation system</u>, repairing the damage from Russian aggression against Ukraine and preventing future nuclear state aggression against non-nuclear nations. Security guarantees for Ukraine could serve as a blueprint for this new instrument.

4. Russia's annexation processes, which it has disguised as referendums, do not correspond to AU principles of free and fair democratic processes. In October 2022, Russia signed changes to its Constitution claiming four regions of Ukraine: Luhansk, Donetsk, Zaporizhzhia, and Kherson oblasts being part of the Russian Federation. Russian forces do not control the whole territory they claim they annexed. The first step towards peace would be to stop claiming the unoccupied territory of Ukraine and to cancel the changes in the Russian constitution. <u>The annexation of territory should be openly condemned</u>, and the principles of sovereignty and territorial integrity should be defended to prevent further increase of military conflicts, including on the African continent.

5. The UN Charter-based world order, with its respect for sovereignty and internationally recognised borders, is key for regional and global security and development. The restoration of a just peace in Ukraine is critical to defending the principles of sovereignty and territorial integrity. <u>The African Union should set up a peacebuilding working group</u> that would involve think tanks and civil society from the continent to continue working on mediation solutions to restore peace in Ukraine.

6. The practice of annexing territories by force steals the future of African people. For the successful development of the African continent, countries around the world must prioritise social and economic development. The annexation of territories of independent sovereign countries by force, like what Russia has done in Ukraine, results in <u>higher global spending on defence instead of developmental targets</u>. Global military spending has already increased by 6.8% to a record-high of USD2.4tn in 2023.

6. ABOUT AUTHORS

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The topics and experts involved:

Regional Security Architecture and Just Peace - power disbalance of the countries with the veto rights at the UN Security Council and under-representation of the African continent.

Experts from the following institutions involved: the Institute of Justice and Reconciliation, Political Department of the University of Cape Town, Centre for Sustainability Transitions, Stellenbosch University, Democratic Initiatives Foundation, National University of Kyiv-Mohyla Academy

Nuclear safety - risks related to the occupation of the Zaporizhzhia Nuclear Power Station.

Experts from the following institutions involved: South African Institute of International Affairs, Dixi Group, Centre for Sustainability Transitions, Stellenbosch University

Forceful deportation of children – which international and regional mechanisms can be used to prevent children's unlawful and forceful deportation and transfer to Russian territories, and how the national identity of children can be protected during the war.

Experts from the following institutions involved: the Centre for Human Rights, the Centre for Child Law, the Regional Centre for Human Rights, and the Centre for Civil Liberties

If you have suggestions or recommendations about the topics presented in these case studies, please do not hesitate to contact Dzvinka Kachur at info@uaza.co.za