Ukraine Options Paper

Multilevel Peace Agreement Design: Dealing with Geopolitical Support

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1.   Introduction: Need for a Geopolitical Dimension to Settlement

Defining the Issue

This contribution examines design options for the geopolitical dimension of any peace settlement for the conflict in Ukraine. Geopolitical settlement is used here to mean: an agreement resolving the geopolitical dimensions of the Russia-Ukraine conflict that is agreed to by the key relevant third-party states and international organisations. 'Relevant third-party states' and 'international organisations' are: states and organisations who have been engaged in the conflict indirectly or directly supporting one side, with a view to their own interests in relation to the conflict outcomes, whether connected to the 'global common good' or not.

'Pre-thinking' through the geopolitical settlement requirements of conflict resolution is important for enabling a 'multi-level peace process' design. To end the conflict, modalities of settlement are needed which will weave together a geopolitical settlement, Ukraine-Russia bi-lateral settlement, and forms of 'internal settlement'. Specifically, this contribution:

- Points to the importance of geopolitical agreement to address dimensions of the conflict that require the active commitment and support of third-party states and organisations to conflict termination (in cases of partial or outright 'victory' for one side).
- Illustrates how geopolitical agreement has been reached and formalised in other contexts.
- Touches on the issues that geopolitical settlement would need to deal with in Ukraine.
- Concentrates on the modalities of how geopolitical agreement relating to the Ukraine-Russia conflict could be captured in a formalised agreement and connected to any settlement terms agreed between Russia and Ukraine.
- Concludes by affirming that the design of the modality of agreement closely relates to how substantive issues are to be framed and resolved. Options regarding 'form' themselves have substantive implications for the position taken by parties with respect to the conflict. Creative use of the form of agreement is therefore important to being able to reach agreement on substance.

The Role of this Issue in the Conflict

The conflict in Ukraine can be understood as a 'complex conflict system', rather than a singular conflict. Complex conflict systems involve interlinked local, national and international conflicts, which operate both separately and together, and related to and sustain competing narratives as to 'what the conflict is about' (a 'meta-conflict') (see Bell 2000; O'Leary & McGarry 1995).

Prior to the current phase of conflict, Wittke identified four different political and/or armed conflicts at play in the 2014 conflict period (Wittke 2019):

(1) A Russian-Ukraine conflict within Ukraine's borders, with Russia having effective and overall control over the instigation, management and trajectory of the conflict.
(2) A conflict between local elites in Donbas and the government in Kiev over demands for greater local self-government.
(3) A conflict among different local elites in East Ukraine who have established and funded paramilitary battalions;
(4) A conflict driven by the masses between supporters of the Euromaidan and their rivals in the so-called Anti-Maidan, usually pro-Russian denizens of East Ukraine who consider the Euromaidan an illegal coup d'état.

These four conflicts are still relevant, although eclipsed and changed by the current phase of the Ukraine-Russia conflict – which can be understood as a new direct bilateral international conflict phase of conflict (1) above.

To these four conflicts a fifth can now be added: the conflict between (loosely) the US and Europe on one side, and Russia on the other, regarding Ukraine's political, military and economic relationship with the EU and NATO on one hand, and its relationship to Russia and perhaps other non-aligned states on the other.

Which of these five conflicts is predominant and drives the others is itself a matter of contestation. While Russia has at times presented its attacks on Ukraine in terms of the need to intervene in the internal conflicts described above, at other times it has presented them as a response to geopolitical actors and dynamics such as the expansion of NATO or the EU to its borders (Weller 2022). The third-party states of Europe and NATO understand the conflict to be between Russia and Ukraine, and any support lent to Ukraine to be based on the UN Charter prohibition of use of force. However, the conflict is also prompting a wider re-alignment of regional membership in these organisations, and the scale of military support to Ukraine is high. These factors will affect settlement terms. All third-party states lending forms of support to conflict actors have wider domestic, regional and international interests bound up in the conflict and its outcomes, even where they assert their own involvement in terms of international legal norms.

The Difficulty Resolving the Conflict Bilaterally

The geopolitical dimensions of conflict mean that forms of geopolitical agreement will be required to end it. Comparative peace processes provide evidence that unwinding 'the main' conflict, usually requires not just 'one big agreement' between the main conflict parties, but a 'multi-level' peace process that brings together settlement of local, national and geopolitical conflicts, ideally in an inter-linked way.

The 2014 conflict and Minsk Agreements illustrate the ways in which a singular bilateral conflict resolution framework can be undone by the failure to connect geopolitical agreement to that framework (although the 'Tripartite Contact Group' mediation formation brought in the Organisation for Security and Cooperation in Europe (OSCE) into agreement-framing). The Minsk Agreements (including Minsk I, the Memorandum on Implementation, and Minsk II), for all their faults, attempted to address many of the conflicts above. The agreements were framed as bilateral, but made commitments addressing the Ukraine-Russia relationship, and the relationship of both Ukraine and Russia to internal conflicts within Ukraine. However, as bilateral agreements that were

short and outline in nature, they did not address how Ukraine would navigate its relationships with the EU and NATO. Nor did they build-in internationalised guarantees for Ukraine and Russia.

The absence of a wider geopolitical conflict settlement process created implementation problems for the Minsk Agreements that had negative consequences for Russia and Ukraine. For Russia, the lack of geopolitical agreement meant that the agreement commitments relating to Ukraine's constitutional structure could be disputed within Ukraine. Rejection of the legal legitimacy of the Minsk Agreements led to implementation challenges within Ukraine, which internationalisation of the agreements might have addressed. For Ukraine, the failure of the EU and NATO to contract directly with Russia, on its concerns regarding their agendas, meant that no geopolitical consensus was reached that could serve to de-escalate the Russia-Ukraine conflict and bring it within an ongoing regional conflict resolution framework. Instead, these issues were left open as matters that somehow only concerned Russia and Ukraine, in ways that risked drawing neighbouring states and international actors into taking sides. Agreement on these issues may have not been possible at that time. However, further consideration of how geopolitical agreement could underpin and connect to a Russia-Ukraine agreement now seems important.

2.   The Substance of Geopolitical Settlement

A key issue that will affect the design of *how* geopolitical agreement is constructed is *what* the content of the settlement is. The settlement terms will be determined by the conflict's outcomes, Ukrainian and Russian balance of power considerations relating to the choices they face, and the stance that other international actors take regarding any settlement.

The issues that logically require geopolitical settlement can be sketched out as follows:

1. Questions on the status, neutrality and sovereignty of Ukraine in terms of membership of international organisations and as recipient of military assistance. Options as to how neutrality and sovereignty are understood and made practical depend on the actions, not just of Ukraine and Russia, but other third-party states and organisations (see Weller, Neutrality Options Paper).
2. The presence of foreign forces beyond those in Russia and those of Russia will likely require international commitments and monitoring mechanisms (see Serry, Cease-fire Options Paper).
3. Issues of non-interference and the EU and NATO security order, for which only the EU and NATO can make a credible commitment (see Kemp, European Security Order Options Paper).
4. International litigation and accountability issues (see Anonymous Expert, Claims Commission Options Paper). International courts have their own criteria and processes of investigation and decision-making. However, third-party states can make commitments as to how and when they will address issues of accountability to the conflict, and accordingly, what agreements between Ukraine and Russia on these issues, will hold.
5. Resettlement of displaced people. As issues of return affect not just Ukraine and Russia, but the international organisations who manage issues of resettlement and return, and the third-party host states, this is an issue that is likely to require some level of geopolitical agreement.
6. Sanctions relief, reconstruction and international financial support. This requires geopolitical agreement between those involved in imposing sanctions, and will need to be linked to whatever settlement is agreed between Russia and Ukraine.
7. Regional stability framework. Any wider regional stability framework would have to be agreed across the region of states and relevant organisations.

While conflict outcomes and the precise settlement terms between Ukraine and Russia will shape the contours of settlement on these issues, none can be resolved by agreement between Russia and Ukraine alone. All require some formal or informal wider geopolitical agreement (and many are addressed by other papers in this series).

3. Options

What then are the options for how geopolitical commitments could be captured in an agreement? There are three main options for how to reach and frame geopolitical settlement. All could be used to agree parameters for settlement, and/or lock-in the international dimensions of any subsequent Ukraine-Russian settlement terms. Indeed, often international agreement starts by trying to establish agreed parameters within which the conflict should be resolved, and builds in international commitments around any settlement outcome (see further [Nash 2019](#)).

Option One: UNSC Resolution

This option is to reach agreement on the parameters of conflict resolution through the mechanism of the UN Security Council. It would involve using a UNSC Resolution or another form of agreement between members of the Security Council to underwrite any domestic peace process or agreement. The UN Security Council then provides, effectively, a mechanism of review for implementation.

UNSC Resolutions have been used in many instances to frame geopolitical agreement in conflicts playing out largely within UN member states. For example:

(a) to create an internationally agreed framework for negotiations in a number of conflicts (e.g. Yemen, UNSC Resolution 2216 (2015) where it drew on the Gulf Cooperation Council peace process framework);

(b) to underwrite and legalise the commitments in an agreement with internal and international dimensions (Bosnia, UNSC Resolution 1031 (1995); Indonesia-East Timor, UNSC Resolution 1236 (1999));

(c) to create a primary geopolitical commitment to the settlement terms (Israel/Palestine, UNSC Resolution 242 (1967));

(d) to address and establish a global consensus regarding how implementation challenges to the agreement should be dealt with by the parties to the conflict when difficulties arise between conflict parties (e.g. Cote D'Ivoire, UNSC Resolution 1721 (2006)).

In Ukraine, given that Russia is a permanent member of the UN Security Council and therefore has a veto, it is not possible for the Security Council to play an external or somewhat 'neutral' role, to attempt to corral conflict parties into resolution of the conflict. There was no UNSC Resolution to underwrite the Minsk Agreements, seemingly because of Russia's rejection of this approach ([Wittke 2019](#)).

While agreement on a UNSC Resolution across the five permanent UNSC members - including Russia - may seem unlikely at present, it is possible that this could change: it should not be assumed that a UNSC Resolution could not be adopted to tie in international commitments to end the conflict. The permanent five (P5) members represent the most significant protagonists in the geopolitical conflict, and while China has signalled some support for Russia, it also supports the concept of national sovereignty, and might choose to exercise some sort of broker capacity. When a settlement seems likely to emerge, it might begin to possibly be in the interests of the parties to support a UNSC

Resolution, which not only underwrites a Russian and Ukrainian agreement, but even captures agreement between the P5 as to their inter-state commitments to resolve the conflict.

There are arguments that it could even be in Russia's interests to have a UNSC Resolution. As already noted, the failure to endorse and legalise the Minsk Agreements with a UNSC Resolution made it easier for Ukraine to argue that some of the commitments could not be implemented due to its internal legal system. Conversely for Ukraine, a UNSC Resolution that mandated implementation might have made it easier for Ukraine to implement because it would have provided an imperative to align internal constitutional arrangements. A Resolution in the current context could provide both parties with a serious third-party guarantee of whatever they agree, and could also address the wider geopolitical 'de-escalation' commitments, all linked to forms of guarantee and monitoring of withdrawal by Russia, dealing perhaps also with questions of Ukraine's neutrality.

Advantages and Disadvantages

The advantage of a UNSC resolution is that it is an accepted way of doing business, which cannot be argued to be 'captured' because all the critical geopolitical conflict parties have a veto. The UNSC Resolution also provides an easy point of reference to link commitments by organisations such as the EU and NATO. The disadvantage of using a UNSC Resolution in this scenario is that Russia is both key to any resolution and a direct conflict party, in violation of the UN Charter. This has not been the case in other conflicts in which UNSC Resolutions have been useful. The use of a UNSC Resolution is therefore uniquely difficult in the current Ukraine conflict. Nevertheless, the example of Cambodia (addressed below), which happened at the end of the Cold War (before the era of cooperation saw routine use of UNSC Resolutions to deal with intrastate conflict), involved not a Resolution but a 'Statement' of the P5 members of the UNSC, to frame the negotiations and the geopolitical commitment to them. It might be possible to use this type of 'statement' mechanism by some or all P5 members in similar ways.

Option Two: A Parallel Mechanism for Ongoing Geopolitical Agreement

In Afghanistan, former Yugoslavia, Libya and Somalia, international conference style mechanisms, were used at key moments to bring the geopolitical actors and in-country stakeholders together to agree a framework for ending the conflict, and to continue to meet to agree incremental elaboration and implementation. In this modality, the Conference outcomes operate as forms of agreement to the various commitments undertaken, and can specify a concrete set of actions which commit all delegates.

In Afghanistan, for instance, a series of conference proceedings brought together the Afghan government, Afghan stakeholders and third-party states, binding together national and geopolitical stakeholders to commitments that aimed to reinforce a peace process (see 2004 Berlin Declaration). Other international groupings also signed agreements supporting the 2001 Bonn Agreement; for example, the 2002 Kabul Good-Neighbourly Relations Declaration saw the Transitional Administration of Afghanistan and neighbouring states (China, Iran, Pakistan, Tajikistan, Turkmenistan and Uzbekistan) – some of whom had a relationship to conflict parties within Afghanistan – sign an agreement to build 'constructive and supportive bilateral relationships based on the principles of territorial integrity, mutual respect, friendly relations, cooperation and non-interference in each other's internal affairs'.

Advantages and Disadvantages

This approach creates an ongoing convening which attempts to marry in-country 'stabilisation' with geopolitical agreement to support that stabilisation. The advantage is that it creates the ongoing 'peace process' and negotiations as itself a multi-level agreement mechanism. This enables international and local commitments to be interconnected and arranged to be supportive. The disadvantage is that domestic interests can end up submerged to international interests in how the conflict is resolved. In Afghanistan, for example, language relating to 'anti-terrorism' dominates and was internationally driven. The Taliban were understood to be terrorists and excluded as stakeholders when some form of inclusion over time was necessary to stabilisation. The other disadvantage is that the primary conflict parties need to consent to place dispute resolution into this frame. International conference mechanisms can be a somewhat unwieldy, high-level diplomatic mechanism, leading to broad commitments made in diplomatic language. This can make them unattractive to conflict parties, or enable the evasion of commitments. Nonetheless, international conferences, with clear outcomes documented in conference conclusions, can help to clarify the parameters of a settlement, and inject momentum into the process by bringing different levels of actors and commitments into one conflict resolution conversation.

Option Three: International Actors Sign the Main Agreement alongside Other Actors.

Geopolitical settlement can also be reached by having geopolitical players sign the main agreement alongside other actors, often in forms that are ambiguous as to whether they are 'first-parties' themselves, guarantors for the commitments of other (domestic) first-parties, general guarantors, or merely witnesses or mediators signing to add gravitas. Many past agreements have used this form of geopolitical engagement. In the context of a bilateral agreement to resolve an historic interstate conflict, relating also to cross-border water management, between Peru and Ecuador, the 1998 [Acta Presidential de Brasilia](#) was endorsed by a range of 'guarantor' countries and involved a package of agreements with international actors making their own commitments to the process.

Advantages and Disadvantages

There are advantages to having a range of international actors signing, including (a) a mix of first-parties, 'third-parties', and international guarantors, and (b) supportive members of the international community, neighbours with interests in connection to the conflict, and wider regional guarantors. The international signatories can lock-in their own agreement to settlement commitments, and the international norms that underpin the settlement, in a way that is reciprocal to each other as well as to the state affected by the conflict, and avoids disaggregating who signs with what interest and connection to the conflict. The disadvantage is that it can be difficult for the conflict-affected state to mobilise that support further down the line if the agreement is breached.

Option Four: Parallel Geopolitical Settlement Treaty

This option sees international actors sign agreements with each other, often as binding treaties, either as a side accompaniment to the main agreement, or as part of a comprehensive 'set of' agreements. Often, they do so with a dual role as guarantors, and as countries connected to the conflict historically, with the capacity to influence some of the kin-groups involved in the conflict.

What is often called the ['Belfast' or 'Good Friday' Agreement (1998)](#) for Northern Ireland comprises two agreements: a multiparty agreement of all those local political groupings in the talks, the UK and Irish governments; and a British-Irish Treaty, which draws out and legally binds the UK and Irish

governments into their commitments. The Treaty commitments include matters that are, strictly-speaking, outside their absolute control – e.g., the Irish government commits to constitutional changes, even though Irish constitutional law requires amendments by public referenda. A similar modality was used in Greece in the 1950s, where Greek and Turkish Cypriots signed a deal accompanied by Greek-Turkish treaties of guarantee. This modality of agreement tied forms of internal agreement relating to an intrastate dispute, to forms of guarantee between historical interstate conflict parties with primary commitments of guarantee and implementation.

In Cambodia, in 1990, a Statement of the P5 Members of the Security Council (as opposed to a UNSC Resolution), set a framework for what became the Paris conferences, attended by international actors and four Cambodian delegations representing the different factions of the civil war. The so-called 1991 Paris Accords that ended the conflict, in fact comprised an Agreement on a Comrehensive Political Settlement, that was between domestic actors, but also two primarily international agreements: an Agreement Concerning the Sovereignty, Independence, and Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia, signed 'in the presence of the UN Secretary General' by 19 states, including Cambodia, colonial powers, neighbours and regional actors, and those who had intervened in the conflict; and an international Declaration on the Rehabilitation and Reconstruction. A more complex modality of signatories was used in the Dayton Peace Agreement in Bosnia and Herzegovina, as discussed further in 'mixed approaches' below.

Advantages and Disadvantages

The advantage of an interstate treaty, as part of a package of agreements, is that it can pull out the direct commitments of support by key geopolitical actors connected to the conflict into a separate legally binding agreement, which operates with clear commitments governed by treaty law. International law therefore provides a clear basis for interpretation and implementation. The disadvantage is that this is perhaps best suited to an internal conflict with international geopolitical underwriters, who come together to agree to support a settlement. However, it is a model that can perhaps be adapted to other contexts. It might be possible, for example, to have a US-Russian agreement operate to clarify US and Russian commitments to support any Ukraine-Russia deal, and a series of international layers of deals, as in the example above in Afghanistan, or some of the examples involving multi-layered agreements below.

Option Five: Multi-Layered Use of All Options

Multi-layered solutions adopt several of the above modalities to create a 'multi-layered' approach to implementation. Many of the examples already given, when examined in more detail, had elements of multi-layering. In the multi-layered approach, signing of the agreement is accompanied by other forms of geopolitical agreement, such as third-party states signing the agreement itself or even sections of the agreement in ambiguous ways that leave open whether they are: first-parties to the conflict signing to commit themselves; third-parties who seek to provide guarantees as to implementation; underwriters of the commitments of kin groups in-country, who play a role in the conflict (e.g. Federal Republic of Yugoslavia signing the Dayton Peace Agreement on behalf of the Republika Srpska). Sometimes these multi-layered forms of signature are connected to UNSC Resolutions to make the agreement operational, or provide some international legal force to its commitments. Sometimes and independent 'geo-political agreement' on non-interference, foreign forces, and forms of support will be connected to the agreement 'package'. And sometimes further

geopolitical Conference mechanisms will create in-effect an implementation mechanism in the name of 'regional stabilisation'.

Multi-layering domestic, international guarantor, and international mutual agreement, responds to a need to fashion a legal status that is both international and domestic, where there is no easy legal form available (Bell 2008; see also Weller 2009). Three examples illustrate different approaches driven by slightly different rationales.

Bosnia: Bosnia is perhaps the best example of how all the above can be used. The 1995 Dayton Agreement provided: that it would become operative on passing of a UNSC Resolution; for different domestic and international parties to sign different annexes, sometimes reflecting support for their own commitments therein, sometimes guaranteeing the commitments of kin-groups; and international actors signing as witnesses and guarantors.

Colombia: In Colombia, the 2016 Peace Agreement was constructed to give a multi-layered legal status. The Agreement is explicitly stated to be an agreement under Common Article 3 of the Geneva Conventions 1949, which in turn (controversially) gave it a constitutional legal standing domestically (because human rights treaties are automatically incorporated in the constitution in a system that is both monist and dualist). An 'international accompaniment' section of the Agreement was also endorsed by UNSC Resolution, which both locked in international support and UN involvement in internationalisation, but also further gave the agreement which focused on the domestic constitutional order, an international status. In this way, a range of domestic and international forms of legal status were conferred and a range of domestic and international actors were connected to an implementation apparatus. The multi-layered approach spoke to very different accounts of the legitimacy of the prior Colombian constitutional order, while bringing security guarantees for the parties.

Iraq: After the invasion of Kuwait, a UNSC Resolution was used to end the conflict. Behind the scenes, however, the resolution had the consent of Saddam Hussein, and was 'ratified' by the Iraqi Parliament, leading some to call the key resolutions 'treaty resolutions'. This is an example of how international and domestic agreements were used to underpin the termination of conflict in a situation of defeat and withdrawal by Iraq. Domestic buy-in to the geopolitical agreement remained valuable to secure compliance by Iraq with the terms of the resolution (Bell 2006).

Advantages and Disadvantages

While the 'multi-layered approach' is full of design-complexity, it can navigate around the disadvantages of other options, when used in an isolated way. A multi-layered legal status can capture international, bilateral and geopolitical agreement, and weaving these together. This piece tries to avoid suggesting what Ukraine-Russia settlement terms might look like as beyond the author's scope, and something that will in any case be determined by the choices of political leaders, citizens, and balance of power considerations relating to the trajectory of the conflict (see Wittke 2022). However, the multi-layered option points to the ways in which creative forms of layered consent to agreement can connect Ukrainian domestic legal commitments to settlement terms with Russia, to geopolitical commitments.

The disadvantage is that multi-layering requires the negotiators to be creative and to understand the connections of substance and process. Often the modality of using multi-layered agreements, responds to the need to find a compromise on the nature of the conflict, and who is required to guarantee its termination.

4. Reflection

Very few multi-layered conflicts are resolved without multi-layered agreement which includes the agreement of external actors. If a multi-level approach to conflict resolution is not achieved, failure to settle one strand of conflict can undo a settlement in the other. Better consideration of multi-level peace process design is important not just in Ukraine, but in a world where geopolitical involvement in conflict within countries is very much a pattern (see PeaceRep reports on Global Fragmentation, 2022).

A complex relationship between form and substance connects settlement terms and the modalities of agreement design. The precise commitments on the geopolitical dimensions of the conflict – neutrality; sovereignty; militarization; de-confliction, etc. – will determine which parties make which commitments, and in what form. However, the issues of form are difficult to resolve because the appropriate form for international agreement involves a compromise over contested narratives on what the conflict is 'about': different forms of agreement tell different stories of who is key to the conflict, whether the conflict is internal or international, bilateral or multilateral, and what sovereignty means going forward. These are all substantively contentious issues, which creative process-design can help to address.

In the case of Ukraine, contested framings of what drives the conflict and who it is 'between', results in different answers to the question of 'who should agree' and in what type of instrument. What looks like a technical solution of constructing *the form* of the agreement, will in fact require a form of compromise on some of these issues. To this end, constructing a process capable of unwinding the complex conflict system in Ukraine will require thinking about the different types of commitment required to deal with different strands of conflict. The question of 'what agreements' are needed to end the conflict, closely relates to the question of how to structure negotiations to ensure that all relevant actors can be brought into an agreement framework.

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