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Russia – Ukraine: What Peaceful Co-existence?

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When it comes to the use of force between sovereign states, the Russian invasion of Ukraine of February 24, 2022, has not heralded a paradigm change or, as the Western establishment suggests, the beginning of a “new era” of international relations. The new era of lawlessness has begun, right after 1990, with a series of unilateral coercive measures and wars of aggression against those who, in the absence of a balance power, suddenly found themselves at the receiving end of the emerging hegemon’s assertion of national interests. According to the self-proclaimed victors of the global power struggle, the Cold War’s paradigm of *peaceful co-existence* was to be disposed of in favor of a unilateral pursuit of national interests. Mutual respect of sovereignty, non-interference in the internal affairs, peaceful co-operation among states perceived as equals, were superseded by a false universalism of rights exclusively defined by the hegemon of this “New World Order”¹ – in defiance of international law as it had been defined in the post-war consensus that enabled the creation of the United Nations Organization. Peoples and states “in the periphery” – Iraq, Afghanistan, Yugoslavia, Syria, Libya – paid a high price for imperial realpolitik in the clothes of human rights and democracy.

In terms of global politics, the ongoing war in Ukraine has to be seen against this background. The escalation of the conflict into armed confrontation could have been avoided if the Republic of Ukraine would have pursued a principled policy of non-

¹ Köchler, *Democracy and the New World Order*. Studies in International Relations, Vol. XIX. Vienna: International Progress Organization, 1993.

alignment,² as had been contemplated in the period before the unconstitutional change of government in 2014 (which happened after massive intervention into the internal affairs of Ukraine), and if Kyiv would have agreed to constitutional reform towards a federal system allowing for domestic self-rule in the country's eastern territories.

Because of how the United Nations has been construed as an inter-governmental organization, the UN Charter's system of collective security is dysfunctional in any conflict such as the present, where at least one permanent member of the Security Council is involved. It is for this reason that the International Court of Justice's "Order" on provisional measures of 16 March 2022 cannot be enforced. The circumstances – in the complex web of law and realpolitik – will require *political compromises* on all sides to restore peace – in Ukraine and between Ukraine and Russia – and preserve peace at the global level.

Some of the measures that should be contemplated by the respective parties are:³

- o **Concerning Ukraine:** * Commitment to a status of permanent neutrality, similar to what Austria committed itself to in 1955, to be guaranteed by a P5+ arrangement. * Constitutional reform with the aim of establishing a federal system, similar to what exists in a number of European countries, with meaningful autonomy for the eastern (Russian-speaking) regions. This would mean a return to what has already been agreed upon in Minsk (2014/2015). The agreement between Austria and Italy (1969) on autonomy for the German-speaking province of South Tyrol could serve as an example. * Abolishing all measures that are detrimental to the fundamental rights of Russian citizens of Ukraine – as well as of other ethnic minorities – in the entire country; i.e. acceptance of the fact that Ukraine is a multi-ethnic state.
- o **Concerning Russia:** * Acceptance of Ukraine as a sovereign state with distinct identity – as member, *inter alia*, of the United Nations and the Council of Europe. The “assurances” of security and territorial integrity of the Budapest Memorandum of 1994 – that have proven ineffective – should be superseded by a new, enforceable, agreement, to be ratified by all signatories. * Return to the

² Cf. the proposal of the International Progress Organization (2015): *Statement on Ukraine peace talks in Minsk*, 12 February 2015, http://i-p-o.org/Koehler-UKRAINE-MINSK_TALKS-Statement-12Feb2015.jpg.

³ For details, see also, Köchler, *Blueprint for Peace in Ukraine*. Vienna: International Progress Organization, 10 March 2022, www.i-p-o.org/Koehler-PEACE-UKRAINE-10March2022.pdf.

Minsk Agreements (a step to be taken by both sides). Instead of unilateral recognition of secessionist territories as sovereign states, Russia should insist on full implementation of the autonomy provisions under the Package of Measures of Minsk II. * Referendum on the final status of the Crimea, to be monitored by the United Nations and/or the OSCE.

- o **Concerning the “Western community” of states:** * States should not try to exploit the post-Cold War situation with the aim to extend their sphere of influence (under the leadership of the North Atlantic Alliance and the European Union).⁴ After the dissolution of the Warsaw Pact, eastward expansion of NATO was not justified in terms of the balance of power in Europe; it has proven incompatible with regional and global security. The Alliance should finally pay attention to Henry Kissinger’s blunt assessment (when the crisis erupted in 2014): “Ukraine should not join NATO.”⁵ * The West needs to abandon its claim to ideological supremacy, an approach that has been at the roots of interference into the domestic political process in Ukraine. (The so-called “Maidan Uprising” of 2013/2014 was substantially financed from outside the country, in particular from the United States.) * The policy of unilateral economic sanctions should be abolished.⁶
- o **Concerning the global community, represented by the United Nations:** The UN should act as facilitator between the parties. On the basis of its Charter, the organization may – possibly in coordination with the Organization for Security and Co-operation in Europe (OSCE) – provide the logistic framework for negotiations. As in many other conflict situations, the UN can also assist with monitoring and peace-keeping missions once a ceasefire is reached between the parties. However, because of the decision-making rules in the Security Council, the United Nations cannot play any *active* role for the cessation of hostilities and the restoration of peace.

Only states that have maintained a position of strict neutrality in the conflict between Ukraine and Russia can act as mediators. Turkey – the country of reference of the

⁴ See the recent analysis of John Mearsheimer: “John Mearsheimer on why the West is principally responsible for the Ukrainian crisis.” *The Economist*, London, 11 March 2022.

⁵ Henry A. Kissinger, “To settle the Ukraine crisis, start at the end.” *The Washington Post*, 5 March 2014.

⁶ Cf. Köchler, “Sanctions and International Law,” in: *International Organisations Research Journal*, Vol. 14, No. 3 (2019) (“Economic Sanctions, Global Governance and the Future of World Order”), pp. 27-47.

Montreux Convention⁷ – may play an essential role not only as regional mediating power, but also as guarantor, together with the P5⁸ and other regional powers, of the security of the Republic of Ukraine should it opt for a status of permanent, armed neutrality. (An international status of neutrality makes only sense if a state has the means to defend itself.) As earlier “security assurances” to a nuclear-free Ukraine have proven totally ineffective, any new guarantees must be based on precise treaty obligations to be ratified by the legislative branches of the involved states.

Because of the structural paralysis of the United Nations in all matters affecting the interests of the permanent members of the Security Council,⁹ a new global security architecture will become indispensable if the stability of world order is to be preserved in the long term. It is here where the Bandung Principles¹⁰ – and a revitalized Non-aligned Movement – may gain relevance under a future balance of power that will be multi-polar.

⁷ *Convention Regarding the Regime of the Straits Signed at Montreux, July 20th, 1936.*

⁸ The five permanent members of the United Nations Security Council.

⁹ Köchler, “The Dual Face of Sovereignty: Contradictions of Coercion in International Law,” in: *The Global Community – Yearbook of International Law and Jurisprudence 2019*, Part 6: “Recent Lines of Internationalist Thought.” New York: Oxford University Press 2020, pp. 875-885.

¹⁰ *Final Communiqué of the Asian-African Conference of Bandung, 24 April 1955*, Chapter G: “Declaration on the promotion of world peace and co-operation.”