

12 The International Administration of Occupied Ukrainian Territory as a European and United Nations Diplomatic Option*

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Introduction

The United Nations' (UN) engagement on Ukraine has been profoundly inadequate. Until the adoption of United Nations Security Council (UNSC) Resolution 2775 on 24 February 2025, no resolution on Ukraine had been passed for three years (United Nations 2025). Russia's veto has, of course, prevented a resolution that is critical of its full-scale invasion, and the General Assembly has passed many resolutions to that effect. But apart from the UN Secretary-General offering his good offices and support for humanitarian and judicial efforts, the UN has failed to put forward any concrete peace proposals. This is despite the fact that several options have been proposed.

Time has run out. The second Trump administration in the US has upended the European diplomatic strategy, tipping the balance in favor of the Russian Federation. Any hopes or scenarios envisioning Ukraine regaining its territory now seem far-fetched (Hedberg 2024; Howard and O'Hanlon 2024; Charap 2024; Toal 2024; Jenkins, 2023; Joshi, 2022). Yet, Ukraine's war aims remain unchanged, firmly grounded in international law: the recovery of all its occupied and annexed territories. These include not only areas seized since 24 February 2022 but also the Donbas region (comprising the self-declared Donetsk and Luhansk People's Republics) and Crimea, the peninsula illegally annexed by Russia in 2014. Western states in the UNSC, supported by Panama, reiterated these points in challenging the US position, which stressed the UN Charter's prioritization of peace and security. The US is now more focused on striking a deal with Russia and securing privileged access to Ukraine's rare minerals, without European and Ukrainian participation in the negotiations, than on countering Russia's aggression or weakening its economy.

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Even so, with consequential peace negotiations yet to begin, European and Ukrainian diplomacy have some remaining options (Hook 2024). Ukraine could continue its military efforts with European support to shift the dynamics on the ground and sway the pendulum in its favor (Buras et al. 2022). Donbas, but especially Crimea, represents the nub of the security predicament. In crude terms, leaving aside rival historical – and, for Ukraine, legal – claims, possession of valuable industrial assets and resources in Donbas, as well as access to the Black Sea and vital trade routes, is at stake. Crimea is also home to the cherished Russian Black Sea fleet (Economist 2022). Given the stakes, the difficulty of regaining and keeping Crimea, and the chances of Russia tolerating defeat there without disastrous escalation, make it likely that Russia’s annexation will be difficult to reverse.

If Europe were to commit to support Ukraine, there is an option – for the UN as well – that offers some partial guidance, many important lessons and warnings for a European and even Ukrainian position on Donbas: international territorial administration (ITA). ITAs have long featured in peace agreements in the past as an option to manage conflicting sovereignty claims and disputed territories, recently in ex-Yugoslavia, that have produced some of the most far-reaching, consequential – and for some highly controversial – ITAs (Caplan, 2005a, 2005b). While ITAs are not a definitive solution to the military and political dilemmas in Ukraine, they could serve as valuable stepping stones if genuine, multilateral peace negotiations were to take place. Their consideration is crucial before any steps toward peace are made – not only to facilitate dialogue but also to avoid repeating mistakes seen in previous ITA implementations. There are indeed historical lessons that can be learned and mistakes from the past that can be avoided.

ITAs are particularly relevant when military solutions are exhausted and political leaders are weakened, underscoring the importance of context in their application. Each ITA implementation has been unique, reflecting the specific circumstances of the conflict and the wider political context abroad. Although ITAs alone do not bring about peace, they provide crucial common ground for warring parties to converge, especially in conflicts with global implications. They share a common vision that international actors play a vital role in defusing emotionally charged situations, managing day-to-day administration, and paving the way for more enduring solutions.

Our aim is to draw historical lessons to highlight both the advantages and drawbacks of ITAs. While ITAs can facilitate peacemaking, they risk evolving into quasi-permanent neo-trusteeships that hinder effective governance and undermine domestic ownership. We examine past and ongoing European peace negotiations and international administrations, particularly in the former Yugoslavia since the 1990s, to illustrate these dynamics. As these cases demonstrate, the geopolitical context and the level of cooperation between states and international actors are crucial for the success of ITAs – posing a significant challenge for any such initiative in Ukraine.

The International Administration of Territory in the League of Nations and the United Nations

The historical roots of ITA can be traced to condominiums of great powers governing disputed territory in order to stop wars and/or keep peace (Stahn 2010). For example, in 1815, the Congress of Vienna made Austria, Prussia, and Russia supervisory authorities over the “Free City of Cracow.” Other territories such as Shanghai, Crete, and Tangier were subsequently also governed by multi-national administrations, often linked to colonial politics. The latter example, which lasted from 1923 to 1957, was the result of a British-brokered compromise between France and Spain, both of which sought to control this Moroccan city. By agreement, it was demilitarized and eventually governed by eight European powers in the context of traditional regime of “capitulations” in which the Sultan of Morocco delegated broad powers to foreign consulates (Stahn 2010: 7). While a vestige of European imperialism cannot serve as a model today, the case teaches two lessons: internationalization can work if all parties are in agreement or incentivized to do so, and the denationalization of a territory with a diverse population fosters remarkable hybridity and cultural freedom – for which Tangier became renowned (Morocco News World 2012).

This respect for diversity and independent non-national identity was also evident in the case of Fiume, which had enjoyed autonomy as a port city of a mixed, predominantly Italian and Slavic population. With the collapse of the Austro-Hungarian Empire after World War I, Italy and the new Kingdom of Serbs, Croats and Slovenes (SHS) claimed it (Steiner 2005: 87–88, 336). As in Tangiers, the great powers proposed the establishment of a free state to remove this apple of discord. The Free State of Fiume was created by treaty in 1920 after some violence. Unlike Tangiers, the dispute was resolved by the partition of Fiume/Rijeka in 1924, with the city going to Italy and its hinterland to the Kingdom of SHS. The Fiume question was, of course, resolved only in 1947 (Steiner 2005: 87–88, 336)

The formal commencement of modern ITAs is the League of Nations’ (LoN) administrations of disputed territories after World War I. For the first time, an organization with an independent legal personality governed territory directly for the first time on behalf of the international community. The challenges faced by the LoN demonstrate the difficulties of ITA when dealing with expansionist or revisionist states, especially if they feel their co-nationals are “stranded” in neighboring territory. Since the organizing principle of the LoN was the nation-state and the principle of self-determination, the purpose of ITA was transitional: governance until the popular will could be determined and/or the diplomatic dispute could be resolved. Thus, the Saar region of Germany, which the French coveted for its coal, was governed by the LoN for 15 years until a plebiscite decided its fate. In the event, in 1935, 90% of the population voted to rejoin Germany. But the ballot offered the option of permanent international LoN administration (Park 2022).

Such permanence animated the solution for the disputed Danzig, a German city that found itself in the newly constituted state of Poland in 1918. To appease Germany, the Allies at Versailles made it and the surrounding territory a semi-autonomous free state. Because of its location, there could be no question of union with Germany, and because of its population, no incorporation into Poland was considered realistic. However rancorous the feelings between Danzig (today's Gdańsk) and Poland, it was governed peacefully by a LoN High Commissioner for 19 years until the Nazi invasion in 1939, which effectively symbolized the German claims to the city (Stahn 2010: 14).

As these examples suggest, such experiments were unsuccessful when the LoN lacked the political will or means to enforce them. It was also hamstrung by its own commitment to self-determination. The Treaty of Versailles established the former German seaport of Memel (Klaipeda), which the new states of Lithuania and Poland wanted, as a LoN-administered territory. It contained a majority Lithuanian-speaking population as well as a sizable population of Germans, but also Poles, Jews, and Russians. When, in 1923, Lithuanian forces marched in, the French administration did not resist. LoN protests and ensuing negotiations led to a compromise: the annexation was recognized while Memel enjoyed autonomous status in Lithuania (Stahn 2010, 66–67). This solution had parallels to the terms of the LoN Mandates about respecting minority protection treaties, and to the Sanjak of Alexandretta in the French mandate of Syria that gave cultural rights to the Turkish population. The layered sovereignty of minority rights needed to be considered in territories where populations did not match the national aspirations of the state.

The UN did not plan for ITA when it was founded in 1945. Instead, it envisaged an international trusteeship system under Chapter 12 of its charter, which established a *Trusteeship Council* to oversee the administration of territories until they could be independent (United Nations 1945). However, *Article 24* of the UN's charter confers "primary responsibility" on the UNSC for the "the maintenance of international peace and security" (United Nations 1945). Under this article, the UN could effectively institute ITA. As might be expected, the immediate aftermath of World War II called for UN involvement. Again, Italy's border with Yugoslavia proved a flashpoint. It was especially the mixed city of Trieste, which in 1947 the UNSC placed under its authority as the Free Territory of Trieste. However, Italian and Yugoslav forces, which continued to occupy and administer the territory by agreement, never left, and the UN governance never eventuated. It was partitioned and annexed by both states in 1954, in the same manner as Fiume before it.

UN internationalization also failed in Jerusalem, which the UN partition plan for Palestine called for in 1947 (Moses 2022). It was to be "a special international regime ... administered by the United Nations," as the UN General Assembly Resolution 181 in 1947 put it. Resolution 194 in December 1948 called for a UN Conciliation Commission to implement the special international regime constituted by demilitarization, free access, the right of return

for refugees, and maximal local autonomy for its “distinctive groups” with the cooperation of a UN representative. The Jerusalem plan failed because some Arab countries rejected partition (Arab Palestinians were not asked) and the new state of Israel repudiated UN involvement (Kamel 2022). Unlike the cases discussed above, the unrecognized Israeli annexation of the entire city and adjacent land after 1967 cannot be said to realize the wishes and self-determination of the population. The systematic discrimination against Palestinian Jerusalemites, for instance, makes questionable the ideal of national sovereignty in such a mixed population and contentious circumstances.

The UN has implemented ITAs in the form of transitional arrangements to administer disputed territories in preparation for plebiscites. This approach was first applied in West New Guinea (1962–63) and later in Cambodia, East Timor, Croatia, and Kosovo. The latter three, alongside other post-Yugoslav cases, constitute the most recent UN experiences with ITAs. These instances are particularly instructive as they showcase different models of international administration and their outcomes. We place greater emphasis on the Yugoslav cases, as they provide a range of complex and still relevant lessons about the challenges and opportunities of ITAs, particularly in ethnically divided and politically volatile contexts. However, these cases unfolded in a geopolitical environment markedly different from today. The 1990s represented the heyday of the “liberal world order” (Adler-Nissen and Zarakol 2021), characterized by post-1989 optimism about international cooperation and a multipolar global structure. During this period, Russia was relatively collaborative and did not act as a peace spoiler. This environment of consensus and cooperation among major powers contributed to the effectiveness of ITAs in the post-Yugoslav context. Since then, the international landscape has shifted to a more fragmented and unpredictable arena, marked by transactional politics and diminished respect for international legal standards. In this context, power dynamics are increasingly shaped by coercion and strategic maneuvering rather than collaboration. Ukraine finds itself in a particularly precarious position as geopolitical pressures mount, and a potential deal is looming without its full participation, highlighting the complexities of implementing ITAs in a world where international consensus is elusive. Despite these challenges, we consider ITAs as one of the remaining pieces of the puzzle, where Europe commits to Ukraine’s support and its participation in any peace deal.

International Administrations in the Former Yugoslavia

Ending the wars that accompanied the break-up of Yugoslavia in the 1990s included frustrating and seemingly unsolvable disputes over multi-national territories (Cohen and Jasna Dragović-Soso 2008). Power politics clouded as ethno-territorial claims repeatedly derailed peace negotiations, and successful peace agreements were concluded only through a variety of ITAs, in conjunction with changes in the military and power balances. The Yugoslav

cases differ from Ukraine today, most obviously as the Yugoslav wars did not involve a UNSC member directly, but accompanied a break-up of a state. Yet, the break-up of Yugoslavia was a truly international phenomenon and saw some of the first modern attempts at complex international administration as a peacemaking tool that is useful for reflection (Caplan 2014). Moreover, the Yugoslav ITAs included the participation of several actors at once, such as the European Union (to administer or provide police forces), the UN (to govern and stabilize), NATO (to provide military protection), and OSCE (to run elections), among many others, reflecting the changing international importance of various organizations. They also point to the importance of timing and peacemaking that would reflect power balances and military victories that can pave the way to effective territorial management.

Croatia

Today's Croatia offers some of the most instructive cases of success that can serve as examples of effective ITAs and territorial reintegration. Each of the Croatian cases presents a combination of ITAs at a time of changing power relations and military balance. Early on in the war in 1992, the Prevlaka peninsula, seat of an important fleet, claimed by the former Yugoslav republics of Croatia and Montenegro, was put under ITA already. It was subsequently divided between Croatia (control over the peninsula) and Montenegro (territorial waters) through a temporary agreement. This diplomatic solution was effective after all military solutions failed to produce a clear result, and diplomacy failed to end the war as such. Another reason was the change in motivation of the Montenegrin leadership that decided it was no longer beholden to Belgrade and decided to pursue independence. While Prevlaka – littleknown territory to many outside of the region – remains a pending territorial dispute (Kajosevic 2022), its ITA prevented the peninsula from becoming a sore point during later peace negotiations over the war, and (after political changes in the affected countries) is currently being resolved by judicial rather than military means. Effectively, a tense point was postponed and to be resolved later via an ITA.

A better-known case is that of Eastern Slavonia. The small border region of Eastern Slavonia with the pummeled city of Vukovar, a symbol of the war-time destruction in Croatia, was occupied by Yugoslav forces early on in 1991 and then became part of the Serb secessionist “Republika Srpska Krajina” (RSK). As a border region on the Danube with a significant Serb population, Eastern Slavonia became a key battleground until the end of the war. While Yugoslavia under Slobodan Milošević legally never recognized the separatist region, it provided it with vast financial and military support as documented in later war-crimes proceedings at the International Criminal Tribunal for the former Yugoslavia (ICTY). By early 1995, it became clear that RSK could not sustain its military secessionism and would have to be reintegrated into Croatia, later reinforced by military takeovers in Operations

Flash and Storm, where Croatian forces, aided mainly by the US, recaptured most of RSK and reintegrated it into Croatia. Yet Croatian forces did not advance into Eastern Slavonia proper, and the situation of the local Serb population, as well as the newly arrived Serbs from other parts of Slavonia, proved hard to resolve. Belgrade continued expressing concern over this population until late 1995 (although it provided no real support for their political cause after failed negotiations in the summer), and local separatist leadership has all but given up their ambitions.

The question remained how to manage the contentious region and its population. A five-country contact group (France, Germany, Russia, the US, and the UK) found a solution in an ITA for Eastern Slavonia in November 1995 in *Erdut* that guaranteed the security of the Serb population and oversaw the transfer of the territory into Croatia (eventually realized in 1998). The agreement was short on detail on how to govern, and a special UN mission was mandated (UNTAES 1996) with the support of 5,000 troops. While the changes in military and power dynamics on the ground paved the way to a settlement, Erdut defused the tense situation in the region and allowed for a peaceful reintegration into Croatia – a fact often forgotten and overshadowed by other events during the war. While Eastern Slavonia was relatively easier to resolve, as Croatia was its main destination and the main priority was to ensure the security of the Serb population, the ITA functioned as a trust-building mechanism and effectively managed to improve people’s lives. This was secured through streamlined leadership of UNTAES, which was by some accounts “the most successful of all post-Cold War UN- or U.S.-led” efforts of its kind (Dobbins 2005: 123). It operated on a small territory, where demilitarization, security (through a police mission UNCIVPOL), civilian control, and return of refugees were all centrally coordinated (Boothby 2004).

Bosnia and Herzegovina

Bosnia and Herzegovina (BiH) presents a mixed bag of successes and failures to draw lessons from: it offers a case for peace achieved through diplomacy where ITAs play a key role, but also unworkable governance structures (Caplan, 2005a, 2005b). BiH also serves as an example of some of the most extensive international administrative methods ever used, leading to frequent accusations of new colonialism and neo-trusteeship methods (Knaus and Martin 2003; Allsobrook and Camilla Boisen 2017). Once the US, European Union, and, finally, Russia decided to engage in the war and agreed on military intervention (unlike in the current case of Ukraine), the warring parties were finally brought to the negotiating table in Dayton, Ohio, in November 1995, which set out BiH’s governance, power divisions, and territorial divisions.

The General Framework Agreement for Peace in BiH of 21 November 1995, signed in Dayton, Ohio, was the result of 21 days of bargaining that tried to make all sides sign in what some called “a cartography of convenience” because of the painstaking disputes over territories (Jeffrey 2006).

It was also the result of a military situation that was unfavorable to the Bosnian Serbs, who, some argue (Howard 2015), would (and should) have lost, had the war not been stopped by Western diplomacy in order to put an end to the bloodshed. Dayton's detailed 150 pages outlined issues such as demilitarization (NATO-led 60,000 force IFOR), refugee return, human rights, and international oversight through the civilian High Representative. Most importantly and problematically, Annex IV of Dayton represents BiH's constitution, probably the most consequential and unhelpful part of the agreement – written in English, the constitution has proven to be the main sticking point for Bosnia's development (rather than any other parts of the peace agreement). Its inherent link to the peace agreement has proven to be very harmful to Bosnian governance (Bieber 2006). The Dayton constitution divided the entire Bosnian territory into ethnicity-based “entities” – Croat-Bosniak Federation of BiH (FBiH) and Republika Srpska (RS), with a territorial distribution of 51% to 49% respectively, and introduced extensive power-sharing rights. The two entities became semi-autonomous while state institutions were given extremely weak powers, another major flaw. RS was ultimately granted significant territorial concessions in the spirit of a “compromised peace” (MacGinty 2008), while Bosniaks complained that Serbs were rewarded for their ethnic cleansing and genocide. No one party was fully satisfied with the deal, but all eventually agreed as the cost of war became too high.

Controversially, the Bosnian Serb leadership was at Dayton represented by Slobodan Milošević, a subsequently indicted war criminal, alongside some other participants. The issue of negotiating with those responsible for atrocities remains a painful one, but will have to be addressed in the Ukrainian case, too. In the Bosnian case, such actors were included for the sake of peace rather than justice, which came later – and for some too late (Martin-Ortega 2012). For many, this has delegitimized the peace agreement. Yet, the prevailing view remains that Dayton was not an ideal peace agreement to build trust and a functioning multi-national state, but an agreement that has been surpassingly effective in stopping the bloodshed. The pragmatic peace versus moral justice considerations have thus loomed large over Dayton and are still relevant.

Dayton was riven with other contradictions, such as the guarantee of returns to territories dominated by the other groups but in parallel constitutionally granting the dominant “constituent” groups (Croats, Bosniaks, and Serbs) governance priorities (no other groups can run for top state offices), leading to legal clashes between individual and collective rights that have been later recognized by international courts (Milanovic 2010). The extensive collective rights for “constituent peoples” subsequently paralyzed BiH's state-level governance. To allow for the strengthening of the state, the High Representative was granted extensive executive powers in 1997. Bosnia has since become a hybrid international protectorate where the High Representative can impose new laws, sack elected officials, and even change electoral

procedures – all in the spirit of peace implementation – while the country *de iure* functions as a democracy (Merdzanovic 2019). The Bosnian ITA, thus, presents an opportunity to learn from a successful cessation of war, but extremely problematic multi-ethnic governance contained in Annex IV.

Brčko and Mostar

More instructive subnational cases within the Dayton peace settlement for today are two territorial sticking points – Brčko and Mostar. While Brčko provided a new way of creating a multi-ethnic local community under international administration and with limited formal power-sharing *after* Dayton, Mostar's administration was negotiated *before* Dayton and thus did not present a peace-blocking issue. And while Brčko may be seen as a comparatively successful case, Mostar has continuously struggled with its governance.

As part of the Washington Agreement in March 1994 that settled the Croat-Bosniak conflict in Bosnia, Mostar came under the EU Administration in Mostar (EUAM) (Court of Auditor 1996) and remained so until 1996. EUAM's main objective was to rebuild and reintegrate the city, but its capacities were constrained by the later negotiated Dayton Accords. Mirroring some of the most paralyzing aspects of power-sharing at the Bosnian level, Mostar's governance suffered from constant invocations of veto rights, impossible super-majority votes, and obstructions by the two dominant Croat and Bosniak parties, leading to governing impasses until the High Representative imposed a new statute in 2004. But governance in Mostar remained a matter of brinkmanship that effectively prevented elections from happening for 12 years. Ultimately, in 2020, the US and EU again interfered and oversaw negotiations over new electoral rules that unlocked elections but rendered divisive results (Behram 2020). In short, Mostar is not an example to follow in governance terms. Although Crimea and Donbas may not necessitate such extensive power-sharing clauses, it is important to be wary of trying to introduce inflexible group-based rights that will not be reflective of the evolving demographic and political situation, as in the case of Bosnia.

In contrast, Brčko bears some resemblance to the tricky status of Crimea, although it has remained a dispute within a state rather than between two states. Once dubbed the “mother of all difficulties in Bosnia” (Troncota 2010) and “the most likely flashpoint for any renewed warfare in BiH” (International Crisis Group 2003), the Brčko area is now surprisingly nearly forgotten. Yet, as the chief negotiator of the Dayton peace agreement, Richard Holbrooke noted, Brčko became the “toughest” of all the issues during the Dayton negotiations (Holbrooke 1999: 296). There is much to be learned from this historical precedent. While Brčko and its surrounding areas did not possess any cultural or historical significance in pre-war BiH to the same degree that Crimea does, it was also a strategic port on the Sava River with links to the Danube, located on the border with Serbia and close to Croatia. During the war, it was also a connector to the two parts of the secessionist

RS, leading to fierce contestation over its relatively small territory and brutal atrocities that displaced much of the pre-war population. By the end of the war, Serbs formed 97.5% of the Brčko area population, although before the war, they formed only 20% (International Crisis Group 2006).

Endangering the overall peace negotiations, the impasse was finally broken with Belgrade's agreement to postpone the Brčko solution to a later time and internationalize its administration via a multi-party arbitration, overseen by the US but negotiated by both entities within a year. Three arbitrators – one from RS, one from FBiH, and one internationally chosen by the International Court of Justice (ICJ) – were appointed in 1996 to the Tribunal. Initially, RS refused to participate as it assumed favoritism of FBiH (International Crisis Group 1997) (in the same way one might assume that Russia would), and a flare-up of the conflict was threatening. After reassurances that the process would consider all sides and constant engagement with RS authorities, RS cooperated. Due to poor security of post-war returns and explosive elections, the final decision took another four years. During that time, the Tribunal made three awards (Vail 2018) that set out a detailed ITA over the wider Brčko area (of the approximate size of Munich). To govern Brčko in the meantime, the Arbitration Tribunal decided to appoint an international Supervisor to be fully in charge of the local governance but govern through a multi-ethnic composition of the Brčko Municipal Government and assembly that were to be represented by the three main groups and the “other” minority groups. The American Supervisor had a British and Russian deputy, jointly assuming nearly unlimited powers.

The Final Award of 1999 (Arbitral Tribunal 1999) unified the three municipalities of Brčko in a “neutral” and multi-ethnic “Brčko District” as a condominium. The Tribunal specified that Brčko's territory would de facto belong to both entities, but BiH state authorities would have the dominant jurisdiction – it seemed like a Solomonic judgment as both entities gained territory but lost governance over the area. Brčko simultaneously belonged to neither and both entities. No party was satisfied, but no one was equally aggrieved to the degree that another conflict would flare up. The international Supervisor remained tasked (until 2012 when it was suspended) with turning Brčko into a single administrative unit through multi-ethnic governance and institutions. It is currently run as a self-governed area by a mayor and an assembly.

Brčko operates on different principles of power-sharing than the rest of Bosnia. It became close to self-governing as the only Bosnian territory where parity in multi-ethnic governance and policymaking is exercised, including multi-ethnic and multi-lingual education, including for the “others.” It also uses proportional elections. By 2003, Brčko had a very similar ethnic composition to its pre-war population and recorded the lowest unemployment in BiH (Avdic-Kusmus 2015) While Brčko remains plagued by similar problems of governing as in BiH where identities are perceived as rigid, its postponed multi-party arbitration saved the peace negotiated in Dayton, and the multi-national ITA ensured it was able to prosper in relative terms. Critics argue that Brčko's future

is uncertain because of Bosnian dysfunctionality. There is no denying that its prosperity hinges upon BiH's development, as it currently belongs under BiH's jurisdiction. Yet Brčko offers interesting and innovative ways to analyze, and crucially, a lesson similar to that of Prevlaka – ITAs can pave the way for peace and buy time so that when a more lasting solution is negotiated, emotions won't run as high, and the judicial option may be more palpable.

Kosovo

The final set of lessons of a contested peace – and lessons that should, in general, be unlearned – provides Kosovo. Part of Yugoslavia as an autonomous region and later province (*de iure*, not a republic as Croatia and BiH), Kosovo sought a return to its previous extensive self-rule throughout the 1990s, eventually leading to a direct confrontation with Yugoslavia.¹ The 1998–99 war saw atrocities mostly committed by the Serb forces² that ultimately led to extensive international involvement and a proposed ITA in Rambouillet (Rambouillet Accord 1999). Among other demands, which were difficult to accept by the then-Yugoslav President Milošević, international negotiators in Rambouillet proposed far-reaching international powers on Kosovo's territory, including military control by NATO, and a referendum about Kosovo's status in three years. The agreement was unacceptable to Belgrade (Kosovo was still a part of Yugoslavia), and having failed to reach any solution, the alliance launched an air campaign over the remnants of Yugoslavia in March 1999, controversially labeled “humanitarian” (Wise 2013). Arguing based on atrocity prevention, the campaign did not receive UN backing, as it was directly opposed by Russia, leading to a disputed legal mandate. (To this day, Moscow sees the NATO intervention as a humiliation [Gessen 2014]) The crushing campaign eventually forced Belgrade to sign a peace treaty in Kumanovo.

While independence was not on the cards for the UN as outlined in the 1999 UN Resolution 1244 (UNSC 1999) that guaranteed Yugoslav territorial integrity and placed Kosovo under indefinite ITA of the UN, it soon became clear that Kosovo Albanians would not settle for anything but independence. After regional violence broke out in 2004 (started by ethnic Albanians), the UN commissioned a report written by Martti Ahtisaari (UNSG 1991), who proposed a supervised independence but without any meaningful consultations with Belgrade. The lack of consultations and Serbian buy-in has proven to be a critical obstacle for Kosovo's future and governance. Short of any other solutions to the impasse, Kosovo declared independence in 2008 unilaterally, later recognized by over 100 UN members, including the US, but excluding Russia and five EU states, together with Serbia. To this day, the legality of the independence remains disputed, although the ICJ deemed it not to be in violation of international law, and the Kosovo case stands as *sui generis* (ICJ 2008).

NATO (KFOR), UN (UNMIK), and later the European Union (2013 Brussels Agreement and EU Rule of Law Mission, EULEX) have all provided

military, political, diplomatic, and administrative backing for Kosovo's peace and governance. The various territorial arrangements in Kosovo to accommodate the Serb population on its territory have so far failed (such as the Association of Serb-Majority Municipalities that was agreed in Brussels in 2013 but that Kosovo refuses to implement) (Vulović 2023), and Kosovo remains a contested state in international politics. While peace was re-established through bombing, extensive foreign funding (World Bank n.d.) and administration, Kosovo is the most legally problematic of all the ex-Yugoslav cases, as many international rules and principles were bent and broken, justifiably leading to accusations of Western hypocrisy (McGlynn 2023). It provides more lessons about how *not to* behave rather than what to do. While an ITA and placing Kosovo under a protectorate stopped the bloodshed (similar to Dayton), the flawed international treatment of the Kosovo-Serbia dispute, lack of commitment, and changing priorities have crippled its governance and plagues the region to this day.

Lessons Learned

Without a doubt, most of the cases reviewed here – and most notably the Yugoslav cases – would not have succeeded under different geopolitical circumstances. As for the former Yugoslavia, in the mid-1990s, Russia was politically re-opening and trying to cooperate with the West. Rump Yugoslavia (dominated by Serbia) was militarily and economically on its knees, crushed by economic sanctions and continuous fighting, isolated internationally, and short on allies. Both in BiH and, then, in Kosovo, negotiating various sets of compromised peace ended up as the only option for Belgrade. It allowed it to at least pretend victory when in fact on the brink of military defeats – an undeniable fact that eventually precipitated the fall of Slobodan Milošević in 2000. Yet the compromised peace kept several issues open – Kosovo is still in international limbo, RS keeps derailing Bosnian functioning through secessionist threats, and territorial disputes are still dealt with via courts. The role of the international administrators remains a sore point of dispute.

So, what purpose have the ITAs served? What have been the benefits? First, they were critical ingredients for peace negotiations over disputed territories. Without them, the prospect of endless wars was real. Second, some of them (e.g., in Danzig, Memel, and Croatia) prevented further expulsions of populations and accommodated for a mixed governance in multi-national areas. While the jury is still out on how such management will pan out in the future for other ITAs still in place today in the former Yugoslavia, they provided a creative option at the time that ruled out further homogenization of territories. Third, ITAs bought time. They can be effective in proposing a temporary solution that can be later resolved under situations with fewer animosities and emotions, and more lasting solutions can be found under different political constellations. The bottom line is that in some cases – such as in BiH – it was the only effective way at the time to stop violence. Without

the international backing and the often-convoluted formulas for governing that were painstakingly negotiated in Dayton, the fighting could have continued, and more lives would have been lost. Whether “giving war a chance” as Edward Luttwak argued (Luttwak 1999), would have been a preferable option from a long-term perspective is not only an exercise of virtual history but also ethically problematic. Suboptimal solutions they may be, but ITAs – at least in some cases – saved lives.

The joint experiences from the former Yugoslavia and elsewhere serve as lessons on what is feasible (demilitarization, security, and international arbitrations with set deadlines) and what is not (complex ethnic power-sharing and veto rights). International commitment and backing of any ITA are equally imperative. Investments in BiH and Kosovo, in particular, have been jaw-dropping. Committing to peace is costly, but certainly not as costly as the continuation of wars.³ The option of any ITA in Donbas may sound radical or even unworkable at present, because Russia thinks it holds the cards now that the US has abandoned Ukraine. However, it all depends on whether Ukraine can continue to resist and even push Russia to negotiate on more symmetrical terms with European support. This is where the UN can step in and support an ITA option formulated by the Europeans, if Ukraine is prepared to accept it as the least-worst outcome.

The degree of radicalism turns on the question of sovereignty: whether it is a transitional, peace-keeping operation until a transparent arbitration is held, an autonomous region within Ukraine, or an internationally administered Donbas with a new international legal personality. While risks are unavoidable, we have sufficient experience from a raft of historical cases to draw important positive and negative lessons. The primary one is that a resolution can be found with sufficient international determination if equipped with significant resources and military backing for the long haul, if Ukraine engages with it, and if Russia reluctantly agrees to cooperate. Indeed, the latter question is the biggest challenge for ITAs, but if it were up to Russians, pre-war polling suggests there was a willingness to entertain many options (Levada Center 2021). There is hope for the future, too.

Notes

- 1 It even declared independence in 1991 but was not recognized as it was not officially considered a republic.
- 2 “31600 documents undoubtedly confirm death or disappearance of 13535 individuals during war in Kosovo,” 6 February 2015, Humanitarian Law Center, <http://www.hlc-rdc.org/?cat=218&lang=de>
- 3 See Zürcher, Manning, and Evenson (2013).

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