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## **The Return of Conquest?** Why the Future of Global Order Hinges on Ukraine

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# The Return of Conquest?

## Why the Future of Global Order Hinges on Ukraine

*Tanisha M. Fazal*

Russian President Vladimir Putin has long declared that Ukraine has never existed as an independent country. The former Soviet republic is “not even a state,” he said as early as 2008. In a speech on February 21 of this year, he elaborated, arguing that “modern Ukraine was entirely and fully created by Russia.” Days later, he ordered Russian forces to invade Ukraine. As Russian tanks streamed across the Ukrainian border, Putin seemed to be acting on a sinister, long-held goal: to erase Ukraine from the map of the world.

What made Russia’s invasion so shocking was its anachronistic nature. For decades, this kind of territorial conquest had seemed to be a thing of the past. It had been more than 30 years since one country had tried to conquer another internationally recognized country outright (when Iraq invaded Kuwait in 1990). This restraint formed the basis of the international system: borders were, by and large, sacrosanct. Compliance with the norms of state sovereignty—

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including the notion that a country gets to control what happens in its own territory—has never been perfect. But states have generally tried to observe the sanctity of borders or at least maintain the appearance of doing so. Countries could rest assured that of all the threats they faced, an invasion to redraw their borders was unlikely to be one of them. With a main cause of war largely consigned to history, this particular brand of conflict became less common.

Now, with Russia’s invasion, the norm against territorial conquest has been tested in the most threatening and vivid way since the end of World War II. The war in Ukraine is reminiscent of a previous, more violent era. If the global community allows Russia to subsume Ukraine, states may more frequently use force to challenge borders, and wars may break out, former empires may be reinstated, and more countries may be brought to the edge of extinction.

However disturbing Russia’s attack may be, the rest of the world can still protect the norm that Moscow has challenged. The global community can use sanctions and international courts to impose costs on Russia for its blatant and illegal aggression. It can press for reforms at the UN so that Security Council members, Russia included, cannot veto a referral to the International Criminal Court and thus hamstring that institution’s ability to mete out justice. Such a response will require cooperation and sacrifices, but it is well worth the effort. At stake is one of the bedrock principles of international law: the territorial integrity of states.



## **BORDER PATROL**

“State death,” as I have called the phenomenon, is a state’s formal loss of control over foreign policy to another state. In other words, when a country concedes that it can no longer act independently on the world stage, it effectively ceases to be its own state. At the beginning of the era of the modern state, one cause of state death predominated: blunt force trauma. From 1816 to 1945, a state disappeared from the map of the world every three years, on average—a fact all the more alarming given that there were about a third as many states back then as there are now. In that period, about a quarter of all states suffered a violent death at one point or another. Their capitals were sacked by enemy armies, their territory was annexed, and they could no longer act independently on the world stage.

Countries located between rivals were especially susceptible to being taken over. From 1772 to 1795, Poland was carved up by Austria, Prussia, and Russia. Poland disappeared from the map of Europe completely for over a century. Paraguay suffered a similar fate in 1870, when it lost a war against Argentina and Brazil. Early in the twentieth century, Japan annexed Korea after a series of peninsular wars with China and Russia.

Besides having an unfortunate location, the lack of strong diplomatic ties with colonial powers was another harbinger of danger for vulnerable states. Trade relations were not enough. In the eighteenth and nineteenth centuries, African and Asian countries that had inked commercial deals with imperial powers such as France and the United Kingdom were more likely to

die than countries in Latin America and the Middle East that, having stronger and more formal ties, hosted consulates and embassies from these same colonial powers. There was, in other words, a hierarchy of recognition that signaled which states were seen as legitimate conquests and which were not. The United Kingdom, for example, signed treaties with precolonial Indian states from Sindh to Nagpur to Punjab that many Indian leaders viewed as a recognition of statehood. But the British never took the next step of establishing diplomatic missions in these states—a slight that was often a prelude to invasion.

Slowly but surely, some leaders started pushing back against the practice of conquest. In the early twentieth century, U.S. President Woodrow Wilson emerged as a proponent of territorial integrity. The last of Wilson’s Fourteen Points, unveiled as World War I came to a close, referred specifically to protections for states belonging to the League of Nations, which Wilson thought could offer “mutual guarantees of political independence and territorial integrity to great and small states alike.” To be sure, Wilson’s commitment to self-determination was limited to European nations; he favored independence for the Poles but was unresponsive to pleas for support from the Egyptians and the Indians. Moreover, his defense of territorial integrity was made easier by the fact that by the time Wilson became president, the United States had completed its own territorial conquests, including its march west and the accompanying capture of Native American lands; it no longer had clear ambitions to acquire additional territory.

Nonetheless, Wilson did help the norm against territorial conquest take root.

Wilson's successors continued the tradition of opposing territorial grabs. In 1935, President Franklin Roosevelt, for example, expressed strong opposition to Italy's takeover of Ethiopia and was even willing to delay allying with the Soviet Union at the beginning of World War II because Moscow demanded that its subjugation of the Baltic states be recognized as legitimate. Yet Roosevelt's commitment to the norm, like Wilson's, was not absolute; Roosevelt previously was willing, for example, to recognize Germany's conquest of Austria if it would limit war in Europe.

The end of World War II heralded a new era. In the ensuing decades, the practice of territorial conquest did not go completely extinct; witness North Vietnam's takeover of South Vietnam in 1975; Israel's occupation of parts of its neighbors; Argentina's attempt to take over the Falkland Islands; and Iraq's thwarted invasion of Kuwait in 1990. But generally speaking, countries interfered in other states without attempting to redraw their boundaries. And they were especially unlikely to absorb other internationally recognized states wholesale. When the Soviet Union invaded Hungary in 1956, the aim was to prevent the Eastern European country from leaving the Warsaw Pact. The Soviets installed a new, more friendly regime in Budapest but did not lay claim to Hungarian territory. Similarly, when Vietnam invaded Cambodia in 1978, it installed a puppet government but did not claim territory beyond a cluster of contested islands in the Gulf of Thailand.

Certain occupations, such as those following the United States' invasions of Afghanistan and Iraq, qualify as violent state deaths. But the United States did not have designs on those countries' territory; it sought to topple regimes, but it maintained the integrity of borders. The absence of territorial aims does not make one type of violation of sovereignty better or worse than another, but it does represent an important difference. The maps, by and large, stayed the same.

### **A NORM TAKES ROOT**

Why the sudden drop-off in territorial conquest after World War II? The answer can be found in a powerful force in international relations: norms. As the political scientists Martha Finnemore and Kathryn Sikkink have defined the term, a norm is "a standard of appropriate behavior for actors with a given identity"—in this case, states. The leaders who developed the norm against territorial conquest recognized that most conflicts, including World War II, were fought over land. Establishing a norm against one state taking another's territory by force was therefore part of a broader project to promote peace. By helping enshrine it in the UN Charter, the United States was determined that the norm would stick. Having emerged from the war much stronger than its allies, the United States viewed enforcing the norm against territorial conquest as a key element of preserving global stability. Newly independent states made similar commitments in the founding documents of regional organizations, such as the Arab League and the Organization of African Unity. Building on earlier attempts to enshrine the concept

of territorial integrity in such treaties as the Covenant of the League of Nations, in 1919, and the Kellogg-Briand Pact, in 1928, a *bona fide* norm emerged.

States and leaders adhere to norms for various reasons. Whereas some norms—say, that against genocide—are grounded in humanitarian concerns, the norm against conquest has more strategic, self-interested roots. Some states honor the norm because they have no territorial ambitions. Others have internalized it so deeply that violating it has become inconceivable. Some—even powerful states—obey it because they know that territorial disputes have been a major cause of wars, and they view the stability of the international system as being in their interest. Still others follow it for fear of punishment if they violate it.

For all its benefits, the norm against territorial conquest has also had unintended consequences. One is the hardening of interstate boundaries in ways that create conditions ripe for state failure and collapse. As the political scientist Boaz Atzili has shown, “border fixity” has freed the leaders of weak states from having to direct their attention to protecting their own borders against external predation. Zaire’s dictator, Mobutu Sese Seko, was able to focus his efforts on extracting resources for personal gain in part because he did not need a strong military to defend his country’s borders. And as the sociologist Ann Hironaka has shown, the norm against territorial conquest also has contributed to the growth of “never-ending wars.” Rather than settling differences over political control by attempting to take over territory, opportunistic leaders have intervened in civil wars in weak states to prolong conflict

and further weaken unstable governments—as South Africa did in Angola in the 1980s, for example.

It is not an accident that the norm against territorial conquest emerged after World War II. The horrors of that conflict, combined with the dawn of the nuclear age, incentivized the great powers to avoid future wars. The era of bipolarity between the United States and the Soviet Union allowed for both regime change and the preservation of international borders. Globalization also reduced the economic benefits of territorial conquest: increased trade meant that countries could access other states’ resources without resorting to force.

Not only were borders secure; statehood itself became an increasingly valuable commodity, in part because the postwar leaders of newly independent countries could be confident that the norm against territorial conquest would hold and their fledgling states would be safe. But it is precisely the citizens of those new states, many of which are located in the post-Soviet space, who are rightly most concerned today about their countries’ futures.

## **A TAXONOMY OF DANGERS**

Russia’s invasion of Ukraine is shining a light on the precariousness of the norm against territorial conquest. The good news is that the outrage has been swift and broad, with a variety of actors worried that Putin’s attack could undermine the stability of borders globally. Even those who did not participate in the drawing of today’s national borders have spoken out passionately. “We agreed that we would settle for the borders that we inherited,” Martin Kimani, Kenya’s ambassador to the UN,

said at a February 22 Security Council meeting. “We chose to follow the rules of the Organization of African Unity and the United Nations Charter,” he went on, “not because our borders satisfied us, but because we wanted something greater, forged in peace.” Leaders of countries from Albania to Argentina have condemned the Russian invasion on similar grounds.

In part, the fate of the norm against territorial conquest depends on the extent to which Putin violates it in Ukraine. If Putin ends up replacing the administration of Ukrainian President Volodymyr Zelensky and installing a puppet regime in Ukraine, he would be engaging in blatant regime change and dealing a grave blow to the Ukrainian people. But he would not be challenging the norm against territorial conquest *per se*. The country would be under indirect, rather than direct, Russian control.

Likewise, if Putin attempts to absorb Crimea, Donetsk, and Luhansk—areas he has long claimed as Russian territory—and the rest of the world acquiesces, it would weaken but not completely overturn the norm guarding a state’s territorial integrity, because most of Ukraine would remain intact. Even so, the acceptance of a limited violation of the norm might do more damage in the long run than a rejection of a major violation of it. After all, it is likely that the West’s relatively weak response to Russia’s 2014 annexation of Crimea emboldened Putin.

There is reason to fear that Putin’s ambitions go well beyond these goals. As his remarks questioning the legitimacy of Ukraine as an independent country suggest, Putin seems interested in much more than merely putting a

crony in charge of a former Soviet republic or carving out parts of the country; he may be contemplating redrawing the map of Europe to hark back to imperial Russia. If Russia were to take over the entirety of Ukraine, Putin would drive a stake into the heart of the norm against territorial conquest.

If Putin went that far, then the fate of the norm would depend largely on how the rest of the world reacted.

Norms are nourished by enforcement.

In 2013, Syrian President Bashar al-Assad clearly violated the norm against the use of chemical weapons (and international law) when he fired sarin-filled rockets at the Damascus suburbs. Even though U.S. President Barack Obama had declared the use of chemical weapons to be a redline, the response to this violation was so tepid that one can be forgiven for asking whether the taboo against chemical weapons still holds.

Fortunately, much of the world’s response to the Russian invasion indicates that countries are largely united in their determination to protect the norm. Unprecedented sanctions on Russia, combined with donations of humanitarian aid and weapons for Ukraine, are applying pressure on Putin while offering (admittedly limited) relief to Zelensky. If that international resolve were to ebb, however, countries that neighbor Ukraine, such as Moldova, Poland, and Romania, would rightly become nervous about their sovereignty. Indeed, they already are. It is notable that the international community has not banded together to repel Russia’s incursion the way a U.S.-led global alliance turned back Iraq’s attempted

annexation of Kuwait. That move not only restored Kuwaiti independence but also reinforced the norm against conquest. (Russia, of course, is far more powerful than Iraq ever was and possesses nuclear weapons to boot.)

At the same time, enforcing the norm against territorial conquest comes with tradeoffs, about which everyone should be clear-eyed. Protecting Ukrainian sovereignty is likely not worth a third world war—especially one that could go nuclear. The world should not pay the ultimate price just to support the norm against territorial conquest. But the bloody costs that come with that choice cannot be ignored. The West is currently walking a difficult line, seeking to respond to Russia's invasion with strength but without escalating the conflict.

To preserve the norm against territorial conquest, the global community should keep up the pressure on Russia, even if Putin's goal is to annex only Crimea, Donetsk, and Luhansk. The Western alliance, for example, should not fully lift sanctions on Russia until and unless Putin recognizes Ukraine's pre-2014 borders. International jurists should take Ukraine's various suits against Russia seriously, not just in the context of this specific conflict but also with an eye to any precedents their decisions might set. Along these lines, it is worth paying attention to how the accusations that Russia has committed the crime of aggression play out. The fact that Russia, as a permanent member of the UN Security Council, can veto a referral for the crime of aggression to the International Criminal Court exposes a troubling vulnerability of the norm against territorial conquest.

It is hard to maintain norms when great powers are determined to break them.

If the global community fails to enforce the norm against territorial conquest, the states bordering great powers will face the highest risk of extinction. Among the most concerning aspects of a return to a world of violent state death are the effects invasions have on civilians. Annexationists frequently engage in indiscriminate targeting, similar to what is happening today in the Ukrainian cities of Kharkiv and Mariupol, to quell and even depopulate areas. In other words, the demise of the norm against territorial conquest could see an increase in not only the incidence but also the brutality of war.

Even if the global community does not rally behind the norm in the face of a Russian attempt to reinstate imperial boundaries, hope for Ukraine will not be lost. About half of all the states that died violently since 1816 were later resurrected. An important predictor of resurrection is nationalist resistance to being swallowed up. The extent of the resistance can be difficult for invaders to predict. Putin's expectations certainly seem to have been way off the mark: the widespread and sophisticated Ukrainian resistance strongly suggests that Russia will find it nearly impossible to control Ukraine. Few occupations in history have ended up achieving their long-term political aims.

If the Ukrainians are left to resurrect their own country, the end result will be good for Ukrainians but not particularly encouraging for the norm against territorial conquest. For norms to remain strong, violations must be punished. A resurrected Ukraine might deter future would-be conquerors from attacking the country. But globally,



aspiring invaders would draw a clear lesson: it is possible to get away with territorial conquest.

### **RECOMMITTING TO BRIGHT LINES**

It might be more comforting to believe that once established, a norm is permanent, but norms don't always last forever. Think about how many have slipped away. People no longer settle fights via ritual dueling. Governments rarely issue formal declarations of war; the last time the United States did so was in 1942, even though the country has fought many wars since then. The public assassination of state leaders, which was a regular feature of international politics in Machiavelli's time, was viewed as abhorrent by the seventeenth century (although covert assassinations continued). If the prohibition against territorial conquest ends up in the graveyard of norms, then history will turn backward, and the world will revisit the brutal era of violent state death. This is not to say that the norm ushered in world peace. There have been plenty of wars since 1945. But a certain kind of war—wars between states over unresolved territorial claims—did decline. Should that style of conflict return, civilians around the world will bear the consequences.

Consider the dozens of ongoing territorial disputes today. Armenia and Azerbaijan are engaged in a frozen conflict over Nagorno-Karabakh. Sudan has challenged its border with Ethiopia in the north and South Sudan in the south. In the East China and South China Seas, China and its neighbors, including Japan, the Philippines, and Vietnam, disagree over the

sovereignty of a series of islands. Taiwan's fate is of particular concern. Putin's arguments about the legitimacy of Ukraine's statehood echo China's claim that Taiwan and China are already one country. If it suddenly seems acceptable to take territory by force, leaders of states with long-unresolved territorial claims could attempt to subsume sovereign nations.

Existing norms and legal structures have helped stop recent territorial conflicts from escalating, offering nonviolent paths to their management and resolution. The International Court of Justice resolved a case between El Salvador and Honduras in 1986, for example. The United Nations and the Organization of American States resolved a brief conflict between Ecuador and Peru in 1998. Several years later, the ICJ resolved a long-standing militarized territorial dispute between Bahrain and Qatar; subsequently, the two states invested in what will be the world's longest bridge. This mediation allowed states to settle their differences without significant bloodshed.

Russia's war in Ukraine is about much more than Russia and Ukraine. Allowing the norm against territorial conquest to wither away would mean taking the lid off territorial disputes around the globe and making millions of civilians more vulnerable to indiscriminate targeting. Right now, the immediate effects of the war are largely contained to Ukraine, Russia, and the countries taking in Ukrainian refugees. But further down the road, if the norm against territorial conquest ends up as another casualty of this war, states would be wise to carefully tend to their borders. 🌐