

RUSSIA & EURASIA STUDIES CENTRE

Ukraine-Russia Policy: Next Steps for the West

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Executive Summary

The worst crisis in Europe since the end of World War II is taking place before our eyes. Over a million refugees have fled with the number likely to reach seven million. Massive destruction of infrastructure and housing is being undertaken by Russia's invasion force.

This paper presents three policies that a coalition of the willing among Western democracies should urgently support. The Henry Jackson Society calls for:

- I.** The establishment of red lines in the case of radiation leaks or use of chemical weapons where the West indicates that Russia will be held to account by all means possible, including military, should these scenarios occur as a result of Russian activity.
- II.** The creation of some form of safe zone in Western Ukraine to assist Ukrainian civilians fleeing from Russia's criminal invasion.
- III.** Criminal prosecution of Russian President Vladimir Putin, Defence Minister Sergei Shoigu, Foreign Minister Sergei Lavrov, Russian Security Council Secretary Nikolai Petrushev and other senior Kremlin leaders who are guilty of launching Russia's illegal invasion of, and war against, Ukraine.
- IV.** Blacklisting Russia by designating it a terrorist state.

I. Establish Clear Red Lines to Prevent Future Aberrant Russian Behaviour

Thus far in the Ukraine invasion, it is Russia's President Vladimir Putin who has been able to establish red lines about the extent of others' involvement in a conflict of his making, and where he is breaking international law. As an example of the effect this has had on Western freedom of manoeuvre, the UK, US and other Western countries have expressed concern that measures like the creation of a No-Fly Zone would "escalate" the military situation and possibly lead to confrontation between NATO and Russia.

Given recent developments in the conflict however, it is time that the West created some red lines of its own, in a bid to limit the ability of the Russians to put either mass public safety or further internationally agreed norms of behaviour at risk.

Two particular scenarios would form the basis of a credible Western ultimatum to Russia about future behaviour:

1. A Nuclear Radiation Outbreak Occurring Owing to Russian Neglect or Attack:

Russian security forces have occupied the decommissioned Chernobyl nuclear plant north of Kyiv, where an accident in 1986 spread radiation as far as northern England. There have been reports of power cuts at Chernobyl since the Russian takeover which might imperil the status of the still damaged reactor, and lead to further radiation leaking.

Similarly, after a firefight with Ukrainian forces, Russian security forces also occupied Zaporizhzhya, Europe's largest nuclear power plant and among the ten largest in the world. The Zaporizhzhya plant has six VVER-1000 pressurised light water nuclear reactors, damage to which could have catastrophic consequences. During the Russian attack, a fire broke out at a non-critical part of the plant as a result of Russian damage in combat. The consequences of a different part of the plant being affected similarly would be horrific.

2. Chemical Weapons Attack:

The Kremlin supported Bashar al-Assad's Syrian regime's use of chemical weapons attacks against civilians. The OPCW (Organisation for the Prohibition of Chemical Weapons) has reported that chemical weapons were used on seventeen occasions during Syria's civil war.¹ Russian GRU officers conducted a chemical weapons attack in Salisbury, England in 2018 against Sergei Skripal, one of their former officers. Skripal survived the attack but an innocent British woman died after coming into contact with the chemical substance Novichok.

American and British officials have warned that Russia could use false claims Ukraine and the US were developing biological and chemical weapons as a pretext for a chemical weapons attack against Ukrainian civilians or military forces.²

The Institute for the Study of War think tank has warned: "Recent Russian state media narratives have built upon a long-running Kremlin information operation to falsely claim that Ukraine, the United States, and NATO are plotting a chemical or radiological attack on Russia or Russian-occupied Ukrainian territory. Russia may conduct or fabricate such an attack and blame Ukraine and NATO to justify additional aggression against Ukraine."³

The world cannot tolerate either a nuclear accident stemming from Russian attempts to control Ukrainian nuclear sites, or a Russian chemical attack. The former would place Europeans on the front line of the conflict, while the latter would be an escalation of a kind the world has previously stated it would not accept. Accordingly, the West should act now and inform the Russian government in no uncertain terms that either of these scenarios would be regarded as a significant Russian escalation, and that all Western responses, including military options, would return to the table at this point.

II. Support Humanitarian Intervention: Create a Safe Haven for Ukrainian Refugees

Russian forces under Vladimir Putin have an appalling human rights record in urban warfare, evidenced by their actions in the Chechen capital of Grozny and the Syrian city of Aleppo. Recent events have highlighted the capability of Russian forces to engage in actions with significant civilian casualties. The United States Ambassador to the United Nations has alleged that Russian forces are planning to “target those who oppose Russian actions, including Russian and Belarusian dissidents in exile in Ukraine”.⁴ Civilians attempting to flee cities under assault have been shelled by Russian forces, and Russia’s defence ministry has offered a ceasefire only for civilians fleeing for Russia or Belarus.⁵

Ukrainian President Volodymyr Zelenskyy has pleaded with EU, UK and US leaders to introduce a no-fly zone over all of Ukraine. Washington, London, and NATO have rejected this proposition with figures asserting it presents an unacceptable risk of direct conflict with Russian forces.^{6,7,8}

With the option of a uniform No-Fly Zone off the table, other commentators – including the authors⁹ – have raised the prospect of providing a ‘safe zone’ in Western Ukraine, encompassing ground and air elements.

The Ukrainian parliament also has called for UN peacekeepers to be brought to Ukraine and for the International Red Cross to help establish a “humanitarian corridor.”¹⁰ The Ukrainian parliament stated:

“We demand to open “green corridors” for safe evacuation women, children and the elderly, humanitarian supplies assistance to victims and civilian. We also consider it necessary introduction of peacekeeping forces in Ukraine on the basis of UN GA Resolution 377 (V) Union for Peace of November 3, 1950.”

Retired U.S. General Philip Breedlove, former NATO Supreme Allied Commander Europe, has observed that the fastest way to establish a humanitarian no-fly zone in the west of Ukraine would be through “a coalition of the willing,” which would be different to a military no-fly zone and “have different rules of engagement.”¹¹

Breedlove explained how his humanitarian safe zone would work:

“The rules of engagement would be that we are constructing a humanitarian operation to allow for humanitarian relief corridors and all other manner of things on the ground below them. We are not going to fire on our opponent unless our opponent fires on us. And so, we tell the opponent that this is a humanitarian

no-fly zone. We will not fire on your ground stations unless you fire on us, and we will not fire unless fired upon.”¹² Adding, “it would be something where we would transmit to our opponent what we are doing in order to stay out of a more bellicose posture. But it would be really up to the opponent how it would proceed if we went in there and tried to have a no-fly zone over the western half of Ukraine.”¹³

Breedlove and Ambassador Kurt Volker, former US Special Representative for Ukraine Negotiations and US Ambassador to NATO, called for the West to take “humanitarian action” by:¹⁴

“Putting in place a no-fly zone for protection of the civilian population against Russian aerial bombardment. The exclusion zone should cover Kyiv and western Ukraine – but not extend further east to avoid coming close to Russian borders. The no-fly zone would require clear communication to make clear it serves humanitarian purposes only, and that no US or NATO aircraft or drones would engage in any hostilities against Russian ground forces, except in self-defence if fired upon. Neither would they engage any Russian aircraft provided those aircraft remain outside the declared exclusion zone. Russian air force leaders will understand the lines.”

There are clear problems with an enforced safe zone imposed without Russia’s support. Its maintenance would require the deployment of NATO, EU or other forces across the Ukrainian border, an act Moscow would likely choose to interpret as highly provocative, even though it is Russia that has crossed the international border first. If the region were subsequently used – or suspected to be – as the scarcely-veiled channel for the funnelling of arms into Ukraine, or the provision of a safe haven for Ukrainian military assets such as the Ivano-Frankivsk air base, then this could further elevate risks of conflict (although this could be mitigated by a Ukrainian commitment to demilitarise the zone from its perspective).

With this said, the United Nations believes the war will lead to Europe’s worst migration crisis in the 21st century so far.¹⁵ Pictures continue to circulate of the medieval savagery and indiscriminate nature of the Russian attack on Ukrainian cities. The provision of shelter for refugees would alleviate these issues by providing Ukrainians with an ability to stay alive while remaining within their country rather than being forced to flee, perhaps never to return. It would also allow for the concentrated dispersal of humanitarian aid. Given the heroic defence of Ukraine by its population, we at least owe its people the opportunity to remain on the soil that they are so willing to lay down their lives for.

There is also an important strategic consideration to such a move. Thus far, Vladimir Putin has been able to control progress of the invasion. International condemnation of his invasions and sanctions to punish him have been unprecedented, but they are a medium term tool and can do little to halt the short term Russian assault. Supplying weaponry to Ukraine is the only way we have currently been attempting to the situation on the ground. A Western Ukrainian safe zone would be the first sign of proactivity as opposed to reactivity on the ground, and would represent a genuine challenge to Putin’s strategic thinking about his war as well as potential future outcomes. It would also give the international community a bargaining tool in any eventual peace negotiations with Russia involving withdrawal from Ukraine, providing some much needed leverage.

Accordingly, the time is ripe to adopt a safe zone in Western Ukraine. With fighting advanced in the East and South of the country, the regions that would most obviously comprise this would be the 4 regions of Galicia (Lviv, Ivano-Frankivsk, Ternopil) and Trans-Carpathia.

No Russian plans that have been leaked by Western Intelligence or published show the Kremlin's intentions to invade and occupy Western Ukraine. Its occupation could require more resources than Russia is willing to commit, and Russian nationalists have not always considered the region to be part of the "Russian World" of the three East Slavs. As a consequence, NATO could credibly and legitimately state that an intervention of this nature in the far west of Ukraine, at the invitation of the legal Ukrainian government, would not be an interference with Russian war plans. Instead, NATO would be taking advantage of a grey zone to safeguard civilians and also preserve a part of a free Ukraine.

Leadership is about making bold and decisive steps, while minimising risks of conflict resulting from any upping of the ante. It is our belief that a Western Ukrainian safe zone represents a measured and proportionate next step for the international community to take. It would demonstrate that we continue to believe in a free Ukraine and are prepared to take actions that will fully match our rhetoric that "Putin must fail".

III. Prosecute the Kremlin's War Crimes: Putin and Russian Leaders

UK Prime Minister Boris Johnson believes that Putin has committed war crimes, and has compared Putin to Serbian leader Slobodan Milosevic who was convicted by the ICC as war criminal.¹⁶

Echoing this claim, UK Justice Secretary Dominic Raab pointed out the UK has a "track record" in acting as jailer for warlords, including Radovan Karadzic, the former president of Republika Srpska, and Charles Taylor, the former president of Liberia. "We have done this before," Raab said, commenting on whether Putin could be imprisoned in the UK. Raab raised the possibility of Putin being tried and convicted for war crimes. He insisted the UK would do "whatever is necessary" to help the International Criminal Court bring Putin to justice, by "supporting the court on everything from information co-operation, witness relocation, forensics to sentence enforcement".¹⁷

These statements are sensible, rather than sensational. Ukraine is a founding member of the UN and has been a UN member for nearly eight decades. By invading Ukraine, Russia has infringed international law and the UN Charter. The ECHR (European Court of Human Rights)¹⁸ and the ICC (International Criminal Court) have pointed to Russian military actions constituting war crimes.

The ICC has jurisdiction over genocide, crimes against humanity, and other war crimes. Karim Khan, ICC chief prosecutor, has explained that the court's jurisdiction "extends to President Putin individually". He added, "Putin is clearly guilty of the international crime of aggression by his manifest breach of the UN charter. The prosecutor is right to investigate, even if Russia would obviously veto any progress towards an indictment. But Putin may, like some old Nazis, live on into his 90s and his guilt of mass murder may yet be brought home to him."¹⁹

Khan has concluded:

“I have reviewed the Office’s conclusions arising from the preliminary examination of the Situation in Ukraine, and have confirmed that there is a reasonable basis to proceed with opening an investigation. In particular, I am satisfied that there is a reasonable basis to believe that both alleged war crimes and crimes against humanity have been committed in Ukraine in relation to the events already assessed during the preliminary examination by the Office. Given the expansion of the conflict in recent days, it is my intention that this investigation will also encompass any new alleged crimes falling within the jurisdiction of my Office that are committed by any party to the conflict on any part of the territory of Ukraine.”²⁰

He continued:

“I will also be asking for the support of all States Parties and the international community as a whole as my Office sets about its investigations. I will be calling for additional budgetary support, for voluntary contributions to support all our situations, and for the loan of gratis personnel. The importance and urgency of our mission is too serious to be held hostage to lack of means.”²¹

As *The Economist* opined, “There is no serious doubt that Russia has broken international law in Ukraine. The ICC came into force in 2002 to prosecute four main crimes: genocide, war crimes, crimes against humanity and crimes of aggression. There is *prima facie* evidence that Russia has committed at least three of those.”²²

The ICJ (International Court of Justice), the UN court which rules on disputes between states, began deliberations on 7 March in response to a Ukrainian motion accusing Russia of wrongly justifying its invasion of Ukraine by claiming a non-existent genocide taking place in the Donbas and more broadly of Russian speakers.²³ “What they’re essentially looking for is a ruling from the court saying that when Putin says that there is genocide taking place against the Russian speakers in the Donbas, that that’s a completely unfounded claim and it doesn’t provide any basis for Russia’s aggressive actions.”²⁴

President Zelenskyy has described the intensive bombing of Kharkiv and other towns as a war crime and has accused Russia of seeking to destroy Ukraine’s national identity. US Ambassador Linda Thomas-Greenfield stated that Russians who have committed war crimes would be brought to justice, adding to the growing consensus about Russian leaders’ culpability for what has transpired.²⁵

There is also an immediate way that war crimes can be investigated. Evidence of war crimes could be provided by the many Russian prisoners of war (POW) already in Ukrainian hands. These POWs could know of, or may have themselves committed war crimes. The ICC could arrange for them to be taken to one of four EU member states bordering Ukraine and from there to The Netherlands. In return for giving testimony against Putin’s war crimes they could be offered asylum in the Western country of their choice.

There is also already consensus of various kinds about the following war crimes:

- I. US intelligence procured a “kill list” of Ukrainian elites who would be incarcerated or executed under a Russian occupation.

II. A death squad was sent, to murder President Zelenskyy, before the plot was disrupted and assailants liquidated.

III. Thermobaric weapons systems (vacuum bombs) have been used in Ukraine according to official UK sources.

IV. The Bellingcat investigative team and Amnesty International have condemned the use of cluster bombs in Ukraine.

V. Russia has fired over 500 missiles against Ukraine. Iskander missiles, the most sophisticated in the Russian military arsenal, have been fired from Belarus into Ukraine. Civilians have been victims of a Russian failure to distinguish between combatants and non-combatants.

VI. Indiscriminate shelling of civilian residential areas has taken place. This extends to government buildings, schools, kindergartens, hospitals, transportation, and utilities.

None of these could be classified as having military significance.²⁶ In the Chechen capital of Grozny and Syrian city of Aleppo Russia undertook the indiscriminate shelling of residential buildings. This murdered thousands of civilians. Ukrainian casualties will increase in number as Russia presses forward with its goal of conquering Ukraine.²⁷

The description of Russia's leadership as "war criminals" is accurate. Every effort must be made to accompany this branding with a concerted attempt to advance the cause of justice through official prosecution channels. Nothing would signify that the Kremlin has erred grievously more than a united approach calling out Russian crimes and a determination to not allow those responsible to escape the consequences of their actions.

IV. Declare Russia a Terrorist State: Blacklist Russia Through the Financial Action Task Force

There is a strong case to suggest Russia should be declared a "state sponsor of terrorism."²⁸ In 2014, Russia invaded and annexed Crimea. It has since conducted an eight-year hybrid war against Ukraine that killed 20,000 civilians and combatants and created 2 million IDPs (Internally displaced Persons) and refugees; unleashed terrorist attacks throughout Ukraine;²⁹ and launched a full-scale invasion of Ukraine in 2022. The Kremlin's goals are regime change through the installation of a pro-Russian dictator, and the destruction of Ukrainian national identity.³⁰

Russia has invaded Ukraine and it is now undertaking a campaign to sow terror on its civilian population. This campaign involves the indiscriminate bombardment of Ukrainian cities with cruise missiles, use of unguided ordinance and illegal cluster bombs. It has launched a propaganda campaign to instill terror in the population of Ukraine, destroyed civilian infrastructure and launched cyberattacks aimed at critical infrastructure.

The attack by the Russian Federation was unprovoked and is not sanctioned by the UN. Indeed over 140 UN nations voted to condemn the attack in an extraordinary

meeting of the UN General Assembly.

What is this unprovoked attack if not a terrorist attack on the Ukrainian people?

“State sponsors of terrorism” are countries that “repeatedly provided support for acts of international terrorism.” Inclusion on the list would lead to even more severe US and Western sanctions against Russia. Current state sponsors of terrorism include Cuba, Iran, North Korea, and Syria. Iraq, Libya, South Yemen, and Sudan were previously on the list but have been removed.

A suitable vehicle to utilise at this point could be the Financial Action Task Force (FATF), whose scope was expanded in 2001 to include efforts to counter terrorist financing. The FATF was founded in 1988 to improve global coordination to counter money laundering.

Given the remit of the FATF, and the extraordinary events unfolding in Ukraine, there is sufficient evidence of Russian state-sponsored terrorism to enable the organisation to place Russia on its Blacklist of countries, which includes North Korea and Iran.

The FATF, by blacklisting Russia, would further tighten the financial knot. It would force institutional compliance departments to, in turn, tighten their rules restricting capital flows in and out of Russia. It might make Russia think again by imparting an additional cost on it for its actions. Above all, FATF Blacklist status would remind the world – and the Russian leadership – that we cannot consider Russia today a normative member of the international community. Instead, it should be viewed as a current terrorist state with President Putin engaged in a campaign of terror against the Ukrainian people.

Endnotes

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