

Renewing the International Trusteeship System to help resolve certain territorial disputes

Proposal submitted by Aaron Tovish

Proposal:

The United Nations General Assembly (and Security Council) renew the International Trusteeship Systems by establishing a Territorial Disputes and Trusteeship Body, to be hosted by the Trusteeship Council. The Body would be available to exercise trusteeship authority over disputed territories by mutual agreement of the parties in dispute, until a final outcome on the status of the territories is reached. The Territorial Disputes and Trusteeship Body would facilitate the process for a final settlement of the status of the disputed territories, consistent with international law and United Nations principles including respect for sovereignty and self-determination. This could involve independence, confirmation of one or other of the disputing parties as the legitimate administering authority, or another outcome.

Renewing the International Trusteeship System (ITS)

The ITS and its Trusteeship Council was established to facilitate decolonization in the aftermath of WWII. This task was completed in 1994. Since then, there has been on-again-off-again discussion for redefining the role of the ITS. This state of affairs was recently summarized as follows:

- Transform the role of the Trusteeship Council
 - o "Member States appear to have decided to retain the Trusteeship Council. The Secretary-General proposes, therefore, that it be reconstituted as the forum through which Member States exercise their collective trusteeship for the integrity of the global environment and common areas such as the oceans, atmosphere and outer space" ([A/51/950](#), para. 85).
 - o "I invite States to consider making the Council available as a multi-stakeholder body to tackle emerging challenges and, especially, to serve as a deliberative forum to act on behalf of succeeding generations. Among other tasks, it could issue advice and guidance with respect to long-term governance of the global commons, delivery of global public goods and managing global public risks." ([A/75/982](#), para. 125)

As can be seen from the Assembly numbers (A/#/..) there has been essentially no progress in this regard for nearly a quarter century. This proposal looks at a specific role the IST could play regarding the "delivery of public goods and managing public risks", wherein the "good" is peace and the "risk" is war.

Many (but by no means all) disputes between nations have to do with conflicting claims to territory. People live in these disputed areas, and they are the ones who suffer the most when these conflicts become violent. The disputants both often claim that they know what is best for these people caught in the middle. But if they are willing to let these people freely express their will, then the IST could play a significant facilitating role.

Whether or not armed conflict has occurred, the contest territory (or territories) could, by mutual agreement of the disputants be placed in trusteeship, under the administrative authority (or authorities) of neutral parties. If necessary, a UN peacekeeping force could be deployed to oversee

the withdrawal of the armed forces of the disputants and maintain the peace. After an agreed time period, free and fair referendum(s) would be held on the agreed main options available for the future status of the trusteeship territory.

The disputants would pledge in advance to respect the will of the people as expressed in the referendum(s). The administrative authority(s) would then be dissolved in favor of the new authorities chosen by the referendum(s).

The example of Russia and Ukraine

The current conflict between Ukraine and Russia can serve as an example of how this might operate. The prevailing situation: there are five provinces which are simultaneously claimed by Ukraine and Russia:

- Crimea: ceded to Ukraine in 1954, annexed by Russia in 2014;
- The two Donbas provinces, Luhansk and Donetsk: recognized by the UN as part of Ukraine since 1945, partially in rebellion since 2014, annexed in whole by Russia but still partially under Ukrainian control;
- Zaporizhzhia and Kherson; recognized by the UN as part of Ukraine since 1945, invaded and annexed by Russia in 2022 but still mainly controlled by Ukraine.

Note that the borders of these provinces are not under dispute.

The peace proposal, if acceptable to both Ukraine and Russia, might take this form:

All five provinces to be placed under UN trusteeship, with a UN peacekeeping mission to oversee the withdrawal of Ukrainian and Russian forces and not permit their return for the agreed period of time, perhaps a decade. Ukraine and Russia pledge not to compromise the security of the provinces and to cooperate in full with the UN trusteeship authorities.

Locally armed partisans shall turn over all heavy armaments to the UN peacekeepers and shall not marshal their forces during the trusteeship period.

The UN peacekeeping mission shall not include nations which supplied weapons to the conflict or were engaged in the conflict. The composition of the peacekeepers shall be the same between and within each province (i.e., irrespective of whether Ukraine or Russia controlled a given part of the province).

All refugees shall be free to return to their homes in these provinces. All children removed from these provinces shall be united with their closest next of kin. Citizens whose homes have been damaged by armed conflict shall receive funds to restore their homes from a special UN fund to be disbursed by the relevant administrative authority. An additional fund shall be created to finance the reconstruction of community property including infrastructure.

All prisoners of war shall be repatriated. Those charged with war crimes will appear before a special UN tribunal created for that purpose. The court shall meet in a mutually agreed location within the provinces while under UN trusteeship.

Referendums shall be held in each of the five provinces six months prior to the end of the UN trusteeship. It will contain three options: independence, with the possibility of freely uniting with other provinces which also opt for independence; return to federation with Ukraine; or agree to annexation by Russia. The electoral rolls shall be carefully compiled by the UN trusteeship. The campaign for each option shall not interfere with the campaigns for the other options.

The referenda shall use ranked voting, meaning that each voter will indicate his/her first and second choices. If there is not a majority based on first preferences, the second preferences of the option which received the fewest votes will be added to the tally for the other preferences. The resulting majority shall be deemed the decision of the electorate. This decision shall, thereafter, be acknowledged and scrupulously respected by Ukraine and Russia and pledged not to take any military or economic action against those provinces which did not opt in their favor.

The UN trusteeship will wind up its mandate. Those provinces that opt for Ukraine will resume normal federal relations as part of Ukraine; Ukraine armed forces may resume operations in those provinces on the same terms as they operate in other provinces of Ukraine. Those provinces that opt for annexation by Russia (if any) may station Russian forces on their territory in the same manner as other Russian provinces. Those provinces that opt for independence may create their own territory defense forces.

Special considerations: Zaporizhzhia Nuclear Power Plant (ZNPP) and Sevastopol Naval Base (SNB)

During the UN trusteeship, ZNPP will be operated by Ukrainian authorities. Should the Zaporizhzhia referendum not opt for federation with Ukraine, Ukraine authorities shall be permitted to continue operation of the ZNPP for a further agreed period of time, after which ownership shall be transferred to the local authorities.

During the UN trusteeship, the SNB will be operated by Russian authorities. Should the Crimean referendum not opt for annexation by Russia, Russia authorities shall be permitted to continue to utilize the SNB for an agreed period of time, after which ownership shall be transferred to the local authorities.

Allegations of violations of this agreement shall be taken up by the UN. Either the veto powers of the Permanent Members of the Security Council shall be suspended in relation to this agreement, or the decisions for the UNGA ESS-XI shall be considered legally binding. By mutual agreement, the ICJ can be asked to resolve a dispute.

In this case, no doubt several other matters not pertaining to the territorial dispute would also need to be addressed, e.g. reparations (outside of the five provinces, Ukraine has sustained far more damage than Russia); Shipping (land and sea, trading routes); Gas transit; Sanctions; etc.

Conclusion

There could well be a new role for the International Trusteeship System, together with UN Peacekeeping, to facilitate the resolution of territorial disputes. The current conflict between Ukraine and Russia could potentially benefit from such an arrangement.