

Resolving disputes over contested territories

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‘We must find a way forward and act now, as we have done before, to stop the slide towards chaos and conflict. It is time to deepen cooperation and strengthen our multilateral institutions, to find common solutions to common challenge.’

United Nations Secretary-General António Guterres.¹

Background

From India and Pakistan on Kashmir beginning 1947, to Sudan and South Sudan with borders that became a potential cause of war in 2011, there are hundreds of contested territorial disputes across the world. As the graphic below shows, contested borders are a commonplace feature of world politics. Not all contested borders have the potential for deadly violence, but some are the most dangerous flashpoints in the world.

Many of these disputes involve the greatest powers in the UN, such as China, India and Russia. Many pose a direct risk of war between nuclear armed states, such as China-India, India-Pakistan, North and South Korea. Many already have caused multiple wars and military confrontations (*Figure 1*). For the UN Security Council, there is no greater challenge to be addressed.

But there are limits to what the Security Council can accomplish. The UN Charter gives the five Permanent Members of the Security Council (P5) a veto over all Security Council resolutions: China, France, the Russian Federation, United Kingdom and United States. Each can stop any *substantive* resolution by voting against. The veto

guarantees that the Security Council never can harm the vital national interests of the P5. It also sharply limits the ability of the Security Council to act in major conflict.

Many contested territories involve exactly such vital national interests of the P5, so the Security Council cannot act on them. Instead, the Security Council tends to act mostly on lesser conflicts, where no P5 state will veto.

Alternatively, the Security Council can pass *procedural* resolutions (which only require majority vote, and there is no veto), such as encouraging debate on conflicts, inviting affecting states and peoples to speak at the Security Council (but they cannot vote).

A problem of principle and identity

A dispute over a contested territory is something that is challenging to resolve in a conclusive manner. Although final resolutions can sometimes be reached by all sides, half of all territorial disputes remain unsolved, resulting in an uneasy status quo. Although some territorial conflicts escalate into violence, most states subscribe to solving them

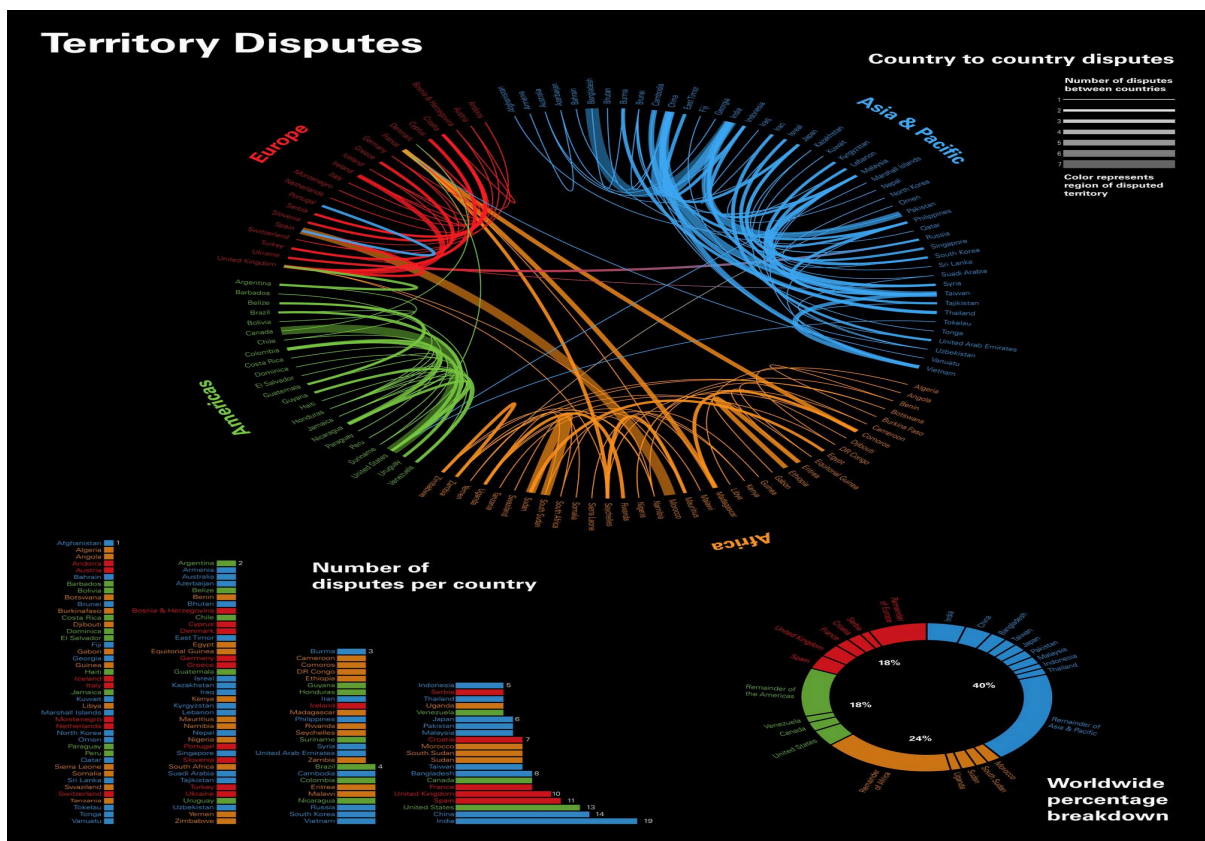
¹ Guterres, António, 2023. ‘Secretary-General’s remarks to the Security Council’, *United Nations*, 24 April 2023, <https://news.un.org/en/story/2023/04/1135947>

as peacefully as possible, often through self-determination.

These conflicts remain difficult to resolve because they frequently require giving up territory, difficult for any political leader to

defend, undermining their state's sovereignty. For a country like China, its claim to Taiwan is part of its national identity. The same is true of Russia's claim to the Crimea Peninsula.² These are not problems where compromise is easy.

Figure 1: a world of territorial disputes³



One of the biggest challenges for the United Nations is that it was designed to represent the interests of states, not groups of people or individuals. Almost every state is represented in the United Nations, but secessionist

movements generally are not. This often creates problems because the interests of states and people frequently conflict with each other when it comes to territorial disputes.⁴ However, in territorial disputes, the United

² Carter Center, *Approaches to Solving Territorial Conflicts*, Carter Centre, May 2010, https://www.cartercenter.org/resources/pdfs/new_s/peace_publications/conflict_resolution/solving_territorial_conflicts.pdf

³ 'This chart shows how almost every country in the world has a disputed border', *Business Insider*,

4 February 2023, <https://www.businessinsider.com/this-chart-shows-how-almost-every-country-in-the-world-has-a-disputed-border-2015-2>

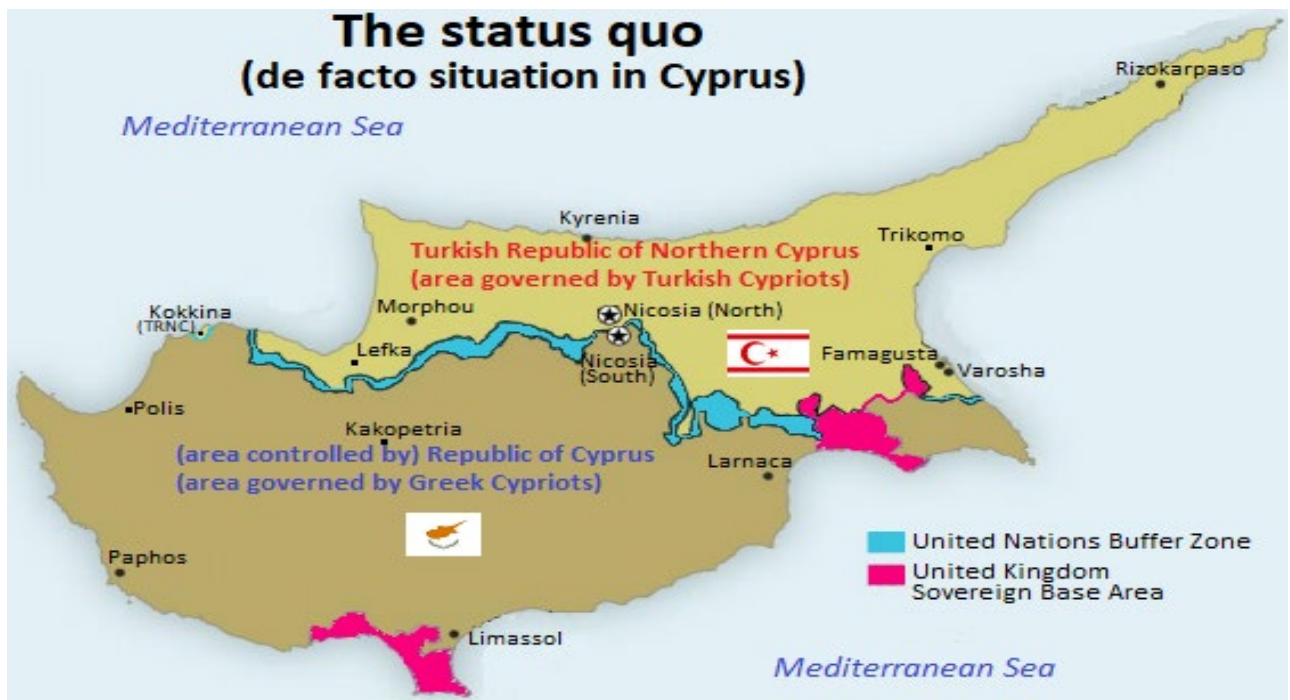
⁴ Bulbul Ahmed, 'India and Pakistan fought 3 wars over Kashmir - here's why international law falls short to solve this territorial dispute', *The*

Nations can still serve an important role to the great benefit of all parties. There is a place for enhancing relations between actors, leading to further improvements in areas of common interest. The Security Council can urge the UN Secretary-General to use his *good offices* to bring about an agreeable final settlement.⁵ This can work, in the right circumstances.

This ODUMUNC Issue Brief reviews major examples of territorial disputes: Cyprus,

Falkland Islands/Malvinas, Taiwan and Ukraine, as well as what the United Nations Security Council can do to help resolve each of these territorial disputes or at least reduce tensions. These are important examples. As *Figure 1* shows, the conflicts examined here are just a few of the most important. At ODUMUNC, the Security Council can consider all territorial disputes, or it can pick specific problems to focus on.

Cyprus



Why is Cyprus a contested territory?

Cyprus is an island in the eastern Mediterranean, divided into two territories, the Republic of Cyprus, and the Turkish Republic

of Northern Cyprus. Almost the entire international community, including the United Nations, recognises the Republic of Cyprus' claim of sovereignty over the entire island,

Conversation, 24 August 2021, <https://theconversation.com/india-and-pakistan-fought-3-wars-over-kashmir-heres-why-international-law-falls-short-to-solve-this-territorial-dispute-164672>

⁵ Emilia Justyna Powell and Krista E Wiegand, 'Legal Systems and Peaceful Attempts to Resolve Territorial Disputes', *Conflict Management and Peace Science*, 27, No.2 (2010), p. 2, <https://journals.sagepub.com/doi/10.1177/0738894209343979>

although it does not occupy the northern part of the island.

Since Turkey invaded in 1974 to protect the rights of Turkish residents, the *Turkish Republic of Northern Cyprus* asserts sovereignty there. Turkish ruled Northern Cyprus is not internationally recognized. Only Turkey recognises it diplomatically.

The Republic of Cyprus was originally a bi-communal state, based on the cooperation of Greek and Turkish speakers. However, following a coup in which the Republic of Cyprus was replaced with a government determined to force a union with Greece, Turkey invaded to protect the Turkish population by establishing the Turkish Republic of Northern Cyprus.⁶

Since the division of Cyprus, there have been repeated efforts by the Secretary-General, working at the behest of the Security Council, to reunify the island. These initiatives are generally supported by the Greeks in the Republic of Cyprus, but opposed by the North.

Reunification continues to be supported by the population in Northern Cyprus, but there also are voices in favour of a two-state solution, in which Northern Cyprus is recognised by the international community as a legitimate entity. However, there is an ongoing discussion among supporters of Northern Cyprus' recognition as to what form it should take, such as becoming an independent state or joining the Republic of Cyprus in a confederation.⁷ Cyprus may be a divided territory, but there is much the United Nations can do to both improve relations or potentially reunify the country.

⁶ *An Island Divided: Next Steps for Troubled Cyprus*, International Crisis Group, 17 April 2023, <https://www.crisisgroup.org/europe-central-asia/western-europemediterranean/cyprus/268-island-divided-next-steps-troubled-cyprus>

⁷ Ibid.

⁸ "Unanimously Adopting Resolution 2674 (2023), Security Council Extends Mandate of United Nations Peacekeeping Force in Cyprus", *UN News*

What has the United Nations already done?

Before and after the division of Cyprus in 1974, United Nations peacekeepers have been stationed on the island to prevent ethnic tensions from sparking into a wider conflict. The most recent is Security Council resolution 2674, in which the Security Council "acting unanimously today, decided to renew for another year the long-standing United Nations peacekeeping presence in Cyprus, while underlining its concern over continued violations of the military status quo."⁸

In 2004, the United Nations' then Secretary-General, Kofi Annan, strongly supported a reunification referendum in Cyprus called the Annan Plan. In which the Republic of Cyprus and Northern Cyprus would become united under one federal government.⁹

Although a majority of Turkish voters in Northern Cyprus voted for the referendum, it was decisively voted down by the majority of Greeks, who felt that if it passed, they would be giving away far too much sovereignty. Not only would a permanent garrison of Turkish soldiers remain in Cyprus, but in many areas of the new Republic's democratic institutions, there would have been a Turkish veto. For instance, the government of the day would be unable to pass legislation without Turkish support, which many Greek speakers worried would lead to an overrepresentation of Turkish interests at the expense of Greek ones.

Since the failure of the Annan Plan, the United Nations continued to use its *good offices* to promote closer ties between both sides, to

Centre, 30 January 2023, [https://press.un.org/en/2023/sc15187.doc.htm#:~:text=Adopting%20resolution%202674%20\(2023\)%20\(mandate%20until%2031%20January%202024](https://press.un.org/en/2023/sc15187.doc.htm#:~:text=Adopting%20resolution%202674%20(2023)%20(mandate%20until%2031%20January%202024)

⁹ 'Basis for a comprehensive settlement of the Cyprus Problem', *Global Security*, 26 February 2003, https://www.globalsecurity.org/military/library/report/2004/annan-cyprus-problem_maps_26feb03.pdf

solve practical day-to-day issues of life on a shared island, issues of common concern to both Turkish and Greek speakers. There have been efforts to hold another reunification referendum, but an acceptable deal has not been reached by either side.¹⁰

What could the future role of the United Nations be and how does this factor into ODUMUNC?

When considering Cyprus's sovereignty dispute there is much that could be done to help improve relations between the two Republic's and reunify the island that could be adapted into similar territorial disputes in ODUMUNC.

One role for the United Nations could to continue its current course, stressing problem solving and existing peacekeeping operations to prevent violence. Continuing confidence-building efforts between both Republics to improve relations. A major issue, for instance, is promoting a diplomatic deal to help the two sides reach agreement to re-open Northern Cyprus's airport to boost the island's economy.¹¹

Another role for the United Nations could be learning from Annan Plan and adapting it into a new improved referendum. In which the

United Nations should have taken more account of the population's opinions rather than the interests of states. In the negotiations that led to the Annan Plan, which was largely controlled by the Secretariat, we see several key problems. In typical United Nations fashion, the Anan plan was a consensus-based document that balanced the benefits and concessions for both sides.

Although the Annan plan failed for many reasons, one of the most crucial was that it failed to win support among the Greek community. It was a plan largely agreed upon by the United Nations, Turkey, and Britain, who were eager to see a resolution to the dispute. Not by many political leaders of the Republic of Cyprus, argued against its implementation. Opposition was much stronger on the Turkish side.

The Annan plan itself was largely negotiated behind closed doors and largely failed to get wider civil society involved through democratic processes like citizen assemblies, leading to a lack of popular support. What the Annan plan showed is the need for the United Nations to take account not just of the determination of domestic leaders, but also the popular will of society. The Security Council cannot simply impose a state-supported top-down referendum if it wants the referendum to pass.

The Falkland Islands/Islas Malvinas

Why are the Falkland Islands a contested territory?

The Falklands/Malvinas are an archipelago in the South Atlantic, near the Arctic Circle. There are 8,000 miles (12,700 kilometres) from Britain, but just 950 miles (1,500 kilometres) from Argentina. The British claim to sovereignty dates from 1690, when they made the first recorded landing on the islands. The United Kingdom has exercised de facto

sovereignty over the archipelago almost continuously since 1833, a claim vigorously contested by Argentina.

The islands are legally part of the United Kingdom, a British Overseas Territory, Britain's claim to the Falklands comes both from their initial claim over the island which

¹⁰ *An Island Divided*, op. cit.

¹¹ *Ibid.*

has not been dropped since the British discovery. A recent referendum of the residents, all English speaking, found 99 percent wanting to remain a British Territory.

Argentina calls the islands *Islas Malvinas* and claims them as its sovereign territory. Typically, Argentina has argued this through diplomatic means, however, in 1982, the Argentine government invaded and seized control of the islands, until Britain regained control after a brief but bloody military war.¹²

Argentina asserts sovereignty over the islands on the basis of legal precedence. Argentina makes its claim based on its legal descendant from the Spanish Empire, which initially claimed the islands; hence, by virtue of territorial continuity, Argentina has sovereignty over the Falklands/Malvinas.

Argentina also argues that any self-determination by the islanders should be dismissed because its population is subjugated by a colonial power and therefore cannot legitimately consent to remain a British Overseas Territory.¹³

What has the United Nations already done?

The contested sovereignty of the Falkland/Malvinas Islands has been a source of discussion for the United Nations, at the instance of Argentina and its supporters, mostly from Latin America.

Because of their status as a British Overseas Territory, they are classed by the UN as non-self-governing. But a majority of the Security Council generally agrees on the precedence of international law and opposes military attack.

During the 1982 Falklands/Malvinas War, the Security Council adopted resolution 502, which called for the withdrawal of all Argentinean forces illegally stationed in the Falklands and a peaceful resolution to the conflict.¹⁴

But there are tensions and conflicts between principles of international law. The United Nations Special Committee on Decolonization, emphasises self-determination, a key demand of the British, but also the need for a final settlement, a key demand of Argentina, which broadly appeals to all parties.¹⁵

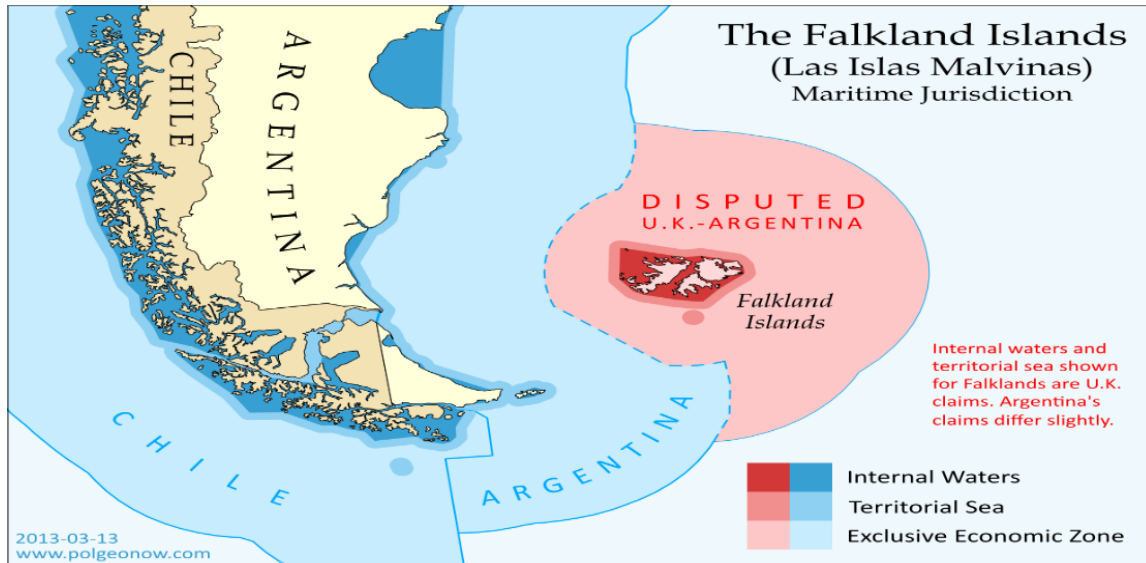
¹² Sarah Tudor, 'Sovereignty since the ceasefire: The Falklands 40 years on', *House of Lords*, 1 August 2022,

<https://lordslibrary.parliament.uk/sovereignty-since-the-ceasefire-the-falklands-40-years-on/>

¹³ Ibid.

¹⁴ *Resolution 502, Falkland Islands (Malvinas)*, New York: United Nations Security Council, 3 April 1982, <http://unscr.com/en/resolutions/502>

¹⁵ *Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for 2022*, New York: United Nations General Assembly, 2022, <https://falklandstimeline.files.wordpress.com/2022/08/report-of-the-special-committee-on-the-situation-with-regard-to-the-implementation-of-the-declaration-on-the-granting-of-independence-to-colonial-countries-and-peoples-for-2022.pdf>



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What could the future role of the United Nations be and how does this factor into ODUMUNC?

When considering the sovereignty dispute over the Falkland/Malvinas Islands, there is much that could be done to help improve relations between the two parties or change the nature of the dispute that could be adapted into similar territorial disputes in ODUMUNC.

Britain bases its claim on self-determination, while Argentina bases it on legal continuity. This makes it difficult for the two countries to come to an agreement.¹⁷ Although a final settlement over the Falkland/Malvinas Islands is not on the horizon, that does not mean there is not a role for the United Nations.

The United Nations could use diplomatic means, mandating the UN Secretary-General to lead talks, probably to renew the Foradori-Duncan pact, in which the British and the Argentine governments 'agreed to disagree' about the sovereignty of the Falkland Islands in favour of expanding trade and bilateral cooperation on areas of mutual interest.

Argentina recently rejected this alternative, arguing it was prejudiced in favor of the UK and effectively strengthen British control.¹⁸ Renewal of the Foradori-Duncan pact could ease tensions over the Falklands/Malvinas without resolving the dispute, if both sides accept it.

The United Nations was designed to represent states, not people, which is often reflected in its resolutions. The annual resolution passed by the Special Committee on Decolonization regarding a final settlement between Britain and Argentina only makes a brief reference to the need to respect the islanders self-determination. Instead, the Special Committee on Decolonization's reports far more highly emphasises the interests of the Argentine Government by pretending there is a legitimate sovereign dispute when the Falkland/Malvinas Island population has repeatedly voted to be a British Overseas Territory. John Birmingham, a member of the Falkland Islands Legislator, argued "Despite the Committee's support for self-determination, there seems to be no

¹⁶ 'Map: The Falkland Islands' Disputed Seas', *Political Geography Now*, 12 March 2013, <https://www.polgeonow.com/2013/03/map-falkland-islands-disputed-seas.html>

¹⁷ Fiza Mureed, 'Argentina withdraws from Foradori-Duncan Pact', *Diplomatic Insight*, 4 March 2023, <https://thediomaticinsight.com/argentina-withdraws-from-foradori-duncan-pact/>

¹⁸ Ibid.

recognition of what the people themselves want”.¹⁹

The United Nations faces pressure to take one side or the other, something most members do not want to do. They see the UK has control and a claim based on democratic legitimacy, while Argentina has a claim based on international law. There is no ideal solution for most UN Member States.

The UN could change its approach to represent the self-determination of the residents of the Falklands/Malvinas and attempt to end the territorial dispute by removing a key plank Argentina routinely uses to justify continuing the sovereignty dispute.²⁰

The Security Council could take a side. It could pass a resolution, arguing that the sovereignty of the Falklands has been decided by self-determination and that Argentina should come to a final agreement with Britain on this basis. The resolution could call for Argentina to recognise the Falkland/Malvinas Island’s government as a legitimate party to these negotiations, as opposed to ignoring them as it currently does. This would call for a much more practical resolution to the territorial dispute while better respecting people’s right to self-determination, as the status quo only prolongs a territorial dispute that has already been democratically resolved.

Taiwan (The Republic of China)

After Ukraine, no territorial dispute poses greater dangers to the world than China’s claim to control Taiwan, which Beijing regards not as a sovereign state but a renegade province. Nothing would better ensure world peace than an amicable settlement. But few things are harder to imagine.

After the Chinese Revolution 1949, when the *Chinese Communist Party* took control of the country, and created the People’s Republic of China (CCP). Their *Nationalist* opponents fled to the neighbouring island of Taiwan and set up a rival state.

Until 1971, the rival Republic of China (ROC) sat on the UN Security Council, legally representing all of China. It was absurd, but strongly supported by the United States. In 1971 The US recognized Communist Party rule of China and switched diplomatic

reignition. China took control of the country’s UN seat. Taiwan became isolated.

During the 1990s, China and Taiwan accepted a quiet consensus in which both states do not wholly define who governs China internationally and Taiwan does not declare itself to be an independent state. Independence for Taiwan would mean giving up its claim to rule all of China, and would crush China’s dream of reunification.

Since then, China has become more demining that Taiwan submit, often sending its Air Force and Navy close to Taiwan’s shores., creating a new risk of invasion and world war. Chinese pressure is explained by statements that it aims to complete the “historic reunification of the motherland”, ensuring that the situation of Taiwan is a continuing international concern.²¹

¹⁹ ‘Special Committee on Decolonization Adopts Resolution Requesting Negotiations Resume to Resolve Falkland Islands (Malvinas) Question’, Special Committee on Decolonization’, *United Nations News Centre*, 20 June 2023,

<https://press.un.org/en/2023/gacol3371.doc.htm>

²⁰ Ibid.

²¹ Eryk Bagshaw, ‘It’s an island democracy with a population of 24 million. So why is there so much tension over Taiwan?’ *The Sydney Morning Herald*, 2 August 2022,

<https://www.smh.com.au/world/asia/why-might-taiwan-be-the-next-global-flashpoint-20210129-p56xya.html>

What has the United Nations done already?



Until 1971, Taiwan retained China's seat at the United Nations, making it both a member of the United Nations and a permanent member of the Security Council. However, that changed when Resolution 2758 was passed by the General Assembly, which removed Taiwan from China's seat and restored "all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations."²² This resolution resolved which entity represented China in the United Nations. But it opened a new problem, denying Taiwan representation.²³

Since being removed from the United Nations, Taiwan has campaigned to re-join it. However, its efforts failed in 2008 when the United Nations rejected its application.²⁴ Despite this, Taiwan has had some success. From 2009 to 2016, after negotiations with China, Taiwan asked to join the World Health Organisation under the name Chinese Taipei to strengthen the domestic position of China's preferred

president in Taiwan. However, after a pro-independence presidential candidate won an electoral landslide, China revoked Taiwan's World Health Organisation membership application, and Taiwan was once again left out of the United Nations.²⁵

What could the future role of the United Nations be and how does this factor into ODUMUNC?

With relations as strained as China's and Taiwan's, any changes in Taiwan's status at the United Nations are close to impossible because they can only come with China's consent. As a result, most of this section will be theoretical.

The primary way things could change for Taiwan at the United Nations would be if China militarily attacked Taiwan. As evidenced by Russia's ostracization over the invasion of Ukraine, overt acts of military aggression are strongly disapproved of by the United Nations. China risks similar criticism if it attacked Taiwan.²⁶

China has a permanent seat on the Security Council, which precludes any practical action. However, although China has strong diplomatic support, if opponents of China could garner support, the General Assembly could adopt a Resolution condemning China's aggression. Just as with Ukraine, the United Nations could not only provide humanitarian assistance to Taiwan but use its "good offices" to help negotiate agreements between the two sides, such as peace treaties for humanitarian needs. The most important thing that could change during this time could be the

²² 'Restoration of the lawful rights of the People's Republic of China in the United Nations', *United Nations General Assembly*, 1971, <https://digitallibrary.un.org/record/192054?ln=en%20General%20Assembly%20Resolution%202758%20%E2%80%93%20which>

²³ Sigrid Winkler, Taiwan's UN dilemma: to be or not to be', *Brookings Institution*, June 2012, <https://www.brookings.edu/articles/taiwans-un-dilemma-to-be-or-not-to-be/>

²⁴ 'UN rejects Taiwan membership bid', op. cit.

²⁵ Erin Hale, 'Taiwan taps on United Nations' door, 50 years after departure', *Al Jazeera*, 25 October 2021, <https://www.aljazeera.com/news/2021/10/25/china-un-seat-50-years-on>

²⁶ 'General Assembly Overwhelmingly Adopts Resolution Demanding Russian Federation Immediately End Illegal Use of Force in Ukraine, Withdraw All Troops', *United Nations News Centre*, 2 March 2022, <https://press.un.org/en/2022/ga12407.doc.htm>

recognition of Taiwan as a member of the United Nations. This could happen if Taiwan's government pushed for it and enemies of China were able to get enough votes in the

General Assembly for it because of China's ostracization from the United Nations at the time.

Ukraine



Source: Institute for the Study of War (21:00 GMT, 26 July)

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Why is Ukraine a contested territory?

Ukraine is a large UN Member State in Eastern Europe, bordering Russia, with a pre-war population of 40 million people. For the last decade it faced challenges to control of its land from Russia.

Russian leaders and most of its people agree that Ukraine is the ancestral homeland of Russia. They view it as an historic part of Russia and should be reunified. In 1991,

Ukraine was divided between its Russian speaking minority and Ukrainian speaking majority. Over the years, though, its sense of national identity and unity has grown.

Since it became independent from the Soviet Union in 1991, Ukraine has moved away from its former Russian ties and integrated closer with Western states, the European Union and

the North Atlantic Treaty Alliance, frightening Russia.²⁷

In 2014 Russia invaded and took control of the Crimean Peninsula and the Eastern-most provinces of Ukraine: Donetsk and, Luhansk. The invasion of 2014—a response to growing public demand for integration into Europe—led Russia to strike. The 2014 invasion was disguised, led by ‘little green men’; soldiers without complete uniforms. But there was no doubt the invasion was organized from Moscow.²⁸

The invasion of all of Ukraine that started on 24 February 2022 was different; an undisguised campaign by the Russian Army to take control of the entire country and establish an interim government to would approve unification with Russia.²⁹ By defeating the initial invasion, Ukraine survived. It lost control of more territory in its east and faces unending war. But its leaders leave no doubt that Ukraine will continue fighting until all of its lost territory including Crimea has been regained.³⁰

What has the United Nations done already?

Although any substantive action on Ukraine is typically blocked in the Security Council because of a Russian veto, the UN General

Assembly has been active in consistently defending Ukraine's sovereignty and denouncing Russian aggression.

In 2014, the General Assembly passed Resolution 68/262, which resolved to continue recognising Crimea as part of Ukraine despite Russia's annexation of it.³¹ In 2022, the General Assembly passed Resolution ES-11/1, which condemned Russia's invasion of Ukraine and called for an unconditional withdrawal of all Russian soldiers.³² Later in the year, the General Assembly adopted resolution ES-11/6, which condemned Russia's illegal annexation of the Ukrainian regions of Donetsk, Kherson, Luhansk and Zaporizhzhia.³³

The United Nations has been able to use its powers to alleviate some of the worst aspects of the conflict. Through negotiations mediated by Turkey and Secretary-General António Guterres have been able to broker the Black Sea Grain Initiative, a deal that recently expired that allowed both Ukraine and Russia to continue exporting their grain, food, and fertilisers to ensure the global economy is not too highly impacted.³⁴ The United Nations has also provided a significant amount of humanitarian assistance, with the organisation estimating over 15.8 million people have benefited from assistance, from groups like the

²⁷ Ibid.

²⁸ Jonathan Masters, ‘Ukraine: conflict at the crossroads of Europe and Russia’, *Council on Foreign Relations*, 14 February 2023, <https://www.cfr.org/background/ukraine-conflict-crossroads-europe-and-russia>

²⁹ Victor Andrusiv, ‘Putin's war of vanishing goals’, *Wilson Center*, 21 February 2023, <https://www.wilsoncenter.org/blog-post/putins-war-vanishing-goals>

³⁰ Veronika Melkozerova, ‘Kyiv says Jeddah participants back Ukraine territorial integrity in any peace deal’, *Politico*, 6 August 2023, <https://www.politico.eu/article/ukraine-russia-war-jeddah-peace-talks-saudi-arabia-china-territorial-integrity-andriy-yermak/>

³¹ ‘General Assembly Adopts Resolution Calling upon States Not to Recognize Changes in Status of

Crimea Region’, *United Nations General Assembly*, 27 March 2014,

<https://press.un.org/en/2014/ga11493.doc.htm>

³² ‘General Assembly Overwhelmingly Adopts Resolution Demanding Russian Federation Immediately End Illegal Use of Force in Ukraine, Withdraw All Troops’, *United Nations General Assembly*, 2 March 2022,

<https://press.un.org/en/2022/ga12407.doc.htm>

³³ ‘Ukraine: UN General Assembly demands Russia reverse course on ‘attempted illegal annexation’, *United Nations New Centre*, 12 October 2022,

<https://news.un.org/en/story/2022/10/1129492>

³⁴ ‘The Black Sea Grain Initiative: what it is, and why it's important for the world’, *United Nations New Centre*, 16 September 2022,

<https://news.un.org/en/story/2022/09/1126811>

Human Rights Council and the World Food Programme.³⁵



The Economist

What could the future role of the United Nations be and how does this factor into ODUMUNC?

When considering Ukraine's dispute over its contested territory, a lot of potential further actions could be adapted similarly to ODUMUNC. In military conflicts like Ukraine, where the vital interests of a permanent member of the Security Council like Russia are at stake, the room for action by the United Nations is limited.

Russia will veto any action by the Security Council that could weaken its military campaign. Any diplomatic effort to end the conflict through the United Nations will be especially difficult as both Ukraine and Russia currently have incompatible conditions for peace. Russia wants to hold onto its newly annexed territory, whilst Ukraine continuously states it will fight until every Russian soldier is evicted from annexed Ukrainian territory.

Consequently the United Nations is largely limited to humanitarian aid, non-binding General Assembly resolutions, and using its

³⁵ 'How the UN is supporting the people of Ukraine', *United Nations Foundation*, n.d., <https://unfoundation.org/ukraine/>

³⁶ Lidia Powirska, 'Through the Ashes of the Minsk Agreements', Harvard University: Weatherhead

good offices to attempt to broker deals between Ukraine and Russia to reduce some of the worst aspects of the conflict.

Good offices could take the form of the Secretary-General helping to renew the Minsk Agreement. The Minsk Agreement was originally signed in between Russia and Ukraine to de-escalate hostilities after the annexation of Crimea.

Although it failed to end the conflict, there is hope for efforts to de-escalating the conflict again. For example, the Security Council could—if Russia accepts it—ask the Secretary-General to help negotiate limits to the fighting, maybe even some kind of ceasefire or further agreement on prisoner transfers. With the military conflict between Russia and Ukraine as it is, any agreement to end the conflict is unlikely, but whenever that changes, a renewal of something like the Minsk Agreement could help with de-escalation.³⁶

What to do?

Some proposals for action by the Security Council

In resolving disputes over contested territories, there are strikingly different positions around the world. Most states officially support solving territorial disputes peacefully, by self-determination of the local people through a referendum, while respecting existing states' sovereignty and territory. However, this position often changes when a specific country has a territorial dispute that directly affects it, in which case they often act in their self-interest.³⁷

For instance, India supported the independence of South Sudan from Sudan through a peaceful

Center for International Affairs, 18 May 2022, <https://epicenter.wcfia.harvard.edu/blog/through-ashes-minsk-agreements>

³⁷ Powell and Wiegand, op.cit.

referendum.³⁸ However, when it comes to the prospect of a United Nations-backed referendum on Kashmir, a territory that India partially controls, India refused to contemplate it, saying there is no need for an international referendum because Kashmir is an internal territory of India, effectively denying Kashmir's population any self-determination through a referendum.³⁹ This same example applies to many states across the world in all manner of territorial disputes.

Because so many countries are involved in territorial disputes, there is an overwhelming problem of precedence. Countries might be willing to encourage particular settlement of a foreign conflict in the abstract, to support one side or the other, to advocate one principle or another. But they also have to be concerned with the precedent of doing so. They have to consider, will their approach to a foreign conflict be used against their own interests?

It is easy for outsiders to support resolution of a dispute by urging a referendum among the people of the contested states. In Kashmir, for example, the Security Council could have voters decide, would you rather be part of India, part of Pakistan or independent? But advocating such a solution risks permanently making a permanent enemy of India, which opposes a referendum. And the precedent could be used against its supporters, who have their own own territorial disputes.

Similarly, it is easy for some Member States to criticize Russia's seizure of Crimea as a violation of international law, but many UN Member States have to think first about the risk such a precedent might create for territory they acquired. Usually, their own territorial claims are strong under international law. There is no problem. But sometimes they are vulnerable to criticism.

The Security council has four basic options as it tries to resolve territorial disputes.

First, it can promote *global rules*, applying to all 193 UN Member States. For example, the Security Council might ask all Member States to *accept the status quo*, to accept the current world map.

This would be opposed by supporters of change, such as advocates of the Palestinian cause against Israel, Argentina in its demands against the United Kingdom, or Ukraine in its efforts to recover Crimea from Russia.

Alternatively, the Security Council might ask all Member States to submit their conflicts to *mediation* by an independent body, such as the International Court of Justice (ICJ). That worked in the past, most famously in the 1921 Åland Island dispute between Finland and Sweden. Again, many countries will resist outside mediation, preferring the risks of war to the risk of losing territory they call essential to their national identity.

Second, the Security Council can intervene in a *specific conflict*, where it be a helpful resolving disputes. This often is impossible, because powerful countries refuse to accept such engagement.

China's certain veto of anything related to Taiwan is a prominent example. Similarly, Russia will veto any resolution that might weaken its effort to conquer Ukraine and hold on to Crimea. The United States uses its veto to protect the interests of Israel, especially against claims by Palestinians and their allies.

India is not a veto member of the Security Council but can be relied on to use all its diplomatic ability to prevent further internationalization of Kashmir, where it enjoys control of two-thirds the land and believes it would not benefit from a referendum or other internal involvement.

Third, there are conflicts where the Security Council can be more helpful. These usually do not involve the national interests of major powers. Examples include Cyprus, South

³⁸ 'India welcomes outcome of a referendum in southern Sudan', *Times of India*, 15 February 2011, <https://timesofindia.indiatimes.com/india/india-welcomes-outcome-of-referendum-in-southern-sudan/articleshow/7496412.cms>

³⁹ Ahmed, 'India and Pakistan', op.cit.

Sudan, Western Sahara. But being effective usually requires engagement, not just principles. The Member States have to get active, invest effort and take risks. Resolving these conflicts may require compensation to the losing side, or the side that thinks it is losing. And winners may have to be restrained to avoid genocidal crimes, other kinds of retribution, or taking more territory than authorized.

Another fourth approach is for the Security Council to recommend action by the

General Assembly. Since this is a procedural matter, Permanent Member vetoes do not apply. Instead of taking up a conflict itself, the Security Council could agree for the General Assembly to act. In the General Assembly there are no vetoes and majority rule carries a resolution. But GA resolutions—unlike those in the Security Council—are not binding international law, enforceable by the great powers. GA resolutions only establish norms and principles. If a country votes against a GA resolution—even if the resolution wins majority support—it can simply ignore it.

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