

DEBATE MEMORANDUM

On September 15th, 2023, Centenary Policy Institute (CPI) held a parliamentary-style debate at St Antony's College, Oxford, hosted by St Antony's College Alumni Office.

The primary goal of the debate was to find a consensus on what negotiated peace process could look like if it is launched in 2023 once the military campaign ends.

A search for landing zones that addresses both the practical demand for security guarantees as well as the moral imperative of delivering justice for Ukraine.

The precise motion presented before the House by moderator Charlie Banner KC was worded as follows:

‘This House Believes that Peace is More Important than Justice in the Ukrainian War’



Owen Matthews - British writer, historian and journalist - spoke first in support of the motion.

He questioned whether "justice", defined as full restoration of Ukrainian territorial integrity, was appropriate or feasible: its pursuit would undermine Ukraine's vital security interests.

Matthews argued as follows:

1. Discussion of a lasting peace in Ukraine is inseparable from the concept of security. The security guarantees offered to Ukraine by the US, the UK and Russia in Budapest in 1994 – when Ukraine agreed to give up its nuclear weapons – proved to be worthless.
2. Understandably, the Ukrainian government's position is that only full expulsion or withdrawal of Russian troops from all Ukrainian soil, and return of Crimea and the Donbas to Ukraine's control, can be a basis for peace talks.
3. Understandably, too, Ukrainians demand reparations for war damage and delivery of Russian war criminals, including President Putin himself, to the Hague Tribunal. That would indeed be justice.
4. Justice is a moral concept. Security is a practical one. The moral maze that will confront us at this war's end is whether pursuit of justice will strengthen or undermine Ukraine's demand for security.
5. I challenge the assumption that Ukraine's insistence on recovering all of its lost territories will make it safer.
6. During eight years of Russian direct or indirect occupation, the politics and populations of both Eastern Donbas and Crimea have changed. Two thirds of the pre-war population of the "Donbas republics" have left (mostly for Russia) and hundreds of thousands of Russians have moved to Crimea.

7. Many senior Ukrainians – including former close associates of President Zelensky – say Ukraine would be better off without these regions' hostile populations.
8. The opposition will say: aggression must be punished; international borders have been violated; and there can be no peace until they have been restored. Really?
9. The world is full of "frozen conflicts". Neither Cyprus nor Korea is an example of "justice being done". But both are, more or less, at peace.
10. Conflicts only ever end in two ways – total victory for one side or negotiations. There's no third outcome.
11. For all Ukraine's bravery, Western-supplied weaponry, morale, tactics, etc, there comes a point on the battlefield where quantity overcomes quality. Ukraine's response to lack of progress in its summer offensive has been to blame the West and promise a breakthrough once whatever Wonder Weapon is currently under discussion has been delivered. Boris Johnson, subscribing to that version, is talking of "lion-hearted Ukrainian troops finally betrayed by western loss of nerve."
12. But US President Joe Biden is more measured. Repeating in August that the US 'will never give up' its support, he has so far pushed \$135 billion worth of military and economic aid through Congress. But his stated position is: arm Ukraine to "fight on the battlefield and be in the strongest possible position at the negotiating table."
13. I'm not saying Ukraine should make peace now. Such talks would be pointless at a time when Putin's war machine and economy remain functional, and would clearly not be supported by the vast majority of Ukrainians.
14. But I am arguing that peace is more important than justice because "justice" – defined as liberating all Ukraine's territory, including Crimea – is a recipe for a "Forever War". Achieving such "justice" would require volumes of NATO supplies and equipment vastly greater than being provided today.

15. While Putin remains alive and in power, Russia must be contained. The irrationality and aggression of Putin and his inner circle makes irrelevant the old mantra that European security can be achieved only in cooperation with Russia.
16. Peace – and, by extension, Ukrainian security – involves isolating Russia and giving Ukraine the arms and security guarantees it needs to protect itself from future Russian attack.
17. Peace is not always just. But it is achievable. And achievable on terms that offer Ukraine real security.



Paulius Kuncinas, Director of Centenary Policy Institute (CPI), was the first speaker in opposition to the motion

(The following remarks represent his personal views, not those of CPI)

Kuncinas contended Matthews' line of argument amounted to defeatism, symptomatic of Western desire to appease and accommodate Russia and return to "business as usual". "Peace without justice" is a dangerous proposition that robs us of moral courage and effectively rewards aggression, undermining the post-1945 global order, signaling the limits of our collective desire to prevail, and saps the spirit of the Ukrainian army, which is fighting for our collective freedom.

Kuncinas argued the following:

1. Genuine peace is impossible without justice.
2. What we heard from Owen Matthews is a list of practical steps for achieving a frozen conflict which will hang over Europe for years and generations to come, sapping our continent's vital strength and faith in its civilization and values.
3. To be sure, freezing a conflict is often the easiest path for our comfort seeking Western elites.
4. We are being worn down by Putin and giving up our fighting spirit and moral courage. How have we given up so quickly? Whatever happened to "Never again!"?
5. To put peace before justice is to set out on a path to bad compromises, on a slippery slope. It's surrender and will lead to bad outcomes.
6. Especially now, in mid-conflict, we should not entertain the idea of "peace at any cost".
7. We cannot negotiate with Russia in good faith, because Putin will use any agreement as a "pause" to rearm, regroup and return with renewed force to the battlefield.

8. Even if we wanted to sacrifice justice and hope for peace, there are neither any visible "landing zones" nor even a framework for peace negotiations. There is no purpose in talking to the enemy at this point when victory has yet to be fought for. The goal of our battle must be full restoration of Ukrainian sovereignty.
9. Collectively, as the West, we should seek to come to a position where Ukraine ultimately prevails and seeks to negotiate peace on its own terms. We should not signal readiness to make concessions.
10. One often hears the West "cannot afford" to take on Russia. That is a huge, inexcusable admission of weakness, which also institutionalizes nuclear blackmail. How come this most powerful block, this alliance of so many nuclear powers, suddenly feels so weak? And in the face of just one bully!
11. Peace is impossible without justice. We have seen this before. Unfortunately, history is full of examples of frozen conflicts.
12. We have a track record of trying repeatedly to do deals with tyrants. None of these attempts ensured a lasting peace. And we've recently learned a bitter lesson in Afghanistan.
13. We must finally face down the tyrants and restore the West's credibility, by showing we're willing to fight for our principles – and win wars.

Sebastien Francois Brack – Senior Advisor, European Institute of Peace and Kofi Annan Foundation

(The following remarks represent his personal views, not those of the European Institute of Peace or the Kofi Annan Foundation)

Brack contended that peace must precede justice – even though peace may enable justice, while a lasting peace requires justice.

Brack argued the following:

1. As Kofi Annan said, there is no real dilemma between peace and justice because, long term, lasting peace can only be secured through justice. However, the question is one of sequence. Must justice come first? And whose justice?
2. History suggests justice often comes long after peace: you can't make peace if you demand justice first. Sudan's former dictator Omar al-Bashir only faced justice for genocide in Darfur when he eventually fell from power.
3. Eventually, Putin too may fall – perhaps for showing weakness in Ukraine. Then he too will have to face justice.
4. But, at the moment, it is unrealistic to make a "just outcome" a precondition for bringing the war to a close. For, as defined by Ukraine, it includes removal of Russian troops from Crimea and the Donbas and indictment of the authoritarian leader of a nuclear-armed State with a permanent Security Council seat. And if those are the conditions for peace, there is no prospect of it anywhere on the horizon.
5. At the end of the day all conflicts end either through military victory or negotiation. And Gen Mark Milley, Chairman of the US Joint Chiefs of Staff, sees no military victory in sight for either side.
6. So the question is: how long will this conflict go on before we come to the negotiating table – and is the cost worth paying?

7. That cost is already colossal: nearly 500,000 troops dead or injured; millions of Ukrainians forced from their homes; \$730 billion already spent by the West on the war effort; Ukraine's reconstruction set to cost an estimated \$430 billion – a price tag that will increase the longer the war goes on. And each additional month costs about 25,000 lives and \$20 billion.
8. So how much longer can this go on? And what is the cost-benefit analysis?
9. The Ukrainian definition of justice, on which this motion is predicated, is questionable. The "Global South" does not share it, but would rather have peace now, as it is paying a high price for somebody else's war.. Food prices are up 26%, so 67 million more people are facing acute hunger around the world – and 3 million dying of starvation. Doubling of energy prices has slowed down the global economy and raised political tensions around the world.
10. To a large extent, Putin has already lost. To win, Ukraine does not need to defeat Russia militarily – a near-impossible and very dangerous goal. It merely has to prevent Russia from achieving its war aims. And it has already done so.
11. The question is: how can we bring this disastrous war to a close? And the answer isn't unhelpful grandstanding about justice. It's diplomacy, which is about pragmatism in favour of peace.



The Honourable Michael Beloff KC – Barrister and former President of Trinity College Oxford

The crucial fact, said Beloff, is that the invasion itself, even putting on one side the matter of its execution, is an illegal act.

Beloff argued the following:

1. Putin's motives are quite irrelevant. What's crucial is that the invasion is an illegal act, being contrary to the Charter of the United Nations (UN).
2. Article 2.4 of that Charter provides that UN members shall "refrain in international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the UN".
3. Ukraine was a founding member of the UN when it joined in 1945. As the Ukrainian Soviet Socialist Republic, it remained a member when it became independent in 1991, upon the dissolution of the Soviet Union.
4. To call for a peace on condition that Ukraine surrender any part at all of its territory, is simply to condone illegality.
5. The world has been here before – during the Munich crisis of 1938, when Nazi dictator Adolf Hitler threatened to invade Czechoslovakia. He used a rather familiar excuse: that of protecting his ethnic kindred against oppression – in this case the 3.5 million Germans living in Czechoslovakia
6. Then British prime minister Neville Chamberlain capitulated and hailed that capitulation as bringing "Peace For Our People" and "Peace With Honour". Of course, it brought neither. More important, it was ineffective in preventing WW2. Must we follow Chamberlain's example? Better, surely, to emulate his successor, Winston Churchill, a strong opponent of appeasement.

7. If Putin gets away with it in Ukraine, why should he not feel confident to launch other Special Military Operations in Moldova, Georgia, or the Baltic states?
8. Justice can be achieved, not by dwelling on Putin's losses or their magnitude, but by denying him any victory at all.
9. Everyone instinctively prefers peace to war. Who could ignore the collateral damage caused by the current struggle? But peace is not, and never can be, a cost-free process.
10. Putin's desire is for nothing less than a "Carthaginian peace", with Ukraine having the prospect of a future, not as a sovereign state, but at best a satellite state. This cannot be allowed to happen.



Tan Sri Dr Munir Majid - Chairman of CARI ASEAN Research and Advocacy, Senior Fellow LSE IDEAS (Centre for International Affairs, Diplomacy and Strategy)

Contended that justice is rare; that "frozen conflicts" can be preferable to long-running conflicts that kill millions; that the current stalemate presents an opportunity that should be seized; and that the anti-Westernism stirred up by the war in the Global South is a threat the West should take seriously.

Dr Munir argued the following:

1. Peace is never perfect. We want justice. But we are realists. And we know justice - especially in international relations - has historically been rare and selective in both discourse and application.
2. When we talk of justice in Ukraine, we must also think of the US in Iraq; of the US and the former Soviet Union in Afghanistan; of the Vietnam War. When we talk of Putin's culpability, what about that of Bush and Blair in Iraq in 2003?
3. We appreciate the challenges of perilous peace – or "frozen conflict" – but it is peace nonetheless.
4. We know about cause and effect, about what happened in history. We remember the Treaty of Versailles and its contribution to the Second World War (WW2), the end of WW2 and how the Cold War ensued.
5. But we also remember the Korean War. It ended – after 2.5 million deaths – with an Armistice in 1953 that divided Korea along the 38th parallel. That Armistice still holds.
6. Do we wish to see deaths in Ukraine approach 2.5 million before we start looking for peace, however imperfect, without full justice?

7. The situation in Ukraine today is one of stalemate, 95 days after Kyiv's summer counter-offensive began, with perhaps 40 days before winter sets in and the counter-offensive ends. And the war has not ended, nor has Russia been defeated.
8. The Ukrainians have shown great courage and the West has supported them fully. But we have reached a stalemate – one that could work out worse for Ukraine, not Russia.
9. There's "support fatigue" in the West, especially America. Imagine Donald Trump returning to the White House, having said he would end the war in – and talk to his friend Putin!
10. We should seize this moment, when there's fatigue on both sides, to take steps that will allow us to find peace immediately or in the very near future. There should be talks now: things might turn out worse for Ukraine otherwise. It's a question of being pragmatic, realistic.
11. I'm from Southeast Asia and have been a specialist in the region for over 40 years. In all that time, I haven't seen such a surge of anti Western feeling at the popular level as I see now – particularly on social media. Historically, this last occurred during the anticolonial struggle!
12. Much of this surge has to do with the Ukraine war and how the West and America have responded to it (especially in terms of sanctions), focusing exclusively on geopolitics and unconcerned with impact on the rest of the world. So many countries are suffering from food shortages, high food prices, high energy prices, and lack of fertilizers.
13. Moreover, use of the dollar and the US-controlled international settlement system to punish "recalcitrants" have resulted in a rebellion - in "de-dollarisation". An example is the Saudi-Chinese deal to move away from using petrodollars.

14. De-dollarisation is happening right now and, though it seems small scale, the increase in bilateral and multilateral arrangements to use national currencies in trade has a significance that will undermine the interests and positions of America and the West. When we talk of the "decline of the West", that decline is being hastened by the war in Ukraine.
15. Of course China's rise is a factor too. And, in this world of Realpolitik, China will obviously ride this new wave of anti-Westernism.
16. But it is the Ukraine war, with all its ramifications, that has given the Global South its new disbelief in the West. The war is being framed as a fight "for democracy", for a "rules-based order", etc. But that fight is being lost in Asia. And the longer it goes on the more it will be lost.
17. Nothing would be better for America and the West than to see the end of this war, and to repair and preserve in the wider world those values, and that order, which are so much talked about in the context of Ukraine.



Tetyana Nesterchuk - Barrister and Arbitrator at Fountain Court Chambers; UK expert at the Council of Bars and Law Societies of Europe, and Ukrainian in London

Nesterchuk argued that to make a peace not based on justice would be to repudiate a century of evolution of legal thinking on international law, to ignore clear and multiple violations by Russia, and to send the wrong message to civil society worldwide. Moreover, such a peace would not work and would be unacceptable to the vast majority of Ukrainians.

Nesterchuk argued the following:

1. As a Russian-speaker from Donbas, I can say that "peace, for the sake of Ukraine and Ukrainians" isn't a compelling argument. Not if "peace" means that some Ukrainians – even Russian-speaking ones – face a life sentence of occupation by Russia. In that case it isn't clear that things could get any worse for Ukrainians.
2. The argument for peace is not an argument for Ukraine or Ukrainians. It is about ending economic suffering for the rest of the world – grain shortages and gas shortages for those over-reliant on the Russian gas that is paying for war. But a "peace" which signals a return to "business as usual" with Russia cannot be acceptable.
3. Injustices suffered in other wars cannot be used as a reason to avoid justice for Ukraine in this one. Russia's actions in Ukraine are recognized crimes against peace and security in the world – including:
 - UNGA-condemned violation of Article 2(4) of the UN Charter regarding threat or use of force against states' territorial integrity or political independence"
 - UNGA-condemned invalid and illegal referendums in, and annexations of, Ukrainian regions;
 - Unlawful transfer of children from occupied areas of Ukraine to the Russian Federation, for which the ICJ has issued arrest warrants against Mr Putin and a subordinate.

4. Searching for a peace which is not firmly rooted in justice threatens to overthrow the entire legal thinking on peace and the role of international responsibility for crimes that has been developed over the last 100 years. The approach emerging from WWI to the problem of war was to strengthen international law in such a way as to make its violation not merely dishonourable but also unprofitable for an offending state.
5. So it is astonishing that now anyone should suggest that a breach of the peace should be rewarded with territorial gains and impunity for war crimes. The legal effect of waging an illegal war must be made clearer than ever.
6. Polls in 2022 showed that over 80% of Ukrainians were against any sort of territorial bargaining with Russia for peace. And it's inconceivable that any sort of peace could be achieved without Ukrainians buying into its terms. Such a "peace" would mean living with a volcano in the middle of Europe which could erupt into war at any moment. Ukrainians would not accept peace at the expense of justice. Nor are they ready to abandon the occupied lands in the east – which is especially true of those, like me, who come from those lands.
7. Constraining Ukraine's pursuit of justice not only contravenes the requirements of international law, would also send a discouraging message to civil society worldwide, to all those who opposing oppressive regimes – and to civil society in Russia and Belarus.
8. Finally, absence of a fair examination of the Kremlin's crimes would also deprive Russians and Belarusians of an impartial assessment of their own direct or indirect complicity in supporting the war (which, to judge from opinion polls, is considerable).

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