When Ukraine Is Over ...
How will they turn out the lights?
By Aurelien - January, 2025

Over the last eighteen months, I have produced a couple of essays on the question of how the war in Ukraine might "end." I've talked about negotiations and their difficulties, and I've talked about how the very concept of "ending" a war is always fluid, and subject to interpretation. If you haven't read those essays, and you have time to spare, you may want to glance through them now. The present essay inevitably covers some of the same ground, since the problems are ones of principle that don't change much over time, but this week I'm trying to bring the argument up to date, and expand it by reference to other examples.

The "debate" in the West has crawled painfully forward recently, in the general direction of reality. But the expectation in the West still seems to be of a truce of some kind in the war and a deferral of Ukraine's entry into NATO while their forces are rebuilt, whereas the Russians are clear that such objectives are excluded even from their minimum conditions for starting negotiations. I'm not going to go too deeply into statements made by This Person and That Person, because much of it is for show only at this stage, and, on the western side, few of those who pontificate seem even to have grasped the basic realities of the situation. What I'm going to do instead is to set out the basic realities of how wars "end" (if they do) and the different ways in which this happens, and the various mechanisms that exist to make that possible. I'm going to make a number of distinctions, both in concepts and in terminology, which might seem a bit nerdish and detailed to some. All I can say is that professional diplomats or experts on international law would probably accuse me of over-simplification.

The first thing to do is to distinguish between four potential types of events. Although these may look sequential they aren't, necessarily, nor do all conflicts go through all stages. We'll distinguish between:

- **Organised surrenders of sizeable units (battalion and above.)**
- **Agreements to stop hostilities and separate forces, whether permanent or temporary.**
- **Agreements to end hostilities definitively, so usually intended to be permanent, or at least long-lasting..**
- **Agreements to address the underlying causes of the conflict.**

Here, I use "agreement" in the widest sense, whether or not anything is written down (a point I will elaborate on later.) It's important to distinguish these steps clearly from each other, because it's often hard to know what someone means when they talk about "ending the war," and there is a lot of needless confusion as a result. Indeed, one of the most destabilising things during attempts to end conflicts is that people often mean different things by the same terms, and the same thing by different terms, and are therefore speaking past each other.

But before going through these possibilities, and before laying out a taxonomy of different kinds of agreements, I want to insist once more on a point of fundamental importance which is omitted from every textbook of international law I have ever seen. Agreements, whether simple or elaborate, whether legal or political in nature, whether written or verbal, have no more effect than the willingness of parties to implement them, and no more significance than the good faith of parties in entering into them in the first place. Thus, if underlying agreement exists, any texts will follow quickly. If underlying agreement does not exist, no amount of detailed text will bring it about. I've spent more time than I care to remember sitting in stuffy rooms trying to find some form of words to paper over the fact that the parties involved in the negotiations fundamentally disagreed with each other.

So let's start at the beginning. What motives might parties have for agreeing to talk, or entering into an agreement, while a conflict is in progress? Liberal political theory, which views wars as anomalies brought about by error or individual wickedness, is clear that all sides should really want peace anyway, and the task is therefore to provide them with a suitable mechanism to achieve it, and get rid of any trouble-makers who might obstruct peace agreements. (Yes, I know self-styled liberals have supported aggressive wars overseas. That's not the point here.) Thus outsiders, normally from the West, will bring their expertise, write peace agreements, marginalise trouble-makers and everyone will be happy. In theory.

In reality, the reasons why states and other actors agree to talks, or even to proposals for ending the fighting, vary enormously. They may be at a disadvantage, and hope that a pause will enable them to gather strength. They may also decide that they are losing anyway, and that it's better to stop now. They may decide that there are political advantages to agreeing to stop the fighting, or they may be seeking to wrong-foot the other side, which itself may be winning and not want the conflict to stop. They may decide to show willingness to talk in the knowledge that the other side won't, and thus gain political advantage. It's therefore not unusual for states to enter into talks, or at least agree to talks, for reasons that are quite different, and may even be diametrically opposed. If you think about it, that explains some of the posturing over Ukraine.

The other general point is that many political cultures draw a distinction between agreeing to something (say a ceasefire) and actually carrying it out. These are separate political decisions, taken for different reasons, and in any case those who agree to a ceasefire are not necessarily in a position to deliver it, because they don't control the combatants. Even in large states there can be disconnects: I've been told by people in the Pentagon that treaties are a "State Department problem." One of the many reasons for the attempted coup in the Soviet Union in 1991 was that the military felt they had been disregarded in the final drafting of the Conventional Armed Forces in Europe Treaty, and that, as they told western visitors, the diplomats had "made a mistake in the numbers" which they were obliged to correct.

Sometimes, all sides in a conflict can have a collective interest in agreeing something, anything, just to get outsiders off their back. This notoriously happened in the early years of the conflict in the Former Yugoslavia. In 1991/92. European governments were consumed with post-Cold War issues and the European Union negotiations, and everything was thrown into chaos by the Yugoslav crisis, and demands for Europe to "do something" about it. So the "troika", the three Foreign Ministers of the past, present and future Presidencies of the Western European Union, were sent off to bring peace to the Balkans. They would extract promises from the warring parties to stop fighting, and the latter would usually be considerate enough to wait until the plane took off before starting the shooting again.

There is a story I believe to be true about Gianni de Michelis, the Italian Foreign Minister of the day, who led numerous futile missions to the region. Now Di Michelis was no angel himself (he was to serve a prison sentence for corruption) but even he was disgusted by the duplicity and cynicism of his interlocutors. (He was also, unconnectedly, the author of a critical guide to Italian discotheques.) After yet one more mission, Di Michelis was asked by a hostile media whether an agreement would hold this time. 'I've got it in writing!" he said triumphantly, brandishing the agreement. Needless to say, that agreement didn't last long either. In this case, it was in the short-term interest of each of the parties to sign anything that would satisfy the Europeans and make them go away. By contrast, when at the end of the fighting in Bosnia the parties were exhausted and recognised they could not achieve their objectives by force, it was in all their interests to sign a "peace" agreement reflecting the actual situation, and transfer their struggles to the political level and the manipulation of the international community.

So the first question in the case of Ukraine is which parties might have an interest in proposing, or agreeing to, what kind of negotiations and about what. As that question implies, the number of possibilities is very large, and so we can expect a great deal of argument about who is ready to "negotiate" and who is not, with different actors talking past each other. This is clearly what happened to some extent with the Minsk 1 and 2 "agreements" (more precisely, minutes of agreed conclusions.) Everybody had their own reasons for supporting or endorsing those documents, and they seem, as usual, to have meant different things to different people.

Very often, the parties to an agreement are unequal in terms of their ability to carry out the provisions anyway. This is particularly the case with agreements between governments and non-state actors. A classic is the 2005 Comprehensive Peace Agreement for Sudan, signed by the Government and the Sudanese People's Liberation Movement/Army. The agreement was extremely complex (reflecting the complexity of the settlement itself) and rapidly exceeded the ability of the authorities in Juba to actually implement. So the decision by the SPLM to go for independence in 2010 was no surprise: nor was the civil war that followed. Indeed, there is a whole book to be written on the tendency of bad peace agreements to promote conflict: the most egregious case being probably the disastrous 1993 Arusha peace agreement between the coalition government and the Rwandan Patriotic Front.

With these caveats in mind, we can turn to the different, and not necessarily cumulative, possibilities listed above, with some historical examples.

The first is organised surrenders. Now prisoners will be captured at all stages of a conflict, but especially at the beginning and towards the end, entire units finding themselves in a hopeless position might decide to surrender. The Russians have been busy creating “cauldrons” for Ukrainian troops, who for the most part—so far—have either fought to the finish or attempted to escape in small groups. The number of prisoners taken is not clear, but it is likely to increase, perhaps sharply, as the Ukrainian Army starts to fall apart, as more and more units are cut off and as the overall situation of the UA seems increasingly hopeless.

This is the most straightforward situation, and there are detailed rules in the Third Geneva Convention to cover the treatment of prisoners. These assume the war is still going on, and require that prisoners be released at the end of hostilities. Whilst this process is not in itself that complicated, there is always the possibility of mass surrenders by UA units once the fighting draws close to its inevitable conclusion, and this could lead to the effective, if not official, end to most of the fighting, at least in certain areas. There would be political consequences but no need for any formal agreement or special administrative arrangements. That said, the actual detailed treatment of opposition forces seeking to surrender, or too badly wounded to fight, has always been a tricky and sensitive subject. In World War 2, wounded Japanese soldiers would frequently explode a hand grenade when approached for surrender. More recently, the Taliban and similar combatants who do not recognise what we regard as the rules of war have behaved similarly, and have often detonated explosive belts once they are incapacitated. In the case of Ukraine, this level of fanaticism is unlikely on a large scale, but there will inevitably be incidents, as tired, scared soldiers on each side misinterpret the motives of the enemy.

That said, no war can properly “end” without a formal arrangement for the combatants to stop fighting. (There are obviously wars, especially against irregular groups, that never actually “end” but that’s not really relevant to what might happen in Ukraine.) These arrangements do not have to involve mass surrenders: for example, the Yugoslav Army (VJ) withdrew in good order from Kosovo in 1999, according to arrangements agreed between the VJ and the NATO-led Kosovo Force. Given the sensitivity of the situation, this was under a Security Council resolution, but that is not obligatory.

It’s important to understand that these arrangements, negotiated between military commanders, are only a ceasefire or at most an armistice. The difference between these two terms, and indeed a truce or cessation of hostilities, is essentially a matter of degree. Truces and ceasefires can be local (as currently in the South of Lebanon) and temporary (that one is for sixty days.) Whilst there may be an assumption that peace will follow, it is by no means guaranteed. But for a cessation of hostilities and even more an armistice, it is assumed that the war has definitely ended and that formal negotiations are about to start. Thus, once more, it’s easy to get confused about what has been

proposed and what has been agreed, and it's important to keep all these terms separate in your mind.

For truces and ceasefires, there may be no more than an agreement to stop fighting, and perhaps withdraw some forces from contact. There may also be informal prisoner exchanges if the combatants think this will help them politically. There will probably be a short document agreed by both sides setting out what is to happen. These arrangements are always temporary (though they may be renewed), and do not necessarily lead to peace negotiations or even an armistice. In some cases, fighting begins again quite quickly. That said, truces and ceasefires usually have some rationale behind them: either internal—because both sides need to regroup for example—or external, perhaps to give outside mediators more time to push for negotiations to start.

An armistice is much more serious, and generally intended as a definitive end to actual hostilities, enabling peace talks to start. Armistice agreements can be quite elaborate (the Korean War Armistice Agreement has more than 60 Clauses, plus substantial annexes) and take a lot of negotiation (two years in that case, and two weeks even to agree the agenda.) They also vary a great deal in content. The Korean agreement is relatively unusual, because there is no clear victor and vanquished and no clauses covering surrender or demilitarisation. By contrast, the armistice agreement signed on 11 September 1918 called for the retreat of German forces from occupied territory, the surrender of all its heavy weapons and the demilitarisation of the East bank of the Rhine, among other things. And the armistice agreement signed by France and Germany on 22 June 1940 called for the demobilisation of French forces and the surrender of half of the territory of the country. (There never was any "peace treaty.") Thus, an "armistice" can contain almost anything you like, depending on the situation and the balance of forces between the combatants.

All this is important, because it seems likely that most western pundits and politicians do not understand these tedious distinctions, and so it's often hard to know what they *do* envisage in practical terms. The enthusiasm for a "Korean-style frozen conflict" is a piece of historical illiteracy. Not only, as I have suggested, was the Korean example very untypical, it was specifically intended to lead to peace talks and a resolution of the conflict itself, not to be a convenient screen behind which forces could be built up. Even if the Russians propose an "armistice," it's not at all clear that they will have the same idea of it as the West: more likely they have something like the 1918 or 1940 models in mind, where demobilisation and surrender of heavy weapons would be part of the arrangements, before peace talks could start.

All of the above are in principle military-to-military agreements, signed by military commanders, although generally operating under clear political instructions. But even armistices can only get you so far: the real issue is what happens next at the political level, both as regards the immediate conflict, and as regards its underlying causes, so far as they can be agreed on. Again, we can look to history. In 1918 the fighting between the allies and the Germans stopped on 11 November, but it then took two months to organise the series of negotiations usually referred to as as "Versailles," and the main treaty with

Germany was not signed until June 1919, and did not come into effect until the following year. By contrast, and in spite of efforts in the 1920s and 1930s, a comprehensive treaty for European security was never a serious possibility. In turn this was because the problem of territorial boundaries and ethnicities not coinciding was insoluble, and also because nothing could be done to prevent Germany, the most populous and wealthiest country in Europe, from demanding revisions to the Versailles Treaty at some future point, accompanied by threats of violence if necessary. That Treaty attempted to solve problems that were insoluble, and created the necessary, if not the sufficient, conditions for the next war. As I've mentioned, the Korean War armistice was intended to be followed by political negotiations, but this never happened.

At this point, we move into the area of diplomacy, whether between states (as was classically the case) between states and institutions, or between a state and non-state actors. Now here, we have a wide spectrum of possibilities, from Treaties, Conventions and Agreements (and we'll go into the differences in a moment), through technical agreements between governments (often in MoU form) through joint papers, declarations and communiqués, down to press statements and exchanges of letters.

Technically, a Treaty is a binding legal agreement between the governments of named sovereign states, which is to say that all Treaties are agreements, but not all agreements are Treaties. Other states may join by invitation (eg the Washington Treaty) but no non-signatory has a pre-emptive right to join. A Convention is much more open-ended, and in principle any nation can accede to it. There are then Agreements, or Accords, which is the name we tend to give to agreements (sic) that involve non-state actors as well as governments. (I'll give some examples of all of these in a moment.) There are some oddities like the Rome Statute of the International Criminal Court, which is actually a Convention, but so called because most of the negotiation was about what would go into the Statute setting up the Court. In this context, "Agreement" and "Accord" tend to be used interchangeably. Historically, diplomacy was conducted in French, and the choice of word can depend on which language the drafters are thinking in. The result is a confusing situation where "agreement" may mean any kind of mutual undertaking between states and other parties, or may refer to a specific type of legally-binding Agreement. It depends on the particular context.

All three of these types of agreement share the characteristic of what is described as "treaty language," and which is a traditional and largely unvarying format. A Treaty itself will begin with the Preamble, which is not part of the Treaty provisions, but represents the agreed political context for them. It starts by listing the governments concerned (so "The Republic of Freedonia, the Kingdom of Ruritania and the Concordian Federation") and then moves on to some gerunds, normally starting with "considering" and including "wishing to," recalling" and "having regard to," as well as good old standby verbal phrases like "determined to" and "convinced that," before ending with the words "have agreed as follows." In a Convention text, the same procedure is used except that the chapeau changes to " The States Parties to this Convention," and for Agreements with non-state actors the chapeau is ad hoc. Thus, the Arusha

Accords originally drafted in French, were between "(t)he Government of the Republic of Rwanda on the one hand, and the Rwandese Patriotic Front on the other," and the Comprehensive Peace Agreement for Sudan, originally drafted in English, was between "The Government of the Republic of Sudan and the Sudanese Peoples' Liberation Movement/Army." In all cases, we expect to find Articles in the text with obligations and rights, and the use of injunctive words such as "must" and "undertake" and "refrain from."

The theoretical importance of treaty language is that it makes the document a legally-binding one, where nations are obliged to do, or not do, certain things. In addition though, a Treaty has to be signed and ratified by a state before that state is legally bound by the obligations, and often requires domestic legislation passed by Parliament to enable the treaty obligations to be carried out. A Treaty comes into effect when all states have ratified, a Convention usually when a certain number of them (perhaps two-thirds) have.

I said that the fact of treaty language making a document legally binding was theoretical, and I should explain that. In theory, nations are legally bound by ratified treaties, but in reality there is no way to enforce these obligations, in the sense that, say, a domestic commercial contract can be enforced. In practice, most nations respect international law most of the time, or at the very least seek to justify their actions by reference to it. Thus, Russia defends its intervention in Ukraine on the basis that the two Republics were at that point independent states, seeking Russian help to exercise their inherent right of self-defence. But in the end, international law is not enforceable (which is why many people, including me, argue that it's not law, it just looks like it.) Moreover, any competent government can usually find a justification for what it wants to do somewhere in all the thickets of international law texts. It is possible to bring a case in the International Court of Justice, but the ICJ only rules on disputes between states. The recent case brought by South Africa against Israel was on the narrow grounds of a dispute between the two states about what was happening in Gaza. For this reason, it's best not to get too excited about the importance of a Treaty, in itself, to the solution of the problem in Ukraine.

Which brings us back, really, to where we started. In order for the war in Ukraine to officially "end," two things have to happen. First, the combatants and those who influence them have to be genuinely convinced that it is time for agreement on a specific topic (armistice, peace treaty etc.) History is full of examples of premature attempts at peace settlements that turned bad, and of peace settlements that did not have enough support even among the signatories. There is nothing magical about an armistice, nor is a peace treaty a talisman of some kind providing protection. All such agreements are completely dependent on the will to take them seriously, and abide by their terms. Even the most tentative negotiations will fail unless the parties are committed to them, and unless, within the range of conceivable outcomes, there is a minimum amount of common ground.

Second, the terms that have to be agreed must be at leat minimally acceptable in the nations whose representatives sign them. Whilst another good pragmatic rule must be that negotiations have to be between those who have the power

(see later), there can be terrible dangers in negotiations between selected or self-selected elites which ignore other forces, often writing them off as “extremists” or simply not taking them into account at all. Thus, at the time of the Arusha negotiations, there was the latest in a series of unstable coalition governments in Kigali which attempted to bridge the gap between several strongly opposed Hutu factions, and with a single Tutsi Minister. The negotiations were between this government and the English-speaking, mainly Tutsi, invaders from Uganda, thus excluding the native French Tutsi speakers almost entirely, as well as the significant Hutu forces opposed to any negotiation with the traditional class enemy. Had the forces involved not been pushed into negotiations by outsiders it is doubtful if they would have begun them, and their outcome was so unstable that it was only a question of which side would go back to war first.

But this is a common pattern in history. The Anglo-Irish Treaty of 1921 (technically the “Articles of Agreement” since it was not in treaty language) was bitterly controversial on the Irish side from the beginning of the negotiations, and its opponents thought their representatives had too easily given in to British pressure. The new Irish Cabinet voted by just 4 to 3 to accept the agreement, and the new Dail approved it by only a small majority. The Irish negotiators were aware of the fragility of their of their position: thus the famous exchange between the British negotiator Lord Birkenhead ("Mr Collins, in signing this Treaty I'm signing my political death warrant”) and the Irish negotiator Michael Collins ("Lord Birkenhead, I'm signing my actual death warrant.”) Collins was right, and he was assassinated not long after. The Treaty provoked the Irish Civil War of 1922-23, which has complicated Irish (and British) politics until today.

The current fashion is for “inclusive” peace agreements, in which all shades of opinion are represented. This isn’t necessarily a bad idea, and can be appropriate when the stakes are relatively low. But ultimately, there are those who count in negotiations and those who don’t, and agreements that try to include all points of view are often too fragile to survive very long. In any event, agreements always result in some parties feeling disappointed: it cannot be otherwise An example is the laborious 2003 Sun City agreement for the DRC, brokered by the South Africans, which attempted to reproduce the inclusive and exhaustive procedures that led to the end of apartheid in an environment to which they were wholly unsuited. Conversely, ruling out participants because you don’t like them is simply silly: witness the problems caused by the West’s stubborn failure to engage Iran over several questions where its influence is fundamental. Quite how this will play out in Ukraine is not clear, and somehow any successful agreement will have to bridge the gap between the most that Ukraine can offer without sparking a civil war, and the least that opinion in Russia can accept. Whatever government survives in Ukraine is unlikely to have enough military power to defeat extremist rebels, and the Russians are not going to do the job for them.

One common requirement of all of these cases is a degree of flexibility on form and procedure, if there is a genuine desire to resolve the problem. By contrast, you can usually tell that potential partners are not serious

when they start arguing about procedural issues (sometimes called the "shape of the table" problem.) At the moment, we are in the declarative, theatrical phase, where different actors are making demands and trying to rule out possibilities for negotiations and their outcome. Some of this, especially on the western side, is self-delusion, but some of it also represents the limits of what can be said publicly, or the establishment of a maximalist position which can be nuanced later as required. Here as elsewhere though, the West has taken positions, and underwritten Ukrainian ones, that are so extreme they will be difficult to row back from.

Thus, we should not take too seriously the Russian refusal to negotiate with a government led by Zelensky, on the basis that his mandate has expired. This is probably a propaganda position, dividing the government in Kiev against itself, and preparing the way in case a (symbolic) concession is necessary at some stage. In fact, Russian negotiating strategies have been remarkably pragmatic: the First Chechen War ended in 1996 with a military agreement, followed the next year by a formal Treaty between Russia and the new government in Chechnya. The Second War never formally ended, and the Russians were happy to declare victory and hand the problem over to pro-Russian Chechen leaders.

Both of those episodes illustrate a truth about any kind of negotiation or agreement: they must reflect the underlying realities. In the first case, the Russians were on the back foot; in the second, with Chechen allies, they had effectively won. But enormous damage has been caused over the decades by normative, idealistic treaties which try to create situations on the ground rather than reflect them. **Thus, hard as it may be to accept, it is often better for fighting to continue until it is evident either that someone has won, or that no-one can.** The classic case is of course Germany in 1918, where on paper the German forces were still capable of resistance, and indeed still occupied parts of France and Belgium. Subsequent history might have been very different if the General Staff had not had a nervous breakdown and declared the war lost. **In Ukraine there may be a positive danger in the Russians agreeing to start talking too early, since that will allow "stab-in-the-back" legends to proliferate. Only when it is clear that Ukraine is decisively beaten can these sorts of political dangers be minimised, although they can never be excluded. And at that point, the form and content of any negotiations should begin from the situation on the ground, which can then be put into written form.**

I have put a lot of stress on the difficulties of negotiation, the limitations of texts in the absence of will or even capability, and the fact that, in the last analysis, even treaties are unenforceable. This suggests that whatever documents are signed will have to be backed up not by something so ethereal as "security guarantees", but rather by a unilateral capability of the Russians to punish non-compliance. It is quite possible, depending on precisely how the war ends, that the West will also want to apply pressure on a future Ukraine to be reasonable, because once the blood-lust has dissipated, and the full economic and political cost of the war becomes apparent, it is unlikely that the West will want to encourage

any more Ukrainian adventurism. And in any event, the West's ability to support Ukraine militarily at that stage will be very limited.

This implicitly excludes, of course, a final settlement that tackles the famous "underlying causes " of the conflict. We can go on for ever about new European Security Treaties, but I fear that the time for that was thirty years in the past, and a similar opportunity won't arise again. Even in those days, the problems of "integrating" such a large and powerful country as Russia (and what about Ukraine and Belarus?) into some hypothetical European security order were immense, and perhaps insoluble. Now, though, the least the Russians would accept will be more than the maximum European countries would agree to. The answer, once more, will be a de facto power relationship unfavourable to the West.

None of us really know how Moscow intends to handle the end of the war, or even if it has yet decided. But the most effective approach would be for Russia to create facts on the ground against which there is no appeal, after which overall compliance—which is more important in the end that the detail of the text—is much more likely. Does the West understand this? I suspect not. I think we are going to see a great deal more confusion between different ideas and different terms, a wildly exaggerated idea of what the West can accomplish through negotiations (if it's allowed to participate, that is) and sullen resistance to any treaty text which would codify the first unambiguous conventional military defeat of modern times for the West. Let us hope that none of these things does too much damage.