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"Exorbitant Privilege" of Nuclear-weapon States in a Multipolar World

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Abstract: As a Chinese-brokered peace deal for the war in Ukraine starts to form, the previously unthinkable reality that Russia as the aggressor may end up possessing a substantial amount of occupied territories sinks in. In violation of Article 2(4) of the U.N. Charter and turning Article 51 on its head, Russia's adventurism since the 2014 annexation of Crimea signifies the emerging norm of "exorbitant privilege" enjoyed by nuclear-weapon states. Through case study of Russia's nuclear coercion and systematic review of realist literature, the essay seeks to demonstrate the potency of such "exorbitant privilege" and its implications in a multipolar world. The essay finds that nuclear-weapon states possess emerging ability to legitimize use of force against, possess occupied territories of, and extract political concessions from nonnuclear states, in spite of the U.N. Charter and its founding principle of the sovereign equality of all states.

Keywords: "exorbitant privilege", nuclear-weapon states, use of force, self-defense, nuclear coercion, power politics, political realism

1. Introduction

Henry A. Kissinger claimed on May 24, 2022 that "negotiations need to begin in the next two months before it creates upheavals and tensions that will not be easily overcome. Ideally, the dividing line should be a return to the status quo ante. Pursuing the war beyond that point would not be about the freedom of Ukraine, but a new war against Russia itself [1]."

Austrian Foreign Minister Alexander Schallenberg stated on February 13, 2023 that "the thinking is you have a large country invading in a neo-imperialistic manner a neighboring country. And we are supporting this country in its self-defense, which doesn't make us a party to the war [2]."

Coined in the 1960s by Valéry Giscard d'Estaing, French Finance Minister at the time, "exorbitant privilege" describes the ability of the United States to run sustained balance-of-payments deficits in the dollar-centric international monetary system [3]. This essay has appropriated the term from monetary economics and applied it to a new discipline - international relations, to describe the emerging ability of nuclear-weapon states to legitimize use of force against, possess occupied territories of, and extract political concessions from nonnuclear states, in spite of the United Nations Charter and its founding principle of the sovereign equality of all states in Article 2(1). Ironically, the five permanent members of the U.N. Security Council – all of which are major nuclear powers – especially enjoy this "exorbitant privilege", due to their power to veto any and all draft resolutions to take enforcement action against themselves.

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Since the end of the Cold War and the dissolution of the Soviet Union, nuclear weapons have essentially become living fossils of a bygone era, and the study of nuclear deterrence and coercion has been neglected as a lost art. Contemporary literature went so far as to suggest that nuclear weapons do not provide states with political leverage, and nuclear coercion does not work [4]. However, with Russia being the most prominent example of prolonged, consistent and conscious nuclear coercion, its successful annexation of Crimea since 2014, the ongoing conflict that sees Russia's sustained occupation over 17% of Ukrainian territory, or 40,000 sq miles of land in southern and eastern Ukraine, and the floating of a peace deal brokered by China that does not explicitly call for Russia to withdraw from Ukraine all serve as stark reminders of such "exorbitant privilege" [5,6].

This essay does not concern itself with the fluctuating state of war in Ukraine and its development going forward. Belligerence, in particular the threat or use of force, is the focus of discussion. Russia emerging as a victor in its invasion of Ukraine and the implication of such would set a dangerous precedent and upend the very foundation of public international law.

On the one hand, Russia's so-called "special military operation" has been widely contended by the international community to violate international law, including the use of force against the territorial integrity or political independence of Ukraine, and actions committed that amount to war crimes and crimes against humanity [7]. And yet, Russia's actions have practically gone without repercussion. With the Security Council stuck in gridlock, there is no recourse available to Ukraine that is enforceable against Russian aggression. Russia is also well on its way to convince the increasingly war-weary and receptive Western audience that it has always been acting on preemptive self-defense against the eastward expansion of the North Atlantic Treaty Organization (NATO); China, despite its diplomatic push for political settlement, has been toeing the Russian line since the onset of war [8, 9, 10].

The tension between these competing observations points to an apparent contradiction, namely between the foundational principle of public international law that prohibits the use of force, and the "exorbitant privilege" bestowed upon nuclear-weapon states by virtue of Machtpolitik or power politics.

The question that follows from that apparent contradiction is, could Russia emerging as a victor in its invasion of Ukraine, therefore possessing occupied territories along the current line of engagement, set a dangerous precedent for other nuclear-weapon states in their arbitrary or abusive use of force under the guise of preemptive self-defense, therefore ushering in a new international norm that twists or pierces any legitimacy left of the U.N. Charter [11].

The question this essay poses is of interest to other scholars because the issue signifies the crumbling "end-of-history" teleology heralded by the neoliberalism school of thought [12]. Instead of being a living document that would stand the test of time, the aspirational nature of the U.N. Charter may condemn it to irrelevance when political realism and the new Great Game take center stage once more.

2. The Conundrum of Russia's Nuclear Posture

Contrary to the less-than-flattering combat performance of its conventional forces in Ukraine, Russia's nuclear forces have undergone more than just a face lift [5]. With approximately 4,477 nuclear warheads stockpiled in its nuclear arsenal, 1,912 of which are theater and tactical-range systems (most of which are dual-capable, i.e., may be armed with nuclear or conventional warheads), Russia has continued a modernization program since 2011 with the intention to replace most of the legacy systems from the Soviet era by the late 2020s [13].

Moreover, Russia has made well-publicized efforts to add a suite of "exotic" novel nuclear systems, some of which arguably fall outside the limits set by the New Strategic Arms Reduction Treaty (New START), while significantly improving its delivery capabilities. Such "exotic" systems include the

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Avangard HGV (hypersonic glide vehicle), the Kinzhal air-launched ballistic missile, the RS-28 Sarmat ICBM (intercontinental ballistic missile), the Burevestnik nuclear-powered cruise missile, and the 2M39 long-range nuclear-powered torpedo [14].

The last of these "exotic" systems, popularly known as "Poseidon" in Russia, serves as an extraordinary showcase of Russia's deliberately obfuscated nuclear posture. Launched from state-of-the-art Russian nuclear submarine/mothership Belgorod (K-329, also the largest submarine ever built in the world), The Poseidon torpedo could loiter undetected outside harbors and coastal cities for extended periods of time, intended to create "areas of wide radioactive contamination that would be unsuitable for military, economic, or other activity for long periods of time [15]." Such an act would cause widespread indiscriminate collateral damage in violation of international law [13].

Therefore, by displaying the willingness and capability to make limited use of nuclear weapons, Russia plans for and indeed postures its nuclear forces as a source of substantial political and coercive leverage. In other words, if Russia makes the credible threat to escalate, it could sway the momentum both on the battlefield and at the negotiating table, even without actually using the nuclear weapons.

Back in 2016, the Foundation for Strategic Research (FRS), a reputable French think tank, released a note envisioning the practice of Russia's nuclear doctrine in a hot war "that appears less implausible in the wake of Moscow's seizure of Crimea, its continuing incursions into eastern Ukraine, and its broader posture of antagonism towards the West and interest in revising the post-Cold War political settlement in the areas in and around the former Soviet Union." The note's author, Elbridge Colby, argued that in a limited conflict with the West, Moscow would look upon nuclear coercion as a means to an end – both to compensate for the shortcoming of its conventional forces against near peer adversaries, and to force war termination on terms favorable to Moscow [16].

More than six years later, the theory is put into practice. The bleak reality of war in Ukraine has proven these words to be more than just foreshadowing.

3. The Emerging Norm of Nuclear "Exorbitant Privilege"

On February 28, 2022, four days after commencing the full-scale invasion of Ukraine under the guise of preemptive self-defense, Russian president Vladimir Putin announced in a televised speech that he ordered its nuclear forces "to transfer to a special mode of combat duty [17]." The first instance of nuclear coercion or so-called "escalate to de-escalate", many of these saber-rattling statements were soon to follow.

On April 24, 2022, when speaking to domestic news agencies, Russian foreign minister Sergey Lavrov warned that due to the West's rallying support for Ukraine, the danger of a World War III "is serious, it is real, you can't underestimate it", alluding to potential escalation if Russia's conventional forces suffer major setbacks on the battlefield [18].

Indeed, as war in Ukraine dragged on against the wishes of the Russian command, more explicit threats to use nuclear weapons were made [19]. On September 21, 2022, in the speech announcing Russia's first partial mobilization since World War II, Putin built a false context, accusing the West of engaging in "nuclear blackmail" by allegedly plotting his country's demise. Putin then declared that he would use "all available means to protect Russia and our people" and warned "those who try to blackmail us with nuclear weapons should know that the weathervane can turn and point towards them [20]."

A week later, on September 30, 2022, at a Kremlin ceremony to formally annex occupied Ukrainian territories of Donetsk, Luhansk, Kherson and Zaporizhzhia oblasts, Putin sought to justify nuclear coercion by saying that when the United States twice used nuclear weapons on Hiroshima and Nagasaki, a "precedent" had been set. He repeated that "we will defend our land with all the powers and means at our disposal [21]."

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On March 25, 2023, Putin announced a timetable to forward deploy tactical nuclear weapons in Belarus, the same staging ground for the "special military operation" from a year earlier [22]. Russia's "exorbitant privilege" is now in its full-fledged final form.

3.1. Russia's Approach to Sovereignty and International Law

To reiterate, Russia's official nuclear doctrine allows for the use of nuclear weapons "in the event of aggression against the Russian Federation with the use of conventional weapons when the very existence of the state is in jeopardy [23]." Russia's uncontested possession of Crimea, now into its ninth year after a false flag operation in 2014, as well as the aforementioned annexation of recently occupied territories (backed by constitutional referendums), both seek to establish territorial status-quo as a fait accompli. Russia's blatant disregard for the territorial integrity of Ukraine notwithstanding, NATO analysts have argued that although it is impossible to predict if de facto possession of these territories will lend more credibility to Russia's threat to escalate, were Ukrainian forces able to reclaim these territories, President Putin may find it imperative to take drastic action [24].

Such a neo-imperialistic view of sovereignty also ties into Russia's broader concept of international law, where it only abides by its own set of geopolitical norms at odds with the rules-based international order. In the 2020 profile aptly titled "Russia at the United Nations," Philip Remler laid out Russia's dual-track approach to sovereignty in detail. Remler argued that while Russia takes the U.N. Charter's founding principle of the sovereign equality of all states at face value, it views the reality of the international order as competing spheres of influence, each with one of the few nuclear powers at the center that "are able to exercise genuinely independent choices;" nonnuclear states and international organizations are seen as merely objects or instruments of power politics, rather than as serious actors with proper agendas [25].

This arbitrary distinction between nuclear-weapon states and nonnuclear states was on full display for the first time in 2014, when right after the annexation of Crimea, the then Russian prime minister Dmitry Medvedev – now deputy chairman of the state security council and unsurprisingly one of the most vocal supporter of the current war in Ukraine – said "we don't have to guarantee anything to anyone, because we never took on any commitments concerning this [26]."

The official remark was in direct violation of the three Budapest Memorandums on Security Assurances of 1994, in which Ukraine agreed to give up its Soviet-era nuclear weapon stockpile in return for security guarantees from Russia, the United States, and the United Kingdom. In the document of the Security Council, Russia reaffirmed its obligation to "refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, and that none of their weapons will ever be used against Ukraine except in self-defense or otherwise in accordance with the U.N. Charter [27]."

Fast forward to the present day, the irony is palpable. By relinquishing the third largest nuclear weapon stockpile in the world, Ukraine effectively stripped itself of the only security guarantee as a budding nuclear-weapon state, its proverbial seat at the table lost forever. In Russia's view, Ukraine became the nonnuclear pushover that is vulnerable to subversion and ripe for the taking. Even former US president Bill Clinton, in a rare moment of soul-searching very recently, admitted regret for his role in persuading Ukraine to give up its nuclear weapons. "None of them [Ukraine] believe that Russia would have pulled this stunt if Ukraine still had their nuclear weapons," he said on April 4, 2023 [28].

Although Ukraine could in theory request the Security Council to take enforcement actions by passing a binding resolution, Russia itself or the other permanent member sympathetic to Russia's cause would simply veto the draft resolution, any attempt to seek recourse rendered moot. Indeed, by acting upon its "exorbitant privilege", Russia has done as it sees fit.

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One of the most revered scholars in the field of nuclear strategy, Robert Jervis wrote in 1988 that "at best, nuclear weapons will keep the nuclear peace; they will not prevent – and, indeed, may even facilitate – the use of lower levels of violence." He went on to observe that the nuclear stalemate has long been used by the Russian leadership "as a shield behind which they can deploy pressure, military aid, surrogate troops, and even their own forces in areas they had not previously controlled [29]."

Russia cannot and will not accept anything short of a favorable war termination inside Ukraine, simply out of force of habit; seek a defeated Russia at everyone's peril. Scholars like Stephen Walt and John Mearsheimer, as well as practitioners such as Henry Kissinger, all warned as much throughout the course of this war [1, 8,9]. Coincidentally, these concerns for escalation spinning out of control all share the same intellectual root in the "wisdom literature" of classical realism.

4. The Revival of Political Realism

One of the intellectual giants who founded modern political realism in international relations, Hans Morgenthau didn't live to see the collapse of the Soviet Union. Yet just as he wouldn't be able to predict the rise of neoliberalism that has been the mainstream view for the past three decades of "end-of-history" teleology, he wouldn't dream of a grand revival of realist thinking from the ongoing conflict in Ukraine either.

Morgenthau, like classical thinkers before him such as Thucydides and Machiavelli, argued that all international relations are driven by natural laws of struggles for power between states [30]. His theory is not just descriptive; it also has predictive aspects. To formulate and implement effective policy, one should not rely on ideals (like those who sat opposite the Russian delegation in Budapest) but study power dynamics, understand the natural laws that govern power struggles and formulate policies based on what would work most effectively in these struggles. Not all states are created equal, some are more equal than others – just as Russia made the distinction between nuclear-weapon states which enjoy "exorbitant privilege" and those do not.

Morgenthau posited that nation-states are the foundation of all international politics and that national interests drive foreign policies. The desire for and pursuit of power are crucial for securing the existence and continuation of the state. Hegel expressed a similar view in the famous quote "the state has no higher duty than that of maintaining itself," as an ethical sanction to the state's promotion of its own interest and advantage against other states [31]. Morgenthau further defined power as the control over the minds and actions of people, particularly in the realm of political power. Nation-states seek to expand their spheres of influence, resulting in a constant state of insecurity and threat of violence. This concept is captured in the full title of his book, Politics Among Nations: The Struggle for Power and Peace [30].

Morgenthau also argued that idealism is misplaced, self-limiting, and pointless in the study of international politics. Nations should strive to uphold their values and ethical systems domestically but should not expect universal application of these principles on the international stage [31]. His skepticism towards idealism was influenced by the failure of international organizations, such as the League of Nations, to prevent World War II.

In the Post-WWII era, nuclear deterrence and the Nash equilibrium of mutual assured destruction aligned the competing national interests of nuclear-weapon states to a certain degree. As a contemporary realist, Graham Allison pointed out in a recent interview, "remember that John F. Kennedy (JFK) said that nuclear powers must avoid confrontations that force an adversary to choose between humiliating retreat and nuclear war [32]." However, each nuclear power's concerns for shifting peripherals and their need for buffer zones or contact zones, mean that nonnuclear states unfortunate enough to fall within such buffer zones have no choice but to subordinate themselves to the power politics of the higher level.

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Through the never-ending political maneuvering, nuclear-weapon states constantly reevaluate their national interests, as a failure to adapt to changes could result in wasting strategic resources and ultimately lead to a significant loss of power. But that is in no way reflective of the disadvantaged position for nonnuclear states caught in the crossfire. In the same interview, Allison mused on the endgame for the war in Ukraine, "if Putin has to choose between losing everything and nukes, I'm betting he chooses the latter. I'm betting that he strikes Ukraine with a tactical nuclear weapon [32]." See what has this world come to: Russia's nuclear coercion is so desensitized, people are actually betting on it now.

As Morgenthau contended, international politics is driven solely by Machtpolitik, with the only existing rules being those created informally through the restraints of one's power by other powers. If the muted response in 2014 to Russia's possession of Crimea must be explained by the West being dumbfounded and unprepared, the slow-moving crisis of Russian-backed separatist movements in Eastern Ukraine and eventually the complete sidestepping of Article 2(4) of the U.N. Charter can only be seen as a calculated act of bad faith. "The inherent right of individual or collective self-defense" in Article 51 is only applicable when your adversary is not a permanent member of the Security Council. The West is not "a party to the war", after all [2].

5. The Dawn of the New Great Game in the East

While the rising power in the East is all agreeable about "the purposes and principles of the U.N. Charter must be observed and international law must be respected", in the same breath China has already adapted to a different ball game.

Inventing the diplomatic rhetoric such as "the Ukraine issue has a complex historical context" and "China has determined our position on the merits of the matter itself", China does not hesitate to show its realist line of thought that tends to agree more with Russia than the rules-based international order [33]. Taking the supposed "objective and impartial position", China's President Xi Jinping went so far as to justify Russia's preemptive self-defense in the Joint Statement during his March state visit in Moscow, by spelling out the two countries' common interests: "The two sides oppose the practice by any country or group of countries to seek advantages in the military, political and other areas to the detriment of the legitimate security interests of other countries [34]."

By proposing a 12-point peace plan that doesn't mention a single word about withdrawal of Russian forces, China has effectively had the status quo ante brushed aside, and Russia's possession of occupied territories accepted as a fait accompli [6]. China is actively shaping the outcome of war in Ukraine because China stands to benefit from Russia setting the precedent. All across the state apparatus, Chinese observers are analyzing the potency and the limits of "exorbitant privilege" in action with keen interests.

On January 12, 2023, the official newspaper for Chinese military or the People's Liberation Army (PLA), PLA Daily published a full-page feature on how Russia enhances its combat capability to counter NATO "encroachment". In the first section "Consolidating Nuclear Power to Ensure Strategic Deterrence Against NATO", the feature argued that with the conventional forces on the back foot, "nuclear power has become an important leverage for Russia to maintain strategic parity with the United States and NATO [35]."

The feature went on to recount different aspects of Russia's nuclear coercion, making special mention of combat sorties of strategic bombers to launch massive missile strikes on critical infrastructure across Ukraine, including the repeated demonstration of the Kinzhal air-launched ballistic missiles that allegedly cannot be stopped by the Western air defense systems. The feature concluded that Russia succeeded in "deterring NATO's direct military intervention in Ukraine", a lesson that China took to heart in rapidly expanding its own relatively small nuclear arsenal [35].

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In another article on Guangming Daily, one of "big three" national newspapers under control of the Central Committee of the Chinese Communist Party (CCP), Technical Maj. Gen. Xiangqing Meng, also a professor at the National Security Institute of the National Defense University, concurred that "Russia's nuclear deterrence strategy certainly played a role in ensuring that the US-led NATO forces did not dare to directly become a party to the war." He pointed out that the hybrid warfare happening in Ukraine has offered "a new understanding of a possible future war of global nature." One of the key takeaways, he said, is that such hybrid warfare can "cleverly avoid the 'trap of triggering all-out nuclear war' between major powers, but to some extent, it can even be unconstrained by human ethics and international law [36]."

In this sense, China's diplomatic stance of "nuclear weapons must not be used and nuclear wars must not be fought [6]" is in line with the emerging norm of nuclear "exorbitant privilege". After all, China's official nuclear doctrine is maintaining its nuclear capability "at the minimum level required for national security", while pledging "no first use of nuclear weapons at any time and under any circumstances [37]." The beauty of "exorbitant privilege" lies exactly within the promise of "nuclear wars must not be fought", for it is assured that there will not be direct clashes between nuclear-weapon states. Instead, blanketed under the nuclear peace of the higher level, cries of nonnuclear states for territorial integrity or political independence will be muffled, while nuclear-weapon states do as they please behind the shield of nuclear coercion, vying for influence and power.

As a rising China gradually takes its place as the regional hegemon, the reality of an emerging multipolar world might not spell the end of the rules-based international order, but it will undoubtedly be revisionist, cherry-picking over the associated norms, particularly those related to Pax Americana. As recorded in growing literature on this topic, China has been increasingly assertive over its territorial claims, across the Strait as well as in the East and South China Sea, backed by its thoroughly modernized military [38]. When China inevitably makes its move to advance its national interests without necessarily provoking backlash from other major powers, "exorbitant privilege" will reign, and nuclear coercion will be the tool at its disposal.

6. Conclusions

The headway this essay has made is that Russia's "exorbitant privilege" as a nuclear-weapon state does indeed play a critical role in advancing its national interests through the use of force, without fear of repercussion.

We are entering a multipolar world, not the one with peace between non-aligned nations, their rights to development recognized and safeguarded, but the one with nuclear-weapon states dictating the order in their respective spheres of influence, by virtue of Machtpolitik or power politics.

What remains unresolved is how nuclear-weapon states other than the United States would respond to Russia setting such a dangerous yet attractive precedent. It remains unresolved because the nuclear posture of the other nuclear-weapon states is ambiguous at best; their nuclear capabilities are growing rapidly but the stockpiles at present are significantly smaller than that of Russia or the United States.

This research has implications for the West's unified response against Russia's war of aggression against Ukraine, and the facilitation of a potential peace deal between the warring parties. It also has implications for how to frame the risk assessment in any future conflict and escalation in Asia.

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