JOURNAL OF INTERVENTION AND STATEBUILDING
2025, VOL. 19, NO. 2, 274–292
https://doi.org/10.1080/17502977.2024.2364309

Routledge
Taylor & Francis Group

Including Civil Society in Peace Negotiations: The War in the Ukraine Donbas Region (2014–21)

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ABSTRACT

This article demonstrates how the logics of 'civil' and 'interstate' war were applied differently by mediators and the conflict parties to the issue of civil society inclusion during the Minsk negotiations. The resulting direct and indirect inclusion modalities did not succeed in 'giving people a voice', but ultimately contributed to the failure of negotiations. The article argues that in an interstate war of aggression, direct civil society inclusion 'at the table' is likely to be one-sided and counter-productive and therefore should be substituted by creative informal modalities equally applicable to both parties.

ARTICLE HISTORY
Received 5 October 2023
Accepted 2 June 2024

KEYWORDS
Ukraine; Russia; war; negotiation; inclusion; civil society

Introduction

The unprovoked, full-scale Russian invasion of Ukraine in February 2022 has irrevocably changed the global security landscape, in addition to damaging hopes for stable peace internationally. We are seeing a return of interstate wars of aggression and therefore need to rethink and readjust conflict resolution approaches that have been developed primarily in response to civil wars. It is clear that the format of potential talks in the current scenario will not be the same as those that took place in Minsk between 2014 and 2021, though the primary parties – Ukraine and Russia – are the same. Irrespective of how extensive a Ukrainian military victory could be, the question of societal buy-in of that outcome by both parties, and hence civil society inclusion in the ultimate negotiations, are already at the table.

This article analyses civil society inclusion in the previous negotiation process between the same parties: the Minsk negotiations of 2014–21, which ultimately proved neither able to prevent the largest European war in the past 75 years nor to protect Ukrainians from death and violence. The article aims to understand the underlying logic of civil society inclusion into the Minsk process and to distil lessons from this experience that would be useful in other future interstate peace processes.

In mainstream peace research and practice, the inclusion of civil society into peace processes is regarded as unquestionably positive, pragmatically necessary, and a normatively desirable component. However, the reality is far from an uncomplicated success story. In

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most cases, the inclusion of civil society is fiercely resisted by the negotiating parties represented by political elites, and sometimes even by mediators (Cuhadar 2020). Where inclusion has been attempted, it has often resulted in partial inclusion, 'false compliance' or 'tokenization' to convey the appearance of participation in the negotiation process without the intention of truly giving civil society a voice (Cuhadar 2020; Henshaw et al. 2019; Mendes 2019). Additionally, civil society itself may contribute to the failures of inclusion by perpetuating divisions among warring parties (Pring 2023). However, contexts in which the negotiating elites themselves push for including civil society at the negotiation table as a means of intentionally and actively misusing the process in opposition to mediator goals have not yet been sufficiently explored.

Taking as its basis the Minsk negotiation process as a case study, this article argues that current, mainstream inclusion models for peace processes in research and practice are primarily informed by the experience of recent civil wars where the root causes of the conflict were thought to include state oppression of marginalised groups and intrastate structural violence. This led to the development of practices whereby marginalised groups were to be included into political processes as a mechanism to address conflict causes. This article demonstrates how this conventional inclusion model, promoted specifically by external mediators and the international community in the Minsk process, came into conflict with the interstate war logic held by the official Ukrainian delegation, who designed and initiated inclusion processes in the Minsk proceedings on their own. In addition, the international community's *de facto* treatment of the conflict using a civil war logic inadvertently supported the Russian use of the same logic to distance itself as a conflict party and position itself, problematically, as a mediator. We suggest that these underlying paradigms (unwritten scripts) concerning civil society inclusion impacted process design, the choices made by the parties, and the modalities of inclusion practices. At the same time, contestation between these paradigms during the Minsk talks contributed to the failure of the inclusion initiatives as well as the process as a whole.

Conceptually, the study relies on the distinction between direct modalities of inclusion, within which civil society representatives are members of official delegations, and indirect ones, such as Track Two dialogues, unofficial consultations and public opinion research (Paffenholz 2014). The article then applies this distinction within the *patching peacemaking framework* developed by Hirblinger and Palmiano Federer (2025, this issue).

Methodologically, this article relies on 21 semi-structured expert interviews with Ukrainian and foreign diplomats, former and current officials of the UN and OSCE, members of the official Ukrainian negotiation delegation, civil society activists from Ukraine, Russia, and the 'Luhansk and Donetsk People's Republics' ('LPR/DPR')[1] – breakaway regions that were involved in disputed capacities during the Minsk negotiation process. Given the full-scale invasion of Russia against Ukraine, the author did not have access to the official delegations of Russia nor of the 'LPR/DPR'. Most of this study's interviewees are representatives of various international organisations. The study also relies on the insights generated from two reflective practice workshops that the author facilitated with Ukrainian and international dialogue facilitators in September 2022 and January 2023. In addition to primary data gathered through interviews, secondary literature is used to back up these findings.

The article is structured as follows. First, it surveys existing literature on the inclusion of civil society through the lens of the patchwork peacemaking framework. Second, it

presents the Ukrainian case study with its parallel inclusion systems. Third, the article analyses the two inclusion modalities separately as patchwork patterns with opposing logic and practices. Finally, the conclusion presents some lessons that may be useful in future interstate peace processes.

Literature review: Patchwork inclusion into track one peace processes

Inclusivity, as defined in the UN Guidance for Effective Mediation, refers to 'the extent and manner in which the views and needs of conflict parties and other stakeholders are represented and integrated into the process and outcome of a mediation effort' (*UN Guidance for Effective Mediation* 2012, 11). Within several decades, despite the difficulties of implementation, the inclusion of women, victims of conflict and other marginalised groups in official peace processes as well as in the wider societal post-conflict context were legitimised as a normatively correct way for fragile states to break the dysfunctional societal and institutional patterns that prevent the onset of peace. Following the local and normative turns in peace processes (Palmiano Federer 2021), normative frameworks of inclusion have rapidly emerged and currently form the subject of entire legislative texts – from UN Resolutions to soft recommendations produced by international organisations, all requiring peace processes to be inclusive of multiple stakeholders and in particular those who tend to be marginalised.

However, the increasing complexity of modern conflicts requires flexible, open-ended thinking tools rather than models. Such a tool for analysing inclusion and multi-track processes, patchwork peacemaking, was suggested by Hirblinger and Palmiano Federer (this issue). Taking 'patchwork' as an analogy, they suggested that patchers (mediators) design and implement processes where the patches (the resources available within a given system) come together in certain patching practices or patterns to achieve a peace that includes all stakeholders. The process is messy and uncertain, often going in directions contrary to the initial process designed by international mediators and their teams. The patches may constitute not only people and groups but also physical and mental spaces, artefacts and objects, financial and other resources provided or declined by donors and other actors for the peace process, as well as many other components (Hirblinger and Palmiano Federer, this issue). Seen as a patch, the role of civil society is reduced to one component in a complicated and inconsistent web of peace initiatives that, along with various other resources such as additional actors, ideas, materials, spaces, places, or funds, are used by the mediators, the parties or other stakeholders to achieve a resolution to the conflict.

Civil society, understood in this study as 'the non-state, non-warring actors occupying a space between the realms of official politics, on the one hand, and the realm of family-based communities, on the other' (Nilsson et al. 2020, 229), may be patched into Track One official negotiation processes in various modalities that may vary from two – membership in an official delegation or the inclusion of civil society-led delegations (Wanis-St. John and Kew 2008) – to as many as nine modalities (Paffenholz 2014). These modalities fall into two groups: (1) a direct modality in which civil society are the members of official negotiating delegations or are otherwise directly present at the negotiation table; or (2) indirect modalities where civil society does not have a seat at the table but is nevertheless thought to impact the process, such as official and unofficial consultations,

Track Two problem-solving workshops, Track Three dialogue processes, public decision-making through referenda, public opinion research, and other forms of public participation in peace-related decision-making processes (Paffenholz 2014).

Several of these patching modalities may be used simultaneously or may even compete with each other. The patchwork analogy reflects very well the often chaotic nature of inclusion practices, as the patches are not usually elegant, nor do they follow 'neat designs and hardly ever result in well-organised, symmetric patterns' (Hirblinger and Palmiano Federer, this issue).

This patchwork analogy also allows us to reflect on the possible coexistence of multiple patchworked peacebuilding spaces and the ways in which they do or do not interact. That said, situations in which inclusion takes place only on one side of the conflict, leaving a 'hole' in the patchwork where civil society from the other side should be, have not been explored. This is precisely the subject of this case study of the Minsk process.

Another valuable contribution this article makes to the patchwork framework is a focus on the civil society inclusion goals that specific groups of 'patchers' have in mind. Usually, researchers focus on the goals, and consequently on the benefits, of civil society inclusion around two aspects: the normative aspect of the inclusion imperative and its pragmatic effectiveness within the negotiation/mediation process (Dudouet et al. 2018; Lanz 2011). On the normative side, a mediator is expected to promote the inclusion 'of civil society, and the empowerment and participation of women in the process' (*UN Guidance for Effective Mediation* 2012, 16). More assertively, mediators may have an obligation to 'identify the level of inclusivity needed for the mediation to start and required for a durable peace that addresses the needs of all affected by the conflict' (*UN Guidance for Effective Mediation* 2012, 13). Thus, inclusion has become a part of the mediation mandate as well as mediation culture at large (Pring 2023; Richmond 2018; Nathan 2017). Furthermore, international mediators and the wider international community have a strong interest in promoting the normative imperative of civil society inclusion *per se* for the sake of the positive image of certain countries, concerns for liberal democracies and global justice (Lanz 2011, 282–287).

On the pragmatic side, it is believed and empirically evidenced that inclusive peace processes contribute to the ultimate goal of peacemaking – sustainable positive peace – by: (1) increasing the implementability and durability of agreements (Nilsson 2012); (2) reflecting the interests of citizens apart from elite concerns and thereby providing legitimacy to the negotiation process (Ron 2010) and increasing public acceptance and support for the eventual outcome (Wanis-St. John and Kew 2008; Zanker 2014, 62–88); (3) increasing accountability and transparency in the negotiations by disseminating information about the process and its outcomes while bringing in local, sectoral and practical expertise (Dudouet et al. 2020, 16–17); (4) empowering and protecting specific groups such as women, youth, national, and other minorities (Hirblinger and Landau 2020); and (5) developing more resilient social contracts (Zahar and McCandless 2020).

However, the multiple goals that guide the patchers in designing and implementing inclusion-related patches are not the only factor that determines the end result. This study draws attention to the underlying, often unconscious, and sometimes even competing logics of the conflict itself. Namely, whether the conflict is, or is treated as, a civil or an interstate war. Each type of war possesses its own dynamics, which in turn determine the makeup of the patches (who the conflict parties and other relevant

actors are), the patching goals and resulting patchwork patterns and outcomes. Distinguishing a civil war from an interstate war, at least in the case of Russian-Ukrainian war, was arguably simple. If the primary conflict parties, including official authorities, armed groups, civil society, etc., all come from within one country, then it means that the logic of civil war is to be applied. For example, Russia applied the logic of civil war when it claimed that the parties to the conflict were the Ukrainian government and the Ukrainian breakaway regions of the 'LPR/DPR'. If two different countries, such as Russia and Ukraine, are identified as the primary conflict parties, as was claimed by Ukraine, then it is the logic of interstate war being applied. These two separate logics have a number of important characteristics that will be explored in the empirical section of the article below.

Ukraine case study: The Minsk negotiation process and its two parallel inclusion systems

In February 2014, the Russian Federation illegally annexed Ukrainian territory, namely the Crimean peninsula. Later that year, Russia used proxy and regular troops to instigate an uprising in large sections of eastern Ukraine that, as a result, formed two self-proclaimed entities: the Luhansk and Donetsk People's Republics ('LPR/DPR') (Melnyk 2019; Wilson 2016). The nature of the conflict (whether it was civil or interstate war) since 2014 provoked heavy discussions among academia that are still on-going (Tyushka 2023; Arel and Driscoll 2023). What is important for this analysis is the contestation of narratives describing the conflict between 2014 and 2021 as a 'civil war' versus 'interstate war', discussed more in detail below.

After unsuccessful initial attempts at conflict resolution, including the Geneva agreements in spring 2014 and a short-lived OSCE National Dialogue initiative (Mirimanova 2016, 365), the Normandy Format was established. Its first meeting, between the German chancellor and the French, Ukrainian, and Russian presidents, took place in Normandy in June 2014 and agreed to establish a Trilateral Contact Group (TCG) under an OSCE status-neutral umbrella, consisting of representatives of Ukraine, Russia, and the OSCE, along with unofficial representatives of 'Certain Areas of Donetsk and Luhansk Regions' (CADLR). In 2015, the TCG design was updated to operate through working subgroups focused on political, security-related, economic, and humanitarian issues (Hess Sargsyan 2019). The Minsk agreements (including the Minsk Protocol and the Minsk Memorandum of September 2014, as well as the Package of Measures on the Implementation of the Minsk Agreements of February 2015) came out of this format, following major military losses within the Ukrainian army. The agreements remained largely unimplemented due to 'a stalemate where the parties routinely blamed each other for the lack of progress' and disagreement on the sequencing of measures and substance of the provisions (Åtland 2020, 137). Low-intensity shelling over the line of contact continued from 2014 to 2021 (Fischer 2019).There are several specific characteristics of the conflict between 2014 and 2021, and consequently of the nature of the Minsk process, that are directly relevant to the study of civil society inclusion.

First, from its inception, the Minsk process was characterised by many dysfunctional elements. The parties advanced diverging conflict narratives in 2014–21 that provided different answers as to who the conflict parties were. Ukraine placed total responsibility

on Russia for external intervention and interstate war, while Russia denied its presence in Ukraine and instead promoted a narrative of internal, interethnic civil war to which Russia was not a party (Lazarenko 2018; Fischer 2019). Due to these competing narratives, the Minsk format was crippled from the start regarding not only who the major parties were but also how they should participate in the process, to say nothing of how civil society should be included and on which side. The representatives of the self-proclaimed 'LPR/DPR' were not recognised as a party to the conflict by the Ukrainian government. Their signatures on the Minsk agreements were often questioned. While the Russian delegation insisted that they were parties to the conflict, and thereby entitled to sit at the negotiation table as an independent delegation, Ukraine opposed this narrative and insisted that the main parties were in fact the Ukrainian and Russian governments, while representatives of the self-proclaimed 'LPR/DPR' were illegitimate as such. The same ambiguity remained with regards to Russia's self-promoted role as a mediator. Russia took part in both the Normandy Four format and TCG, where the Ukrainian government treated Russia as the party to the conflict. However, the Russian delegation referred to themselves as a mediator, doing everything possible to legitimise the status of the breakaway entities and to make Ukraine talk directly with them. In official spaces there was never clarity regarding this question. The OSCE, as mediators, were caught between a rock and a hard place and tried to navigate the two narratives through conflict-neutral language such as 'the conflict in and around Ukraine'. Thus, in a situation where it is unclear who the parties are, it is also unclear which civil society on which side to include.

Second, of great significance to inclusion, though paradoxically often overlooked by researchers, were the contrasting initial conditions of civil society among the conflict parties. In Russia, independent civil society had been under enormous pressure in 2014–21 and before that (Spencer 2011). Certain civil society groups that dared to get involved in peacebuilding with Ukrainian colleagues were prosecuted even before 2021.[2] The Russian government developed government operated non-governmental organisations (GONGOs) that were used as a mechanism to project Russian soft power abroad, and were weaponised in the hybrid warfare against Ukraine (Lutsevych 2016). Similarly, in the Russia-occupied Ukrainian territories in Donbas, there was no independent civil society capable or willing to link up with the Minsk process (Kyselova 2023). In contrast, civil society was diverse, self-organised and highly competent in government-controlled parts of Ukraine (Kyselova 2019; Kyselova and Moseiko 2021), but nevertheless was not willing to connect to the Minsk process because the majority of Ukrainian society felt that the Minsk agreements had been imposed on them without their consent. According to many sociological polls, the Minsk process was seen in Ukraine as a failure that lacked societal trust, and a majority of Ukrainians felt that the Minsk agreements needed to be renegotiated (Democratic Initiatives 2021; Suspilne 2021).These asymmetries concerning basic civil society conditions were not brought into prior analyses of the Minsk negotiations.

Additionally, the grave *de facto* asymmetries between Ukraine and Russia in terms of military capacity, geopolitical power, initial civil society conditions and the substantive terms of the Minsk agreements were amplified by the procedural weakness of the mediators. The OSCE is a low-power mediator that, because of its organisational consensus-based decision-making process, had very limited leverage over the parties (Stenner

2016). Furthermore, in terms of format, the Minsk negotiation process had since its inception been 'a closed affair, isolated from the wider public and reserved exclusively for the negotiators, government representatives and selected diplomats' (Cristescu and Matveev 2017, 11). In the face of this exclusionary design, international experts have called for the inclusion of civil society since 2015 (Kirchhoff et al. 2016; Cristescu and Matveev 2017). According to our interviewees, UN agencies – from UN Women to UNDP – have consistently reminded the Ukrainian (but not Russian) government about the need to include civil society and women in particular into the Minsk process, even though the UN was not involved in the process as such.[3]

What resulted was a two-tiered system consisting of competing indirect and direct inclusion modalities, summarised in the table below according to the patchwork framework (Table 1).

Thus, when the patchwork framework was applied to an analysis of the empirical material, it became evident that various inclusion initiatives were initiated and pushed for by different patchers (designers) with different resources, goals, and, ultimately, with opposing and competing underlying logics. Indirect and direct modalities are explored in detail in the following sections.

Indirect inclusion: Civil war patching logic by international actors

The indirect inclusion of civil society into the Minsk process was primarily initiated by mediators (OSCE Special Representative, OSCE coordinators of working groups or their advisors) as well as, indirectly, through the reporting of the OSCE Special Monitoring Mission (SMM).

Foreign diplomats working for the OSCE on the Minsk process often organised *ad hoc* meetings behind closed doors with 'civil society organisations regarding missing persons, relatives of detainees; we travelled on both sides of the contact line, talking to activists

Table 1. Inclusion modalities in the Minsk negotiation process (2014-2021).

	Indirect Inclusion	Direct Inclusion
Patching modality	Indirect: Track Two and Three dialogues, ad hoc consultations with civil society/victims, expert contributions, opinion polls	Direct: Including civil society as members of official delegations
Patcher	Mediators/international community	Conflict parties
Patcher's goal for inclusion	- obtain information - generate new ideas - push for normative inclusion (no *express* goal of giving voices to people)	- empower own party and legitimate the process - disempower and delegitimise the opposing party (no goal of giving voices to people)
Patches	Civil society, with a focus on marginalised, conflict-affected groups	Civil society (mainstream)
Civil society's goal for inclusion	- impact the process and mediators - watchdog concerning the Ukrainian government (no goal of giving voices to people)	Same as official delegations, no independent goals (no goal of giving voices to people)
Focus on one or two conflict parties	Only Ukrainian civil society included (controlled and non-controlled areas)	Intended for both Russian and Ukrainian civil society
Patching practice	Confidential, uncoordinated, decentralised	Open to public communication, highly controlled
Underlying patching logic/ paradigm	Civil war	Interstate war

and detainees in the prisons. It was the responsibility of each person involved to bring in civil society'.[4]

In a similar way, the OSCE Special Monitoring Mission contributed to indirect inclusion. In the context of civil society inclusion, the SMM played a prominent role in bringing the grievances of people affected by the war to the attention of the TCG, in particular when SMM Chief Monitor Ambassador Apakan also assumed the functions of the TCG Working Group on Security Issues coordinator. The SMM had a strong focus on the human dimension of security. More than one thousand 'windows of silence', negotiated and monitored by the SMM at the contact line, allowed for the repair of civilian water, electricity and gas infrastructure (OSCE 2021). By publishing thematic reports on freedom of movement across the contact line, checkpoint conditions, internal displacement, education, and gender-related issues, the SMM raised critical issues that were of concern to civilians on both sides of the contact line. In a way, the SMM served as an intermediary between people on the ground and the TCG, though only in a relatively subtle way.

Notwithstanding their remarkable job of helping people on the ground, there were two persistent issues that stalled the human-centred work of the SMM: (1) the gap between resolving everyday issues affecting citizens and contributing to the political settlement of the conflict, and (2) the downplaying of the SMM's work by the Ukrainian government, who did not want societal buy-in of the Minsk agreements, which were seen as having been reached in favour of Russia.

Additionally, several indirect inclusion initiatives were convened by international non-governmental organisations such as the Martti Ahtisaari Peace Foundation (CMI), the Centre for Humanitarian Dialogue, the US Institute of Peace and others. These organisations coordinated Track Two dialogues, problem-solving workshops and public opinion research. These dialogues included both civil society and government representatives in their unofficial capacities as influential leaders close to decision-makers in Ukraine, the self-proclaimed 'LPR/DPR' and, in a few cases, Russia. These were highly secretive, problem-solving workshops convened by international facilitators in the tradition of classical Track Two diplomacy, although some participants in these initiatives also came from the grassroots level. Several Track Three dialogues, such as Women Initiatives for Peace in Donbas and the 'CivilMPlus' platform, were also initiated by international actors but links between these dialogues and Track One remain unclear.

Finally, after 2015 there were initiatives related to certain civil society experts connected to the Ukrainian negotiation delegation (for example, Olga Ayvazovska) (UNIAN 2016). This involvement was motivated by the lack of specialised government expertise in particular areas like elections or sanctions when certain Ukrainian civil society organisations were deemed to possess more competence than governmental authorities. Yet, this involvement was neither regular, nor was it clearly communicated to the general public.

All these initiatives can be characterised as forming an indirect inclusion patchwork, the pattern of which was chaotic. It consisted of patches of varying sizes (often very small, at the grassroot level) which were not connected to each other in any way and had only weak connections to patchers like official mediators and official Track One process.

The interactions between the patches and the patchers in this system were highly secretive, decentralised and uncoordinated; evidence from the interviews in this study

suggest that conveners of the inclusion initiatives were often unaware of other initiatives given the political sensitivity and secrecy of the whole process, as well as competition among international NGOs.

In the indirect inclusion patching pattern, civil society and people on the ground were clearly an object of inquiry with no or limited agency to actually impact the official negotiation process or influence anything at that level. Their role varied from that of informants interviewed by accident on the street to targeted inputs from local experts on specific issues. Yet, the overall system was designed, controlled, and guided by international actors who acted as the patchers. This inquiry was in most cases conducted by internationals, primarily the OSCE Special Monitoring Mission, in an honest manner, with humble respect for the victims and their experiences, and with a genuine desire to understand the problems on the ground and to ease suffering. This nevertheless failed to explicitly 'give voice to the people'. Those few civil society activists who took part in dialogues and TCG working groups were aware of the risks of being labelled a 'traitor' by mainstream civil society and therefore were very cautious. According to an international expert: 'It was highly sensitive for people from government-controlled areas (GCA) and non-government-controlled areas (NGCA) to participate, which we, as outsiders, were not often aware of. Safety guarantees were very important. Our participants kind of negotiated a ''non-objection'' from the authorities concerning their participation'.[5]

The attitude of the majority of those sectors of Ukrainian civil society, who were not in any way connected to the Minsk process, was quite negative and suspicious. Respondents interviewed for this study suggested that it was the interest of the Poroshenko administration to downplay Minsk.[6] Perhaps the strongest manifestation of these attitudes was the civil society movement 'No to capitulation!' that emerged in response to attempts both to implement the Minsk agreements through the Steinmeier formula, and to the idea of the Consultative Council (discussed below). Ukrainian civil society was the first to react to the idea of Consultative Council with harsh opposition, suggesting in many public statements and mass media publications that *de facto* recognition of Russia's proxies as 'official representatives of CADLR through the Consultative Council or similar inclusion initiatives, was a ''trap for Ukraine'' and ''Kyiv's gravest mistake''' (Zolkina 2020). The 'No to capitulation!' movement included a number of Ukrainian opinion leaders who were able to organise mass protests in Kyiv and other places.

Indeed, the outbreak of war between Russia and Ukraine in 2014 resulted in 'societal mobilisation for war,' not for peace, which was focused on providing aid to the Ukrainian Army and gave rise to a very distinct movement of military volunteers working to defend the country (Kyselova 2019; Kyselova and Moseiko 2021). It was not surprising that, during the ongoing fighting resulting from the Russian aggression, peace as a concept was equated to 'capitulation to Russia'. Thus, Ukrainian civil society overall did not want to have 'anything in common with Minsk' (Kyselova 2019).

Our attempt to understand the goals of internationally-led indirect inclusion initiatives in Ukraine from 2014 to 2021 uncovered three rather pragmatic motivations that guided the patchers (international actors): (1) a push for the normative imperative of inclusion; (2) a need to obtain information from the ground; and (3) the desire to generate new ideas for the negotiation process.

The push for normative inclusion, which was grounded in UN Resolution 1325 and other normative documents, unsurprisingly came first of all from UN agencies who were in a

peculiar position in Ukraine *vis-a-vis* the Minsk process. For political reasons, namely Russia being a Security Council member, the UN was not involved in the Minsk process in any official capacity, instead bearing only the functions of general coordination between the TCG and UN agencies. Yet, UN agencies had been routinely meeting with the Ukrainian government to deal with humanitarian and reconstruction issues in the east of the country. Nevertheless, the UN felt it necessary during these meetings to 'pass them very general messages about the need to bear in mind 1325 and gender mainstreaming, as a generic reiteration of principles'.[7] At times, the UN and other diplomats reminded the Ukrainian government about the desirability of having more women in the official delegation; according to our interviewees, this partly influenced the inclusion of Heraschenko in the delegation, and later the inclusion of more women in the humanitarian TCG working group.

Such reminders, coming as they were from an actor who intentionally kept away from the negotiation process for political reasons and who had no insider understanding of the complexities on the ground, naturally led to frustration within the Ukrainian government, with the highest tension arising with UN Women. According to interviewees from the Ukrainian delegation,

> [UN Women] acted as spoilers, they were far from the ground and disrupted the work; they did things to tick the box in their protocols by wasting our time with irrelevant comments. Inclusion, gender, transparency are all important things but not when the [negotiation] process is a theatrical performance with a conflict side that lacks any agency.[8]

In contrast to the UN agencies, the OSCE as a mediator possessed much more realistic expectations and therefore, despite urging from Vienna about the normative imperative of gender inclusion, they incorporated more nuanced approaches to women's inclusion. For example, in 2020, a few informal consultations were held by the OSCE with Ukrainian women civil society groups based on suggestions from multilateral international organisations and several embassies working in Ukraine, in order to convene a body similar to the Women's Advisory Board during the Syrian conflict. The body was meant to be under the OSCE Chairman in Office and the Special Representative in Ukraine, and was primarily aimed to strengthen information and advisory inputs to the OSCE. The proposal did not move beyond initial discussions with civil society.

Apart from the normative push for the inclusion of women in the negotiation process, this study identified various forms of indirect inclusion that were initiated by internationals and met a clear, pragmatic need to obtain information from the ground and to generate new ideas for the negotiation process. For example, according to interviewees, the goals of the Track Two (including Track 1.5) dialogues between civil society and influential actors were twofold:

> first to create dialogue channels that would allow Track 1.5 people to get a realistic sense of the narrative and positions of the other side (so that they would not speak in clichés but with facts) and then, out of these elements, develop a future scenario for reintegration. The second goal was that we wanted to be able to inform official negotiations with ideas coming out from non-official but influential people on both sides.[9]

It is important to understand that all these initiatives were taking place notwithstanding the aforementioned negative general attitude within Ukrainian society toward the Minsk process, as well as related political sensitivities. Thus, it was clear that the goal of 'giving people a voice' was not explicitly on the table. As it was put straightforwardly by one

Ukrainian expert: 'We were not about "hearing the voices of people", trade union-style representation or representatives of the territories. We were experts'.[10] This opinion was held by all interviewees in this study, whether locals or internationals. Some interviewees, however, suggested that treating civil society proposals seriously[11] or developing fair gender, age and political representation among the experts in Track Two dialogues to replicate 'a microcosm of Ukrainian society'[12] may have been an implicit attempt at 'giving a voice to the people'.

The final key characteristics of indirect inclusion in the Minsk process involve asymmetries among the parties. The inclusion of civil society is, in theory, relevant to all negotiation parties. However, from 2014 to 2021, inclusion was most emphasised regarding Ukrainian civil society in both the GCA and the NGCA. OSCE diplomats were rarely able to meet civil society representatives from Russia. Track Two dialogues included people from Ukraine and some representatives of the breakaway regions, but very rarely from Russia. The OSCE proposal for the Women's Advisory Board only dealt with Ukrainian civil society, not even mentioning the possibility of including Russian civil society, or even mentioning their mere existence. The primary focus of the SMM's work was the conflict-affected population residing along the contact line inside Ukraine's internationally recognised borders, and hence within one country. Overall, when asked about why Russian civil society was not involved in the Minsk process, one respondent answered: 'it did not occur to anyone to think of Russia, as nobody wanted to piss off them. Russian officials always said: "we are not the party, we are mediators"'.[13] Thus, such one-sided indirect inclusion was likely the result of several factors: Russia's procedural power in the negotiations, the weakness of the mediator, and the unconscious blueprints of international actors which originated in great part from vast experience with civil war scenarios. Thus, whether willingly or unwillingly, the patchers of indirect inclusion of civil society into the Minsk process (international actors) as a rule omitted Russian civil society from these processes, leaving holes in the patching pattern. This, in effect, embodied the civil war logic: only civil society within Ukraine was sought for indirect inclusion.

Direct inclusion by the parties: Interstate war patching logic by the Ukrainian government

As in most (if not all) negotiation processes (Cuhadar 2020), negotiating parties represented by political elites in Minsk were resistant to the idea of inclusion, and particularly to direct inclusion at the negotiation table. The lack of understanding of the pragmatic benefits of inclusion and process design, as well as the cultural predispositions of the parties, likely contributed to this resistance. Leaving aside Russia and its proxies as authoritarian political regimes where genuine inclusion was unthinkable, Ukrainians were also prone, in the opinion of its international partners, to this mindset: 'The negotiators treated inclusion as UN norm imposed from above. We are talking about post-Soviet societies who do not have this culture of inclusion, so they did not see a need for it: "I am a decision-maker, who cares"'.[14]

In the face of this expected resistance to inclusion by the Russian and Ukrainian official delegations, it came as a surprise to their international partners when both countries took steps on their own to include civil society representatives through the Consultative Council and, later, within official delegations in spring 2020. It was difficult to understand

the official attitude of mediators to this development over the course of the events themselves. However, *post factum*, the OSCE and INGO representatives interviewed in this study characterised the initiative of the Consultative Council as an example of 'fake' inclusion,[15] as unclear and artificial,[16] as ill-conceived and badly planned[17] and ultimately as a step backward.[18]

This research has collected two conflicting stories about how civil society representatives finally arrived at the negotiation table in June 2020.

According to one story, it was Russia who came up with the idea of the Consultative Council, which was to be established under the political sub-working group of the TCG comprising a core group (possessing a decisive voice) of representatives of Ukraine and the self-proclaimed 'LPR/DPR,' as well as a supporting group of advisory voices made up of the OSCE, Russia, Germany and France. Who the representatives precisely would be was to be decided by the parties. Thus, in principle, the Consultative Council could have included representatives of civil society. Ukrainian and Russian officials had provisionally signed the document enshrining the Consultative Council, but eventually Ukraine refused to confirm the body officially due to a major wave of negative societal backlash. After the collapse of the idea, however, the Ukrainian government still unilaterally included civil society representatives in its official delegation.

Another story suggested that the Consultative Council had nothing to do with ultimately including civil society representatives into negotiation delegations. According to one interviewee: 'the Consultative Council was nothing – a zilch – that led to nothing'.[19] Instead, it was an idea of the Ukrainian government that had been discussed internally for a long time: how to fulfil the requirement of the Minsk agreements to consult with representatives of people who reside in the CADLR. A major disagreement in interpreting this clause of the Minsk agreement was that Russia saw the illegally 'elected' heads of the 'LPR/DPR' as such representatives, and the Ukrainian government suggested to treat Ukrainian IDPs who fled from Donetsk and Luhansk after 2014 to Ukraine-controlled territories as representatives of the CADLR. Finally, the Ukrainian government unilaterally included civil society representatives in its delegation.

In one way or another, the four civil society representatives – known bloggers, a doctor and a civil society activist – found themselves at the negotiation table in a Ukrainian delegation (Liga 2020). According to our interviewees, although the Ukrainian government carefully selected these people, it was done without prior public consultation with wider civil society or any public justification of the choice or hints as to the selection criteria. All four persons in this initial selection were men; later a woman from a reputable human rights NGO, Vostok SOS, and a female advocate were included in the working group on humanitarian issues. In a mirror step, the 'LPR/DPR' included four people in their delegation with the unclear status of 'invited experts/societal advisors'. Notably, Russia did not reciprocate with similar steps, thereby expressing once again their strategy of being 'a mediator and not the party to the conflict'.

This direct inclusion initiative ultimately went wrong – most summer 2021 meetings of the TCG focused on debating the legitimacy of the civil society members sitting at the table. Ukrainians disputed the legitimacy of the 'LPR/DPR' 'societal advisors' because they held Russian passports and thus did not represent the people of Donbas – additionally, one member (Maya Pirogova) had been at that moment under investigation by the Ukrainian judiciary for charges of terrorism. In response, the delegation of the so-called

'LPR/DPR' initiated a similar criminal investigation against Denys Kazansky (a blogger included as a part of the Ukrainian official delegation) in order to challenge his legitimacy. This 'theatre of the absurd' around the legitimacy of the conflict parties was a never-ending story during the final period of Minsk negotiations. Furthermore, the inclusion of civil society representatives, in particular women, was done without ensuring procedural opportunities to actually take part in the process. When the meetings of the working groups moved online because of the pandemic, 'civil society people [two women in the humanitarian working group] did not say anything into the camera, they were not active, the camera did not even show them in the meetings'.[20]

Thus, the hopes that including civil society at the official negotiation table would change the dynamics of the negotiations in a constructive way did not work out, and soon afterwards the negotiations broke down completely.

Taking a closer look at this direct inclusion process through the patchwork lens offers the following insights concerning the patchers. In contrast to the indirect forms of inclusion discussed above, directly including civil society as members of official delegations was pushed for by the conflict sides themselves, apparently contrary to the mediators' intentions. The goals of the patchers – in this case the conflict parties – were not those usually declared by the UN and present in other documents. There was clearly no goal of greater representation or of 'giving voices to people'. Instead, the parties pursued instrumental objectives of strengthening themselves in an active power struggle.

The goals of the patchers, ultimately, were to delegitimise one another. Apparently, the major goal of the Russian side for having civil society at the negotiation table in Minsk was

> to orchestrate a "dialogue" between Kyiv and Donetsk-Luhansk (Socor 2020), thereby promoting the civil war narrative. Similarly, the Ukrainian delegation tried to induce the Russian party, rather than the "LPR/DPR", to mirror the inclusion step, thereby delegitimising the "LNR/DNR" and pushing for an interstate war narrative. The Ukrainian government, according to interviewees in this study, designed the direct inclusion of civil society members at the negotiation table as "a trick [*khytrist*]" to fulfil the Minsk agreements, namely as a creative invention of the political working group to "infect" the whole Minsk process with Ukrainian thought by means of opinion leaders who could be positioned as representatives of CADLR.[21]

Given the vulnerability of the Ukrainian side in the Minsk process, this direct inclusion initiative can be seen as an attempt at self-empowerment through reinforcing the interstate war narrative by switching the focus to Russia as a party to the conflict. Thus, we suggest that the primary goal of the inclusion of civil society at the table was self-empowerment of oneself and disempowerment of the opponent.

Additionally, in contrast to Russia and its proxies, who were not concerned with their legitimacy, the Ukrainian government included civil society representatives as a way to legitimise the process in the eyes of society at large. This was done not through representing society by delegate selection (as they were chosen without public consultation) but rather through enhancing information outreach about the process by including civil society representatives with access to media platforms and a broad audience. This admittedly did not align with the intentions of the OSCE as a mediator who wanted to maintain strict confidentiality.[22] Indeed, the flow of information about the Minsk process in 2020 had improved – the Minsk process could no longer be called a black box.[23] A regular

Facebook page was established, and delegates Serhiy Harmash and Denys Kazansky, popular bloggers, often published in mass media about the process following a strict clearance procedure.

The patches – namely civil society representatives – in the direct inclusion were absolutely dependent on the official delegations in terms of what they could say inside the Minsk process and what they could communicate to the outside world. For example, Ukrainian civil society representatives could communicate information about the working group meetings only if their words were in line with official positions and only after the OSCE and the Ukrainian government published their official statements in a press release. This was clearly understood and supported by mainstream Ukrainian civil society. According to an interviewee: 'IDPs like Harmash and Kazansky were included in the [Ukrainian] official delegation because of their public stance. They communicated to the public certain things that are needed by the Ukrainian authorities'.[24]

Ukrainian civil society generally saw the inclusion of its representatives in a positive way. Indeed, it legitimised the Minsk process in the eyes of Ukrainian society, but in a rather specific way. According to an international expert interviewed for this study, the people who were included in the Ukrainian delegation were 'hardliners,' that is, they were indeed known for their clear pro-Ukrainian position. People with such a position were seen by mainstream Ukrainian civil society as watchdogs of the government in the negotiations who 'would not betray'.[25] The watchdog goal of the civil society in this inclusion process was described clearly by the interviewee:

> [Including these people] ensured that decisions were not made in Minsk behind society's back, that Ukraine would not be sold for money. With more such public outreach in the negotiation process by civil society, our international partners would understand better why it was impossible to conduct elections [in occupied areas].[26]

Thus, civil society saw political necessity in this inclusion. According to another interviewee: '[While the inclusion of civil society in the delegations was a right political step for Ukraine], it was a wrong step for the dynamics of negotiations because it rendered the format dysfunctional and the ultimate result harmful. Functionally, it was harmful for Russia, but substantially it became useful for Ukraine. The inclusion of Harmash and Kazansky legitimised the notion 'people of Donbas,' but Russia used this to its advantage'.[27]

In a nutshell, while the inclusion of civil society representatives in the Ukrainian delegation was seen as a slightly more positive step by Ukrainian society than the Consultative Council, it was still not about giving civil society a voice but rather about 'tactical steps of the Ukrainian government in the cat-and-mouse game with the Russians'.[28] Although such a manipulative approach to civil society inclusion was clearly against the traditional normative imperative of inclusion, it was seen as legitimate by Ukrainian civil society and proves that civil society can hardly be independent from their governments in interstate wars.

Conclusion: Lessons and implications for future peace processes in interstate wars of aggression

Many Ukrainians now say that the phase of the war between 2014 and 2021 was a 'rehearsal of the big war': the full-scale invasion of Ukraine by Russia. Similarly, the Minsk process

from 2014 to 2021 can be seen as a source of lessons learnt, telling us what should be avoided in future processes. While the full assessment of the Minsk negotiation process is beyond the scope of this article, the implications below relate to the narrow aspect of civil society inclusion into Track One peace processes.

This case study of the Minsk negotiation process analysed the tension between two inclusion systems. Indirect inclusion was initiated by mediators and international actors, focusing almost entirely on Ukrainian civil society through standard tools such as Track Two dialogues, informal ad hoc consultations, expert inputs and public opinion studies. The goals of such initiatives were to extract information, generate new ideas, and to follow the normative imperative of inclusion in peace processes. It was conducted following a civil war logic. In contrast, the unexpected direct inclusion of civil society at the negotiation table by the Ukrainian official delegation was meant as an emancipatory strategy to shore up self-empowerment and challenge the imposed civil war logic, shifting discussion to an interstate war paradigm. In a reactive way then Russia twisted direct inclusion back to the civil war logic. In reality, neither modality of inclusion successfully implemented the goal of 'giving people a voice'. The article argues that the competing logic of 'civil war' versus 'interstate war,' along with the instrumental use of civil society members, were the main reasons for the failure of inclusion 'at the table,' and that this failure taught us several lessons.

First, in terms of theoretical contributions, this study explored a case where direct civil society inclusion at the negotiation table was manipulatively used by the conflict parties contrary to the mediators' intention, based on their own (destructive) logic. This demonstrated the divergence in the actors' perceptions of the goals of inclusion. Thus, the goal of inclusion cannot be analysed abstractly without specifying *whose* goals are at play: those of the mediators, of the parties or of civil society. Where the literature refers to the abstract 'goals of civil society inclusion,' the implicit carrier of these goals are most likely to be the international community as a promoter of the normative imperative of inclusion.

The second lesson of the failed Minsk civil society inclusion attempts helps us to understand the nature of peace processes in interstate wars in terms of potential process-design. This article argues that civil society inclusion in interstate wars of aggression requires a different approach and rethinking of existing assumptions. Not only is the Russian war against Ukraine an interstate conflict, but it is also a clear-cut clash between authoritarian and democratic political regimes and value systems in the context of two relatively developed (and definitely not failed) states. These characteristics of the conflict challenge a number of assumptions. For example, this study of the Minsk process suggests that including a woman at the negotiation table in a culture where women enjoy rights and opportunities, yet without giving her the opportunity to speak in negotiations, disempowers rather than empowers women. Assumptions that the direct inclusion of civil society at the negotiation table is always beneficial and, hence, desirable did not prove accurate either; this study illustrated an instance in which direct inclusion was used to dampen a peace process. Yet, some Western researchers continue to uncritically apply the above assumptions, specifically to the case of potential Russian-Ukrainian negotiations. For example, Miall (2023) suggests 'gender quotas in [potential] peace talks' between Russia and Ukraine, and Paffenholz et al. (2023, 67) suggest having civil society present at Track One talks without even discussing the downsides of this option.

Thus, this study suggests that in the context-specific configuration of the Russia-Ukraine war, direct inclusion of civil society at the negotiation table should be avoided. Instead, indirect modalities of connecting informal peace initiatives should be developed in a creative and inclusive way. They should equally apply to both conflict parties, Russia and Ukraine, despite the difficulties of accessing Russian civil society. In the Minsk process between 2014 and 2021, one-sided inclusion of only Ukrainian civil society from controlled and non-controlled areas could at least be explained, although not justified, by the intentional lack of clarity concerning who precisely the parties were (resulting from the contestation of civil war versus interstate war narratives). In the current stage of the Russian aggression against Ukraine, where the parties are clearly defined and accepted by the warring states themselves and international community at large, it remains completely unclear why some Western researchers continue to apply one-sided recipes derived from civil wars, and recommend to include only Ukrainian civil society into potential negotiation process, plainly omitting the discussion of Russian civil society (Paffenholz et al. 2023). More creative thinking should be invested in developing indirect modalities for potential negotiations.

This very process of reflecting on inclusion, as well as on societal buy-in on both sides regarding desired outcomes of the war, help to question assumptions coming from international experts who have based much of their reflections on civil war contexts and apply creative out-of-the box approaches that include civil society in process design stages as co-creators of the process.

Notes

1. Before 2022 these territories were called ether non-government controlled areas (NGCA) or Certain Areas of Donetsk and Luhansk Regions (CADLR)
2. Currently, for example, the CivilMPlus platform https://civilmplus.org/en/ that mobilises international civil society to deal with the armed Russian-Ukrainian war, included only one Russian NGO - ''Women of Don'' that was under criminal investigation in Russia already for several years.
3. Former official of multilateral organisation, 12 July, 2023, online
4. Former official of multilateral organisation, 12 July, 2023, online
5. INGO representative involved in Track Two dialogues, 10 July, 2023, online
6. Civil society representative in Ukrainian official delegation, 8 February, 2023, online
7. Former official of multilateral organisation, 12 July, 2023, online
8. Former Member of Ukrainian official delegation, 18 January, 2023, Kyiv
9. INGO representative involved in Track Two dialogues, 26 August, 2022, online
10. Ukrainian civil society representative involved in Track Two dialogues, 21 July, 2022, Brussels
11. Foreign diplomat involved in Minsk negotiations, 19 July, 2023, online
12. INGO representative involved in Track Two dialogues, 20 July, 2022, Brussels
13. Former official of multilateral organisation, 7 July, 2023, online
14. Ukrainian civil society representative active in cross-contact-line dialogues, 9 September, 2022, online
15. Ukrainian civil society representative involved in Track Two dialogues, 21 July, 2022, Brussels
16. Foreign diplomat involved in Minsk negotiations, 19 July, 2023, online
17. INGO representative involved in Track Two dialogues, 20 July, 2022, Brussels
18. INGO representative involved in Track Two dialogues, 26 August, 2022, online
19. Member of Ukrainian official delegation, 18 January, 2023, Kyiv
20. Foreign diplomat involved in Minsk negotiations, 19 July 2023, on-line
21. Member of Ukrainian official delegation, 18 January, 2023, Kyiv
22. Ukrainian civil society representative involved in Track Two dialogues, 22 July, 2022, Brussels
23. Ukrainian civil society representative involved in Track Two dialogues, 22 July, 2022, Brussels

24. Ukrainian civil society representative active in cross-contact-line dialogues, 9 September, 2022, Kyiv
25. Ukrainian civil society representative involved in Track Two dialogues, 21 July, 2022, Brussels
26. Ukrainian civil society representative involved in Track Two dialogues, 22 July, 2022, Brussels
27. Ukrainian civil society representative involved in Track Two dialogues, 21 July, 2022, Brussels
28. Ukrainian civil society representative active in cross-contact-line dialogues, 30 July, 2022, Kyiv

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

This work was supported by European Research Executive Agency: [Grant Number 101060809 Horizon 2021, EMBRACE]; Schweizerischer Nationalfonds zur Förderung der Wissenschaftlichen Forschung: [Grant Number 100017_197543].

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