

1-1-2018

## The Legality and Illegality of Russian Hegemony in Ukraine

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### Recommended Citation

Munzar, Benedikt (2018) "The Legality and Illegality of Russian Hegemony in Ukraine," *Global Tides*: Vol. 12 , Article 4.  
Available at: <https://digitalcommons.pepperdine.edu/globaltides/vol12/iss1/4>

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## INTRODUCTION

The recent actions by Russia in Ukraine have met fierce resistance from the international community. While experts argue the Russian annexation of Crimea and the Russian support of rebels in Southeastern Ukraine violates multiple international treaties and norms, the Russian state may find backing for its argued intent in certain international laws. This legal foundation stems from Russia's historic and cultural ties to the region. Therefore, rather than being a hegemon in the region as portrayed by the international community, Russia may simply be a defender of the Russian diasporas and their native language and culture.

While much of the international community has denounced Russia for its actions, the Russian government has also argued that Western powers have breached some aspects of international norms, and thus I will evaluate both sides equally and give either side the benefit of the doubt when interpreting their legal stance on the subject.

## HISTORY

Russia has controlled regions of Ukraine for much of their history. In the seventeenth century, Muscovy (the precursor to Russia) grew and acquired eastern Ukraine, which had previously been under Polish rule. Furthermore, after the Ukrainians split from Polish rule in 1654, under Bogdan Kmel'nitskiy they sought protection from the Muscovite tsar, Aleksey I.<sup>1</sup> The Polish Empire was not pleased with this new Ukrainian-Russian alliance, and this escalated to a war between Muscovy and Poland. The conflict ended in 1667 with the Treaty of Andusovo, splitting Ukraine on the Dnepr River and leaving the eastern half independent yet under the protection of the tsar.<sup>2</sup> From this point onward, Russia continuously saw itself as the protector of Ukraine from Western powers such as Poland. Ukraine lacked a distinct indigenous political elite, and therefore Ukrainian society failed to develop its country into an independent political actor.<sup>3</sup> Their ambivalent national identity ultimately allowed Russia to protect and influence Ukraine for hundreds of years. This international policy mirrored the US Monroe Doctrine, a statement where the United States claimed that any

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<sup>1</sup> Glenn E Curtis, *Russia: a country study* (WASHINGTON, D.C.: Dept. OF THE ARMY, 1998), 18-19.

<https://cdn.loc.gov/master/frd/frdcstdy/ru/russiaincountry00curt/russiaincountry00curt.pdf>.

<sup>2</sup> Curtis, *Russia: a country study*, 18-19.

<sup>3</sup> Ilya Prizel, "Ukraine: The Ambivalent Identity of a Submerged Nation, 1654-1945." In *National Identity and Foreign Policy: Nationalism and Leadership in Poland, Russia, and Ukraine*. Cambridge Russian, Soviet and Post-Soviet Studies. Cambridge University Press, 1998.

further European efforts to control independent countries in the Western hemisphere would be seen as a threat to the United States.

In addition to preserving its influence in the region in opposition to Western powers, under Catherine the Great (1762-1796), Russia expanded this influence further through conquest. Due to a weakened Poland, each of its aggressive neighbors—Russia, Prussia, and Austria—partitioned the Polish territory, essentially removing the once great Polish empire from the map. In 1772 Russia received parts of Belorussia and Livonia and in 1773 most of Ukraine west of the Dnepr River.<sup>4</sup> Later in 1792, Catherine II abolished the autonomy of eastern Ukraine, a policy that presaged a common practice of Russification by Russian leaders, a strategy involving the promotion of Russian language and culture.<sup>5</sup>

The Russian empire also experienced friction along its southern borders. Following the Ottoman Empire's defeat in the Russian-Turkish War of 1787-91, both countries signed the Treaty of Jassy, officially annexing Crimea to Russia and pushing the Turkish border to the Dniester River.<sup>6</sup> Russian historians often reference this war when justifying Russia's claim to the peninsula by the blood and sacrifice of the Russians who died fighting there. Even though the costly peninsula was now under Russian control, a significant Tartar Muslim population remained, which would prove to be a consistent resistor to Russia and its policies.

Ukraine remained under Russia's control for the next 150 years until the Russian revolution. Following the Bolshevik uprising, Russia established the Soviet Republic in Ukraine in March 1919 and then later the Soviet Union in December 1922.<sup>7</sup> Naturally, Ukraine became a Soviet Socialist Republic under the political control of the Soviet Union. As such, Russian culture and language became prevalent in the country, compounding on Catherine the Great's policy of Russification.

The Soviet Union's optimism as a new country was interrupted over a decade later when Hitler, a supposed ally of Russia, betrayed Stalin and invaded the Russian frontier. During World War II, the Soviet Red Army suffered an estimated twenty-nine million casualties.<sup>8</sup> The Soviets focused much of their offensive effort in Ukraine, culminating in the liberation of Ukraine from Nazi Germany. Many historians argue that the costly yet heroic standoff at Stalingrad

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<sup>4</sup> Curtis, *Russia: a country study*, 25.

<sup>5</sup> Curtis, *Russia: a country study*, 25-6.

<sup>6</sup> "Russia and Turkey signed the Treaty of Jassy." *Russian Presidential Library*. February 14, 2017. Accessed November 20, 2017. <https://www.prilib.ru/en/history/618929>.

<sup>7</sup> Curtis, *Russia: a country study*, 63.

<sup>8</sup> David Glantz, "The Soviet-German War 1941-1945: Myths and Realities: A Survey Essay." Technical paper. *Strom Thurmond Institute of Government and Public Affairs, Clemson University*, 2001.

stopped the German Eastern advance and marked the turning point in the war against Nazi Germany. Many Russians continue to see Ukraine, especially Crimea, as hallowed ground since millions of Soviet soldiers died fighting there during World War II.

In 1954, the USSR transferred the Crimea peninsula to Ukraine, partially to commemorate the 300-year anniversary of the Treaty of Pereyaslav which had established Russian protection over Ukraine. The move was also made due to the cultural and agricultural similarities of Ukraine and the peninsula.<sup>9</sup> At the time that Russia gifted Crimea to Ukraine, 90 percent of the population were Russians who strongly opposed any Ukrainian migration to the peninsula.<sup>10</sup> Retrospectively, Russian leaders saw this gift as an illegitimate transfer of Crimea to Ukraine. In 2015, Sergey Mironov, leader of “A Just Russia” party, concluded that “neither the Constitution of the RSFSR nor the Constitution of the USSR provided for the powers of the Presidiums of the Supreme Soviets of the RSFSR and the USSR to consider the changes in the constitutional and legal status of the autonomous Soviet socialist republics forming part of the Union republics”<sup>11</sup>. Thus, the transfer of Crimea from the USSR to the Soviet Socialist Republic of Ukraine did not fall under the jurisdiction of a Soviet government body and the transfer was void. Naturally, this analysis from leaders such as Sergey Mironov serves the Russians’ interests and has been disputed by Ukraine as of late.

At the end of the Cold War, it was apparent that Ukraine wanted independence from Russia; this was demonstrated by the fact that:

As it had in the republics along the Soviet southern perimeter, national consciousness reawakened in Ukraine and Belorussia. In Ukraine the first popular front, the Ukrainian Popular Movement for Perestroika, known as Rukh, held its founding congress in September 1989. On March 4, 1990, Ukraine and Belorussia elected new legislatures. In both cases, opposition movements and coalitions made good showings despite ballot tampering and legal obstacles erected by authorities.<sup>12</sup>

Despite apparent resistance from the Soviet government, the opposition movements prevailed in establishing a nation independent of the USSR.

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<sup>9</sup> Mark Kramer, "Why Did Russia Give Away Crimea Sixty Years Ago?" *Wilson Center*, November 18, 2015. Accessed November 20, 2017.

<https://www.wilsoncenter.org/publication/why-did-russia-give-away-crimea-sixty-years-ago>.

<sup>10</sup> Doris Wydra, "The Crimea Conundrum: The Tug of War Between Russia and Ukraine on the Questions of Autonomy and Self-Determination." *International Journal on Minority and Group Rights* 10, no. 2 (2004): 113, doi:10.1163/157181104322784826.

<sup>11</sup> "Генпрокуратура РФ: передача Крыма Украине в 1954-м была незаконной - BBC Русская служба." *BBC News*, June 27, 2015. Accessed November 25, 2017.

[http://www.bbc.com/russian/russia/2015/06/150627\\_russia\\_mironov\\_crimea](http://www.bbc.com/russian/russia/2015/06/150627_russia_mironov_crimea).

<sup>12</sup> Curtis, *Russia: a country study*, 114.

A couple months after Ukraine declared sovereignty, Crimea held a referendum where 93.2 percent of the voters favored the recreation of the Autonomous Republic of Crimea within the USSR.<sup>13</sup> After the region was established as an autonomous republic within Ukraine, it declared itself as the independent Republic of Crimea in 1991. It continued to be part of Ukrainian territory under Ukrainian control, despite opposition from many Crimea citizens.

Gradually, multiple countries declared independence from the Soviet Union, and by December 1991, all former Soviet satellites had split off and established their own independent governments. In the Ukrainian referendum, only 54 percent of voters were in favor of independence, a sign that a significant number of Ukrainian citizens (46 percent) wished to be part of the Russian Federation or at least maintain strong ties with the country.<sup>14</sup>

#### POST-COLD WAR RELATIONS

Russia and Ukraine maintained contentious relations following the fragmentation of the Soviet Union. In July 1993, the Russian parliament passed a resolution declaring the Crimean city of Sevastopol a Russian port even though it was in Ukraine territory. This conflict stemmed from the fact that following the dissolution of the Soviet Union, the 350-ship Russian Black Sea Fleet was essentially relieved towards Ukrainian control. The Ukrainian Foreign Minister accused this as an “interference in Ukraine’s internal affairs”.<sup>15</sup> Despite international condemnation of Russia’s actions regarding the peninsula, both countries eventually divided the fleet, and Ukraine leased the naval base at the port of Sevastopol to Russia for a long-projected time.<sup>16</sup> This benefited the Russian Federation as the port granted the Russian fleet access to the warm waters of the Mediterranean Sea so that they could militarily support allies such as Syria.

On December 5, 1994, relations between the two countries improved when both governments signed the Budapest Memorandum on Security Assurances, which welcomed the accession of Ukraine to the Treaty on the Non-Proliferation

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<sup>13</sup> Wydra, "The Crimea Conundrum." 113-14.

<sup>14</sup> Wydra, "The Crimea Conundrum." 114.

<sup>15</sup> Serge Schmemmann, "Russian Parliament Votes a Claim to Ukrainian Port of Sevastopol." *The New York Times*. July 09, 1993. Accessed November 25, 2017. <http://www.nytimes.com/1993/07/10/world/russian-parliament-votes-a-claim-to-ukrainian-port-of-sevastopol.html>.

<sup>16</sup> Francine Kiefer, "Why Russia covets the Black Sea naval base of Sevastopol." *The Christian Science Monitor*. May 19, 2010. Accessed November 25, 2017. <https://www.csmonitor.com/Commentary/Editorial-Board-Blog/2010/0519/Why-Russia-covets-the-Black-Sea-naval-base-of-Sevastopol>.

of Nuclear Weapons.<sup>17</sup> In exchange for Ukraine's forfeiture of its large stockpile of nuclear weapons, all the signees, including Russia, agreed to respect the independence, sovereignty, and existing borders of Ukraine. They further pledged "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 Charter of the United Nations."<sup>18</sup> They also pledged "to refrain from economic coercion designed to subordinate to their own interest the exercise by Ukraine of the rights inherent in its sovereignty and thus to secure advantages of any kind."<sup>19</sup>

On January 14, 1998, Russia and Ukraine signed the Treaty on Friendship, Cooperation and Partnership, further developing interstate relations and granting strategic partnership with continuous communication. The treaty included Article 6, that stated "neither Party shall allow its territory to be used to the detriment of the security of the other Party."<sup>20</sup> In addition, the Parties agreed to increase cooperation on border issues and to reduce their armed forces and armaments. Article 10 states that "each High Contracting Party guarantees citizens of the other Party the rights and freedoms on the same grounds and in the same amount as their own nationals, except in cases established by the national legislation of the Parties or their international treaties." Finally, Article 12 stated that "The High Contracting Parties shall ensure the protection of the ethnic, cultural, linguistic and religious identity of national minorities in their territory and create conditions for the promotion of this identity."<sup>21</sup> While the Treaty mentions respecting borders and reigning in military arms in the region, it also puts major emphasis on preserving the rights and freedoms of minorities, specifically Russians, in the Ukraine region. Even though it was praised as an agreement to foster friendlier relations between the two countries, many Russians saw it as detrimental to their interests. It took Russia two years to ratify the treaty, which is supposedly still in force.<sup>22</sup>

## UKRAINIAN REVOLUTION

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<sup>17</sup> United States, Russian Federation, United Kingdom, Ukraine, "Budapest Memorandum on Security Assurances." *OSCE conference*, 1994. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_1994\\_1399.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_1994_1399.pdf).

<sup>18</sup> "Budapest Memorandum on Security Assurances."

<sup>19</sup> "Budapest Memorandum on Security Assurances."

<sup>20</sup> "The Treaty of Friendship, Cooperation and Partnership between the Russian Federation and Ukraine." *Supreme Council of Ukraine*, zakon5.rada.gov.ua/laws/show/643\_006.

<sup>21</sup> "The Treaty of Friendship."

<sup>22</sup> Wydra, "The Crimea Conundrum." 115.

In November 2014, Ukraine faced a crossroads; the country had to choose between strengthening economic ties with the European Union and receiving a \$15 billion loan from Russia to join the Eurasian Union.<sup>23</sup> The Ukrainian president at the time, Viktor Yanukovich, decided to take Vladimir Putin's economic offer and side with the East. This decision was met with significant opposition from the Ukrainian people. Thousands of protesters met on Kiev's Independence Square and remained until Yanukovich eventually fled the country. The Euromaidan Revolution in Ukraine raised multiple eyebrows in the international community. There was major interference from Western governments such as the US and EU that unconditionally supported the opposition.<sup>24</sup> The media coverage of the revolution was strongly skewed through the lens of Western powers and interests. Arguably, this support from Western governments led to the success of the movement. Following the removal of Yanukovich from power, the opposition formed a coalition government and agreed to hold elections that May. However, the new government's plans were soon put on hold due to influence from its Russian neighbor.

#### RUSSIAN FEDERATION'S RESPONSE

Near the end of the protests in Ukraine, armed, unidentified gunmen seized airports and government buildings on the Crimean Peninsula. Russia denied having any connection to the armed men without insignia and merely described them as "local self-defense groups".<sup>25</sup> Once the peninsula had been secured by these so-called "local self-defense groups", the region held a referendum with 97 percent voting to join Russia, a measure that Ukraine, the US, and the EU denounced as illegal based on provisions in UN General Assembly resolution 2131 that discourage foreign interference in a nation's self-determination. Days later, the regional parliament voted to join Russia, and Putin officially annexed Crimea.<sup>26</sup>

The influence of Russia did not stop in Crimea. Following the Euromaidan revolution, the ousting of Yanukovich from power, Russia liberally supported the pro-Russian rebels. They prepared to arm the separatists with potent weapons such as high-powered Tornado rocket launchers. They also "positioned heavy

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<sup>23</sup> Alan Yuhas, "Ukraine crisis: an essential guide to everything that's happened so far." *The Guardian*, April 13, 2014. Accessed November 20, 2017. <https://www.theguardian.com/world/2014/apr/11/ukraine-russia-crimea-sanctions-us-eu-guide-explainer>.

<sup>24</sup> Rein Mullerson, "Ukraine: Victim of Geopolitics." *Chinese Journal of International Law* 13, no. 1 (2014): 133-45, doi:10.1093/chinesejil/jmu011.

<sup>25</sup> Yuhas, "Ukraine crisis"

<sup>26</sup> Yuhas, "Ukraine crisis"

weapons, including tanks and other combat vehicles, at several points along the border where there had been intense fighting.”<sup>27</sup> At certain points, Russia even engaged directly in the conflict. American and Ukrainian officials reported that Russian missiles fired from Russian territory had downed multiple Ukrainian military planes and that some of the Russian artillery on the border had fired into Ukrainian territory as well.<sup>28</sup> The close and menacing presence of Russian troops and weaponry has served as a crucial safety net for the pro-Russian separatists who continue to fight in the region.

Russia’s response to the Ukraine situation also had an economic component. On June 16, 2014, Gazprom, a large Russian gas company, cut off its gas supply to Ukraine after complaining that the country had not paid back its debts of approximately \$5.3 billion.<sup>29</sup> The same company had raised gas prices by 80 percent earlier in April due to unpaid debts, a decision Ukraine viewed as a political move by Russia to punish them for their opposition to closer ties.<sup>30</sup> Gazprom, like many Russian companies, is heavily influenced by the Russian government. This development proved difficult for the Ukrainian people as they heavily rely on Russian gas imports to get through the extremely cold winters. Ukrainian leaders fear that many will go without heating during the winter months if the country does not meet its gas demands. The restrictions also pose a threat to other European nations as 70 percent of Russia’s gas imports to the EU go through Ukraine.<sup>31</sup>

Non-governmental organizations such as Human Rights Watch have also accused Russia of human rights abuses in Crimea. Under several human rights treaties, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights, both of which Ukraine and Russia have ratified, Russia as an occupying power is obligated to restore and maintain public order following the government change in order to ensure citizens’ safety.<sup>32</sup> This violation is evident in that the Russian authorities failed to rein in abuses by paramilitary groups that unlawfully detained and abused Crimean Tatars,

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<sup>27</sup> David Herszenhorn, and Peter Baker, "Russia Steps Up Help for Rebels in Ukraine War." *The New York Times*, July 25, 2014. Accessed November 20, 2017. <https://www.nytimes.com/2014/07/26/world/europe/russian-artillery-fires-into-ukraine-kiev-says.html>.

<sup>28</sup> Herszenhorn, "Russia Steps Up Help"

<sup>29</sup> Paul Kir, "Russia's gas fight with Ukraine." *BBC News*, October 31, 2014. Accessed November 20, 2017. <http://www.bbc.com/news/world-europe-29521564>.

<sup>30</sup> Kir, "Russia's gas fight with Ukraine."

<sup>31</sup> Kir, "Russia's gas fight with Ukraine."

<sup>32</sup> Yulia Gorbunova, "Human Rights Abuses in Crimea under Russia's Occupation." *Brillonline*, 2014. [booksandjournals.brillonline.com/content/journals/10.1163/18750230-02503002](http://booksandjournals.brillonline.com/content/journals/10.1163/18750230-02503002).

activists, and journalists.<sup>33</sup> Furthermore, Russia has violated human rights principles in a region that they allegedly illegally annexed, ignoring “the responsibility to ensure that everyone is treated humanely and without discrimination based on ethnicity, religion, or any other basis.”<sup>34</sup> The same source elaborated that Crimean authorities have specifically targeted the native Tartar community, a prominent group of Muslims strongly opposed to the Russian occupation.<sup>35</sup> This act could also arguably undermine Russia’s participation in the European Convention on Human Rights, which emphasizes in Article 9 the “Freedom of thought, conscience and religion”.<sup>36</sup>

Due to Russia’s actions in Crimea and Southeastern Ukraine, much of the international community has imposed sanctions on the Putin regime. Shortly after the referendum in Crimea, the EU and the US did this in the form of travel bans and freezing of assets of key individuals, mainly powerful people closely related to the Putin administration. The Western countries eventually imposed economic sanctions with the US targeting Russia’s financial, energy, and military technology sectors.<sup>37</sup> The combination of all these sanctions arguably led to the slump in the Russian economy and the collapse of the Russian Ruble following the events in Crimea and Ukraine. The Ruble fell nearly 50 percent or so against the US dollar within the two years following Russia’s transgressions.<sup>38</sup>

Fighting continues along the Russian and Ukrainian border, specifically in the Southeast Ukrainian region where pro-Russian rebels continue to thrive. The conflict has led to considerable devastation, displacing 2 to 3.5 million people, with 1.6 million Ukrainians moving west towards the capital, Kiev.<sup>39</sup> Also, about 10,000 people have been killed and over 23,000 wounded since the conflict’s onset.<sup>40</sup> As of now, with the Trump administration’s lack of a public, thorough

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<sup>33</sup> "Rights in Retreat | Abuses in Crimea." *Human Rights Watch*. June 09, 2016. Accessed March 23, 2018. <https://www.hrw.org/report/2014/11/17/rights-retreat/abuses-crimea>.

<sup>34</sup> Gorbunova, “Human Rights Abuses in Crimea”

<sup>35</sup> Gorbunova, “Human Rights Abuses in Crimea”

<sup>36</sup> European Court of Human Rights, *European Convention on Human Rights*, Accessed November 25, 2017. [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>37</sup> Ulrich Speck, "The West's Response to The Ukraine Conflict." *Transatlantic Academy*, April 2016, 1-18. [http://www.transatlanticacademy.org/sites/default/files/publications/Speck\\_WestResponseUkraine\\_Apr16\\_web.pdf](http://www.transatlanticacademy.org/sites/default/files/publications/Speck_WestResponseUkraine_Apr16_web.pdf).

<sup>38</sup> Jasmine C. Lee, "Why the Russian Economy Is Tumbling." *The New York Times*. April 12, 2016. Accessed March 23, 2018. <https://www.nytimes.com/interactive/2016/04/12/world/europe/russian-economy-tumbling.html>.

<sup>39</sup> Adrian Bonenberger, "The War No One Notices in Ukraine." *The New York Times*, June 20, 2017. Accessed November 20, 2017. <https://www.nytimes.com/2017/06/20/opinion/ukraine-russia.html>.

<sup>40</sup> Bonenberger, "The War No One Notices in Ukraine."

strategy coupled with the Putin administration's disinterest in pursuing any comprehensive diplomacy, there is no clear resolution in sight.

## INTERNATIONAL LAW

Multiple Western countries denounced the Russian annexation of Crimea as a violation of international law. In the Budapest Memorandum of Security Assurances, it was agreed upon that all the parties of the treaty, including Russia, would refrain from the threat or use of force against the territorial integrity and political sovereignty of Ukraine and from economic coercion of Ukraine. The Russian Federation's stationing of heavy artillery on Ukrainian borders, the firing of this weaponry into the territory of Ukraine, and the supply of weapons to rebel troops could be interpreted as breaches of the agreement. Further, Gazprom's strangely-timed cessation of gas imports and the inflation of gas prices could be seen as economic coercion that would also go against the agreement.

One of the UN Charter's most commonly cited provision is Article 2, states "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations".<sup>41</sup> While Russia has threatened the territorial integrity of Ukraine with its annexation of Crimea, it has not explicitly used uniformed Russian forces in Southeast Ukraine. However, if the "threat or use of force" is loosely defined to include the direct support of rebels in a country, such as the pro-Russian separatists, then Russia may be violating this provision in the Charter.

In 1965, the UN General Assembly approved resolution 2131 which reaffirmed the concept of nonintervention and stated that:

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State [and that] all States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure, and with absolute respect for human rights and fundamental freedoms.<sup>42</sup>

Under this resolution, Ukraine has the right to hold a referendum and establish a new government, regardless of whether Russia supports or opposes the measure. However, General Assembly resolutions are merely recommendations and no country is legally bound by them. The principles in this resolution resemble those

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<sup>41</sup> "UN Charter (full text)." *United Nations*, Accessed November 20, 2017. <http://www.un.org/en/sections/un-charter/un-charter-full-text/>.

<sup>42</sup> General Assembly resolution 20/2131, *Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty*, A/Res/20/2131 (21 December 1965). <http://www.un-documents.net/a20r2131.htm>.

in the Budapest Memorandum, which also emphasized respecting the political sovereignty of the state. Russia did not recognize Ukraine's right to self-determination and violated the provisions of the resolution by annexing Crimea and by administering foreign pressure through the support of pro-Russian separatists.

In the Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation, Article 3 highlights the principles of sovereign equality, territorial integrity, inviolability of borders, non-use of force or threat of force, non-interference in internal affairs, and observance of human rights and fundamental freedoms, among other things.<sup>43</sup> The treaty is quite similar to those established by the UN General Assembly in resolution 2131, meaning that even though countries are not bound by General Assembly resolutions, Russia and Ukraine agreed on the same principles when they signed the Friendship Treaty, binding both of them to those provisions. Russia arguably did not observe many of these provisions with its support of pro-Russian separatists and its annexation of Crimea.

However, the Russian Federation has argued that Western powers violated international law when overwhelmingly supporting the referendum in Ukraine. This discrepancy is highlighted in UN General Assembly resolution 2131 that says "no state should 'interfere in the civil strife of another state' and all states shall 'respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure and with absolute respect for human rights and fundamental freedoms.'"<sup>44</sup> The Russian government saw the Western media, EU countries, and the US as significant sources of foreign pressure on the democratic process in Ukraine, in favor of an economic shift to the West. Given that a significant portion of Ukraine would prefer to be closer to Russia than the West, the Russian government sees its actions in Ukraine as a preservation and protection of the interests of the significant minority of Ukrainian voters who felt overwhelmed by this substantial Western pressure.

Russians living in Ukraine felt particularly threatened by the language policy in Ukraine. Around the time that Yanukovich was ousted from Kiev, the Verkhovna Rada (Ukrainian parliament) abolished a law on "the principles of language politics" that would give regions the opportunities to raise minority languages such as Russian to official status if 10 percent or more of the population speaks the language, meaning that it can be used in the office and in communicating with authorities.<sup>45</sup> As a result of this law, Russian was considered

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<sup>43</sup> "The Treaty of Friendship."

<sup>44</sup> Thomas G. Weiss, David P. Forsythe, Roger A. Coate, Kelly-Kate Pease, "The United Nations and Changing World Politics" (Boulder, CO: Westview Press, 2017), print, 16.

<sup>45</sup> Фото Сергей Чузавков, "На Украине отменили закон о региональном статусе русского языка." *На Украине отменили закон о региональном статусе русского языка: Украина:*

a regional language. Abolishing this law demoted the Russian language to the objection of Russian-speakers, particularly in Eastern Ukraine. This move arguably also went against some principles in the Ukrainian Constitution since Article 10 states that “In Ukraine, the free development, use and protection of Russian, and other languages of national minorities of Ukraine, is guaranteed.”<sup>46</sup> While Ukrainians were still free to speak Russian, a significant percentage would prefer to use it in an official capacity, given that 29 percent consider Russian their native language.<sup>47</sup> This freedom was further threatened recently when the Ukrainian parliament passed a controversial education act. In that act, Article 7 stated that “Educational establishments provide compulsory study of the state language, in particular institutions of professional (vocational), vocational and higher education - to the extent that allows them to carry out professional activities in the chosen industry using the state language.”<sup>48</sup> This new mandate essentially forced all Ukrainian citizens who attend state-funded schools to learn in the Ukrainian language met much criticism from Russian speakers in the region and from other European neighbors. Government ministers from Hungary, Bulgaria, Greece, and Romania stood against the measure and sent a joint letter to the Council of Europe and the Organization for Security and Co-operation in Europe requesting that Ukraine preserve and respect the language rights of its minorities.<sup>49</sup> In response, Ukraine has argued that citizens can still speak and learn minority languages supplemental to Ukrainian and that the policy does not extend to privately funded institutions.

The UN Assembly has addressed the issue of minority languages with the “Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”, which declares in Article 1 that “states shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity,” and in Article 2 that “persons belonging to

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*Бывший СССР*: Lenta.ru, Accessed November 25, 2017.

<https://lenta.ru/news/2014/02/23/language/>.

<sup>46</sup> "Ukraine 1996 Constitution (rev. 2014)." *Constitute*, Accessed November 25, 2017.

[https://www.constituteproject.org/constitution/Ukraine\\_2014](https://www.constituteproject.org/constitution/Ukraine_2014).

<sup>47</sup> "The language question, the results of recent research in 2012." *Ukraine – Research*, Accessed November 25, 2017.

[http://ratinggroup.ua/en/research/ukraine/yazykovoy\\_vopros\\_rezultaty\\_poslednih\\_issledovaniy\\_2012.html](http://ratinggroup.ua/en/research/ukraine/yazykovoy_vopros_rezultaty_poslednih_issledovaniy_2012.html).

<sup>48</sup> Ukraine, Verkhovna Rada, *Legislation of Ukraine*, Accessed November 25, 2017.

<http://zakon3.rada.gov.ua/laws/show/2145-viii>.

<sup>49</sup> Nathan Stormont, "Ukraine's Education Law May Needlessly Harm European Aspirations." *Freedom House*, October 02, 2017, Accessed November 25, 2017.

<https://freedomhouse.org/blog/ukraine-s-education-law-may-needlessly-harm-european-aspirations>.

national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.”<sup>50</sup> The resolution further asserts that minorities have a right to give their input on national decisions regarding minorities and that minorities should have adequate access to education in their native tongue. Ukraine arguably disrespected this rule when drafting the education act as minority groups were not consulted nor included in the discussion during the drafting phase of the law. In addition, since ethnic Russians living in Ukraine see the Russian language as a strong component of their heritage, it is not surprising that they interpret this recent development as an act of discrimination against a facet of their culture. Whilst General Assembly resolutions are merely a recommendation, the fact that the “Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities” was adopted by the General Assembly reaffirms that the principle of minority rights should be respected in the international community based on the concept of legitimacy, where there is a general and substantial consensus on a principle exercised by much of the international community.

People in Crimea also felt overpowered by Ukrainian policies. The local government has consistently seen itself as independent and separate from Ukraine. As stated earlier, Crimea held a referendum where 93.2 percent of the voters favored the recreation of the Autonomous Republic of Crimea within the USSR.<sup>51</sup> The majority of the peninsula (90 percent) consists of Russians, and therefore the region held a referendum that resulted in 97 percent voting to join Russia prior to annexation. In the Ukrainian Constitution, Article 7 states that “In Ukraine, local self-government is recognized and guaranteed.”<sup>52</sup> While this provision certainly does not condone the secession of a region, it implies the recognition of a certain level of autonomy that the citizens in Crimea believed Ukraine denied them. Although every conflict regarding regional autonomy is different, the recent Scottish independence referendum and Catalan independence referendum serve as comparable examples where the citizens of a certain province or region feel nationally/culturally different from the overall state and wish to be recognized independently. These examples further demonstrate that the world is composed of numerous countries where significant populations seek independence, with the Russian people in Crimea deserving just as much conscientious attention as the others.

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<sup>50</sup> General Assembly resolution 47/135, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, A/Res/47/135 (18 December 1992). <http://www.un.org/documents/ga/res/47/a47r135.htm>.

<sup>51</sup> Wydra, "The Crimea Conundrum."

<sup>52</sup> "Ukraine 1996 Constitution (rev. 2014)."

## TREATIES FOLLOWING CONFLICT ORIGIN

On September 4, 2014, Ukraine and Russia along with the Organization for Security and Co-operation in Europe (OSCE), signed the Minsk Protocol, an essential cease-fire agreement. The agreement called for decentralization of power in the Donetsk and Luhansk regions in order to respect their temporary self-governance, for the immediate release of hostages, for a national dialogue, and for the immediate removal of unlawful military personnel and equipment from the territory of Ukraine.<sup>53</sup> The Minsk protocol fell through a couple of weeks later with the onset of the Second Battle of Donetsk International Airport.<sup>54</sup> The rebels eventually took over the airport, and the original Minsk Protocol was considered defunct.

On February 12, 2015, multiple countries, including Russia and Ukraine, signed the Minsk II agreement to cease fighting in the Ukraine region. This cease-fire treaty included provisions to completely halt fighting in the Donetsk and Luhansk regions, the removal of heavy weaponry by both sides to create a fifty kilometer security zone, and the initiation of dialogue in the Donetsk and Luhansk regions on interim local self-government and the future direction of both regions.<sup>55</sup> The document further specified that Ukraine would reinstate full control of the state border following the comprehensive settlement of the political grievances in the two rebelling regions. Rebel leaders were also a party to the treaty.

The Minsk II agreement has been noticeably unstable the past two years. The ceasefire periodically breaks down with sporadic fighting across Southeastern Ukraine. While both sides are culpable for violations of the ceasefire, most analysts with the Organization for Security and Co-operation in Europe find Russia as the chief aggressor, with Russian military officers still controlling most of the separatist units.<sup>56</sup> While it is still unclear as to why Russia continues to support fighting in the region in light of international condemnation and sanctions, a developing theory is that Russia does not want the situation in Donetsk to resolve itself because the government would lose it as a bargaining

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<sup>53</sup> "Ministry of Foreign Affairs of Ukraine." PROTOCOL on the results of consultations of the Trilateral Contact Group (Minsk, 05/09/2014) - News from Ukraine's diplomatic missions - *MFA of Ukraine*. Accessed November 25, 2017. <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/27596-protocol-on-the-results-of-consultations-of-the-trilateral-contact-group-minsk-05092014>.

<sup>54</sup> "Ukraine conflict: Heavy fighting for Donetsk airport." *BBC News*, October 03, 2014. Accessed November 25, 2017. <http://www.bbc.com/news/world-europe-29481979>.

<sup>55</sup> "Full text of the Minsk agreement." *Financial Times*, Accessed November 25, 2017. <https://www.ft.com/content/21b8f98e-b2a5-11e4-b234-00144feab7de>.

<sup>56</sup> Steven Pifer. "Minsk II at two years." *Brookings*, February 15, 2017. Accessed November 25, 2017. <https://www.brookings.edu/blog/order-from-chaos/2017/02/15/minsk-ii-at-two-years/>.

chip in conducting diplomacy with its now estranged neighbor, Ukraine. Regardless, continued violations of this ceasefire agreement add to the list of Russia's international violations regarding this issue.

## CONCLUSION

With the annexation of Crimea, the support of rebels in Southeastern Ukraine, and the supposed discrimination against the Muslim population in Crimea, Russia has violated provisions in the Budapest Memorandum on Security Assurances, the Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation, and the International Covenant on Civil and Political Rights. Furthermore, Russia has violated provisions in the European Convention on Human Rights, Article 2 of the UN Charter, UN General Assembly resolution 2131, the Minsk II agreement, and other potential treaties and agreements not listed.

The Russian Federation argues that they merely wish to protect the minority rights of the significant Russian population in Ukraine and that citizens of Crimea have wanted to be part of Russia for quite some time. This sentiment is justified in some respects given that Russia has historically owned much of Ukraine for hundreds of years. Furthermore, Russian culture and language is prevalent across the region, thousands of Russian soldiers have fought and died protecting the Crimean Peninsula, millions of Russian soldiers have fought and died in defending Ukraine and the rest of Russia from Hitler's invasion during World War II. Crimea is overwhelmingly Russian in its population and has sought to preserve this demographic with its efforts to join the Russian Federation through its requests for autonomy from Ukraine and through its referendum to join Russia.

Ukraine has also treated its Russian population in a questionable manner with its dismissal of Crimean requests for some level of autonomy, its rushed pivot to the West without consideration for a significant minority of Russians who disagreed with the measure, and its adoption of an education act that mandates education in the Ukrainian language in public schools, potentially undercutting many Russian speakers who predominantly use Russian in their everyday lives officially and unofficially. Ukraine therefore is arguably at fault with provisions on language in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and with the provisions regarding minority rights in the Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation. The US and countries in the EU are also arguably guilty of violating the UN General Assembly resolution 2131 via their overwhelming support of the Ukrainian referendum through activists on the ground and through slanted media coverage. Bad behavior certainly does not

justify bad behavior, as Russia itself seldom provides adequate Ukrainian instruction for its Ukrainian citizens and as it has practiced significant discrimination against the Tartar population in Crimea. Furthermore, its state-run media is equally politically driven regarding its coverage of the Ukraine conflict. However, these inconvenient truths suggest that Russia may not be completely in the wrong on the spectrum of international law if it is sincerely acting to preserve the rights of Russian minorities.

Even if Russia has the best of intentions, it still must answer for its methods of posting heavy artillery on the border with Ukraine, for its continued support of rebels in violation of the Minsk II agreement, and for its rapid annexation of Crimea without significant dialogue with Ukraine and the rest of the international community. Given the continued transgressions stated earlier and Vladimir Putin's trend of expanding Russian borders in other regions such as the acquisition of the South Ossetia region in Georgia following the Russo-Georgian War, it would be naïve to deny that, in some capacity, Russia is merely acting as a hegemon in the region and wishes to control and intimidate its neighbors rather than protect minorities or Russian culture outside the borders of the Russian Federation.

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