

Introduction to Agenda

Ukraine's most prolonged and deadly crisis since its post-Soviet independence began as a protest against the government dropping plans to forge closer trade ties with the European Union, and has since spurred escalating tensions between Russia and Western powers. The crisis stems from more than twenty years of weak governance, a lopsided economy dominated by oligarchs, heavy reliance on Russia, and sharp differences between Ukraine's linguistically, religiously, and ethnically distinct eastern and western regions.

After the ouster of President Viktor Yanukovich in February 2014, Russia annexed the Crimean peninsula and the port city of Sevastopol, and deployed tens of thousands of forces near the border of eastern Ukraine, where conflict erupted between pro-Russian separatists and the new government in Kiev. Russia's moves, including reported military support for separatist forces, mark a serious challenge to established principles of world order such as sovereignty and nonintervention.

Ukraine- Russia Crisis

For understanding the current crisis in Ukraine and Russia, we will have to go as far as November 2013. Let's try and understand how the conflict originated and grew:

Thousands of anti-government protesters gathered in central Kiev, rebuilding barricades torn down by police, on Thursday as the European Union held out a promise of increased aid for Ukraine if it signed a trade and cooperation pact.ⁱ

Ukraine's first deputy Prime Minister Serhiy Arbuzov flew to Brussels with a high-level delegation seeking billions of euros of aid from the EU in return for signing the agreement, which Kiev suddenly backed away.

The protests reached a climax during mid-February. On 18 February, the worst clashes of Euromaidan broke out after the parliament did not accede to demands that the Constitution of Ukraine be rolled back to its pre-2004 form, which would lessen presidential power. Police and protesters fired guns, with both live and rubber ammunition, in multiple locations in Kiev. The riot police advanced towards Maidan later in the day and clashed with the protesters but did not fully occupy it. The fights continued through the following days, in which the vast majority of casualties took place. On the night of 21 February, Maidan vowed to go into armed conflict if Yanukovych did not resign by 10:00 AM. Subsequently, the riot police retreated and Yanukovych and many other high government officials fled the country. Protesters gained control of the presidential administration and Yanukovych's private estate. The next day, the parliament impeached Yanukovych, replaced the government with a pro-European one, and ordered that Yulia Tymoshenko be released from prison. The Ukrainian revolution of February 2014 took place after a series of violent events in the capital of Kiev culminated with the ousting of the then-President of Ukraine, Viktor

Yanukovych. This was immediately followed by a series of changes in quick succession in Ukraine's sociopolitical system, including the installation of a new interim government, the restoration of an older version of the constitution, and the call to hold impromptu presidential elections within months.

On 21 February 2014, President Viktor Yanukovych fled Kiev. The Ukrainian parliament deposed him the next day, and the next week appointed an interim President, Oleksandr Turchynov, and formed an interim government. The new government was recognized by the United States and European Union. Russia and a few other countries condemned the Turchynov government as illegitimate and the result of a coup d'etat. Russia accused the United States and EU of funding and directing the ouster of Yanukovych, maintaining he was illegally impeached and remained the president of Ukraine.

Crimean Crisis

Beginning on February 26, pro-Russian forces began to gradually take control of the Crimean peninsula. Media sources reported that military personnel in Russian-made uniform without insignia, and former members of the Ukraine military were involved.ⁱⁱ While these troops occupied Crimea's parliament building, the Crimean parliament voted to dismiss the Crimean government, replace its Prime Minister, and call a referendum on Crimea's autonomy.ⁱⁱⁱ

On March 16th, 2013, the Crimean people voted in a referendum, expressing their desire to secede from Ukraine and re-join Russia (Crimea was a part of Russia until 1954, when Khrushchev transferred it to Ukraine). Crimean population is predominantly Russian, with a large Ukrainian minority and a somewhat smaller ethnic Tatar community. A referendum on whether to join Russia had an official turnout of 83% and officially resulted in a 96.77% (Crimea) and 95.6% (Sevastopol) affirmative vote^{iv}, but was condemned by the EU, the US, Ukrainian and the representatives of the Crimean Tataras violating Ukraine's constitution and international law.^v On March 17, the Crimean Parliament declared independence from Ukraine and asked to join the Russian Federation. On March 18, Russia and the separatist government of Crimea signed a treaty of accession of the Republic of Crimea and Sevastopol into the Russian Federation. On March 27, the UN General Assembly passed a non-binding Resolution 68/262^{vi} that declared the Crimean referendum invalid and the incorporation of Crimea into Russia illegal. On April 15, the Ukrainian parliament declared Crimea a territory temporarily occupied by Russia.^{vii}

On April 17 Russian president Vladimir Putin confirmed Russian involvement in Crimea, remarking that "Of course, Russian servicemen backed the Crimean self-defense forces". In a conference in Yalta in August of the same year, Putin reasserted that under no circumstances the annexation of Crimea, which was described as "absolutely legal", will be reversed.

Right to Self-determination

The right to self-determination' is one of the most complex issues in international affairs. The theory that all peoples have a right to determine their own political destinies has been almost universally embraced. Whom this right applies to, and what the right encompasses, however, is the subject of tremendous debate, not only among scholars, but also among international leaders. The debate focuses on the inherent tension between the desire to protect the state sovereignty and the desire to give groups within states the right to exercise their culture and political will.

Essentially, the right to self-determination is the right of a people to determine its own destiny. In particular, the principle allows people to choose their own political status and to determine its own form of economic, cultural and social development. Exercise of this right can result in a variety of different outcomes ranging from political independence through to full integration within a state. The importance lies in the right of choice, so that the outcome of a people's choice should not affect the existence of the right to make a choice. In practice, however, the possible outcome of an exercise of self-determination will often determine the attitude of governments towards the actual claim by a people or nation. Thus, while claims to cultural autonomy may be more readily recognized by states, claims to independence are more likely to be rejected by them. Nevertheless, the right to self-determination is recognized in international law as a right of process (not of outcome) belonging to peoples and not to states or governments.

The preferred outcome of an exercise of the right to self-determination varies greatly. For some, the only acceptable outcome is full political independence. This is particularly true of occupied or colonized nations. For others, the goal is a degree of political, cultural and economic autonomy, sometimes in the form of a federal relationship. For others yet, the right to live on and manage a people's traditional lands free of external interference and incursion is the essential aim of a struggle for self-determination.

Introduction in United Nations

The provisions of the Atlantic Charter had a considerable influence on the work of the San Francisco Conference of 1945 where the concept of self-determination took shape and was incorporated into the United Nations Charter^{viii} ('UN Charter'). Art. 1 (2) UN Charter states that it is one of the purposes of the UN to 'develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace'. By virtue of the right of self-determination they freely "determine their political status and freely pursue their economic, social and cultural development". In Chapter IX UN Charter on International Economic and Social Cooperation, Art. 55 UN Charter lists several goals the organization should promote in the spheres of economics, education, culture, and human rights with a view, as is noted in the introductory clause, 'to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples'.

The UN Charter also implicitly refers to the principle of self-determination in the part concerning colonies and other dependent territories. Art. 73 UN Charter affirms that members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories.

Furthermore, Art. 76 (b) UN Charter provides that one of the basic objectives of the trusteeship system is to promote the 'progressive development' of the inhabitants of the trust territories towards 'self-government or independence', taking into account, inter alia, 'the freely expressed wishes of the peoples concerned' (see also United Nations Trusteeship System^{ix}).

In trying to assess the legal significance of these provisions it should not be assumed that the concept of self-determination became a legally binding principle of conventional

international law by the mere fact of its incorporation into the UN Charter. Although the provisions concerning non-self-governing and trust territories entail binding international obligations, the general principles of self-determination and of equal rights of peoples, which in the formula used by the UN Charter appear to be two component elements of the same concept, seem to be too vague and also too complex to entail specific rights and obligations. In particular, the UN Charter neither supplies an answer to the question as to what constitutes a 'people' nor does it lay down the content of the principle. In the absence of any concrete definition, and taking into account the highly various facts of international life, it cannot realistically be interpreted, applied or implemented like a legal norm and thus primarily possesses a very strong moral and political force in guiding the organs of the UN in the exercise of their powers and functions. This interpretation is supported by the fact that self-determination is conceived in the text of Art. 1 (2) UN Charter as one among several possible 'measures to strengthen universal peace' and, in order to fulfill its instrumental function, must therefore be of a highly flexible nature.

Secession (the action of withdrawing formally from membership of a federation or body, especially a political state)

Secession is the action of withdrawing formally from membership of a federation or body, especially a political state.

International law does not grant sub-state entities a general right to secede from their parent states, nor does it prohibit secession. Exceptions to this supposed neutrality arise from the international legal principles of territorial integrity and self-determination. Defining these exceptions is difficult, however, because territorial integrity and self-determination are legally ambiguous terms. For instance, some scholars argue that territorial integrity merely safeguards the inviolability of international borders but does not regulate an internal affair

such as secession. Others claim that territorial integrity prohibits secession because secession dismembers the territory of the state.

The principle of self-determination similarly lends itself to restrictive or expansive interpretations. Some argue that self-determination only allows for the creation of new states in the context of decolonization. Many other scholars assert that the right of self-determination legally entitles peoples subject to extreme persecution to remedy their situation through secession. Most agree that the definition of the “peoples” with collective rights to self-determination is unclear.

Scholars do not contest that the right of self-determination entitles colonized peoples to form states independent of their colonial rulers. The Declaration on the Granting of Independence to Colonial Countries and Peoples underpins the theoretical justification for decolonization with the principle of self-determination. In language echoed by the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Declaration asserts that: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

The right of self-determination did not cease to exist, however, with the effective completion of decolonization. Many scholars insist that a right to “remedial secession” exists. The notion of remedial secession assumes that international law provides a right to secession for peoples subject to extreme persecution or unable to internally realize their right to self-determination. This theory postulates that if groups fall victim to “serious breaches of fundamental human and civil rights” through the “abuse of sovereign power,” then international law recognizes the right of the afflicted group to secede from the offending state.

The legal sources for this right derive primarily from UN General Assembly (GA) resolutions, although earlier sources from the inter-war period exist also. For instance, the Commission of Rapporteurs in the League of Nations’ Aaland Islands dispute found that “separation of a minority from the state of which it forms part . . . may only be considered as an altogether power to enact and apply just and effective guarantees.” Despite thoroughly discouraging secession, the Commission nevertheless provided legal space for a group to

secede under extraordinary circumstances—where the state lacks the will or the power to protect the group at issue.

Subsequent international legal developments retained this space for secession, and may have widened it. The Declaration on Friendly Relations among States contains a provision, referred to as a “safeguard clause,” that reiterates the principle of the territorial integrity of states, but places a number of conditions on that affirmation. The Declaration implicitly authorizes the violation of territorial integrity if states are not “in compliance with the principle of equal rights and self-determination of peoples as described [in the Declaration] and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.”³⁶ The same language was adopted, without the qualifications of “race, creed, or colour,” by the UN World Conference on Human Rights in 1993.³⁷ The conference replaced the words “race, creed, or colour” with the inclusive phrase “any kind.” The UN General Assembly affirmed the modified text in 1995. An expansive interpretation of this provision suggests that if peoples cannot exercise their right to self-determination internally because their government oppresses them or does not represent them, then they may exercise that right externally through secession.

[Why is Ukraine in crisis?](#)

The country of forty-five million people has struggled with its identity since the dissolution of the Soviet Union in 1991. Ukraine has failed to resolve its internal divisions and build strong political institutions, hampering its ability to implement economic reforms. In the decade following independence, successive presidents allowed oligarchs to gain increasing control over the economy while repression against political opponents intensified. By 2010, Ukraine's fifty richest people controlled nearly half of the country's gross domestic product, writes Andrew Wilson in the CFR book *Pathways to Freedom*.

A reformist tide briefly crested in 2004 when the Orange Revolution, set off by a rigged presidential election won by Yanukovich, brought Viktor Yushchenko to the presidency. Yet infighting among elites hampered reforms, and severe economic troubles resurged with the global economic crisis of 2008. The revolution also masked the divide between European-oriented western and central Ukraine and Russian-oriented southern and eastern Ukraine.

Campaigning on a platform of closer ties with Russia, Yanukovich won the 2010 presidential election. By many accounts, he then reverted to the pattern of corruption and cronyism. His family may have embezzled as much as \$8 billion to \$10 billion a year over three years, according to Anders Aslund of the Peterson Institute for International

Economics. He also imprisoned his reformist opponent in the 2010 presidential race, Yulia Tymoshenko, on charges of abuse of power.

Yanukovich continued talks with the EU on a trade association agreement, which he signaled he would sign in late 2013. (Tymoshenko's release was one of the conditions set by the EU for the trade association agreement.) But under pressure from Russia, he dropped those plans in November, citing concerns about European competition. The decision provoked demonstrations in Kiev on what became known as the Euromaidan by protesters seeking to align their future with Europe's and speaking out against corruption.

The Yanukovich government's crackdown after three months of protests, in some cases spurring reprisals by radicalized demonstrators, caused the bloodiest conflict in the country's post-Soviet period, with scores killed. Yanukovich's subsequent ouster sowed new divisions between the eastern and western halves of the country, and fighting between pro-Russian separatists and government forces broke out in April 2014. Separatists in the regions of Luhansk and Donetsk established self-declared "people's republics."

Elections on May 25 brought pro-Western businessman Petro Poroshenko into power, and he moved to try to reassert central government control over restive eastern cities. By August, the fighting had killed more than 2,000 people and caused hundreds of thousands to flee their homes, according to UN officials. Officials in Kiev and NATO states accused Russia of arming the separatists and said rebels in eastern Ukraine using Russia-supplied ground-to-air missiles were responsible for the downing of a civilian airliner in July 2014, in which 298 people were killed. Russia denied the charges but has continuously deployed thousands of troops near the Ukrainian border.

What are Russia's concerns?

Russia has strong fraternal ties with Ukraine dating back to the ninth century and the founding of Kievan Rus, the first eastern Slavic state, whose capital was Kiev. Ukraine was part of Russia for centuries, and the two continued to be closely aligned through the Soviet period, when Ukraine and Russia were separate republics. "The West must understand that, to Russia, Ukraine can never be just a foreign country," wrote former U.S. secretary of state Henry Kissinger in a *Washington Post* op-ed.

Ukraine is also a major economic partner that Russia would like to incorporate into its proposed Eurasian Union, a customs bloc due to be formed in January 2015 whose likely members include Kazakhstan, Belarus, and Armenia.

Ukraine plays an important role in Russia's energy trade; its pipelines provide transit to 80 percent of the natural gas Russia sends to European markets, and Ukraine itself is a major market for Russian gas. Militarily, Ukraine is also important to Russia as a buffer state, and was home to Russia's Black Sea fleet, based in the Crimean port city of Sevastopol under a bilateral agreement between the two states.

Russia considers EU efforts to expand eastward to Ukraine, even through a relatively limited association agreement, as an alarming step that opens the door to others Western institutions. The EU's Eastern Partnership Program is aimed at forging tighter bonds with six former Eastern bloc countries, but Russia sees it as a stepping-stone to organizations such as NATO, whose eastward expansion is regarded by Russia's

security establishment as a threat. Ukraine belongs to NATO's Partnership for Peace program, but is seen as having little prospect of joining the alliance in the foreseeable future.

Russian president Vladimir Putin has portrayed his country's role in Ukraine as safeguarding ethnic Russians worried by lawlessness spreading east from the capital, charges that leaders in Kiev dismiss as provocations. In the case of Crimea, Putin has stressed Moscow is not imposing its will, but rather, supporting the free choice of the local population, drawing parallels with the support Western states gave to Kosovo's 2008 declaration of independence from Serbia. Shortly before moving to annex Crimea on March 18, Putin told the Russian parliament that Russia would protect the rights of Russians abroad.

NATO-Russia relation

The Cold War ended over 20 years ago. It was characterized by the opposition of two ideological blocs, the presence of massive standing armies in Europe, and the military, political and economic domination by the Soviet Union of almost all its European neighbours.

The modern world does not feature competing ideological blocs: Russia has neither a credible ideology to export, nor significant international allies who support its aggressive actions in and around Ukraine. In fact, in a vote in the United Nations General Assembly on 23 March 2014, 100 countries voted that Russia's attempted annexation of Crimea was illegal, and just 10, other than Russia, supported it.

The end of the Cold War was a victory for the people of Central and Eastern Europe and the former Soviet Union, and opened the way to overcoming the division of Europe. At path breaking Summit meetings in the years after the fall of the Berlin Wall, Russia played its part in building new, inclusive European security architecture, including the Charter of Paris, the establishment of the OSCE, and the NATO-Russia Founding Act.

Over the past decades, NATO reached out to Russia with a series of partnership initiatives, culminating in the foundation of the NATO-Russia Council in 2002. No other country has such a privileged relationship with NATO.

As stated by NATO heads of state and government at the Wales Summit in September, *"the Alliance does not seek confrontation and poses no threat to Russia. But we cannot and will not compromise on the principles on which our Alliance and security in Europe and North America rest."*

This is NATO's official policy, defined and expressed transparently by its highest level of leadership.

(Meeting of March 11th, 2015)

The meeting, attended by Russia's Ambassador to NATO, took place almost one year after the illegal and illegitimate annexation of Crimea by Russia, which NATO Allies do not recognise.

Euro-Atlantic Partnership Council (EAPC) nations expressed deep concern over the ongoing conflict in Eastern Ukraine, urging Russia to withdraw its forces and its support for the separatists. All members of the EAPC agreed that the full implementation of the Minsk agreement is the only path to a lasting and peaceful solution. Secretary General Stoltenberg stressed that the ceasefire remains fragile and sporadic violations continue. He said that all parties should fully implement the Minsk agreement in good faith, including Russia, whose support for the separatists has further fuelled the conflict. As a first step, he called for a *"withdrawal of heavy weapons from the line of contact in a transparent and verifiable manner"*, with full access to the OSCE monitors.

Allies and other EAPC participants also condemned Russia's illegal and illegitimate annexation of Crimea, and called on Moscow to reverse course.

The NATO Secretary General said that *"the stability of the entire Euro-Atlantic region have been undermined, as have the values of national sovereignty and peaceful conflict resolution, values which all members of the EAPC have committed to uphold"*. Mr. Stoltenberg underlined that the Basic Document of the Euro-Atlantic Partnership Council contains a joint pledge to promote peace and stability in the Euro-Atlantic area. He called on all EAPC members to respect this fundamental commitment.

International humanitarian law is a set of rules, which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare.

International humanitarian law is also known as the law of war or the law of armed conflict.

A major part of international humanitarian law is contained in the four Geneva Conventions of 1949. Nearly every State in the world has agreed to be bound by them. The Conventions have been developed and supplemented by two further agreements: the Additional Protocols of 1977 relating to the protection of victims of armed conflicts. Other agreements prohibit the use of certain weapons and military tactics and protect certain categories of people and goods. These agreements include:

- The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, plus its two protocols;
- The 1972 Biological Weapons Convention;
- The 1980 Conventional Weapons Convention and its five protocols;
- The 1993 Chemical Weapons Convention;
- The 1997 Ottawa Convention on anti-personnel mines;
- The 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

Secession (the action of withdrawing formally from membership of a federation or body, especially a political state)

Secession is the action of withdrawing formally from membership of a federation or body, especially a political state. The core question of whether a part of a country has a right to secede is rooted in the contradiction between the self-determination right of nations and the territorial integrity of states. Both of these principles are part of the UN Charter; however, interpretations differ. In practice, the following principles apply in dealing with secessionist movements: Amicable, peaceful separations are respected as a matter of principle. On the other hand, unilateral declarations of independence without the consent of the remaining state are only considered legitimate in exceptional situations, in particular, in cases where a colonial status is ended. Beyond this, though, there is no right to secession. If a majority in one part of a country demands more rights by democratic means, however, the government in question may be regarded as having an obligation to deal with the matter politically

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