

Investigating Dimensions of Crimea to Russia

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Abstract

Ukraine again if the legal case but has raised international issues, among the legal issues of the accession of the country to another part of the territory of a country from the perspective of international law. Russia's contradictory statements on the right to cite legitimate right to defend itself and defend its citizens to protest government interference in the autonomous region of Crimea and temporary Karma in Kiev (Ukraine) and the subsequent protest governments and international organizations to this attempted Russia, has launched numerous legal arguments. From the perspective of international law and the view of most jurists force or armed force without the permission of the central government over a territory kind of intervention in the internal affairs of countries, which are contrary to the principles on the basis of paragraph 4 of Article 2 of the United Nations international law and contrary to the Charter of the United Nations. The annexation of Crimea to Russia without the permission and consent of the government of Ukraine is illegal and undermines the principles of international law. This type of incorporation in the study of international law in the twenty-first century is a challenge because the pros and cons of joining any of their legal arguments were raised. Agrees to "self-determination" and "self-defense" and the opposition took citing human rights violations raised intervention prohibition and the reasons for joining the opposition and by stronger fundamentals. This study aims to investigate the annexation of Crimea from the perspective of international law. According to the rules of international law, procedures and actions governments and international organizations acting contrary to the principles of the Charter of the United Nations, Russia including non-intervention and non-use of force and lay the groundwork for independence and minority ethnic groups living in other countries as provides ongoing practice.

Keywords: Crimea, Russia, Ukraine, Legal.

Introduction

Ukraine's problems, however, are not solely political and economic. Russia responded to the change of government in Kyiv in 2014 by seizing Ukraine's Crimea region and annexing it on March 18, 2014. In April 2014, armed pro-Russian separatists supported by Moscow seized parts of the Donbas region of eastern Ukraine. A 12-point agreement to end the conflict, known as Minsk-2, was signed in Minsk, Belarus, in late 2014 by the leaders of Russia, Ukraine, France, and Germany. The agreement took effect in February 2015.

The United States strongly condemned Russia's annexation of Crimea and its incursion into eastern Ukraine and, along with the EU, the United States imposed sanctions against Russian individuals and key firms initially for seizing Crimea. These sanctions have continued and were enhanced in response to Russia's continued aggression and activity in eastern Ukraine. In

December 2014, President Obama signed H.R. 5859, the Ukraine Freedom Support Act. The measure authorized the President to impose sanctions on Russian defense, energy, and other firms and foreign persons; authorized increased military and economic assistance for Ukraine; authorized funding for U.S. Russian-language broadcasting in the region; and offered support for Russian civil society and democracy organizations. The legislation also urged the Administration to provide weapons to the Ukrainian military, but the Obama Administration rejected the idea, viewing it as risking a further escalation of the conflict. Additional legislation supporting Ukraine is likely to be considered by the House and Senate in 2016.

Ukraine, comparable in size and population to France, is a large, important, European state. It occupies the sensitive position between Russia and North Atlantic Treaty Organization (NATO) member states Poland, Slovakia, Hungary, and Romania. Because many Russian politicians, as well as ordinary citizens, have never been fully reconciled to Ukraine's independence from the Soviet Union in 1991, there was strong Russian support for the annexation of Crimea and a continuing belief that the country belongs in Russia's political and economic orbit. It has been reported that in 2008, Russian President Putin told U.S. President George W. Bush that Ukraine was not a state and that while the western part of the country may belong to Eastern Europe, eastern Ukraine was Russia's.¹ On the other hand, the U.S. and European view (particularly in Central and Eastern Europe) is that a strong, independent Ukraine is an important part of building a Europe that is whole, free, and at peace. Since Ukraine achieved independence in 1991, Ukraine's political scene has been dominated by "oligarchs" (powerful, politically well-connected businessmen, mainly based in eastern and southern Ukraine), which had divided up the country's economic assets among themselves and regularly manipulated the government budget for their own profit. President Viktor Yanukovich, who was elected in February 2010, drew his main support from oligarchs from the Donets Basin (Donbas) region of eastern Ukraine. His government was criticized for high levels of corruption, in part committed by Yanukovich's own family and close associates. U.S. and European Union (EU) officials expressed strong concern over the government's human rights record, especially the targeting of opposition leaders for selective prosecution.

The annexation of Crimea encouraged the Russian-speaking separatists in Eastern and Southern Ukraine who apparently hoped that Moscow will repeat the same scenario. The mass unrest, anti-Kiev demonstrations, tearing down Ukrainian state symbols and hoisting up Russian national flags, breaking-in and occupying numerous official buildings took place in April 2014 in a number of Ukrainian cities. In Kharkov, Donetsk, Lugansk and Odessa "People's Republics" were proclaimed. Numerous Crimean Russians have presumably also participated in these events. Russian, Chechen and other non-Ukrainian "volunteers" from the Russian Federation's territory and other countries have constituted, according to some estimates, over a third of the insurgent forces. Their Southward advance toward Mariupol and the Azov Sea was obviously intended to shorten the distance and make easier communication between Crimea and the Donetsk republic.

In February and March 2014 Ukraine was literally overrun by a chain of events that eventually led to an incorporation of Crimea into Russian territory. A joint endeavor by Crimean and Russian authorities used the internal conflict in Ukraine to deprive the Ukrainian government of its control over Crimea, to hold a referendum, and to declare the independence of Crimea.

Already on the day after the declaration of independence Russia formally recognized Crimea as an independent state, and the Crimean parliament requested Crimea to be admitted to Russia. Soon after that, the accession treaty was signed and within only a few more days all Russian constitutional requirements for an accession of Crimea to Russia were fulfilled. Immediately after Yanukovich's overthrow, pro-Russian troops took control of Crimea and initiated an incremental process of accession of Crimea to Russia. On 1.3.2014, the Russian Council authorized the use of armed forces on the territory of Ukraine. In the following weeks Russian troops in Crimea were reinforced and also gathered at the Ukrainian border. After Crimea's declaration of independence Russian troops openly took action in Crimea and, for example, forced Ukrainian military units to surrender and leave the peninsula. If and to which extent, however, Russian troops were already present before the referendum, remains contested. Russian authorities keep proclaiming that the soldiers who took control of Crimea after Yanukovich's removal from office were actually independent Crimean "self-defense units". Numerous press reports, however, suggest that these soldiers were not only local militias, but in fact also Russian soldiers.

Self-Determination and Secession

The Crimean government as well as Russia refer to the right to self determination of peoples as a foundation for Crimea's secession from Ukraine.⁷⁴ The right to self-determination is a fundamental principle of international law and is incorporated in Article 1 (2) UN Charter. The most authoritative interpretation of that principle has been given in the Friendly Relations Declaration,⁷⁵ annexed to General Assembly Resolution 2625. This declaration proclaims that "all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter". Since antiquity and up until 2014 the entire territory of Crimea or its parts were ruled by the Greeks, Bulgars, Scythians, Romans, Goths, Huns, Khazars, Kievan Rus', the Byzantine Empire, Venice, Genoa, Kipchaks, the Mongol Golden Horde, the Ottoman Empire, the Russian Empire, Soviet Russia, the Soviet Union, Germany, the Soviet Union again, and Ukraine. After the destruction of the Golden Horde by Tamerlan, in 1441 the Crimean Tatars established an independent Crimean Khanate. It encompassed most of the peninsula along with the territory of today's southern Ukraine and part of southern Russia. Its capital for most of the Khanate's existence was in Bakhchisaray. The Ottomans conquered the southern coast of Crimea, chased the Genoans away and annexed it to the Empire. In 1475 the Khanate was forced by them to become an Ottoman dependency. Thus, in its very long known history Crimea had been an independent state for less than four decades.

The two leaders involved in the newest conflict over Crimea – Ukrainian President Petro Poroshenko and Russian President Vladimir Putin – both represent Slavic nations. However, the present dispute is about the peninsula bearing the name Krim or Krym which, in their closely related Eastern Slavic languages, was derived from the Turkish word qirim. In the 13th century this name was initially given to the capital of a province ruled by the Tatar-Mongol Golden Horde. The more ancient Greek name of that land Tauris/Taurica as well as the names of Sevastopol and of other old towns (Simpheropol, Feodosia etc.) together with many toponyms point to the most ancient recorded inhabitants of Crimea – the Tauris and the Greeks. Crimea became a colony of the Russian Empire in the late 18th century as a result of Russian victories in the first and second wars with the Ottoman Empire. The first of these two wars broke out in

1768. The casus belli was Russian interference in Poland's internal affairs and the presence of Russian troops supporting the newly elected Polish King Stanislas Poniatowsky, a Russian protégé. Encouraged by France, the Ottoman government demanded the withdrawal of Russian troops from Poland. Following Russia's refusal, the Ottomans initiated naval and land warfare. In 1774, after another defeat, the Ottoman Empire was forced to recognize Crimea's independence, although the Sultan retained his spiritual power over all Crimean Muslims. Crimea's outright annexation by Russia followed in 1783. Sahin Giray fled Crimea in 1787 and was later executed by the Ottomans for treason. The Russian conquerors then gave Crimea a new name – the Taurida govenorate.

Political Conflict in Ukraine

After the end of the cold war, Ukraine has become a focus of geostrategica interests. Ukraine is torn between the European Union on the one hand, Russia on the other. For the EU, Ukraine is a potential candidate for future accession. The first part of the association agreement that was signed in March 2014 directs the EU and Ukraine towards closer political and economic cooperation. Russia, on the other hand, opposes that development sharply and fears for its political influence in Eastern Europe. The number of non-Nato and non-EU states in Eastern Europe has declined significantly over the last two decades and Russia strictly defies that the remaining neutral states become part of these organizations as well. Moreover, Russia has a key interest in Ukrainian territory, since it relies on access to Crimea as basis for its Black Sea Fleet. Russia's bargaining power is by all that immense: Ukraine depends on gas supplies from Russia and is, in addition to that, an important trading partner. This role has enabled Russia to prevent the adoption of the EU-Ukraine association agreement that was, for a first time, scheduled to be signed in November 2013.

The legal status of Crimea from 1917 to 2014 since the collapse of the Russian Empire, the two revolutions in 1917 and the end of the Russian Civil War the official name and legal status of the peninsula have changed many times. The Russian Bosheviki launched a campaign to replace previously official imperial names of both provinces and cities with new ones. As an expression of the new nationality policy and a friendly gesture towards Kemal Ataturk's Turkey, the previous official name derived from Greek, was replaced with a Turkic name Krym. In October 1921 the Crimean Autonomous Soviet Socialist Republic was proclaimed as a unit of the Russian SFSR. The new name and autonomous status were related to the presence of the still sizeable non-Russian minorities, primarily of the Crimean Tatars. In 1922 Crimea was incorporated into the Soviet Union and remained within the USSR until it was dissolved in December 1991. The only exception was the period from late summer 1941 until spring 1944. Most of Crimea was then occupied by the Third Reich and, from 1 September 1942, it had been administered as the Generalbezirk Krim and Teilbezirk Taurien. In 1945, following the radical cleansing of national minorities Crimea was stripped of its pre-war autonomous status and became an ordinary oblast of the Russian SFSR. Less than a year after the death of the all-mighty dictator Joseph Stalin, in February 1954 the Presidium of the Supreme Soviet of the USSR issued a decree transferring the Crimean Oblast from the Russian Soviet Federative Socialist Republic to the Ukrainian SSR. The transfer was then described by official communist propaganda as a symbolic brotherly gesture marking the 300th anniversary of when Ukraine joined the Russian Empire. This momentous decree by the Presidium (and not a federal law or a constitutional amendment passed by the entire Supreme Soviet of the USSR) provided a very dubious legal basis for a decision actually made by the Politburo of the Communist Party of the Soviet Union

(CPSU). The Presidium decree was presumably adopted at the request of the Presidia of the two parliaments. The transfer of Crimea was said to have been prompted by the need to bring a large labor force and water for irrigation from Ukraine. However, the decree clearly violated Articles 14 and 18 of the then valid 'Stalin's' constitution of the Soviet Union which required a formal agreement between Soviet Socialist Republics for any change of their borders. The Supreme Soviet of the USSR (and not the Presidium) could only confirm such an agreement but not by itself pass a federal law and a constitutional amendment to that effect. In the case of Crimea, no such parliamentary procedure was initiated and duly carried out in the two parliaments, no relevant parliamentary sessions were held, no debates took place, no votes were taken and no agreement adopted and signed. Moreover, the Crimean population was deprived of its right to give or deny its consent for any major status change. Therefore, even in Soviet terms the transfer of Crimea to Ukraine was illegal, unconstitutional and clearly illegitimate. The next status change of Crimea occurred during the dissolution of the Soviet Union in 1990–1991. After an all-Ukrainian referendum in February 1991, the Crimean Oblast was upgraded again to the status of an autonomous republic, this time within Ukraine. In summer 1991 an attempted coup against Mikhail Gorbachev took place in Crimea where the then President of the Soviet Union was vacationing. The coup, its aftermath and the referendum on Ukraine's independence on 2 December 1991 actually sealed the fate of the USSR. At the latter referendum, the population of the Autonomous Republic of Crimea was not consulted on whether it desired to remain in Ukraine after the dissolution of the USSR or alternatively to re-join the Russian Federation. The Soviet Union was in fact dissolved on 8 December 1991 at a meeting of the heads of the Russian Federation, Ukraine and Belarus. At that gathering held in the Belovezhska Pushcha hunting reserve, the Russian leader Boris Yeltsin failed to request Crimea's return to 'mother' Russia from his Ukrainian colleague, Leonid Kravchuk. On 26 February 1992 the Supreme Soviet of the Crimean ASSR, without the consent of the Ukrainian authorities, changed the official name of the land to the Republic of Crimea. On 5 May 1992, the Crimean parliament proclaimed Crimea's independence and passed its first constitution. Under pressure from Kiev, the latter was amended on 6 May 1992 with a sentence on Crimea as being part of Ukraine. On 19 May 1992 the proclamation of Crimean independence was annulled by the Ukrainian Supreme Rada (parliament). As a quid pro quo, Kiev agreed to strengthen Crimea's autonomous status. Exploiting these increased legal prerogatives, on 14 October 1993 the Crimean parliament established the post of President of Crimea and granted the Crimean Tatars regular representation in the consultative Council of Fourteen. On 17 March 1995, the Ukrainian parliament annulled Crimea's constitution, removed the President of Crimea Yuriy Meshkov and abolished his office. The President was charged with anti-state activities and with promoting Crimea's secession from Ukraine and its integration with the Russian Federation.

The persecution of Crimean Tatars

No group has been hit harder than the Crimean Tatars. When Ukraine became independent in 1991 high numbers began to return to the Peninsula and Tatar in-migration has continued ever since. While their resettlement never enjoyed the full support of various governments in Kyiv, with struggles on issues such as land and property returns, the Tatars have remained a reliable pro-Ukrainian and pro-Western electoral bloc and staunch supporters of Ukraine's territorial integrity. The majority boycotted the illegal referendum and Russian local elections in September 2014. In the past twelve months, their freedoms and rights have been repeatedly

attacked. Moscow and the local Crimean authorities have banned public commemorations for the Tatar deportations, raided the Tatar parliament, and exiled the Tatars' two top political figures: Mustafa Dzhemiliev, Ukrainian President Petro Poroshenko's representative on Crimean Tatar affairs and Refat Chubarov, the President of the Mejlis of the Crimean Tatars. Tatar media has been all but closed down. The Tatars have also broadly been prohibited from celebrating their holidays and remembering the victims of political repressions; they are harassed by secret services and "self-defence forces" that search homes, offices and mosques. Certain Islamic books, including school books, previously considered legal under the Ukrainian law, have been banned and cited as "extremist" material. Today the Tatars feel they are reliving the brutal events that led to the 1944 deportation. Many Tatars also feel abandoned by Turkey, their ethnic kin. While Ankara has professed itself the steadfast defender of the Crimean Tatars, this has been little more than lip service as Ankara has taken steps to deepen economic ties with Russia in the last 12 months. There were some 300.000 Tartars in Crimea at the time of annexation. An estimated 15.000 have already fled to mainland Ukraine.

After talks between the EU, US, Ukraine and Russia in Geneva in late April, Ukraine had temporarily put its military action on hold until it could discern whether or not Russia was complying with the Geneva agreement. However, on April 22nd after the discovery of tortured corpses near Slaviansk, the interim President called for a renewal of military force. He claimed that this crime had undoubtedly had Russian support. For its part, Russia has used the incident to claim that Ukraine has not held up its end of the Geneva agreement, by not effectively preventing further unrest and violence within its borders.

The interim Ukrainian government asked that the UK and U.S. help stop Russian aggression in the region. The Ukrainian Parliament has voted to create a National Guard of 60,000 to push back Russian and pro-Russian forces in East Ukraine. The Ukrainian government's response to the current situation in Ukraine has been an uphill challenge against geographically dispersed protestors, first in western Ukraine in Kiev, later in Crimea, and now in Eastern Ukraine. The Ukrainian government is heavily reliant on foreign aid from the EU and the U.S. at this point, as it cannot stabilize domestic unrest alone. Russian forces invaded Crimea on the 27th of February. Since then, Russian forces have taken over bases across the region. The Russian military action largely avoided violence, although warning shots have been fired and at least one Ukrainian officer has been killed. Some Ukrainian troops have volunteered to defect to Russia, and others have been sent to their barracks or homes to pack in preparation to leave Crimea. On March 25th, Interim Ukrainian President Oleksandr Turchynov ordered the withdrawal of all Ukrainian military forces from Crimea after the last of the 189 Ukrainian military bases there had been taken over by Russian forces on March 23rd. On March 16th, a referendum was held in Crimea as to whether Crimea should be part of Russia instead of Ukraine. Russian President Vladimir Putin has since announced

that the elections were supervised by Russian military forces. This referendum has been derided by the international community as illegitimate due both to its low turnout and due to Russia's influence over the vote's results. Despite this perceived illegitimacy, Russia has used this referendum as its justification for continuing to rule Crimea. East Ukraine is seen as Russia's next target after Crimea because it shares a number of features similar to Crimea that make it an attractive potential addition for Russia. In some areas of East Ukraine, over 75% of the populations speak Russian as their native language, and at least 25% of the population of East Ukraine does in general. Additionally, East Ukraine tends to vote for politically conservative and pro-Russian candidates in elections, with over 75% in some regions and at least 50% in general.

The regions of East Ukraine in which individuals speak the most Russian and are the most politically conservative are geographically closest to Russia. And like Crimea, East Ukraine is geographically accessible to Russia. After Crimea was taken over by Russian forces, East Ukraine has experienced increasing destabilization by pro-Russian forces, both civilian and military. Pro-Russian forces have occupied some government buildings in East Ukraine and have established control there more broadly through the construction of roadblocks, prompting Ukraine's acting president Oleksandr Turchynov to announce an anti-terrorist effort specifically aimed at eliminating Pro-Russian militant forces. Thus far, these efforts have proven mostly ineffective and a number of Ukrainian forces have been disarmed or captured. The situation in East Ukraine has remained largely non-violent; the highest death toll was an incident at a Ukrainian base in which three pro-Russian militants were killed and were wounded. The U.S. State Department "strongly suspects" Russia to have organized and initiated the actions of pro-Russian military groups in East Ukraine. Some Ukrainian military units in East Ukraine that have defected to Russia have taken to driving military vehicles outfitted with Russian flags. Paramilitary pro-Russian forces in East Ukraine are at minimum assisted by agents of the Russian government. Although Russian assistance of those pro-Russian forces has been suspected by various commentators, it is only recently that evidence has confirmed these suspicions. In an intercepted phone call in early May obtained by the Ukraine Security Service (SBU), an envoy of the Russian government named Vladimir Lukin issued instructions to a leader of paramilitary pro-Russian forces in East Ukraine named Colonel Igor Girkin. During this phone call, Col. Girkin explained that he had been instructed to cooperate only with Russian representatives and Lukin, as opposed to other envoys that had also convened to negotiate the release of several non-Ukrainian hostages.

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