

Crimes in Crimea

[LORENZO ANAGNOST]

In February and March of 2014, Russia invaded the Crimean Peninsula of Ukraine and annexed it. The acquisition of Crimea by Russia was facilitated by an ongoing power vacuum in Ukraine following the Revolution of Dignity; this act by Russia marked the beginning of the Russo-Ukrainian War. I argue that the annexation of Crimea by Russia was in violation of international law. However, prior to examining the illegality of this issue, and proving my claim, it is important to provide a historical background on what led up to this annexation so that a comprehensive understanding of the situation is held.

Mark Kramer, director of Russian and Eurasian Studies at Harvard University identifies the genesis of this issue and its development. Let us go all the way back to the year 1783; this year marks the Tsarist Empire's (Russia) annexation of Crimea one decade after defeating Ottoman forces in the Battle of Kozludzha.¹ Crimea was considered part of Russian territory up until 1954 when Crimea was transferred from the Russian Soviet Federation of Socialist Republics (RSFSR) to the Ukrainian Soviet Socialist Republic (UkrSSR).² It is crucial to analyze why Russia transferred Crimea to Ukraine during this period and whether this action was grounded in legal principles. In late February 1954, the Soviet press announced the transfer of Crimea to Ukraine eight days following the Presidium of the USSR Supreme Soviet who adopted a resolution authorizing the move earlier that month.³ Interestingly, only the text of the resolution and some

1 Mark Kramer, "Why Did Russia Give Away Crimea Sixty Years Ago?" *Wilson Center*, March 19, 2014, <https://www.wilsoncenter.org/publication/why-did-russia-give-away-crimea-sixty-years-ago>.

2 Kramer, "Why Did Russia Give Away Crimea Sixty Years Ago?"

3 Kramer, "Why Did Russia Give Away Crimea Sixty Years Ago?"

innocuous excerpts from the proceedings were published in tandem with a brief announcement.⁴ No further information regarding the transfer was published during the Soviet era. It was only until 1992, shortly after the dissolution of the Soviet Union, that new material regarding this transfer emerged.⁵ A historical archival journey named *Istoricheskii Arkhiv* resurfaced in 1992 with declassified documents regarding the transfer of Crimea containing two official rationales that were published way back in 1954: (1) the purpose of the secession of Crimea was to commemorate the 300th anniversary of the reunification of Ukraine with Russia (this was in reference to the Treaty of Pereyaslav signed in 1654 by representatives of the Ukrainian Cossack Hetmanate and Tsar Aleksei I of Muscovy) and to express the love and earnestness that Russians feel towards Ukrainians, and (2) the transfer was the result of Ukraine's territorial proximity to Russia, their similar economic structures, their essentially identical agricultural methods, and the strong cultural nexus between the Crimean oblast and the UkrSSS.⁶

While this is helpful, these reasons are normative and devoid of legal justification and furthermore, the apparent reasons provided by the Soviet Union seem dubious. This is because no strong connection exists between the Treaty of Pereyaslav and Crimea; to elucidate this point, Crimea came under Russian control 130 years after its signing.⁷ Furthermore, in the 1950s, the population of Crimea was largely Russian and as a result many of its regions participated in Russian culture; this renders the claim by the Soviet Union that Crimea and Ukraine were essentially homogeneous into question. Crimea did have the economic and agricultural ties to Ukraine that the Soviet Union claimed they did. However, these ties existed with the Soviet Union as well. Furthermore, Crimea served as a quasi-militaristic stronghold for the Soviet Union.⁸ Again, these ostensible justifications do not hold under strict scrutiny. What is more likely the case is that Nikita Khrushchev, the former Prime Minister of the Soviet Union, used the transfer of Crimea to gain the favor of Ukrainian elites to consolidate power against his political rival Georgii Malenkov, the then prime minister of the Soviet Union.⁹ Furthermore, Khrushchev was aware of the large ethnographic makeup of Crimea, and saw the transfer as a means of strengthening Soviet control over Ukraine as around 900,000 Russians –from Crimea– would be joining the already existing Russian presence in Ukraine; this approach of “Russianization” can be identified in other Baltic republics, those being Latvia and Estonia.¹⁰

Moving forward, the aforementioned archival journal *Istoricheskii Arkhiv* makes it clear that Crimea's transfer from the RSFSR to the UkrSSR was done

4 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

5 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

6 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

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8 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

9 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

10 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

properly and in accordance with the Soviet Constitution of 1936. Article 18 of this constitution stipulates that “the territory of a Union Republic may not be altered without its consent.”¹¹ This is relevant as the documentation from the proceedings of the USSR Supreme Soviet Presidium assembly strongly suggests that both the RSFSR and the UkrSS gave consent to the transfer of Crimea via their parliaments.¹² Therefore, it would be erroneous to assert that the transfer of Crimea occurred illegally or unconstitutionally as it was done in accordance with the rules in effect at that time. Furthermore, Russia accepted Ukraine’s possession of Crimea when the Russian Federation acknowledged Ukraine’s borders both in the December 1991 Belovezhskaya Pushcha accords (the agreements that precipitated and codified the dissolution of the Soviet Union) and in the December 1994 Budapest Memorandum that finalized Ukraine’s status as a non-nuclear weapons state.¹³ The point in all this discussion is to highlight that while Russia may have had more nefarious intentions when transferring Crimea to Ukraine than initially professed, this transfer was nonetheless done in accordance with legal principles and was consented to by both parties. The legal legitimacy of this transfer is bolstered by Russia’s continued acknowledgement of Ukrainian territory in 1991 and again in 1994. Therefore, it would be problematic for Russia to argue –as has been done– that this transfer was some unscrupulous and clandestine act on behalf of the Ukrainian government as Russia was the driving force behind this transfer.

Now that it has been established that Crimea was lawfully given to Ukraine, we shall examine the exact circumstances leading up to its annexation. Luckily, an article by the *Kyiv Post*, titled “Euromaidan Rallies in Ukraine,” explicates this situation. On November 26, 2013, the president of Ukraine, Viktor Yanukovych made a sudden decision to not sign the European Union and Ukraine Association Agreement, instead choosing to join the Eurasian Economic Union and bolster ties with Russia; this was much to the dismay of the Ukrainian people.¹⁴ Not only were the people of Ukraine in favor of joining the European Union, but Ukraine’s own parliament had overwhelmingly supported the decision as well.¹⁵ This action by Yanukovych galvanized thousands of Ukrainians to protest in which they called for the resignation of Yanukovych and his government.¹⁶ Much of the rhetoric surrounding the protesters revolved around claims of corruption, violation of human rights, and blatant collusion with Russia.¹⁷ These pro-

11 *Istoricheskii Arkhiv*, Soviet Constitution, art. 18 (1936).

12 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

13 Kramer, “Why Did Russia Give Away Crimea Sixty Years Ago?”

14 “Euromaidan Rallies in Ukraine – Nov. 21-23 Coverage.” *Kyiv Post: Ukraine’s Global Voice*, November 25, 2013, <https://www.kyivpost.com/article/content/euromaidan/euromaidan-rallies-in-ukraine-nov-21-23-coverage-332423.html>.

15 “Euromaidan Rallies,” *Kyiv Post*.

16 “Euromaidan Rallies,” *Kyiv Post*.

17 “Euromaidan Rallies,” *Kyiv Post*.

tests, given the moniker of Euromaidan, were non-stop and were so large in fact, that it was the largest democratic protest in Europe since 1989.¹⁸ The Ukrainian government attempted to “resolve” these protests through the use of force; this exacerbated the ferocity of the movement.¹⁹ For example, protesters established a massive protest camp in Independence Square in Kyiv which was subsequently invaded by Ukrainian police.²⁰ This was the final provocation; protesters began occupying government buildings all throughout Ukraine wreaking havoc across the country. In an attempt to alleviate this worsening situation, Yanukovych and his parliamentary opposition signed the Agreement on the Settlement of the Political Crisis in Ukraine on the 21st of February 2014, to bring about an interim government, constitutional reforms, and early elections; this was unsuccessful as Euromaidan had reached its apex thus igniting the Revolution of Dignity. Police abandoned central Kyiv while Yanukovych and other government ministers fled the city. The next day, February 22nd, the parliament officially removed Yanukovych from office and installed their own interim government officially sparking the Russo-Ukraine war.

In the midst of the ongoing political turmoil in Ukraine, Russia would capitalize on this power vacuum. In an article published by Britannica, “Crisis in Crimea and Eastern Ukraine,” author Oleksa Zasenکو, inter alia, provides crucial detail on how Russia went about annexing Crimea. On the 27th of February, groups of armed men wearing uniforms lacking any clear identifying marks or symbols began entering Crimea surrounding airports in Simferopol and Sevastopol.²¹ These “little green men” as they are often referred to began capturing key infrastructure and government buildings throughout Crimea.²² These unrevealed gunmen began to occupy the Crimean parliament building and subsequently raised a Russian flag.²³ This action was followed by pro-Russian lawmakers who—with the aid of the newly arrived masked gunmen—dismissed the sitting government and appointed Sergey Aksyonov, the leader of the Russian Unity Party, as Crimea’s prime minister.²⁴ First, Crimean authorities declared their independence. Second, the newly altered parliament announced the Crimean status referendum of 2014. This referendum asked the following: whether Crimea wanted to rejoin Russia as an oblast, or if Crimea wished to remain part of Ukraine. The now Autonomous Republic of Crimea reported a whopping 97 percent vote in favor of integration into the Russian Federation. On March 18, 2014, Russia happily

18 “Euromaidan Rallies,” *Kyiv Post*.

19 “Euromaidan Rallies,” *Kyiv Post*.

20 “Euromaidan Rallies,” *Kyiv Post*.

21 Oleksa Zasenکو et al., “The Crisis in Crimea and Eastern Ukraine,” *Encyclopedia Britannica*, inc., December 8, 2024, www.britannica.com/place/Ukraine/The-crisis-in-Crimea-and-eastern-Ukraine.

22 Zasenکو et al., “The Crisis in Crimea and Eastern Ukraine.”

23 Zasenکو et al., “The Crisis in Crimea and Eastern Ukraine.”

24 Zasenکو et al., “The Crisis in Crimea and Eastern Ukraine.”

accepted Crimea's request and officially incorporated the Republic of Crimea into their Federation. It is important to mention that when the referendum occurred, onlookers claim that certain "anomalous" events occurred. These events being: soldiers stationed at practically every polling location, militaristic demonstrations throughout the streets in advocacy of Russia, and the use of force to encourage individuals to favor the referendum. On March 21, Putin signed a law formally integrating Crimea into Russia.²⁵

Now the following has been established: (1) Crimea was lawfully given to Ukraine by Russia in 1954, (2) Russia continuously recognized Crimea as under Ukrainian hegemony, (3) the circumstances leading up to the annexation of Crimea by Russia, and (4) that Russia captured Crimea by force. It is important to remind the reader that at the beginning of this paper, I asserted that the Russian annexation of Crimea was a violation of international law. Therefore, it is important to first establish what constitutes a violation of international law or rather, what can be considered an intentionally wrongful act. I happily point towards the International Law Commission (ILC) of the United Nations and their 2001 Draft Articles on the Responsibility of States for Internationally Wrongful Acts. According to Article 2 of the document, there are two elements that must both apply in the determination of an internationally wrongful: "(a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State."²⁶ Therefore, if these terms are met in the case of the Russian annexation of Crimea, Russia can be considered in violation of international law.

It would now be logical to highlight how the annexation of Crimea is attributable to Russia under international law. While this may seem like a simple endeavor, it is somewhat complicated by the fact that the soldiers who oversaw and participated in the forceful annexation bore no symbols by which one could simply identify as Russian. Furthermore, the difficulty in attribution is exacerbated by the fact that many of Putin's and other top Russian officials' statements regarding the annexation are occasionally nebulous. But no more, I am not dismayed by this seemingly difficult task, let us begin! In his article "From Not Us To Why Hide It?" award winning journalist Carl Schreck elaborates on the annexation and highlights how it is clearly attributable to the Russian state. Many experts agree that the operation involved the use of Russian military personnel, equipment, vehicles and President Vladimir Putin himself confirmed this in 2014.²⁷ Furthermore, Russian officials had direct involvement with militias and

25 Zasenken et al., "The Crisis in Crimea and Eastern Ukraine."

26 International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, (United Nations, 2001).

27 Carl Schreck, "From 'Not Us' to 'Why Hide It?': How Russia Denied Its Crimea Invasion, Then Admitted It," *Radio Free Europe/Radio Liberty*, February 26, 2019, <https://www.rferl.org/a/from-not-us-to-why-hide-it-how-russia-denied-its-crimea-invasion-then-admitted-it/29791806.html>.

pro-Russian groups operating in Crimea.²⁸ While these groups were not formal state organs, they functioned because of Russian direction, control, coordination, and logistical support which satisfies Article 8 of the Draft Articles concerning attribution as the conduct was directed and controlled by Russia.²⁹ Moving on, Russia explicitly recognized and happily adopted the conduct which led to the annexation of Crimea.³⁰ The annexation was officialized through legislative acts, public declarations, and the ratification of treaties.³¹ This satisfied Article 11, where an action is attributable to a state if said state acknowledges the action and embraces it as its own. Russia's annexation of Crimea inarguably meets the attribution requirement for determining an international wrongful act as: (1) The acts were carried out by components of the Russian state, that being military forces, (2) Russia explicitly exercised direction and control over local proxies, and (3) Russia officially acknowledged and accepted the actions in the annexation of Crimea.

It is apparent from the above that the annexation of Russia is clearly attributable to the Russian Federation and therefore we shall transition to the other element of the two pronged test in determining an internationally wrongful act: that is, breach. For one, the annexation of Crimea by Russia is clearly in violation of the UN Charter. Article 2(1) of the Charter establishes that all member states be treated equally in their sovereignty.³² Obviously, Ukraine is a recognized sovereign state and by extension their territory is protected under international law; clearly, Russia's annexation of Crimea violates this stipulation. This is because Russia invaded Crimea –which is Ukrainian territory– thereby violating Ukrainian hegemony. Furthermore, Article 2(4) of the Charter plainly disallows the use of force by one state directed towards another except in the case of self-defense or if authorization has been granted by the UN Security council; neither of these exceptions apply.³³ Russia's forceful and largely militaristic annexation of Crimea is a blatant violation of this principle. Additionally, Article 2(7) of the Charter advocates against intentional interference in the internal affairs of another state.³⁴ Russia's continued political, military, economic, and even cyber interference in Ukraine runs directly antithesis to this principle. Quite unsurprisingly, the United Nations General Assembly has publicly and officially condemned Russia's actions. The United Nations passed the UNGA Resolution 68/262 in 2014 following the annexation of Crimea to condemn and repudiate the act. This nonbinding resolution was supported by 100 UN member states and emphasized the invalidity of the referendum held in Crimea.

Obviously, my arguments may seem quite strong since they stand unop-

28 Schreck, "From 'Not Us' to 'Why Hide It?'"

29 Schreck, "From 'Not Us' to 'Why Hide It?'"

30 Schreck, "From 'Not Us' to 'Why Hide It?'"

31 Schreck, "From 'Not Us' to 'Why Hide It?'"

32 Charter of the United Nations, art. 2, para. 1.

33 UN Charter, art. 2, para. 4.

34 UN Charter, art. 2, para. 7.

posed; therefore, to be charitable, I will admit arguments that the Russian Federation has made to legally justify their annexation of Crimea. Nigel Walker, a journalist for the UK Parliament, provides insight into some of the justifications given by Russia to avoid legal prosecution. One of the most common justifications from the Kremlin is that Crimea's annexation was simply an answer to the call of self-determination by the Crimean people.³⁵ Russia claims that the referendum held in Crimea was absent from their involvement and that the people of Crimea were sick of Ukrainian hegemony and therefore en masse supported secession.³⁶ Despite this claim by the Russian Federation, the principle of self-determination does not extend to secession unless the people within said state are subject to unimaginable horrors which would justify or necessitate secession; this is clearly not the case in Crimea, that is, there were no observable human rights abuses. Furthermore, the 1970 UN Declaration on Friendly Relations clearly established that self-determination should not infringe upon the territorial borders of existing states. Additionally, it is ridiculous of the Russian government to assert that the referendum held in Crimea was impartial. This referendum occurred through the use of militaristic intimidation tactics, lacked any international oversight, and the Ukrainian constitution specifically disallows unilateral secession without the entire nation's consent. This first argument from the Russian government can be dismissed, it does not hold under strict scrutiny and is disjunctive from valid legal provisions.

Walker continues elaborating on the arguments provided by Russia in justifying their annexation. Russia made the claim that its involvement in Crimea was necessary to defend the large ethnic presence of Russians in Crimea.³⁷ Supposedly, this was due to the "transition of power" that occurred during Euro-aidan and the Revolution of Dignity which, according to Russia, jeopardized the lives of ethnic Russians.³⁸ While defending one's people is certainly a noble cause, the use of military force to protect ethnic Russians again violates Article 2(4) of the UN Charter. This is not to say that a state protecting their citizens abroad is always in violation of international law but rather, Russia failed in proving identifiable threats against the ethnic Russians of Crimea. Finally, Walker contends that Russia argued that its presence in Crimea was within their rights as a state due to Crimea's de facto authorities inviting Russian forces.³⁹ That is, Russia asserts that the newly and temporarily established Autonomous Republic of Crimea requested Russian assistance to stabilize and alleviate their ongoing political calamity

35 Nigel Walker, "Ukraine Crisis: A Timeline (2014 – Present) – House of Commons Library," *Conflict in Ukraine: A Timeline (2014 – Eve of 2022 Invasion)*, UK Parliament, August 23, 2023, <https://commonslibrary.parliament.uk/research-briefings/cbp-9476/>.

36 Walker, "Ukraine Crisis: A Timeline."

37 Walker, "Ukraine Crisis: A Timeline."

38 Walker, "Ukraine Crisis: A Timeline."

39 Walker, "Ukraine Crisis: A Timeline."

and to facilitate the completion of the referendum.⁴⁰ While Russia can certainly make the claim that they were lawfully invited to Crimea, the Crimean officials who requested the arrival of Russian military forces lacked the legitimacy to invite a foreign military power. This is because, among other reasons, Ukrainian law demands that regional officials confirm with the central government before the invitation of a foreign military presence. This argument by Russia is thereby invalidated.

Ultimately, I can firmly say that Russia breached countless treaties, transgressed international obligations, was ostracized and repudiated by the international community, has openly admitted and endorsed every step leading up to the annexation of Crimea, and therefore it is legally indisputable that Russia has committed an internationally wrongful act and thus violated international law. I have argued that the annexation of Crimea by Russia was in violation of international law and have shown that (1) Crimea was lawfully given to Ukraine by Russia in 1954, (2) Russia continuously recognized Crimea as under Ukrainian hegemony, (3) the circumstances leading up to the annexation of Crimea by Russia, and (4) that Russia captured Crimea by force. It is curious why more was not done by the international community upon Russia's forceful annexation of Crimea. A blatant violation of a country's sovereignty is not to be taken lightly; perhaps, if this blatantly illegal move at the hands of the Russian government was taken more seriously, millions of Russian and Ukrainian citizens would not be engulfed in a seemingly endless war where countless innocents are dying as I type these very words.

40 Walker, "Ukraine Crisis: A Timeline."