CASE CONCERNING

APPLICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM AND OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

(UKRAINE V. RUSSIAN FEDERATION)

VOLUME XXVII OF THE ANNEXES TO THE MEMORIAL SUBMITTED BY UKRAINE

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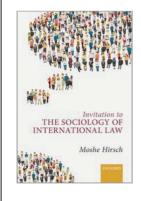
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Abstract and Keywords

Chapter 4 addresses the concept of social identity and interrelationships between identity and international law. Social identity constitutes a conceptual bridge between individuals and collective groups (like 'peoples' or 'minority groups') or between such collective groups. Numerous international legal rules are infused with social identities and international law often institutionalizes collective identities. Diverse identities (e.g. regional, ethnic, and historical) often affect the perception, judgment, and behaviour of international legal actors. The chapter exposes the key elements of social identity and briefly discusses mutual links between international law and social identity. It elaborates on the links between the European Union's identity and its external trade law aimed at promotion of compliance with international human rights law. The potential of social identity literature as an instrument to interpret certain international legal provisions is illustrated with regard to the definition of 'minority groups' as well as to rules concerning disqualification of adjudicators.

Keywords: social identity, sociology, international law, inter-group relations, European Union, Human rights, regional identity, minority groups, social constructivism, international trade law

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Who I am is closely interwoven with ideas about the society in which I live and the views of others who also inhabit that same social context ... Identity involves personal investment, often on a massive scale, to the extent that people are willing to die to claim or protect their own identities, but it is always socially located.

Kath Woodward, Understanding Identity¹

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I. Introduction

International law is infused with social identities. States and other international actors operate in multilayer maps, and factors located on their identity maps often motivate and constrain their activities in the international legal (p.92) system. Collective entities (such as states and international institutions) hold multiple identities; some are institutionalized in various legal rules, while others are semiinstitutionalized in diverse soft laws or informal international groups. These identities often affect the perception, judgment, and behaviour of international actors, including their positions and the behaviour they undertake regarding international legal rules. Thus, for example, national identities influence states' decisions to develop or employ certain weapons of mass destruction, and international institutions' identities motivate certain international actors to promote compliance with international human rights treaties. Economic and political dimensions of international law are often overlain with a social identity dimension. While, in reality, these dimensions are inseparable, this chapter is devoted to a social identity analysis of international law.

Identity is a central concept in the sociology's established conceptual toolbox.² The term 'identity' has become central to many fields of sociology and social science over recent years.³ Identity matters in our daily life and affects people's perceptions and attitudes towards other people, as well as their own behaviour. As Jenkins explains: 'one of the first things that we do on meeting a stranger is attempt to identify them, to locate them on our "mindscapes" '.⁴ Prominent identities include ethnicity, nationality, geographical location, gender, religion, occupation, and historical roots.

Section II exposes the basic tenets of social identity and Section III briefly examines the role of identity in international relations literature (according to the constructivist approach). Section IV(a) discusses certain links between international law and social identity (including rules regarding the use and production of weapons of mass destruction (WMD)). Section IV(b) analyses the links between the European Union's (EU) identity and its external trade policy aimed at the promotion of compliance with international human rights law. Section IV(c) explores the employment of social identity tools as a complementary interpretative instrument to clarify the content of certain international legal provisions (such as those relating to minority groups and disqualification of adjudicators). Section V provides a summary of our conclusions and suggests some topics for future research. **(p.93)**

II. Social Identity a. Key issues in social identity

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PRINTED FROM OXFORD SCHOLARSHIP ONLINE (www.oxfordscholarship.com). (c) Copyright Oxford University Press, 2018. All Rights Reserved. Under the terms of the licence agreement, an individual user may print out a PDF of a single chapter of a monograph in OSO for personal use (for details see http://www.oxfordscholarship.com/page/privacy-policy). Subscriber: University of Oxford; date: 20 May 2018 Social identity⁵ has been explored in the sociological literature and in the social psychological literature.⁶ Though the two perspectives on identity present some differences regarding their origin, orientation, and language,⁷ there are also substantial similarities and overlap. In most cases, the differences are a matter of emphasis.⁸ As Stets and Burke note, concepts developed in both spheres always and simultaneously influence perception, affective relations, and behaviour.⁹ This chapter combines theoretical tools and empirical findings drawn from both sociological and social psychological scholarship.

The concept of identity is closely associated with the symbolicinteractionist approach in sociological literature.¹⁰ As discussed in Chapter 2, this micro- sociological approach analyses social behaviour in terms of daily interactions between people, as well as between the individual and the wider social structure.¹¹ From this perspective, identity is a pivotal concept which mediates the relationships between individuals and the social group.¹² Individuals hold multiple identities that vary in their relative overall importance, and each one is represented in the individual's mind.¹³ Jenkins defines identity as follows:

As a very basic starting point, identity is the human capacity rooted in language—to know 'who's' and 'who' ... This involves knowing who we are, knowing who others are, **(p.94)** them knowing who we are, us knowing who they think we are, and so on. *This is a multi-dimensional classification or mapping of the human world and our places in it, as individuals and as members of collectives*.¹⁴

People have individual and collective identities, and these aspects of social identity are tightly bound together within the embodied self.¹⁵ *Personal* identity differentiates one's self from other individuals and includes personal traits and the self's social categorization into social groups (e.g., by membership in certain groups).¹⁶ In addition to personal identity, people identify themselves collectively; *collective identification* evokes imagery of people who resemble one another and share inter-subjective characteristics.¹⁷ Despite this analytical distinction between personal and collective identities, it is often impossible in reality to disentangle group identity from personal identity.¹⁸

Two dynamic elements stand at the heart of social identity (both personal and collective): similarity and difference. Individuals and

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groups need a certain level of both similarity to and differentiation from others, and social identity derives from the fundamental tension between the sense of belonging and the sense of distinctiveness.¹⁹

Generally, social psychological scholarship tends to emphasize that identity and its cognitive consequences deriving from group membership. Sociological literature inclines to underline the dynamic and interpretative aspects of identity, and particularly its link to the 'social role',²⁰ underscoring that having a particular identity often pressures individuals to behave according to social expectations related to the particular role (such as 'parent' or 'teacher').²¹ Where people identify with a group or social role, they tend to adopt the meaning that accompanies the **(p.95)** particular identity, and act accordingly to represent that meaning.²² In this sense, identity is the set of meanings that are tied to the self, and those meanings often operate across various social roles and situations.²³

Social groups, like individuals, strive to establish their identity and this group identity often outlives its members.²⁴ Groups interact with other groups and their individual members to construct a group identity. This collective identity has two dimensions: the identity of the particular group vis-à-vis its members, and the group's identity as it relates to other groups.²⁵ Groups and individuals identified with the group maintain reciprocal relationships; individuals affect the development of the group identity, and the group guides the actions of its members.²⁶ Groups strive to establish an independent identity from other groups, and also struggle with group members to maintain the group's identity.²⁷

b. The construction of social identity

Social identity is formed in a dialectic process between internal and external categorizations. Human beings have the propensity to categorize individuals into groups,²⁸ and social categorizations—both internal and external—are cognitive tools that segment, classify, and order the social environment. These categorizations do not merely organize the social world, they also provide a system of orientation for self-reference: they define the individual's place in society.²⁹ Individuals define themselves as belonging to some social groups, and certain aspects of their self-image are derived from the social categories to which they perceive themselves as belonging. Individuals self-categorize themselves differently according to the contexts in which they find themselves and the contingencies with which they are faced.³⁰ Thus, individuals always act in the context of a complex social structure out of which multiple identities emerge.³¹ (p.96)

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Social categorization:

The identity formation process begins with categorization undertaken by an external collective group or categorization that is done internally by the individual.³² In both cases, identity emerges (and is maintained) within a two-way relationship between self-categorization and collective categorization. Thus, individuals present themselves in a particular way and that presentation is accepted or contested by significant others, and others' responses feed back to the presenter. Similarly, individuals may internalize collective identity into their self-identity and that internalization is likely to modify the way they present themselves to others.³³ Consequently, some scholars view the identity construction process as 'negotiations' between individuals and the collective.³⁴ Internal or external aspects of identity may be dominant at different stages of identity formation and often interact simultaneously.³⁵

Boundaries:

As discussed above, identity consists of two core elements of similarity and difference. Some scholars emphasize the role of highlighting the differences ('boundaries') between social groups in the process of constructing and maintaining *collective identity*.³⁶ Barth explains (in the context of ethnic groups) that 'groups only persist as significant units if they imply marked difference in behaviour, i.e., persisting cultural differences.'³⁷ From this perspective, group identification is constructed 'across the group boundary';³⁸ highlighting difference visà-vis other groups generates internal similarity among the group members.³⁹

Symbols and rituals are often part of the formation and maintenance of group identity.⁴⁰ Symbols and community rituals often generate or reinforce a sense of shared belonging.⁴¹ These symbols spawn an image of group homogeneity and often mask diversity among members of the identity group. Thus, symbols allow individual diversity and collective similarity to co-exist within social groups.⁴² (**p.97**)

Language (including dialect) and the construction of social identity are inextricably linked.⁴³ Language indicates how societies classify their environment (both physical and social) and each social group has its own distinctive system of classification, which, in part, maintains boundaries between insiders and outsiders.⁴⁴ Thus, '[t]o choose one language over another provides an immediate and universally recognized badge of identity'.⁴⁵ Language often reflects distinctive regional, ethnic, religious, or historical backgrounds. Ethnic groups may utilize language as a symbolic means of fostering or developing identity, or as a means of defence against encroachment by outsiders.⁴⁶

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Collective narratives and memories often contribute to the emergence and maintenance of social identities.⁴⁷ Collective narratives place an identity group within a historically constituted world, and they render the world intelligible and coherent to their members.⁴⁸ Such stories⁴⁹ 'constitute narrative bonds' that frequently delineate the social groups' boundaries.⁵⁰ Collective memories⁵¹ occasionally produce a commemorative narrative about a particular past.⁵² Such social memories often suggest a moral message and provide some normative guidelines regarding the appropriate behaviour.⁵³ Collective memories preserve the store of knowledge from which the group derives awareness of its unity and peculiarity.⁵⁴

Institutions often reflect and reinforce identities.⁵⁵ Most collective identities are institutionalized to a certain degree, and the prominent examples are ethnic⁵⁶ (**p.98**) or gender identities.⁵⁷ Organizations⁵⁸ (such as nation states) are occasionally involved in shaping social identities.⁵⁹ and particularly in collective identification. Organizational memberships are aspects of individual identity.⁶⁰ People join organizations, inter alia, to acquire a new identity or validate an existing one.⁶¹ The organizational identity of individuals also depends on other members' recognition and may involve negotiations with the organization's 'gate-keepers'.⁶² The acceptance of new members to the organization is frequently accompanied by certain 'rites of passage' that invest collective identities, thus 'making' the new members feel that they belong to the group.⁶³ Some organizations (like criminal courts) possess the capacity to authoritatively identify people (individually or collectively) as belonging to a certain group and thus may stigmatize their incumbents.⁶⁴

Social identities are fluid and the identity formation process is never final; not even death freezes the picture.⁶⁵ Identity may well change at different stages of socialization,⁶⁶ due to a change in the relevant comparison (the 'Other'), or in response to the changing societal context.⁶⁷

c. The consequences of social identity

'A change in identity is a stick poked into a pond; ripples spread in all directions'.⁶⁸ Identities often generate significant practical consequences. The impact of identity is particularly evident regarding people's perception, evaluation, and behaviour. It is noteworthy that the link between identity and behaviour is neither straightforward nor always predictable. Identity is likely to have a certain impact but does not determine everything.⁶⁹ 'Identity salience' is a major factor that affects the activation of identity in a particular situation.

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Identity salience:

As noted above, each person and each group have multiple identities and it is not certain which identity is more likely to influence individuals or groups in a particular context. Even in the absence of multiple identities, a similar question arises regarding the factors affecting the likelihood of activating **(p.99)** a single identity. 'Identity salience' refers to the probability that an identity will be invoked and form the basis for action in diverse situations.⁷⁰ Identity salience includes quantitative and qualitative components. The quantitative element relates to the number of people or groups to whom a person or group is tied through identity. Generally, the more people or groups are tied to a particular identity, the more likely it is that a specific identity will be activated. The qualitative aspect relates to the relative strength of identity ties with other people or groups which are associated with the particular identity. Generally, stronger identity ties are more likely to lead to a more salient identity.⁷¹

Depersonalization:

Once an identity is activated, the core process underlying many consequences relates to depersonalization (i.e., viewing people as a function of their respective group membership, rather than in terms of their individual characteristics or interpersonal relationships).⁷² Depersonalization effectively brings self-perception and behaviour into line with the relevant in-group prototype, thus transforming the self from being a unique individual into a member of the group⁷³ and transforming individuality into group behaviour.⁷⁴ Once identity is activated, the main impact relates to people's perception (including self-perception), evaluations (including self-evaluation), and behaviour towards other people.⁷⁵

Perception:

At the cognitive level, the activation of social identity leads individuals identified with a group to accentuate perceived similarities between the self and other in-group members, and people tend to perceive *themselves* as more similar to other group members.⁷⁶ Individuals also tend to emphasize perceived similarities among the group members⁷⁷ and this stereotyped perception enhances the sense of group homogeneity.⁷⁸ On the other side of the identity boundary, **(p.100)** identification with a group tends to sharpen the perceived differences between group members and out-group members;⁷⁹ out-group members are more likely to be perceived as undifferentiated.⁸⁰

Evaluation:

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Identification with a group tends to enhance self-evaluation which constitutes a motivation for social identification.⁸¹ The enhanced self-worth that accompanies group identity does not regularly accompany unilateral identification with a group but it rather derives from the group's acceptance of the individual as a member.⁸² People identified with a particular group tend to evaluate members of the group positively⁸³ and to evaluate people belonging to other groups negatively (the latter attitude tends to further enhance their own self-esteem as group members).⁸⁴ Perceived similarity within the group tends to promote greater liking, trust, and solidarity with in-group members.⁸⁵ Group identity is often accompanied by stereotyping, (i.e., attributing specific personal traits to people based on their membership in a social group).⁸⁶

Behaviour:

Identification with a group demands some loyalty and behavioural conformity, and group members orient their behaviour towards other members.⁸⁷ From a social psychological perspective, conformist behaviour is a natural corollary of the group members' similar perceptions.⁸⁸ As discussed above, the sociological analysis of identity emphasizes the important function of 'social role',⁸⁹ and 'enacting' the role according to the group's expectations is likely to enhance self-esteem. A perception of poor role performance may engender doubts about self-worth, and produce symptoms of distress.⁹⁰ (p.101)

From a legal perspective, the most undesirable impacts of social identity relate to behaviour towards non-members. Identification with a group is very often accompanied by the tendency to provide in-group members better treatment ('favouritism') and discriminatory treatment towards out-group members.⁹¹ Tajfel and Turner, after surveying empirical studies, conclude:

All this evidence implies that in-group bias is a remarkably omnipresent feature of inter-group relations ... results of relevant studies ... all showing that the mere perception of belonging to two distinct groups—that is, social categorization per se—is sufficient to trigger inter-group discrimination favouring the ingroup. In other words, the mere awareness of the presence of an out-group is sufficient to provoke inter-group competitive or discriminatory responses on the part of the in-group.⁹²

Furthermore, empirical evidence suggests that undertaking a behaviour that creates a difference between two groups is more

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important to a group's members than following an efficient economic strategy which increases the gains for in-group members. 93

Favouritism and discriminatory treatment towards out-group members enhance group identification and collective self-esteem of in-group members.⁹⁴ Perceived discrimination, however, also tends to increase group identification among members of the discriminated group.⁹⁵ Group identification often leads to competitive or hostile behaviour towards out-group members but it depends on various factors,⁹⁶ such as subjective beliefs about the nature of relations with the out-group.⁹⁷

Thus, social identity affects people's perceptions and attitudes towards others, as well as their own behaviour. In addition to sociological and social psychological literature, social identity analysis of international law also draws on the social constructivist approach in international relations literature. **(p.102)**

III. Identity in International Relations

Social identity (and particularly collective identity) is a core concept of the social constructivist approach in contemporary international relations literature;⁹⁸ sociological scholarship has significantly influenced the development of this perspective on international politics.⁹⁹ According to the constructivist approach, the international system and states are not exogenously given and do not exist independently of the thoughts and ideas of the people involved.¹⁰⁰ International politics and related concepts are human creations and exist as inter-subjective beliefs that are widely shared among people.¹⁰¹ Thus the social world is a world of human conscious that includes language, signals, and understanding among human beings, and especially groups such as states.¹⁰²

Identity (and particularly collective identity) is one of the key concepts in the constructivist scholarship,¹⁰³ and Hopf states that 'identities are the most proximate causes of choices, preferences, and action.'¹⁰⁴ Certain constructivist writings on identity draw on sociological (and particularly on symbolic-interactionist) literature as well as social psychological literature.¹⁰⁵ States' identities are constructed by their interaction with other international actors, domestic societies, and international social structures.¹⁰⁶ The role of collective identities (including **(p.103)** corporate identities like states)¹⁰⁷ is particularly underlined in that literature.¹⁰⁸ Wendt argues that collective identities (bilateral, regional, or global) vary by issue, time, and place.¹⁰⁹ Thus, a state may have multiple identities, such as 'sovereign', 'leader of the free world' or 'imperial power'.¹¹⁰

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The social constructivist perspective seeks to clarify the links between state interests, norms, and identity. Constructivists argue that identity formation occurs before, or at least concurrently with, interest formation.¹¹¹ Collective identity strongly implies a particular set of interests. Hopf presents the example of the identity of a 'great power' which implies specific interests differing from those implied by the identity of a 'European Union member'.¹¹² From this perspective, interests are dependent on identities,¹¹³ and Wendt states: '[h]ow a state satisfies its corporate interests depends on how it defines the self in relation to the other, which is a function of social identities at both domestic and systemic levels of analysis.'¹¹⁴ Consequently, changes in state identity also affect national security interests and policies of states,¹¹⁵ and call for taking particular actions.¹¹⁶

Norms either affect the formation of identities in the first place (generating expectations of new particular identities in a given context) or prescribe behaviours for already constituted identities (generating expectations about how a particular identity will influence behaviour in varying circumstances).¹¹⁷ The link between norms and identity is particularly strong with regard to 'constitutive norms' that define group membership.¹¹⁸ The above links between identity and norms indicate that identities and the norms associated with them ensure a (**p.104**) minimal level of predictability. Thus, durable expectations between international actors require inter-subjective identities that are sufficiently stable to ensure a predictable pattern of behaviour in the international system.¹¹⁹

Social identity analysis of international law is often associated with the constructivist approach in international relations literature. As elaborated below, collective identity often facilitates, motivates, and constrains activities of collective actors in the international legal system.

IV. Social Identity and International Law a. Identity matters

Numerous international legal rules and concepts are infused with social identity. International law often institutionalizes (to various degrees) identities that are encoded into diverse international instruments. Thus, international legal rules and concepts often reflect and affect identities of major collective groups in the international community, including states, regional groups (such as the MERCOSUR¹²⁰ or the EU)¹²¹ or semi-institutionalized groups (such as the G-20).¹²²

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Exploring international law from a social identity perspective enables an understanding of significant processes involved in the evolution of international law and its implementation in reality. As elaborated below, social identity analysis may not only shed light on past and present trends in international law, but also bear significant implications for the *interpretation* of existing legal provisions, as well as offering some suggestions regarding practical measures to enhance the effectiveness of certain international legal mechanisms.

States and other international groups have multiple identities and often present different identities in various subsets of the international system (in regional and global arenas or in different sectors of international law). Thus, a state may be identified with its role as a 'leader' in a particular sector of international law while not purporting to lead in other spheres. These different identities affect the behaviour of states in negotiations leading to international treaties (such as climate change agreements)¹²³ or their responses to violation of human rights treaties.¹²⁴ (p.105)

The identity of international actors is frequently influenced by physical factors, such as the geographical region, but this is not necessarily the crucial factor. Some states located in Asia or Oceania may, for instance, belong to an international identity group outside their geographical region.¹²⁵ National identities often relate to the ethnic or religious composition of the state's population, its historical roots (e.g., colonial ties), and other socio-cultural traits. Collective identities are occasionally linked to international networks in which states and international institutions are embedded (formal regional institutions or various informal groups like the G-20).¹²⁶ As elaborated below, collective identities are often involved in the formation of international institutions, frequently relating to the national identity of their members or other international institutions with which they are affiliated.¹²⁷

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Weapons of mass destruction:

The production and use of WMD are occasionally related to the collective identity of international actors. The impact of national identity is notable on the employment of chemical weapons. Price and Tannenwald emphasize the link between the legal prohibition against using chemical weapons and the identity of a 'civilized nation'. Their study reveals that the origins of the chemical weapons 'taboo' were implicated in exclusionary practices that distinguished between civilized and uncivilized areas of the globe.¹²⁸ The breaches of this legal prohibition and their justification (e.g., by Italy against Ethiopia in 1935-6,¹²⁹ and by Iraq in 1998) reflect the understanding that modern warfare between industrialized states is qualitatively different from war involving an 'uncivilized nation'.¹³⁰ They explain that '[t]he symbolic connection of CW [chemical weapons] with standards of civilized conduct has made it more difficult for advanced nations to employ these weapons against each other'.¹³¹ Thus, compliance with the legal prohibition to employ chemical weapons is occasionally tied to the identity of 'civilized nation'. (p.106)

Collective identities are occasionally involved in the production of nuclear weapons. In a well-known article published in International Security, Sagan presents three states' motivations for developing nuclear weapons: increasing national security against foreign threats; advancing domestic and bureaucratic interests; and providing an important normative symbol of a state's modernity and identity.¹³² Regarding the link between this powerful weapon and national identity.¹³³ Sagan presents some nuclear decisions as serving important symbolic functions—shaping and reflecting a state's identity.¹³⁴ The significant link between decisions to build nuclear weapons and national identity¹³⁵ was evident, for example,¹³⁶ in France's development of nuclear weapons in the 1950s¹³⁷ and its reluctance to stop nuclear testing in the mid-1990s.¹³⁸ The influence of national identity on nuclear weapon's policy is explicit in Japan's policy after World War II. As Mochizuki explains, Japan's decision not to build nuclear weapons relates not only to 'pragmatic pacifism' but also to the central motive relating to its national identity as a 'peace state'.¹³⁹

The following sections elaborate on the impact of the EU's collective identity on promoting the enforcement of human rights treaties, as well as the employment of theoretical tools and empirical evidence drawn from social identity literature as an interpretative instrument to clarify the content of certain international legal rules.

 ${\bf b}.$ International institutions' identity and the enforcement of human rights treaties by EU trade measures

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International institutions' identity:

The formation and activities of international institutions often reflect collective identities. Membership in these organizations often represents various identity ties, such as regional (e.g., Organization for American States that also represent certain ideological traits);¹⁴⁰ religious (e.g., **(p.107)** Organization for the Islamic Conference);¹⁴¹ historical (e.g., the Commonwealth of Nations);¹⁴² or ideological (e.g., NATO).¹⁴³

The identity of an international institution¹⁴⁴ regularly co-exists with (and is often related to) its members' national identities, as well as with the identities of other international institutions with whom it is affiliated. The latter identity link is prominent concerning the ties between Islamic Conference, the Arab League, and the African Union,¹⁴⁵ or between the EU and the Council of Europe.¹⁴⁶

Like other identity groups, international institutions often construct common symbols, including flags, anthems, a special memorial day (e.g. to celebrate the establishment of the organization),¹⁴⁷ and, occasionally, collective narratives as well.¹⁴⁸ The identities of international organizations may be discerned from their constituent documents,¹⁴⁹ and particularly provisions regarding the admission of new members¹⁵⁰ and exclusion/suspension of existing members¹⁵¹ which highlight the 'boundaries' between them and other international groups.¹⁵² (p.108)

Similarly, the practice of international institutions in other spheres (such as sanctions imposed on non-members or decisions adopted by their judicial organs), also contribute to the formation or change of their identity. Occasionally, the basic instruments of international institutions expressly aim to construct common identity.¹⁵³ Thus, for example, the Constitutive Treaty of the Union of South American Nations affirms the member's 'determination to build a South American identity'.¹⁵⁴

States occasionally join international institutions to reaffirm their identity, and many states are interested in admission to an organization like the OECD that projects an image of a 'prestigious club'¹⁵⁵ or the 'rich man's club.'¹⁵⁶ International institutions also affect the international identity of states (including *non*-members) by classifying them according to level of 'development' (e.g. 'least developed states'¹⁵⁷ or 'developed states')¹⁵⁸ or the quality of their governance.¹⁵⁹ Decisions by international organizations (including their tribunals) which label¹⁶⁰ (**p.109**) a particular state 'aggressive'¹⁶¹ or impose

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sanctions on another, may contribute to the preservation or modification of state identity (e.g. as a 'pariah state').

EU identity and human rights protection:

EU institutions are involved in the formation of European identity¹⁶² and they have constructed (occasionally together with the Council of Europe) various symbols of collective identity.¹⁶³ As discussed above, symbols and rituals are often part of the development and maintenance of group identity. Symbols and community rituals often generate or reinforce a sense of shared belonging.¹⁶⁴ Thus, for example, in 1983 the EU parliament adopted the European flag (previously adopted by the Council of Europe);¹⁶⁵ the EU leaders officially adopted the European anthem in 1985 (formerly adopted by the Council of Europe),¹⁶⁶ and the EU institutions annually celebrate Europe Day (9 May) in which the collective memory of the 1950 Schuman declaration and the ensuing moral lessons are reinforced.¹⁶⁷ As noted below, the EU members also published a formal decision on the European Identity in 1973.

Norms often constitute a significant element of collective identity and this is particularly remarkable with regard to 'constitutive norms' that define group membership.¹⁶⁸ International human rights norms have a particular status in that regard and they occasionally play a significant role in defining the identity of democratic and liberal states.¹⁶⁹ The EU bodies have repeatedly stated that human rights protection constitutes a constitutive norm.¹⁷⁰ Thus, for example, Article 2 of the Treaty on European Union (TEU) solemnly states: **(p.110)**

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.¹⁷¹

The central role of human rights protection in the *EU identity*¹⁷² was explicitly emphasized by the EU's bodies. Thus, for example,¹⁷³ the EU Commission states: 'the European Union has gradually come to define itself in terms of the promotion of those [human] rights and democratic freedoms.'¹⁷⁴ And in the 'Document on The European Identity' (1973), the EU foreign ministers clarified that:

Sharing as they do the same attitudes to life, ... they are determined to defend the principles of representative democracy, of the rule of law, of social justice—which is the ultimate goal of

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economic progress—and of *respect for human rights. All of these* are fundamental elements of the European Identity.¹⁷⁵

The EU's institutions are legally committed to comply with fundamental human rights¹⁷⁶ and may suspend certain membership rights of members which seriously and persistently breach these norms.¹⁷⁷ As noted above, identities of international institutions may particularly be discerned from provisions regarding the admission of new members which highlight the boundaries between them and other international groups. Any European country which wishes to become a member of the EU must satisfy the existing members and the EU's institutions (**p. 111**) that it respects human rights and is committed to applying them.¹⁷⁸ In addition, accession to the European Convention on Human Rights (ECHR) constitutes a de facto condition for EU membership¹⁷⁹ and the EU shall accede to the Convention.¹⁸⁰

The EU's human rights policies are particularly pronounced in its external relations with other international actors. The EU often presents itself as a human rights promoter in the international arena.¹⁸¹ This external feature of the EU's identity arises, for example, from Articles $3(5)^{182}$ and $21(1)^{183}$ of the TEU,¹⁸⁴ as well as diverse public documents of the EU bodies. Thus, for instance,¹⁸⁵ the EU Council stated in a 'strategic' document (2012):

The European Union is founded on a shared determination to promote peace and stability and *to build a world founded on respect for human rights*, democracy and the rule of law. *These principles underpin all aspects of the internal and external policies of the European Union* ... The EU will continue to throw its full weight behind advocates of liberty, democracy and human rights the world.... The EU will speak out against any attempt to *undermine respect for universality of human rights*.¹⁸⁶

(p.112)

As noted previously, social identity consists of two core elements of similarity (mainly on the internal level, among the group's members) and difference (mainly on the external level, vis-à-vis non-members). Groups need a certain level of both similarity and differentiation from others, and social identity derives from the tension between the sense of belonging and the sense of distinctiveness.¹⁸⁷ An analysis of the current EU constitutional framework for human rights protection reveals rather a clear difference between the importance accorded to human rights in EU external relations as compared to internal relations.¹⁸⁸ The existing constitutional framework (with the exception of anti-discrimination law) assigns a more circumscribed role to human

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rights within the context of internally focused EU policies, and the dominant focus is external, empowering, and even obliging the EU to promote human rights actively in its international policies.¹⁸⁹

This EU bifurcated approach may be explained by some sociological literature which emphasizes the role of highlighting social differences between the particular social group and other groups in the process of constructing and maintaining collective identity. Emphasizing differences vis-à-vis other groups tends to foster internal similarity among group members.¹⁹⁰ The EU's emphasis on external human rights policies underlines its identity as a liberal-democratic group¹⁹¹ towards other international groups.

The EU's social role as human rights promoter and external trade instruments:

Sociological literature underlines the link between social identity and social role, underscoring that having a particular identity often pressures individuals and groups to behave according to social expectations related to their particular role. Where people identify with a group, they tend to adopt the meaning that accompanies the particular identity, and act accordingly to represent that meaning.¹⁹² The self-representation of the EU as a promoter of human rights worldwide¹⁹³ has been significantly accepted in the international community, and has led to the construction of the EU's social role regarding protecting human rights in the international system. Recognition of the EU's role is discernible, for instance, from literature,¹⁹⁴ (**p.113**) and the awarding of the Nobel Prize for contribution to advancement of peace, democracy, and human rights.¹⁹⁵

This social role of the EU in the international community influences the behaviour of EU institutions and other international actors in this field. For example, if a certain state commits flagrant and extensive violations of human rights, expectations are likely to arise that the EU will react and adopt some measures against that state. Such expectations create social pressure on the EU and affect its behaviour in the international system.

The EU's identity as human rights promoter is projected out through a variety of frameworks,¹⁹⁶ and this section focuses on trade measures. The two principal trade instruments in this sphere are conditioned preferences for developing countries and human rights clauses in trade agreements with non-members. Trade preferences granted to developing countries (in addition to those prescribed under the World Trade Organization (WTO) law) are regulated by the EU's 'Generalized

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System of Preferences' (GSP) legislation, and such preferences are conditioned by compliance with certain requirements relating to human rights.¹⁹⁷ The 2012 GSP Regulation elaborates the conditions that beneficiary countries must comply with, including the ratification of a series of international human rights conventions (listed in Annex VIII);¹⁹⁸ the absence of unlawful reservations to these conventions;¹⁹⁹ and lack of rulings regarding serious failure to effectively implement any of those conventions (as determined by the relevant conventions' monitoring bodies).²⁰⁰ These trade preferences are to be temporarily withdrawn if the beneficiary country does not fulfil the above requirements or does not cooperate with the Union's monitoring procedures (set out in this Regulation).²⁰¹

Since 1992,²⁰² the EU's trade agreements with third parties have included a 'human rights clause' requiring the parties to respect human rights and democratic **(p.114)** principles.²⁰³ The EU Council adopted in 1995 a formal policy of including such clauses in all future cooperation and trade agreements,²⁰⁴ and today they are contained in agreements with more than 120 countries.²⁰⁵ The recent human rights provisions present a similar structure: (i) a basic obligation to comply with human rights;²⁰⁶ (ii) a provision allowing a party to undertake appropriate measures in case of breach of the above 'essential clause';²⁰⁷ and (iii) monitoring and implementation provisions.²⁰⁸

Identity motivated compliance and international social labelling:

Sociological deviance literature discusses a variety of societal factors involved in compliance and breach of norms, including external motivations (such as 'social control') and internal motivations (such as identity).²⁰⁹ As noted above, social identity often constitutes an influential factor that promotes compliance with a group's norms, and particularly with its 'constitutive norms'.²¹⁰ Since human rights constitute a constitutive element in the EU's identity as a Western-liberal community, and EU membership signals acquiring or validating existing international identity, these factors exert significant influence on the twenty-eight members of this prestigious group (new and older ones) to comply with international human rights law.

The EU's legal rules regarding conditioned accession to the EU and suspension of membership rights reflect and reinforce this important feature of the EU group membership. The EU's identity, however, does not ensure that all members will comply with its human rights norms. Generally, a member whose bond with the group is weak (or socially alienated from the group) is less likely to be committed to the group's norms.²¹¹ From this perspective, if an EU member is significantly **(p.**

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115) less identified with the group or perceives itself as socially marginalized in the European Community, it is more likely to breach the group's norms, including those relating to human rights.

As already noted, certain international institutions possess the capacity to authoritatively identify people or groups as belonging to a certain category and thus may stigmatize their incumbents. The suspension of trade benefits by the EU (e.g., under the GSP programme) carries not only certain economic consequences, but it also conveys a signal by a significant human rights actor classifying that particular country as a serious violator of international human rights norms. This aspect of international labelling is significant to the targeted states, occasionally not of lesser importance than the economic consequences of trade sanctions. Social identity, however, is regularly constructed in a dialectic process between a particular state and other actors in the international community, and the latter state is not necessarily a passive object in this process. Thus, the targeted state may challenge and try to reject such stigmas relating to breaching human rights.²¹²

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Out-group actors and compliance with the group's norms:

While a group's constitutive norms are expected to significantly influence in-group members, they are less likely to have the same impact on out-group actors. Non-member states which are targeted by EU trade measures relating to allegations of breach of human rights often experience a sense of social exclusion and discrimination.²¹³ The suspension of trade benefits by the EU in this context also conveys a moral judgement, often relating to the legitimacy of the particular government.²¹⁴ Thus, while the EU's employment of trade measures in this context may intensify external social pressure on the particular state, it may also increase a sense of alienation and exclusion within the particular society, and diminish the prospects of compliance.

The above-noted distinctive out-group/in-group effects on compliance with international norms suggest that the employment of EU trade measures in this sphere should be undertaken in an inclusive context which downplays the social boundaries between the EU and nonmembers. From this perspective, it is (p.116) desirable that such an inclusive framework (which includes the link between trade measures and human rights performance) highlights features shared by both parties (such as common heritage, ideological ties etc.). A comprehensive framework that emphasizes common identity, if meaningful for the particular non-member state, is expected to decrease the sense of exclusion and enhance the prospects of compliance with the specific human rights. And if a non-member breaches human rights in this context, the social identity perspective does not suggest drastic exclusionary measures (such as expulsion from the socio-economic group) but rather accompanying trade sanctions with signals regarding potential partnership in the future.

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Identity-driven measures and considerations of efficiency:

The above EU trade provisions have been implemented in only a small subset of potential cases (usually in response to coups d'état or significant deteriorations in a political situation) 215 and their effect on compliance with international human rights law is not clear.²¹⁶ These facts should not lead to the conclusion that the EU is likely to discard the inclusion of such provisions in its GSP programme and trade agreements, or not apply such trade measures following a breach of international human rights. Considerations of efficiency do not constitute the crucial factor in this sphere. The 'logic of identity' is different from (and occasionally inconsistent with) the 'logic of efficiency'. The central motivation leading to the adoption of these legal provisions and trade measures relates to the self-image of the EU and its aspiration to project this identity. Considerations of efficiency apparently affect this EU policy but they do not constitute the predominant factor in this sphere. The underlying link between the EU trade-human rights policy and its collective identity indicates that this policy is relatively durable and not likely to be radically changed within a short period.

c. Social identity as an interpretative tool

Theoretical tools and empirical evidence drawn from social identity literature may assist legal decision-makers in interpreting certain international legal rules. The resort to such complementary interpretative tools is desirable where legal instruments refer to entities which significantly involve social groups. This potential practical value of social identity analysis is illustrated below with regard to **(p.117)** interpretation of legal rules relating to state succession, impartiality of international adjudicators, and some social groups protected by diverse international instruments.

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(i) Succession of states:

Legal rules regarding state succession are regarded as one of the most complex spheres in international law;²¹⁷ this difficulty particularly applies to the guestions of whether and to what extent a new state ('successor') remains bound by the treaties of the former sovereign.²¹⁸ State practice does little to substantiate either of the competing principles; the continuity of rights and obligations from the old to the incoming authority and the 'clean slate theory' under which the incoming sovereign is freed from rights and obligations.²¹⁹ In light of the ambiguous legal situation, Craven suggests focusing on whether the state concerned retains its previous personality, and specifically its identity.²²⁰ Consequently, it is suggested that 'Itlhe task for the future. therefore, is to map out some of the characteristics and determinants of state identity in a way that takes into account not merely the formal properties of statehood, but also the sense of 'self, 'singularity', and 'community', that justifies the attachment of international legal obligations to particular territories and social groups.²²¹ This approach²²² offers a sound legal policy for guiding legal decisionmakers in this particularly complex sphere of international law.

Social identities are dynamic and the process of identity construction is never final.²²³ Similarly, national identities gradually change in response to various developments, including change in the environment or the relevant out-group.²²⁴ Only a radical change in national identity justifies the discontinuation of treaty rights and obligations. This approach suggests analysing whether the change in government has led to such a fundamental change in national identity. Theoretical tools and empirical evidence drawn from social identity literature may assist legal decision-makers to examine whether the particular state's identity has changed dramatically.

The examination of certain socio-legal features may indicate whether a radical identity change has taken place. Dramatic changes in national identity are often reflected in significant changes in national legislation (particularly constitutional documents), and are occasionally accompanied by a change in the name²²⁵ of **(p.118)** the state.²²⁶ Exceptional changes in national identity are also often reflected in the state's sense of belonging and manifested in accession to new international groups (e.g., joining significantly different international institutions). Withdrawal from some international groups (either institutionalized or not) may also accompany such fundamental changes in national identity.

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Social identity is not a unilateral process and new identity emerges within a two-way relationships between self-identity and external (group) acceptance.²²⁷ Thus, unilateral statements by the new government regarding dramatic changes in national identity are insufficient to support discontinuation of treaty rights and obligations. The international community's acceptance of the new identity is significant for establishing a radically new national identity. Thus, the responses of other states and/or international (regional or global) institutions to the particular state's new self-representation are significant for accepting such a contention regarding new national identity.

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(ii) Impartiality of adjudicators and disqualification criteria:

Social identity influences individuals' perceptions and evaluation.²²⁸ Attributing personality traits to people belonging to social groups ('stereotyping')²²⁹ systematically affects how individuals perceive and process new information, as well as respond to members of social groups.²³⁰ Such attribution of personality characteristics is prevalent in daily life²³¹ and frequently useful in everyday social interaction.²³² The ascription of such traits to individuals is rooted in the social group and represents the attitude of the in-group members towards other groups.²³³

Empirical studies indicate that we often have distorted perceptions and evaluations of traits of group members. Two principal mechanisms tend to reinforce stereotyped traits associated with social groups. The first mechanism concerns (p.119) the collection of information, and empirical studies indicate that people often solicit information which confirms their hypotheses (rather than pursuing evidence that could disconfirm their hypotheses).²³⁴ Stephan and Stephan emphasize that [i]t is important to note that people are probably unaware that they are gathering information in a biased manner. Even when people are offered a reward for gathering unbiased information, they still tend not to do so.'²³⁵ The second mechanism relates to *processing information*: empirical studies reveal that 'expectancy-confirming information' is generally better remembered than 'expectancy-disconfirming information'.²³⁶ Even when disconfirming information is being encoded, people tend to process information in ways that support pre-existing stereotypes.²³⁷

The above mechanisms of collecting and processing information are occasionally relevant to international adjudication. International adjudicators are frequently required to process volumes of information, evaluate the reliability of evidence submitted by the parties, ascertain trustworthiness of witnesses belonging to different social groups, and apply vague legal concepts (e.g., 'good faith'²³⁸ or 'fair and equitable treatment').²³⁹ Adjudicators' identification with a social group involved in or affected by the legal proceedings may lead to arguments regarding biased adjudicatory process and the 'impartiality'²⁴⁰ of adjudicators.

The link between the mental attitude towards the parties and the legal concept of 'impartiality' clearly arises from the Supreme Court of Canada's decision in the Valente case:

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Impartiality refers to a state of mind or attitude of the tribunal in relation to the issues and the parties in a particular case. The word 'impartial', , , connotes absence of bias, actual or perceived.²⁴¹

(p.120)

And the Human Rights Committee stated that 'impartiality' (under article 14(1) of the International Covenant on Civil and Political Rights $(ICCPR))^{242}$ 'implies that judges must not harbour preconceptions about the matter put before them, and that they must not act in ways that promote the interests of one of the parties'.²⁴³

Diverse international tribunals have various rules as to the required qualifications and different criteria regarding disqualification of adjudicators. The International Court of Justice (ICJ) Statute prohibits judges from acting in cases where they have previously acted in that capacity.²⁴⁴ Judge Buergenthal's proposal to interpret this standard broadly and adopt a lower threshold of 'appearance of bias'²⁴⁵ was not accepted by the Court.²⁴⁶ The International Criminal Tribunal for the Former Yugoslavia (ICTY) Rules of Procedure focus on whether the judge has any personal interest or association that might affect her/his impartiality.²⁴⁷ The ICTY examined the question of impartiality from the perspective of judges in national courts and the Appeals Chamber ruled in the famous Furundzija case that proof of either actual bias or an appearance of bias is sufficient to disgualify ICTY judges.²⁴⁸ The ECHR aims to guarantee 'an independent and impartial tribunal'²⁴⁹ and the European Court of Human Rights (ECtHR) has developed a two-prong test for judicial bias that includes both an *objective test* (examining whether the adjudicator offered guarantees sufficient to exclude any legitimate doubt in this respect) as well as a *subjective test* (examining the personal conviction and behaviour of a particular judge in a given case).²⁵⁰ Similarly, the American Convention on Human Rights aims to guarantee an (p.121) 'independent, and impartial tribunal'²⁵¹ and the Inter-American Court stated that 'impartiality demands that the judge ... approaches the facts of the case subjectively free of all prejudice and also offers sufficient objective guarantees to exclude any doubt the parties or the community might entertain as to his or her lack of impartiality'.²⁵²

As to arbitral proceedings between sovereign states and foreign investors, Article 57 of the Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID Convention) provides that a proposal to disqualify an arbitrator should indicate 'a manifest lack of' some qualities,²⁵³ inter alia, that the particular adjudicator may not 'be relied upon to exercise independent

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judgment'.²⁵⁴ As noted in the Commentary on ICSID Convention '[t]he requirement that the lack of qualities must be "manifest" imposes a relatively heavy burden of proof on the party making the proposal'.²⁵⁵ This test was reaffirmed by a series of ICSID tribunals²⁵⁶ and the test of 'appearance of impartiality' was rejected in the *Amco v Indonesia* tribunal.²⁵⁷

An adequate criterion regarding disqualification of adjudicators aims to balance between the need to ensure impartial proceedings and the reality of existing links between adjudicators and other professionals (e.g. lawyers, counsels, or diplomats).²⁵⁸ The above-noted common tendency to attribute personality traits to members of social groups suggests that more weight be granted to the first factor in legal disputes characterized by a higher likelihood for biased perception and evaluation. **(p.122)**

Social identity literature indicates that where adjudicators identify with a social group substantially involved in the dispute (formally or informally), their perceptions and evaluations of evidence submitted by the parties are susceptible to bias. It is noteworthy that most people are not aware of their bias. In light of the higher probability of biased perceptions and evaluation in such legal disputes, social identity analysis suggests setting a lower threshold for proving 'impartiality' under international tribunals' procedural rules. Thus, where such circumstances exist, the heavy burden imposed by ICSID rules and jurisprudence on a party seeking to disgualify an arbitrator—and the demand 'to establish facts that make it obvious and highly probable, not just possible'²⁵⁹—seem excessively heavy. From this perspective, where there is reasonable evidence that the adjudicator has identified with one of the social groups involved, it is desirable to set a less demanding standard (such as the above-discussed 'appearance of bias' standards adopted by the ICTY), or to interpret accordingly existing rules by the ICSID tribunals.²⁶⁰

This proposal requires adjudicators to ascertain whether a particular judge or arbitrator has identified with a social group substantially involved in the dispute. To assess this issue, adjudicators may employ tools and empirical studies regarding the construction of social identity.²⁶¹ Evidence regarding the above-discussed factors of 'identity salience' (quantitative and qualitative)²⁶² of the specific adjudicator is particularly relevant to an evaluation of the probability of biased perception and evaluation. In such cases, it is desirable to assess both the number of persons to whom the particular adjudicator is connected through identity links as well as the strength of the identity ties with the relevant social group. Where this analysis indicates that the

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likelihood of activating a particular identity is significant, the grounds for setting a lower burden of proof for disqualifying the particular adjudicator are even more compelling. In such cases, the legal presumption of impartiality attached to adjudicators²⁶³ is unwarranted.

(iii) Defining social groups under international instruments:

Certain international legal rules aim to protect various social groups, such as 'peoples' (under the rules regarding self-determination²⁶⁴ and the First Protocol to the Geneva **(p.123)** Convention),²⁶⁵ 'minority groups' (under the ICCPR),²⁶⁶ 'indigenous peoples' (under the Convention concerning Indigenous Peoples),²⁶⁷ 'group or collectivity' (under the International Criminal Court (ICC) Statute),²⁶⁸ and 'social groups' (under the Refugees Convention).²⁶⁹ Various international treaties grant these groups diverse legal rights and impose corresponding obligations on other parties. The relevant legal instruments do not provide a definition of the relevant social group and generally, there is no consensus on the elements of this concept.²⁷⁰

As discussed above, social identity constitutes a critical link between the individual and social groups, and a social group cannot exist without some measure of common identity among the group's members.²⁷¹ Thus, the employment of theoretical tools and empirical evidence drawn from social identity literature may **(p.124)** assist legal decision-makers in ascertaining the definition of social groups under the particular international instrument.

A review of international legal literature reveals that it is generally agreed that the definition of the above social groups includes two essential elements: (i) common features that are shared by the members of the group (the 'objective element');²⁷² and (ii) group consciousness (the 'subjective element').²⁷³ An additional, external component, mentioned in social identity literature (recognition by wider society),²⁷⁴ is included in certain definitions cited in legal literature,²⁷⁵ but does not usually constitute a mandatory requirement according to that literature.²⁷⁶ Social identity literature suggests that the elements of common traits ('boundaries') and group consciousness ('self-identity') constitute mandatory elements in virtually all cases.²⁷⁷

As discussed in social identity literature, identity emerges and is maintained within a two-way relationship between self-identification (by individuals or groups that present their identity) and collective identification (acceptance or **(p.125)** dismissal by the wider society).²⁷⁸ From this perspective, unilateral identification by the relevant social group is not sufficient to lead to the formation of a

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protected social group under international law. As elaborated below, some external acceptance of the particular group by the international community is needed for the group's legal protection.

The relative weight assigned to the respective elements of self-identity and external acceptance should vary according to the aim of the particular legal regime. Where the specific legal instrument aims at *aranting certain benefits* to the members of a group (e.g., rights concerning ancestral lands),²⁷⁹ both elements should be carefully examined. From this perspective, Article 1(2) of the Convention on Indigenous Peoples which provides that self-identification is the 'fundamental criterion'²⁸⁰ should not be interpreted as determining that the internal element is the crucial element in the concept of social identity. On the other hand, it should be noteworthy that the needed 'external' recognition does not imply that recognition by the particular party which is bound to respect the group's rights (and often to assume the corresponding burden) is a prerequisite for legal recognition of the social group.²⁸¹ In such cases, recognition by groups of states. international institutions, or international tribunals may fulfil the element of external recognition.

Where the specific legal regime is *designed to protect a group's members* from discrimination or persecution, identification of the persecuted persons is often undertaken by members of the persecuting group (even where the persecuted individuals do not identify with the persecuted group). In such cases, it is suggested that both internal and external recognition be examined; but the centre of gravity should certainly be shifted to external identification by the persecuting group. The absence of self-identification by the persecuted individuals should not bar their protection under the relevant international instrument.

In addition to the elements of the 'social group', it is desirable that legal decision-makers take into account additional elements of social identity. Since the closely connected concepts of 'social group' and 'social identity' are elusive, it is neither desirable nor possible to define them in a precise and rigid fashion. Consequently, it is suggested to interpret these concepts in a flexible manner. It is desirable that legal decision-makers who are called upon to apply this concept broaden their scope of examination and examine evidence regarding additional factors discussed above, including symbols and rituals, language (including dialect), and collective narratives. Beside the essential elements of common objective (**p.126**) features, self-identification²⁸² and some external recognition, the absence of any of the additional

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elements should not bar recognition of a particular social group under international law.

Finally, the nature of the above-discussed 'objective' element of social groups is worth clarifying. The common features that mark the boundaries of a particular group are widely labelled 'the objective element' in legal literature, mainly in contrast to the 'subjective element' of group identity (or 'group consciousness'). From a sociological perspective, these common features are not necessarily strictly objective, and often present significant subjective aspects. Some of the common features, like religious or other beliefs, are not always objectively discerned by members of other groups. Still, these features are very 'real' for the members of the particular group. As Jenkins states: '[g]roups may be imagined, but this does not mean that they are imaginary. They are experientially real in everyday life.'²⁸³ Consequently, an examination of the 'objective' elements of a social group may require evidence as to the inter-subjective meanings shared by the members of the particular group's members.

V. Concluding Remarks

States and other international actors operate in complex identity networks that often affect their positions and activities in the international legal system. International legal rules and social identities interact in various manners, and diverse international identities (e.g., local, ethnic, and historical) are occasionally encoded into international legal rules. Social identity constitutes a conceptual bridge between individuals and collective groups (like 'peoples' or 'minority groups') or between collective groups (such as states or international institutions). Consequently, the impact of social identities on international law is particularly noticeable regarding legal rules regulating various links between individuals and social groups (e.g., affiliation with in a minority group), ties between states and a variety of international groups, and links between international groups (e.g., among regional groups). From this perspective, parallel to the central notion of 'intergroup relations' in social identity literature, it is possible to explore numerous international law rules as regulating diverse aspects of 'inter-national-group relations'.

As discussed above, international institutions often present significant aspects of identity groups (such as symbols, rituals, and collective narratives). International organizations' rules regarding accession of new members and suspension of existing ones often reflect the social boundaries that distinguish between the relevant international identity group and other international groups. Occasionally the **(p.127)** basic

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instruments of international institutions expressly aim to construct a common identity. $^{\rm 284}$

Social identities often affect international law-making. National identities occasionally influence state decisions to join or withdraw from international treaties that symbolize certain international identities. International institutions' identity also lead certain organizations to pre-condition the accession of new members by ratifying treaties that represent the group's identity; occasionally they aim to project their identities via trade treaties with non-member states.²⁸⁵

Social identity literature may not only shed new light on the content and form of international legal rules; it may also provide a complementary interpretative tool to clarify the content of legal provisions in international instruments. The interpretative contribution of tools and empirical knowledge drawn from social identity studies has been illustrated here with regard to the concepts of 'social groups' (which underlies diverse collective groups in the international system), 'impartiality' of adjudicators, and states succession.²⁸⁶ While such an interpretation is expected to improve the quality of interpretation of various international legal rules, social identity analysis does not imply that additional methods of interpretation (including the conventional tools of legal interpretation) should not be considered.

This chapter discusses several prominent examples illustrating the mutual links between social identity and international law. Further socio-legal studies may explore additional domains of international law that reflect and affect social identities. Future work may examine substantive rules regarding the scope of the 'right to identity' of various groups (such as minority groups under international law²⁸⁷ or national identities under EU law).²⁸⁸ Social identity literature may assist legal decision-makers in interpreting various questions regarding the link between trade and culture, such as the 'cultural exception' included in some international trade treaties (like the NAFTA)²⁸⁹ or provisions included in the General Agreement on Tariffs and Trade (GATT) (such as Article XX(f)).²⁹⁰

Notes:

(¹) Kath Woodward, *Understanding Identity* (Hodder Education 2002) vii.

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PRINTED FROM OXFORD SCHOLARSHIP ONLINE (www.oxfordscholarship.com). (c) Copyright Oxford University Press, 2018. All Rights Reserved. Under the terms of the licence agreement, an individual user may print out a PDF of a single chapter of a monograph in OSO for personal use (for details see http://www.oxfordscholarship.com/page/privacy-policy). Subscriber: University of Oxford; date: 20 May 2018 (²) Richard Jenkins, *Social Identity* (4th edn, Routledge, 2014) 15. On the various streams in sociological identity theory, see Jan E Stets and Peter J Burke, 'A Sociological Approach to Self and Identity' in Mark Leary and June Tangney (eds), *Handbook of Self and Identity* (Guilford Press, 2002) 9–10.

(³) Anthony Giddens and Philip Sutton, *Sociology* (7th edn, Polity, 2013) 307.

(⁴) Jenkins (n 2) 27.

(⁵) I am deeply indebted to Orit Gazit of the Hebrew University Department of Sociology for helpful comments on an earlier draft of this section.

(⁶) The common term employed in sociological literature is 'identity theory' and the common term used in social psychological literature is 'social identity theory'. Jan E Stets and Peter J Burke, 'Identity, Theory and Social Identity Theory' (2000) 63 *Social Psychology Quarterly* 224.

(⁷) Sociological literature on identity emphasizes social roles, selfmeaning and shared meanings, interactions, and 'identity salience'. Social psychological literature on identity emphasizes inter-group relations and group behaviour (and is often labelled as 'group-based identity'), cognitive processes, evaluative consequences, conformist behaviour, and certain personal motivational underpinning identification. On the common and different aspects of these two approaches to social identity, see Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 224–33; Michael A Hogg, Deborah J Terry, and Katherine M White, 'A Tale of Two Theories: A Critical Comparison of Identity Theory with Social Identity Theory' (1995) 58 *Social Psychology Quarterly* 255, 262–5.

 $(^8)$ Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 223–4. See also ibid., 255.

(⁹) Stets and Burke 'Identity, Theory and Social Identity Theory' (n 6) 228.

(¹⁰) Hogg, Terry, and White (n 7) 255. On streams of identity approaches in the symbolic interactionist doctrine, see Stets and Burke 'Identity, Theory and Social Identity Theory' (n 6) 10–11.

 $(^{11})$ See Chapter 2, Section IV(c). On the link between social identity and the symbolic-interactionist approach, see, e.g., Hogg, Terry, and White (n 7) 256.

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(¹²) Hogg, Terry, and White (n 7) 255, 257; Marilynn B Brewer, 'The Many Faces of Social Identity: Implications for Political Psychology' (2001) 22 *Political Psychology* 155.

(¹³) Hogg, Terry, and White (n 7) 259; Sheldon Stryker and Peter J Burke, 'The Past, Present, and Future of an Identity Theory' (2000) 63 *Social Psychology Quarterly* 284, 286; Walter G Stephan and Cookie White Stephan, *Intergroup Relations* (Westview Press, 1996) 90. Richard J Crisp, 'Prejudice and Perceiving Multiple Identities' in John F Dovidio and others (eds), *Prejudice, Stereotyping And Discrimination* (Sage, 2010) 508.

(¹⁴) Jenkins (n 2) [emphasis added] 6. From a social psychological perspective, Tajfel defines social identity as 'that part of the individual's self concept which derives from his knowledge of his membership of a asocial group (or groups) together with the values and emotional significance attached to that membership', Henri Tajfel, *Human Groups and Social Categories: Studies in Social Psychology* (CUP, 1981) 254–5.

(¹⁵) Giddens and Sutton (n 3) 309; John C Turner and Rina S Onorato, 'Social Identity, Personality, and the Self-Concept: A Self-Categorization Perspective' in Tom R Tyler, Roderick M Kramer, and Oliver P John (eds), *The Psychology of the Social Self* (Erlbaum Publishers, 1990) 38; see also Jenkins (n 2) 39–41.

(¹⁶) Stephen Worchel, 'A Developmental View of the Search for Group Identity' in Stephen Worchel and others (eds) *Social Identity: International Perspectives* (Sage, 1998) 53, 55; Turner and Onorato (n 15) 13; Jenkins (n 2) 112–13; Marilynn B Brewer, 'The Social Self: On Being the Same and Different at the Same Time' (1991) 17 Personality and Social Psychology Bulletin 475, 475–6.

(¹⁷) Jenkins (n 2) 104.

(¹⁸) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 228. On the relationships between personal and collective identity, see John C Turner and others, 'Self and Collective: Cognition and Social Context' (1994) 20 *Personality and Social Psychology Bulletin* 454.

(¹⁹) Brewer, 'The Social Self' (n 16) 475-7.

(²⁰) The term 'role' refers in sociological literature to socially defined expectations that a person in a given social position follows. On the concept of role in sociology, see Chapter 1, Section II.

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(²¹) On the importance of 'role' in sociological identity theory, see also Hogg, Terry, and White (n 7) 264. See also Giddens and Sutton (n 3) 307–8.

(²²) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6)
227; see also Hogg, Terry, and White (n 7) 256; Stets and Burke, 'A
Sociological Approach to Self and Identity' (n 2) 11 et seq.

 $(^{23})$ Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 229.

(²⁴) Worchel (n 16) 65.

(²⁵) Ibid., 65, 72–3. See also Alberto Melucci, 'The Process of Collective Identity' in Hank Johnston and Bert Klandermans (eds), *Social Movements and Culture* (University of Minnesota Press 1995) vol 4, 41, 47–8.

(²⁶) Worchel (n 16) 66; Melucci (n 25) 47.

 $(^{27})$ Worchel (n 16) 65. On the various stages in the development of group identity, see Worchel 56–62.

(²⁸) See, e.g. Tajfel (n 14) 255–9; Phyllis Anastasio, Betty Bachman, Samuel Gaertner, and John Dovidio, 'Categorization, Recategorization and Common Ingroup Identity' in Russell Spears and others (eds), *The Social Psychology of Stereotyping and Group Life* (Blackwell, 1997).

(²⁹) Henri Tajfel and John C Turner, 'The Social Identity of Intergroup Behaviour' in Stephen Worchel and William G Austin (eds), *Psychology of Intergroup relations* (2nd edn, Nelson Hall, 1986) 7.

 $(^{30})$ Ibid., 12. See also Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 225; Jenkins (n 2) 114–15.

(³¹) Stets and Burke, 'A Sociological Approach to Self and Identity' (n 2).

(³²) Jenkins (n 2) 13, 111.

(³³) Jenkins (n 2) 46, 73, 95.

 $(^{34})$ See, e.g., Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 227.

(³⁵) Jenkins (n 2) 73, 80, 83, 86, 113. See also Stets and Burke, 'A Sociological Approach to Self and Identity' (n 2) 225; Hogg, Terry, and White (n 7) 257.

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(³⁶) Fredrick Barth, 'Introduction' in Frederick Barth (ed), *Ethnic Groups and Boundaries: The Social Organization of Culture Difference* (Little Brown & Company, 1969) 9, 10–12; Jenkins (n 2) 123, 46.

(³⁷) Barth (n 36) 15–16.

(³⁸) Jenkins (n 2) 46. As Barth explains, even where persons of different identity groups interact with each other, the persistence of ethnic groups 'implies not only criteria and signals of identification, but also a structuring of interaction which allows the persistence of cultural differences'. Barth (n 36) 16.

(³⁹) Jenkins (n 2) 13.

(⁴⁰) Morita Hodaka and Servátka Maroš, *Symbols, Group Identity and the Hold-Up Problem* (30 November 2011) 1. http://ssrn.com/abstract=1966354 accessed 20 March 2015; Jenkins (n 2) 146-7.

(⁴¹) Morita and Servátka (n 40) 1; Randall Collins, *Interaction Ritual Chains* (Princeton University Press, 2004) 95, 98; Jenkins (n 2) 137-9.

(⁴²) Jenkins (n 2) 139-40, 145; Collins (n 41) 81-3.

(⁴³) Bonny Norton, 'Language, Identity, and the Ownership of English' (1997) 31 *TESOL Quarterly* 419.

(⁴⁴) John Scott and Gordon Marshall, 'Language', *Oxford Dictionary of Sociology* (3rd edn, OUP, 2009) 406.

(⁴⁵) David Crystal, *How Language Works* (Penguin Books, 2006) 303.

(⁴⁶) Scott and Marshall (n 44) 406–7; Crystal (n 45) 303. See also Woodward (n 1) 79; Rawi Abdelal, Yoshiko M Herrera, and Alastair Iain Johnston, 'Identity as a Variable' (2006) 4 *Perspectives on Politics* 699; Jenkins (n 2) 145.

(⁴⁷) See, e.g., Francesca Polletta, '"It Was like a Fever …" Narrative and Identity in Social Protest' (1998) 45 *Social Problems* 137; Klaus Eder, 'A Theory of Collective Identity' (2009) 12 *European Journal of Social Theory* 427; Woodward (n 1) 28.

(⁴⁸) Woodward (n 1) 28.

(⁴⁹) On the particular influence of 'ontological narratives' and identity, see Margaret R Somers, 'Narrative, Narrative Identity, and Social

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Action: Rethinking English Working-Class Formation' (1992) 16 *Social Science History* 591. See also Woodward (n 1) 29.

(⁵⁰) Eder (n 47) 428-31.

(⁵¹) On the concept of collective memory in sociological literature and its interaction with identity as well as international law, see Chapter 3, Sections II (on collective memory and its interaction with social identity) and III (on interactions between collective memories and international law).

(⁵²) Yael Zerubavel, *Recovered Roots* (University of Chicago Press, 1995) 6.

 $(^{53})$ Ross Poole, 'Memory, History and the Claims of the Past' (2008) 1 *Memory Studies* 149, 162.

(⁵⁴) Jan Assmann, 'Collective Memory and Cultural Identity' (1995) 65 *New German Critique* 125, 130, see also 137.

(⁵⁵) Jenkins (n 2) 47, 166.

(⁵⁶) On the institutionalization of ethnic identities in Africa during the colonization period, see Mahmood Mamdani, 'Race and Ethnicity as Political Identities in the African Context' in Mahmood Mamdani and others (eds), *Keywords: Identity* (Other Press, 2004) 4–8.

(⁵⁷) Jenkins (n 2) 166.

 $(^{58})$ For a sociological definition of 'organizations', see, e.g., Jenkins (n 2) 147, 170.

(⁵⁹) On the role of states in shaping identity, see Kwame Anthony Appiah, 'The State and the Shaping of Identity' (Tanner Lectures on Human Values, Cambridge, 30 April 2001), <http:// tannerlectures.utah.edu/_documents/a-to-z/a/Appiah_02.pdf> accessed 20 March 2015.

(⁶⁰) Michael A Hogg and Deborah J Terry, 'Social Identity Theory and Organizational Process' in Michael A Hogg and Deborah J Terry (eds), *Social Identity Process in Organizational Context* (Psychology Press, 2001) 1. See also Michael G Pratt, 'Social Identity Dynamics in Modern Organizations' in Michael A Hogg and Deborah J Terry (eds) *Social Identity Process in Organizational Context* (Psychology Press, 2001) 13.

(⁶¹) Jenkins (n 2) 183.

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(⁶²) Ibid., 187.

(⁶³) Ibid., 177-8.

 $(^{64})$ Ibid., 188, 201, 47. On international labelling agencies, see Chapter 6, Section IV(a).

(⁶⁵) Giddens and Sutton (n 3) 307; Hogg, Terry, and White (n 7) 255; Jenkins (n 2) 10, 18; Stets and Burke 'Identity, Theory and Social Identity Theory' (n 6) 233.

(⁶⁶) Jenkins (n 2) 90.

(⁶⁷) Hogg, Terry, and White (n 7) 261, 265.

(⁶⁸) Jenkins (n 2) 189.

(⁶⁹) Ibid., 6-8, 10.

 $(^{70})$ Hogg, Terry, and White (n 7) 257; Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 229.

(⁷¹) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 230; Hogg, Terry, and White (n 7) 258. On additional factors affecting identity salience (relating to the immediate social context and the individual's own interpretation of the context), see Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 230–1; Worchel (n 16) 55. For a more nuanced explanation of the influence of identity on behaviour (particularly its role in *facilitating* action), see Ann Swidler, *Talk of Love: How Culture Matters* (University of Chicago Press, 2001) 87.

(⁷²) On the interpersonal—intergroup continuum, see Tajfel and Turner (n 29) 8–10. See also Hogg, Terry, and White (n 7) 261; Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 231–2; Turner and others (n 18) 455.

(⁷³) The sociological approach to identity emphasizes that the transformation to group member is undertaken when one incorporates group membership (including the meaning and expectations associated with that role) into the self; Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 225.

(⁷⁴) Dominic Abrams and Michael A Hogg, 'Social Identity and Self-Categorization' in John F Dovidio and others (eds), *Prejudice*,

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Stereotyping And Discrimination (Sage, 2010) 177, 187; Hogg, Terry, and White (n 7) 261.

(⁷⁵) On the impact of identity on emotions, see Stets and Burke, 'A Sociological Approach to Self and Identity' (n 2) 21–3; Jenkins (n 2) 6–7.

(⁷⁶) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 225, 233; Hogg, Terry, and White (n 7) 260.

(⁷⁷) Jenkins (n 2) 114–15; Hogg, Terry, and White (n 7) 260.

(⁷⁸) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 226; Hogg, Terry, and White (n 7) 260; Stephan and Stephan explain that one way of increasing self-esteem is to exaggerate between-group differences and minimize within-group differences on positively evaluated dimensions. Stephan and Stephan (n 13) 100.

(⁷⁹) Jenkins (n 2) 154; Hogg, Terry, and White (n 7) 260. See also Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 225.

(⁸⁰) Stephan and Stephan (n 13) 94.

(⁸¹) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 225, 232; Hogg, Terry, and White (n 7) 260; Barbara-Ann Mullin and Michael A Hogg, 'Motivations for Group Membership: The Role of Subjective Importance and Uncertainty Reduction' (1999) 21 *Basic and Applied Social Psychology* 91, 91–2; Henri Tajfel, *Human Groups and Social categories: Studies in Social Psychology* (CUP, 1981) 254.

(⁸²) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 233.

(⁸³) Ibid., 226; Tajfel and Turner (n 29) 13.

(⁸⁴) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 232. On self-esteem and identity, see also Stets and Burke, 'A Sociological Approach to Self and Identity' (n 2) 6–7.

(⁸⁵) Abrams and Hogg (n 74) 182. The general tendency of in-group members to favour members of their own group over other groups has some exceptions (prominently regarding groups that are low in status, power and prestige). Charles Stangor and John T Jost, 'Commentary: Individual, Group and System Levels of Analysis and their Relevance to Stereotyping and Intergroup Relations' in Russell Spears and others (eds), *Social Psychology of Stereotyping and Group Life* (Blackwell, 1997) 346.

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(⁸⁶) Stephen Worchel and Hank Rothgerber, 'Changing the Stereotype of the Stereotype' in Russell Spears and others (eds), *The Social Psychology of Stereotyping and Group Life* (Blackwell, 1997) 72, 74–8. See also Section IV(c)(ii) below.

(⁸⁷) See, e.g., Jenkins (n 2) 157-8, 152.

(⁸⁸) Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 227.

 $(^{89})$ Giddens and Sutton (n 3) 307–8; Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 227.

(⁹⁰) Hogg, Terry, and White (n 7) 257-8.

(⁹¹) Hogg, Terry, and White (n 7) 260; Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 232; Jenkins (n 2) 8; Stephan and Stephan (n 13) 92–3. On certain factors that increase and decrease the likelihood of inter-group discrimination, see Richard Y Bourhis, John C Turner, and André Gagnon, 'Interdependence, Social Identity and Discrimination' in Russell Spears and others (eds), *The Social Psychology of Stereotyping and Group Life* (Blackwell, 1997) 273, 276.

(⁹²) Tajfel and Turner (n 29) 13.

(⁹³) Tajfel and Turner (n 29) 14; Stephan and Stephan (n 13) 92–3.

(⁹⁴) Tajfel and Turner (n 29) 19; Stets and Burke, 'Identity, Theory and Social Identity Theory' (n 6) 232; Hogg, Terry, and White (n 7) 260. On additional group motivations for stereotyping, prejudice and discrimination, see Stangor and Jost (n 85) 338–52. On additional motives directing inter-group behaviour, see Stephan and Stephan (n 13) 101.

(⁹⁵) Jolanda Jetten and others, 'Rebels with a Cause: Group Identification as a Response to Perceived Discrimination from the Mainstream' (2001) 27 *Personality and Social Psychology Bulletin* 1204.

(⁹⁶) Additional factors affecting inter-group discrimination include the degree to which individuals identified with the group, the salience of the relevant categorization, the degree to which the groups are comparable, the in-group relative status and the perceived status differences between the groups. Bourhis, Turner and Gagnon (n 91) 273, 276.

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 $(^{97})$ Hogg, Terry, and White note that these beliefs are not necessarily accurate reflections of reality because they can be, and often are, ideological constructs. Hogg, Terry, and White (n 7) 260. On the interactions between social identity and collective action, see also Abrams and Hogg (n 74) 179, 187.

 $(^{98})$ On the social constructivist approach in international relations literature, see Chapter 1, Section IV.

(⁹⁹) On the links between the constructivist approach and sociology (and particularly the symbolic-interactionist approach) see, e.g., Alexander Wendt, 'Collective Identity Formation and the International State' (1994) 88 American Political Science Review 385, 386, 394. See also Jutta Brunnee and Stephen J Toope, 'International Law and Constructivism: Elements of an International Law Theory of International Law' (2000) 20 Columbia Journal of Transnational Law 27.

(¹⁰⁰) Wendt, 'Collective Identity Formation' (n 99) 386; Peter J Katzenstein, 'Introduction: Alternative Perspectives on National Security' in Peter J Katzenstein (ed), *The Culture of National Security: Norms and Identity in World Politics* (Columbia University Press, 1996) 1, 22; Bahar Rumelili, 'Constructing Identity and Relating to Difference: Understanding the EUs' (2004) 30 *Review of International Studies* 27, 30–1; Robert Jackson and Georg Sørensen, *Introduction to International Relations: Theories and Approaches* (4th edn, OUP, 2010) 164, 172.

(¹⁰¹) Ibid., 162, 166.

(¹⁰²) See, e.g., ibid., 165.

(¹⁰³) See, e.g., Wendt, 'Collective Identity Formation' (n 99) 385; James D Fearon, 'What is Identity (As We Now Use the Word)?' (1999) 3 <http://web.stanford.edu/group/fearon-research/cgi-bin/wordpress/wp-content/uploads/2013/10/What-is-Identity-as-we-now-use-the-word-.pdf> accessed 21 March 2015; Thomas Risse, A Community of Europeans? Transnational Identities and Public Spheres (Cornell University Press, 2010) 20.

(¹⁰⁴) Ted Hopf, 'The Promise of Constructivism in International Relations Theory' (1998) 23 *International Security* 171, 174.

 $(^{105})$ See, e.g., Wendt, 'Collective Identity Formation' (n 99) 386, 394; Jackson and Sørensen (n 100) 163; Hopf (n 104) 175; Rumelili (n 100) 30–1.

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(¹⁰⁶) Wendt, 'Collective Identity Formation' (n 99) 387; Peter J Katzenstein, Ronald L Lepperson, and Alexander Wendt, 'Norms, Identity, and Culture in National Security' in Peter J Katzenstein (ed), *The Culture of National Security: Norms and Identities in World Politics* (Columbia University Press, 1996) 11, 35–6. On variations in the constructivist literature regarding emphasis on domestic or international factors see, e.g., Jackson and Sørensen (n 100) 170–2 and the references therein; Emanuel Adler, 'Cognitive Evolution: A Dynamic Approach for the Study of International Relations and their Progress' in Emanuel Adler and Beverly Crawford (eds), *Progress in Postwar International Relations* (Columbia University Press, 1991) 43, 257; John Ruggie, *Constructing the World Polity* (Routledge, 1998) 11–14; Richard Steinberg and Jonathan Zasloff, 'Power and International Law' (2006) 100 *AJIL* 64, 82–5.

(¹⁰⁷) Wendt defines corporate identity as the intrinsic, self-organizing qualities that constitute actor individuality. For organizations, it means their constituent individuals, physical resources, and the shared beliefs and institutions in virtue of which individuals function as a 'we'. Wendt, 'Collective Identity Formation' (n 99) 386.

 $(^{108})$ See, e.g., Wendt, 'Collective Identity Formation' (n 99) 386; Fearon (n 103) 33.

(¹⁰⁹) Wendt, 'Collective Identity Formation' (n 99) 390.

(¹¹⁰) Alexander Wendt, 'Anarchy is What States Make of It' (1992) 46 *International Organization* 391, 398.

(¹¹¹) Brunne and Toope (n 99) 4; Christian Reus-Smit, *The Moral Purpose of the State* (Princeton University Press, 1999) 29; Ian Hurd, 'Constructivism' in Christian Reus-Smit (ed), *The Oxford Handbook of International Relations* (OUP, 2008) 298, 303.

(¹¹²) Hopf (n 104) 176.

 $(^{113})$ Wendt, 'Collective Identity Formation' (n 99) 386, 390; Hopf (n 104) 176.

(¹¹⁴) Wendt, 'Collective Identity Formation' (n 99) 386.

 $(^{115})$ Lepperson, Wendt, and Katzenstein (n 106) 52.

(¹¹⁶) Wendt, 'Collective Identity Formation' (n 99) at 387. See also Martha Finnemore, 'Constructing Norms of Humanitarian Intervention' in Peter J. Katzenstein (ed), *The Culture of National Security: Norms*

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and Identity in World Politics (Columbia University Press 1996) 153, 159, 169, 184.

(¹¹⁷) Lepperson, Wendt, and Katzenstein (n 106) 54. See also Jackson and Sørensen (n 100) 169; Audie Klotz, *Norms in International Relations: The Struggle Against Apartheid* (Cornell University Press, 1995) 56, 168–71; Audie Klotz, 'Norms Reconstituting Interests: Global Racial Equality and U.S. Sanctions Against South Africa' (1995) 49 *International Organization* 451, 461–2, 472.

 $(^{118})$ Abdelal, Herrera, and Johnston (n 46) 697–8. For Reus-Smit, state societies have been based on fundamental moral purposes derived from their identity. Reus-Smit (n 111) 156.

(¹¹⁹) Hopf (n 104) 174–5.

(¹²⁰) See, e.g., Andrea Oelsner, 'The Institutional Identity of Regional Organizations, or Mercosur's Identity Crisis' (2013) 57 *International Studies Quarterly* 115.

 $(^{121})$ On the EU's identity, see Section IV(b) below.

(¹²²) See, e.g., John J Kirton, *G20 Governance for a Globalized World* (Ashgate, 2013) 34.

(¹²³) On the leadership identities of the USA and the EU in the climate change negotiations (and their impact on the negotiation process), see Jutta Brunnée, 'Europe, The United States, and the Global Climate Regime: All Together Now?' (2008) 24(1) *Journal of Land Use and Environmental Law* 1, 28–30. See also Daniela Sicurelli, *The European Union's Africa Policies* (Ashgate, 2010) 135. On the identities of the EU and the USA after the Cold War, see Sonia Lucarellia, 'Values, Identity and Ideational Shocks in the Transatlantic Rift' (2006) 9 Journal of *International Relations and Development* 304.

(¹²⁴) See Section IV(b) below.

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(¹²⁵) Thus, e.g., regarding the UN electoral ('regional') groups, certain non-Western European countries like Greece, Australia, New Zealand, Canada, and Israel are members of the *Western European and Others Group*. On the UN regional groups and the element of identification with a group of states, see, Sam Daws, 'The Origins and Development of UN Electoral Groups' in Ramesh Thakur (ed), *What is Equitable Geographic Representation in the 21st Century?* (United Nations University, 1999) 11, 15. On the factor of image in New Zealand's policy regarding UN groups, see Daws, at 16. On the historic evolution of the Western European and Others group and its links with European identity, see Norbert Gotz, 'Western Europeans and Others: the making of Europe at the United Nations' (2008) 33 Alternatives: Global, Local, *Political* 366, 372–3.

(¹²⁶) See, e.g., Kirton (n 122) 34.

 $(^{127})$ See Section IV(b) below.

(¹²⁸) Richard Price and Nina Tannenwald, 'Norms and Deterrence: The Nuclear and Chemical Weapons Taboos' in Peter Katzenstein (ed), *The Culture of National Security: Norms and Identity in World Politics* (Columbia University Press, 1996) 114, 130–1.

(¹²⁹) Italy contended that the 'Ethiopians have repeatedly shown she [*sic!*] is not worthy of the rank of a civilized nation'; Price and Tannenwald (n 128) 132. In a letter to the League of Nations, Italy accused Ethiopian forces of violating several articles of the 1925 Geneva Protocol and 'savage' aggression. Lina Grip and John Hart, 'The Use of Chemical Weapons in the 1935–36 Italo-Ethiopian War' (October 2009) SIPRI Arms Control and Non-proliferation Programme 6 <http:// www.sipri.org/research/disarmament/chemical/publications/ ethiopiapaper> accessed 21 March 2015. See also Richard M Price, *The Chemical Weapons Taboo* (Cornell University Press, 1997) 108.

(¹³⁰) In 1998, the Iraqi foreign minister defended the use of chemical weapon and argued: 'There are different views on this matter from different angles. You are living on a civilized continent.' Price and Tannenwald (n 128) 132.

(¹³¹) Ibid., 131.

(¹³²) Scott D Sagan, 'Why Do States Build Nuclear Weapons? Three Models in Search of a Bomb' (1996) 21 *International Security* 54, 54–5. On these factors, see also Mike M Mochizuki, 'Japan Tests the Nuclear Taboo' (2007) 14 *Non-proliferation Review* 306.

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(¹³³) On the importance of national identity and prestige for developing nuclear weapons, see also Barry O'Neill, 'Nuclear Weapons and National Prestige' (February 2006) Cowles Foundation Discussion Paper No. 1560 <http://ssrn.com/abstract=887333> accessed 21 March 2015.

(¹³⁴) Sagan (n 132) 73.

(¹³⁵) For additional examples, see O'Neill (n 133) 4. On the link between nuclear policy and national identity, see also Maria Rost Rublee, *Non-Proliferation Norms: Why States Choose Nuclear Restraint?* (University of Georgia Press, 2009) 13–15.

(¹³⁶) With regard to Pakistan, see Feroz Hassan Khan, *Eating Grass: The Making of the Pakistani Bomb* (Stanford University Press, 2012) 9-11. See also 7.

(¹³⁷) On the link between the development of nuclear weapons by France during the 1950s and national identity, see, e.g., Jacques EC Hymans, *The Psychology of Nuclear Proliferation: Identity, Emotions, and Foreign Policy* (CUP, 2006) 85. See also Gabrielle Hecht, *The Radiance of France: Nuclear Power and National Identity After World War II* (MIT Press, 2009) 28, 56, 89.

(¹³⁸) Sagan (n 132) 79–80.

(¹³⁹) Mochizuki (n 132) 306-7. See also Satake Tomohiko, 'Japan's Nuclear Policy: Between Non-Nuclear Identity and US Extended Deterrence' (May 2009) Austral Policy Forum, 3-4 <http://nautilus.org/ wp-content/uploads/2009/12/Tomohiko-PDF.pdf> accessed 21 March 2015.

(¹⁴⁰) See, e.g., the website of the Organization of American States, 'Who We are', <http://www.oas.org/en/about/who_we_are.asp> accessed 21 March 2015.

(¹⁴¹) Said Mahmoudi, 'Organization of the Islamic Conference', in R Wolfrum (ed), *Max Planck Encyclopedia of Public International Law* (OUP, 2009) <http://opil.ouplaw.com/home/EPIL> accessed 30 May 2015.

(¹⁴²) On the Commonwealth of Nations and its links to the British Empire, see Laurie Fransman, 'Commonwealth Subjects and Nationality Rules', in R Wolfrum (ed), Max Planck Encyclopedia of Public International Law (OUP, 2009) <http://opil.ouplaw.com/home/EPIL>.

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(¹⁴³) On the collective identity and the ideology of NATO, see, e.g., Christopher Hemmer and Peter J Katzenstein, 'Why is There No NATO in Asia? Collective Identity, Regionalism, and the Origins of Multilateralism' (2002) 56 *International Organization* 575, 587-8.

(¹⁴⁴) On the stages of development of international organizations' identity in light of developmental psychological literature, see Sungjoon Cho, 'An International Organization's Identity Crisis' (2014) 34 *Northwestern Journal of International Law and Business* 359, 373–83.

(¹⁴⁵) See, e.g., Mahmoudi (n 141) para 5.

(¹⁴⁶) The Council of Europe quotes Juncker in its official website: 'the Council of Europe and the European Union were products of the same idea, the same spirit and the same ambition. They mobilised the energy and commitment of the same founding fathers of Europe'. *The Council of Europe's Relations with the European Union* http://www.coe.int/t/ der/eu_EN.asp accessed 21 March 2015.

(¹⁴⁷) See, e.g., on the Pan American Day and the Organization of American States, Columbus Memorial Library, Pan-American Day April 14<http://www.oas.org/columbus/PanAmericanDay.asp> accessed 21 March 2015. On the ASEAN Day, see Charter of the Association of Southeast Nations (adopted 20 November 2007, entered into force 15 December 2008) 2624 UNTS 223 (ASEAN Charter) Art 39.

(¹⁴⁸) On the EU's 'narratives of projection' (and specifically regarding the WTO), see the insightful essay by Kalypos Nicolaidis and Robert Howse, 'This is my EUtopia ... : Narrative as Power' (2002) 40 *Journal of Common Market Studies* 767. See also, Organization of American States 'Our History' http://www.oas.org/en/about/our_history.asp accessed 21 March 2015.

(¹⁴⁹) Mahmoudi notes that the Charter of the 1972 Charter of the Organization of the Islamic Conference was inspired by the Charter of the Arab League and the Charter of the Organization of African Union. See, e.g., Mahmoudi (n 141) para 5.

 $(^{150})$ See, e.g., Art 3 of the Statute of the Council of Europe (signed 5 May 1949, entered into force 3 August 1949) 87 UNTS 103 Art 3. On the EU's admission requirements regarding human rights protection, see Section IV(b) below.

 $(^{151})$ See, e.g., the 1992 OAS Protocol of Washington (which amended the OAS Charter by adding a new Art 9) stipulating the suspension of any member whose democratically elected government has been

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overthrown by force. On this amendment and the practice of OAS in that regard, see Konstantinos D Magliveras, *Exclusion from Participation in International Organisations* (Kluwer, 1999) 165, 171-4.

(¹⁵²) On international organizations' common political identity and possible expulsion, see Henry G Schermers and Niels M Blokker, *International Institutional Law* (5th edn, Martinus Nijhoff Publishers, 2011) 113.

(¹⁵³) Art 35 of the Charter of the Association of Southeast Asian Nations (ASEAN) provides as follow: 'ASEAN Identity: ASEAN shall promote its common ASEAN identity and a sense of belonging among its peoples in order to achieve its shared destiny, goals and values'. See also ASEAN Charter (n 147) Art 1(14). See also Michael E Jones, 'Forging an ASEAN Identity: The Challenge to Construct a Shared Destiny' (2004) 26 *Contemporary Southeast Asia* 140. See also on the Organization of the Islamic Conference, Mahmoudi (n 141) para 5.

(¹⁵⁴) Third recital to the Preamble of the South American Union of Nations Constitutive Treaty (signed 23 May 2008, entered into force 11 March 2011) 2742 UNTS, at the Preamble <http://treaties.un.org/doc/ Publication/UNTS/No%20Volume/48456/Part/ I-48456-08000002802d4c72.pdf> accessed 22 March 2015.

(¹⁵⁵) See, e.g., regarding South Korean membership in the OECD, Dong Chon Suh, 'Trade and Financial Liberalization in South Asia' in Daljit Singh and Reza Y Siregar (eds), *ASEAN and Korea* (Institute for Southeast Asian Studies, Singapore 1997) 19, 68. See regarding Slovenia's membership <http://www.svrez.gov.si/en/areas_of_work/ slovenia member of the oecd/

organisation_for_economic_co_operation_and_development_oecd/> accessed 22 March 2015. And see regarding Israel's membership, 'Israel to join prestigious OECD economic club' *France 24— International News* (27 May 2010) <http://www.france24.com/en/ 20100527-israel-join-prestigious-oecd-economic- club-netanyahusarkozy-paris/> accessed 22 March 2015.

(¹⁵⁶) On the OECD as the 'rich man club', see, e.g., Thalif Deen, 'Chile to Join the "Rich Man's Club" '*Inter Press Service* (21 December 2009) <http://ipsnews.net/news.asp?idnews=49777> accessed 22 March 2015; '50 Years of the OECD: An Exclusive Club with Global Goals' *Deutsche Welle* (30 September 2011) <http://www.dw-world.de/dw/ article/0,,15099080,00.html> accessed 22 March 2015.

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(¹⁵⁷) See UN-OHRLLS, 'The Criteria for Identification and Graduation of the LDCs' <http://www.un.org/special-rep/ohrlls/ldc/ ldc%20criteria.htm> accessed 22 March 2015.

(¹⁵⁸) On the classification of states accordance to their level of economic development, see, e.g., the Human Development Index (HDI) developed by the UN Development Programme (UNDP) <http:// hdr.undp.org/en/statistics/> accessed 24 March 2015; The World Bank, Country and Lending Groups <http://data.worldbank.org/about/ country-classifications> accessed 24 March 2015.

(¹⁵⁹) See World Bank, *Worldwide Governance Indicators* (WGI) <http:// info.worldbank.org/governance/wgi/index.asp> accessed 24 March 2015; Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi, 'The Worldwide Governance Indicators: Methodology and Analytical Issues' (2010) Policy Research Working Paper 5430, 4 <http:// elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-5430> accessed 24 March 2015.

 $(^{160})$ On international labelling and international institutions, see also Chapter 6, Section IV(a).

 $(^{161})$ See the UN Charter Art 39.

(¹⁶²) For a survey of political science literature on European identity and the European Union, see Erik Jones, 'Identity and Solidarity' in Erik Jones, Anand Menon, and Stephen Weatherill (eds), *The Oxford Handbook of the European Union* (OUP, 2012) 690. See also Jeffrey Checkel and Peter Katzenstein, *European Identity* (CUP, 2009) 1.

(¹⁶³) On the impacts of symbols on European identity, see Michael Bruter, 'Winning Hearts and Minds for Europe: The Impact of News and Symbols on Civic and Cultural European Identity' (2003) 36 *Comparative Political Studies* 1148, 1165–7.

(¹⁶⁴) See Section II above.

(¹⁶⁵) European Union, *The European Flag*, <http://europa.eu/about-eu/ basic-information/symbols/flag/index_en.htm> accessed 24 March 2015.

(¹⁶⁶) European Union, *The European Anthem*, <http://europa.eu/abouteu/basic-information/ symbols/anthem/index_en.htm> accessed 24 March 2015.

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(¹⁶⁷) European Union, *Europe Day—EU Open Doors*, <http://europa.eu/ about-eu/basic- information/symbols/europe-day/ index_en.htm#why_europe_day> accessed 24 March 2015; European Union, *The Schuman Declaration—9 May 1950*, <http://europa.eu/ about-eu/basic- information/symbols/europe-day/schuman-declaration/> accessed 24 March 2015. On the commemorative rituals that have developed since 1957 to mark the anniversaries of signing of the Rome Treaty, see Hannes Hansen-Magnusson and Jenny Wustenberg, 'Forging European Memory: The Treaties of Rome as a Common Tradition in the Making?' (European Union Studies Association Conference, Boston, 3–5 March 2011).

 $(^{168})$ On the role of 'constituent norms' in the formation of international identity, see Section III above.

(¹⁶⁹) See, e.g., Thomas Risse and Kathryn Sikkink, 'The Socialization of International Human Rights Norms into Domestic Practices: Introduction' in Thomas Risse, Stephen C Ropp, and Kathryn Sikkink (eds), *The Power of Human Rights* (CUP, 1999) 1, 12.

(¹⁷⁰) On human rights as 'core values' of the EU, see also European Union, *The EU and Human Rights*, http://eeas.europa.eu/human_rights/index_en.htm> accessed 24 March 2015.

(¹⁷¹) The Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union [2010] OJ C 83/1 (hereinafter 'European Union Treaty'). And the Preamble to the Charter of Fundamental Rights of the European Union underlines that: 'The peoples of Europe, ... are resolved to share a peaceful future based on common values. Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law.' Charter of Fundamental Rights of the European Union [2010] OJ C 83/2.

(¹⁷²) On the central role of human rights in the EU's identity, see also Marise Cremona, 'Values in the EU Foreign Policy' in Malcolm Evans and Panos Koutrakos (eds), *Beyond the Established Legal Orders: Policy Interconnections between the EU and the Rest of the World* (Hart, 2011) 307. See also Ian Manners, 'The Constitutive Nature of Values, Images, and Principles in the European Union' in Sonia Lucarelli and Ian Manners (eds), *Values and Principles in European Union Foreign Policy* (Routledge, 2006) 19, 31–4, 38–41.

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(¹⁷³) See also, Commission, 'The European Union and the External Dimension of Human Rights Policy: From Rome to Maastricht and Beyond' (Communication) COM (1995) 567 final, 5.

(¹⁷⁴) Ibid., para. 12. See also Marise Cremona, 'Values in the EU Constitution: the External Dimension, Centre on Democracy, Development, and the Rule of Law' (November 2004) 26 Stanford Institute for International Studies 2.

(¹⁷⁵) Declaration on The European Identity published by the Nine Foreign Ministers on 14 December 1973, Copenhagen [emphasis added] <http://www.cvce.eu/content/publication/ 1999/1/1/02798dc9-9c69-4b7d-b2c9-f03a8db7da32/ publishable_en.pdf> accessed 24 March 2015.

 $(^{176})$ See Art 3(1) TEU (n 171); EU Charter of Fundamental Rights (n 171) Art 51.

(¹⁷⁷) Art 7 TEU (n 171). See also Manfred Nowak, 'Human Rights 'Conditionality' in Relation to Entry to, and Full Participation in, the EU' in Philip Alston (ed), *The EU and Human Rights* (OUP, 1999) 687, 690. On the link between certain sanctions operated by the EU members against another member and the EU identity, see Stefan Seidendorf, 'Defining Europe Against its Past?—Memory Politics and the Sanctions Against Austria in France and Germany' (2005) 6 *German Law Journal* 439, 443 et seq.

(¹⁷⁸) Art 49 TEU (n 171); European Council in Copenhagen: Conclusions of the Presidency (22 June 1993) DOC/93/3 ('Copenhagen Criteria') Art 7(A)(iii). On the link between this condition to become a member of the EU and the underlying identity of the EU, see Helene Sjursen, 'Why Expand? The Question of Legitimacy and Justification in the EU's Enlargement Policy' (2002) 40 *Journal of Common Market Studies* 491, 508.

(¹⁷⁹) See, e.g., Gwendolyn Sasse, 'EU conditionality and minority rights', EUI Working Papers 2005/16, 1 <http://cadmus.eui.eu/ bitstream/handle/1814/3365/05_16.pdf?sequence=1> accessed 24 March 2015.

(¹⁸⁰) Art 6 TEU (n 171). On the state of the negotiation process between the Council of Europe and the European Union regarding the EU's accession to the European Convention on Human Rights, see http:// www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/default_en.asp accessed 30 March 2015.

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(¹⁸¹) See, e.g., Giuseppe Balducci, 'The study of the EU promotion of human rights: the importance of international and internal factors' (2008) GARNET Working Paper No. 61/08, 3, 16. See also Cremona, 'Values in the EU Constitution' (n 174) 7 et seq. See also Gráinne de Búrca, 'The European Courts and the Security Council: Between Dédoublement Fonctionnel and Balancing of Values: Three Replies to Pasquale De Sena and Maria Chiara Vitucci' (2009) 20 *EJIL* 853.

(¹⁸²) Art 3(5) of the TEU provides as follows: '5. *In its relations with the wider world*, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the *protection of human rights*, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter' [emphasis added].

(¹⁸³) Art 21(1) of the TEU provides that '1. *The Union's action on the international scene shall be guided by the principles* which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and *indivisibility of human rights and fundamental freedoms*, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law' [emphasis added].

 $(^{184})$ On Arts 3(5) and 21 of the TEU, see Lorand Bartels, 'The EU's Human Rights Obligations in Relation to Policies with Extraterritorial Effects' (2014) 25 *EJIL* 1071, 1073–5.

(¹⁸⁵) See also Parliament, 'Joint Communication to the European Parliament and the Council, Human Rights and Democracy at the Heart of EU external action—towards a more effective approach' (12 December 2011) COM(2011) 886 final, 4.

(¹⁸⁶) Council of the European Union, 'EU Strategic Framework and Action Plan on Human Rights and Democracy' (25 June 2012) 11855/12 [emphasis added] 1–2 <http://www.consilium.europa.eu/uedocs/ cms_data/docs/pressdata/EN/foraff/131181.pdf> accessed 30 March 2015. This role of the EU in the international community is also emphasized in the EU's official website: 'The European Union sees human rights as universal and indivisible. It actively promotes and defends them both within its borders and when engaging in relations

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with non-EU countries.' European Union, *The EU and Human Rights*, http://eeas.europa.eu/human_rights/index_en.htm> accessed 24 March 2015.

(¹⁸⁷) See Section II above.

(¹⁸⁸) Gráinne de Búrca, 'The Evolution of EU Human Rights Law' in Paul Craig and Grainne de Burca (eds), *The Evolution of EU Law* (2nd edn, OUP, 2011) 465, at 491, see also 492–4.

 $(^{189})$ Ibid., 467 and see the references therein. See also 494.

(¹⁹⁰) See Section II above.

 $(^{191})$ On the role of human rights norms in defining identities of liberal states, see Risse and Sikkink (n 169) 1–2, 8–9.

(¹⁹²) See Section II above.

(¹⁹³) See, e.g., the EU statements cited above in this section (such as the 2012 'strategic paper'). On the EU self-representation regarding the emphasis of values in its foreign policy, see also, Sonia Lucarelli, 'Introduction: Values, Principles, Identity and European Union Foreign Policy' in Sonia Lucarelli and Ian Manners (eds), *Values and Principles in European Union Foreign Policy* (Routledge, 2006) 1, 2–4.

(¹⁹⁴) See, e.g., Balducci (n 181) 1-3, 16-21; Joseph S Nye, *Soft Power* (Public Affairs, 2004) 76, 80; Richard Gowan and Franziska Brantner, 'A Global Force for Human Rights? An Audit of European Power at the UN' (2008) European Council on Foreign Relations Policy Paper, 1, 8 <http://kms2.isn.ethz.ch/serviceengine/Files/RESSpecNet/91657/ ipublicationdocument_singledocument/12CA5C36-C4CC-46BD-B38F-B1CB7717F217/en/Global_Force_Human_Rights_EU_0908.pdf> accessed 24 March 2015.

(¹⁹⁵) 'European Union (EU)—Facts' (21 May 2014) <http:// www.nobelprize.org/nobel_prizes/peace/laureates/2012/eu-facts.html> accessed 24 March 2015.

(¹⁹⁶) See, e.g., European Commission, *Furthering Human Rights and Democracy Across the Globe* (2007) <http://eeas.europa.eu/ human_rights/docs/brochure07_en.pdf> accessed 24 March 2015; European Union, *EU Strategic Framework on Human Rights and Democracy* (25 June 2012) <http://www.consilium.europa.eu/uedocs/ cms_data/docs/pressdata/EN/foraff/131169.pdf> accessed 24 March 2015.

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(¹⁹⁷) Lorand Bartels, *Human Rights Conditionality in the EU's International Agreements* (OUP, 2005) 7–12, 68–70.

 $(^{198})$ 'Regulation (EU) No 978/2012 of The European Parliament and of the Council of 25 October 2012, applying a scheme of generalized tariff preferences and repealing Council Regulation (EC) 732/2008' [2012] *OJ* L 303/1, Art 9(1)(b) [hereafter 'EU GSP Regulation'].

(¹⁹⁹) EU GSP Regulation (n 198) Art 9(1)(c).

(²⁰⁰) Art 9(1)(b) of the EU GSP Regulation (n 198) Art 9(1)(b).

 $(^{201})$ Section of the Preamble of the EU GSP Regulation (n 198).

(²⁰²) On the evolution of such human rights provisions in the EU treaties, see Bartels, *Human Rights Conditionality* (n 197) 12 et seq.

(²⁰³) Lorand Bartels, 'Human Rights and Sustainable Development Obligations in EU Free Trade Agreements' (September 2012) Legal Studies Research Paper Series University of Cambridge Faculty of Law 1; Communication from the Commission to the Council and the European Parliament, 'The European Union's role in promoting human rights and democratisation in third countries' COM (2001) 252 final.

(²⁰⁴) Bartels, *The European Parliament's Role in Relation to Human Rights in Trade and Investment agreements* (February 2014) <http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/433751/EXPO-JOIN_ET(2014)433751_EN.pdf> accessed 24 March 2015, 3.

(²⁰⁵) Bartels, 6.

 $(^{206})$ See, e.g., Art 2 of the 2002 Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, [2002] *OJ L* 129/3 (15.5.2002).

(²⁰⁷) On the EU Commission's discretionary powers under such a provision (Article 86 of the 2006 EU—Lebanon Association Agreement) and its non-binding nature, see Case C-581/11 P *Mugraby v Council of the European Union*, judgment of 12 July 2012 [69]–[71]; Lorand Bartels, 'A Model Human Rights Clause for the EU's International Trade Agreements' 17–18 (February 2014) German Institute for Human Rights and MISEREOR 10,<http://ssrn.com/abstract=2405852> accessed 24 March 2015.

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(²⁰⁸) Bartels, *The European Parliament's Role in Relation to Human Rights* (n 204), 8. Regarding the above second element ('non-execution clause'), these measures must be taken in accordance with the relevant rules of international law, see Bartels, *Human Rights Conditionality* (n 197) 7.

(²⁰⁹) See Chapter 6, Section IV(b).

 $(^{210})$ See Sections II(c) and III above.

(²¹¹) On the link between a weak bond to society and non-compliance, see Paul Rock, 'Sociological theories of crime', in Mike Maguire, Rod Morgan, and Robert Reiner (eds), *The Oxford Handbook of Criminology* (OUP, 2012) 57; John J Macionis, *Sociology* (14th edn, Pearson 2012) 202.

(²¹²) See, e.g., with regard to the EU human rights policy, Rebecca Adler-Nissen, 'Stigma Management in International Relations: Transgressive Identities, Norms, and Order in International Society' (2014) 68 *International Organization* 143, 160–5.

(²¹³) Inconsistent trade measures towards non-members in this sphere seem to erode the legitimacy of the EU's human rights policy towards non-member states. On the incoherent application of such trade measures towards non-members suspected for breaching human rights, see, e.g., Armin Paasch, 'Human Rights in EU Trade Policy—Between Ambition and Reality' (December, 2011) *Ecofair Trade Dialogue Discussion Paper* 3, 12–13; Nivedita Sen and Balu G Nair, 'Human Rights Provisions in the forthcoming Indian-EU Free Trade Agreement' (2011) 4 *National University for Juridical Science Law Review* 417, 423, 430; Guy Harpaz and Eyal Rubinson, 'The Interface between Trade, Law and Politics and the Erosion of Normative Power Europe' (2010) 35 *European Law Review* 551, 566–70.

(²¹⁴) On the link between the conception of international human rights and international legitimacy, see, e.g., Balducci (n 181) 4; Michael Joseph Smith, 'Sovereignty, Human Rights and Legitimacy in the Post-Cold War World' (2001) <http://faculty.virginia.edu/irandhumanrights/ mjsonsovty.htm> accessed 24 March 2015. On international human rights protection and standard of legitimacy (and 'standard of civilization'), see Jack Donnelly, 'Human Rights: A New Standard of Civilization?' (1998) 74 International Affairs 1, 14.

(²¹⁵) Bartels, 'A Model Human Rights Clause for the EU's International Trade Agreements' (n 207) 10; Bartels, *The European Parliament's Role*

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in Relation to Human Rights (n 204) 12; Bartels, *Human Rights Conditionality* (n 197) 9; Sen and Nair (n 213) 427.

(²¹⁶) See, e.g., Fabienne Zwagemakers, 'The EU's Conditionality Policy: A New Strategy to Achieve Compliance' (January 2012) IAI Working Papers 12/03, 5-6 <http://www10.iadb.org/intal/intalcdi/PE/ 2012/09808.pdf> accessed 24 March 2015; Daniela Donno, 'Legalization and Leverage: Human Rights Conditionality in the European Union's Economic Agreements' (American Political Science Association Annual Meeting, New Orleans, September 2012) 7-9, 19-24, and see the references therein; Bartels, *Human Rights Conditionality* (n 197) 17-19; Paasch (n 213) 14-15. See also Hadewych Hazelzet, 'Suspension of Development Cooperation: An Instrument to Promote Human Rights and Democracy?' (August 2005), European Centre for Development Policy Management, 12-13.

(²¹⁷) See, e.g., Malcolm Shaw, *International Law* (7th edn, CUP, 2014) 694; Matthew CR Craven, 'The Problem of State Succession and the Identity of States under International Law' (1998) 9 *EJIL* 142–3.

(²¹⁸) Issues regarding the succession of territorial treaties (e.g., boundary treaties) have been clarified in practice and international tribunals' jurisprudence. See, e.g., Shaw (n 217) 702–3.

(²¹⁹) Craven (n 217) 144. See also Shaw (n 217) 695.

 $(^{220})$ Craven states in that regard: 'Identity, therefore, provides the key to determining the proper set of norms that are to be applied in a given case'. Craven (n 217) 152.

(²²¹) Craven (n 217) 162.

(²²²) Fitzmaurice apparently supports this principle; Malgosia Fitzmaurice, 'Treaties' in R Wolfrum (ed), *Max Planck Encyclopedia of Public International Law* (OUP, 2010) <http://opil.ouplaw.com/home/ EPIL> para 118.

(²²³) See Section II(b) above.

(²²⁴) See, e.g., Riccarda Torriani, 'The Dynamics of National Identity' (2002) 37 *Journal of Contemporary History* 559.

(²²⁵) On the links between names and social identity, see Woodward (n 1) 25-6. For a sociological discussion of names, see Thomas Molnar, 'A Sociology of Names' (1999) 34 *The Intercollegiate Review* 39.

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(²²⁶) On the symbolic, political, and legal implications of changing the name of a state, see Michael Ioannidis, 'Naming a State: Disputing over Symbols of Statehood at the Example of Macedonia' (2010) 14 *Max Planck Yearbook of United Nations Law* 507. For a list of countries which changed their names, see 'Historical Country Names' (*Nations Online*) <http://www.nationsonline.org/oneworld/ hist country names.htm> accessed 24 March 2015.

(²²⁷) See Section II(b) above.

(²²⁸) See Section II(c) above.

(²²⁹) John F Dovidio and others, 'Prejudice, Stereotyping and Discrimination: Theoretical and Empirical Overview' in John F Dovidio and others (eds), *Prejudice, Stereotyping and Discrimination* (Sage, 2010) 5–8; Gregory R Maio and others 'Attitude and Intergroup Relations' in John F Dovidio and others (eds), *Prejudice, Stereotyping and Discrimination* 261, 265; Stephan and Stephan (n 13) 7.

 $(^{230})$ Dovidio and others (n 229).

(²³¹) On the omnipresence of stereotypes and the natural inclination to categorize the world (including regarding inter-group relations), see, e.g., Carl L Palmer, 'Which Cues Matter? The Implications of Stereotype Appeals and Explicit Predispositions for Group-Centric Issue Opinion' (August 2010) 2-3 <http://ssrn.com/abstract=1664772> accessed 24 March 2015. Stephan and Stephan state in that regard: 'In fact, stereotypes, as defined here, are an almost inevitable consequence of categorization'. Stephan and Stephan (n 13) 7. See also Patricia G Devine and Lindsay B Sharp, 'Automaticity and Control in Stereotyping and Prejudice' in Todd D Nelson (ed), *Handbook of Prejudice, Stereotyping, and Discrimination* (Taylor & Francis, 2009) 61.

 $(^{232})$ Stephan and Stephan (n 13) 4. Anastasio and others explain that one reason why such stereotypes are resistant to change is that they are functional in reducing the complexity of the social environment. Anastasio and others (n 28) 236.

 $(^{233})$ Worchel and Rothgerber (n 86) 77–8. See also Dovidio and others (n 229) 6.

 $(^{234})$ Stephan and Stephan (n 13) 21 and see the empirical studies cited therein.

 $(^{235})$ Stephan and Stephan (n 13) 21. On the activation of stereotypical consideration without awareness, see also Palmer (n 231) 3.

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 $(^{236})$ Stephan and Stephan (n 13) 22; See also Dovidio and others (n 229) 8.

 $(^{237})$ Stephan and Stephan (n 13) 25 and the see the empirical studies cited therein. See also Anastasio and others (n 28) 238.

(²³⁸) See, e.g., Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 Arts 26, 31(1), 46(2), 69(2)(b).

(²³⁹) On the increasing importance of the principle of 'fair and equitable treatment' in international investment law, see, e.g., Rudolf Dolzer and Christoph Schreuer, *Principles of International Investment Law* (2nd edn, OUP, 2012) 130; Moshe Hirsch, 'Between Fair and Equitable Treatment and Stabilization Clause' (2011) 12 *Journal of World Investment and Trade* 783.

(²⁴⁰) As Malintoppi explains, the terms 'independence' and 'impartiality' are often used interchangeably but they must be distinguished. The term 'independence' refers to the absence of connection, financial or otherwise, with a party to the proceedings. The term 'impartiality' refers to the absence of prejudice or bias. Loretta Malintoppi, 'Independence, Impartiality, and Duty of Disclosure of Arbitrators' in Peter Muchlinski, Federico Ortino, and Christoph Schreuer (eds), *Oxford Handbook of International Investment law* (OUP, 2008) 789, 807. See also the jurisprudence of the European Court on Human Rights cited in *Mehmet Ali Yilmaz v Turkey* App no. 29286/95 (EctHR, 25 September 2001) [35].

(²⁴¹) Valente v The Queen, [1985] 2 SCR 673, [15].

(²⁴²) Art 14(1) of the ICCPR provides as follows: 'All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law', ICCPR (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 Art 14(1).

(²⁴³) HRC. *Arvo O Karttunen v Finland*, Communication No. 387/1989 (views adopted on 23 October 1992) UN Doc CCPR/C/46/D/387/1989 [7.2].

(²⁴⁴) See Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 33 UNTS 993 Art 17(2).

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(²⁴⁵) *Legal Consequences of the Construction of the Wall* (Order of 30 January 2004) [2004] ICJ Rep 3, [10]–[11], [14] (dissenting opinion of Judge Buergenthal).

(²⁴⁶) *Legal Consequences of the Construction of the Wall* (Order of 30 January 2004) [2004] ICJ Rep 3, [8].

(²⁴⁷) See ICTY, 'Rules of Procedure and Evidence' (10 December 2009) UN Doc IT/32/Rev.44, rules 15 and 34 <http://www.icty.org/x/file/ Legal%20Library/Rules_procedure_evidence/IT032_rev44_en.pdf> accessed 24 March 2015. And see also the Statute of the International Criminal Court (n 244) Art 41.

(²⁴⁸) *Prosecutor v Furundzija* (Judgment) IT-95-17/1A (July 21, 2000) [179]. Consequently, the Appeals Chamber ruled that a judge should be considered impartial if 'the circumstances would lead a reasonable observer, properly informed, to reasonably apprehend bias', see [189]. On this decision, see also, Theodor Meron, 'Judicial Independence and Impartiality in International Criminal Tribunals' (2005) 99 *AJIL* 359, 366–7.

(²⁴⁹) See the European Convention on Human Rights (adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 222 (ECHR) Art 6(1).

(²⁵⁰) *Ali Yilmaz v. Turkey* (n 240) [36]. See also *Piersack v Belgium* (1982) Series A No. 53, [30(a)].

(²⁵¹) See American Convention on Human Rights (adopted 21 November 1969, entered into force 18 July 1978) 1144 UNTS 143 Art 8(1).

(²⁵²) *Barbera et al. v Venezuela*, Judgment, Inter-American Court of Human Rights Series C No 182 (5 August 2008) [56] [emphasis added]. See also *Palamara-Iribarne v Chile*, Judgment, Inter-American Court of Human Rights Series C No. 135 (22 November 2005) [146].

(²⁵³) See the Convention on the Settlement of Investment Disputes between States and Nationals of other States (adopted 18 March 1965, entered into force 14 October 1966) 575 UNTS 159 Arts 14(1) and 57.

 $(^{254})$ Art 14(1) of the ICSID Convention (n 253) Art 14(1) and see also Art 40(2).

(²⁵⁵) Christoph H Schreuer, Loretta Malintoppi, August Reinisch, and Anthony Sinclair, *The ICSID Convention: A Commentary* (CUP, 2009)

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1202; See also *Suez and Vivendi v Argentina* (Decision on a Second Proposal for the Disqualification of a Member of the Arbitral Tribunal) ICSID Case No. ARB/03/19 (12 May 2008), 17.

(²⁵⁶) See, e.g., *Abaclat v Argentina* (Request for the Disqualification of President Pierre Tercier and Arbitrator Albert Jan van den Berg) ICSID Case No. ARB/07/5 (15 September 2011) [6]; *Burlington v Ecuador* (Decision on the Proposal for Disqualification of Professor Francisco Orrego Vicuña) ICSID Case No. ARB/08/5 (13 December 2013) [68], [80]. See also Schreuer and others (n 255) 1201–8.

(²⁵⁷) Amco Asia Corporation and others v Republic of Indonesia (Decision on the Proposal to Disqualify an Arbitrator) ICSID Case ARB/ 81/1 (24 June 1982) (unreported), referred to in Schreuer and others (n 255) 1203. For several recent decisions that may indicate a different trend in that regard, see Chiara Giorgetti, 'Towards a Revised Threshold for Arbitrators' Challenges Under ICSID?' (*Kluwer Arbitration Blog*, 2 July 2014) <http://kluwerarbitrationblog.com/blog/ 2014/07/03/towards-a-revised-threshold-for-arbitrators-challengesunder-icsid/> accessed 24 March 2015.

 $(^{258})$ See, e.g., Ruth Mackenzie and Philippe Sands, 'International Courts and Tribunals and the Independence of the International Judge' (2003) 44 *HJIL* 271, 280. On the relations between arbitrators and advocates in investment proceedings, see Malintoppi (n 240) 792.

(²⁵⁹) Suez and Vivendi v Argentina (n 255) 17.

(²⁶⁰) Similarly, in such cases, the above-discussed proposal tabled by Judge Buergenthal seems more desirable than the existing standard under the ICJ jurisprudence. For a possible different interpretation of the above ICSID provisions, see, e.g., James Crawford, 'Challenges to Arbitrators in ICSID Arbitrations' (PCA Peace Palace Centenary Seminar, October 2013) <http://pca-cpa.org/shownews.asp? ac=view&nws_id=398&pag_id=1261> accessed 24 March 2015.

(²⁶¹) See Section II(b) above.

(²⁶²) See Section II(c) above.

(²⁶³) On the presumption of impartiality, see, e.g., *Prosecutor* v *Furundzija* (n 248) [182]; Schreuer and others (n 255) 1201–2.

(²⁶⁴) See ICCPR (n 242) Art 1; Declaration on Friendly Relations between States, UNGA Res 2625 (XXV) (24 October 1970) UN Doc A/ RES/2625(XXV).

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(²⁶⁵) Art 96(3) of the First Protocol Additional to the Geneva Conventions. And see the definition in Art 1(4) of this Protocol. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflict (Protocol I) (adopted 8 June 1977, entered into force 7 December 1979) 1125 UNTS 3.

(²⁶⁶) ICCPR (n 242) Art 27; See also the UNGA, 'Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities' (18 December 1992) UN Doc A/RES/47/135.

(²⁶⁷) ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (adopted 27 June 1989, entered into force 5 September 1991) 28 *ILM* 1382.

(²⁶⁸) One of the central elements of 'crimes against humanity' is that the perpetrators target the relevant persons by reason of their membership in a group rather than their individual characteristics. Art 7(1)(h) of the Statute of the International Criminal Court provides: '(h) *Persecution against any identifiable group or collectivity* on political, racial, national, ethnic, cultural, religious, gender' [emphasis added]. Statute of the International Criminal Court (n 244) Art 7(1)(h); the interpretation of Art 7(1)(h) above in *The Elements of the Crime* clarifies that: '2. The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such.' Report of the Preparatory Commission for the International Criminal Court on the Elements of Crimes' (2 November 2000) UN Doc PCNICC/2000/1/Add.2. On this feature of crimes against humanity, see David Luban, 'A Theory of Crimes Against Humanity' (2004) 29 *Yale Journal of International Law* 85, 103, 107–8.

(²⁶⁹) Art 1A(2) of the Refugees Convention provides as follows: 'As a result of events ... and owing to well founded fear of being *persecuted for reasons of* race, religion, nationality, *membership of a particular social group* or political opinion' [emphasis added]. Convention relating to the Status of Refugees, (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 150.

(²⁷⁰) The ICCPR and GA Resolution 2625 do not provide a definition of 'people', and similarly the First Protocol to the Geneva Convention. And see International Covenant on Economic, Social and Cultural Rights, (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3. See also Yves Sandoz and others (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Martinus Nijhoff Publishers, 1987) 52. On the lack of an

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internationally agreed definition of 'minorities', see, e.g., Kristin Henrard, 'Minorities, International Protection' in R Wolfrum (ed), Max Planck Encyclopedia of Public International Law (OUP, 2008), <http:// opil.ouplaw.com/home/EPIL> para 2. The ILO Convention on Indigenous Peoples does not define who indigenous and tribal peoples are. ILO, Manual: ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169) (rev. edn, ILO, 2003). On the lack of generally accepted definition of the concept of 'indigenous people', see also Henrard, para 17. The term 'crime against humanity' is defined in Art 7 of the ICC Statute but the term 'identifiable group or collectivity' is not defined in the Statute or in the Elements of Crime. The term 'refugee' is defined in Art 1 of the Refugee Convention but the Convention does not define the term 'membership of a particular social group' under Art 1A(2) of the Convention.

(²⁷¹) See, e.g., Christine M Von Der Haar, *Social Psychology: A Sociological Perspective* (Pearson 2005) 370; Brewer, 'The Many Faces of Social Identity' (n 12); Barth (n 36) 10–11; Jarlah Benson, *Working More Creatively with Groups* (Routledge 2000) 5.

(²⁷²) On the objective element in the definition of 'people' under the principle of self-determination, see UNESCO, 'Final Report and Recommendations of the International Meeting of Experts on further study of the concept of the rights of peoples UNESCO', UNESCO (Paris, 27-30 November 1989) (22 February 1990) UN Doc SHS-89/CONF. 602/7, 7-8 < http://www.burmalibrary.org/docs18/Rights of Peoplesreport-UNESCO-red.pdf> accessed 23 March 2015. And regarding this element in the definition of 'people' under the 1977 First Protocol, see Yves Sandoz and others (eds) Commentary on the Additional Protocols (n 270) 53. On this element in the definition of the term 'identifiable group or collectivity' under the ICC Statute, see, e.g., Elements of the Crime, Art 7(1)(h)(3) (n 268). On this element in the definition of 'social group' under Art 1 of the Refugees Convention, see Refugee and Humanitarian Division, Department of Immigration and Multicultural and Indigenous Affairs, Particular social group: An Australian Perspective (2007) 65, 71, 81 < http://www.immi.gov.au/media/ publications/refugee/convention2002/07 social group.pdf> accessed 23 March 2015; Henrard (n 270) para 4; OHCHR, 'Minority Rights: International Standards and Guidance for Implementation' (2010) 2. On this element in the definition 'indigenous people', under Convention on Indigenous Peoples, see Manual: ILO Convention on Indigenous and Tribal Peoples (n 270) 7.

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 $(^{273})$ On the subjective element in the definition of 'people' under the rules regarding self-determination, see UNESCO Expert Group (n 272) 7-8. Regarding this element in the definition of 'people' under the First Protocol, see Yves Sandoz and others (eds) Commentary on the Additional Protocols (n 270) 52. On this element in the definition of 'social group' under Art (1) of the Refugees Convention see Refugee and Humanitarian Division, Particular social group: An Australian Perspective (n 272) 67, 71; Dieter Kugelmann, 'Refugees' in R Wolfrum (ed), Max Planck Encyclopedia of Public International Law (OUP, 2010), <http://opil.ouplaw.com/home/EPIL> para 11. On this element in the definition of 'minority' under Art 27 of the ICCPR, see Henrard (n 270) para 13; OHCHR, Minority Rights (n 272) 3. On this element in the definition of 'indigenous people' under the Convention on Indigenous Peoples, see Art 1(2) of the Convention on Indigenous Peoples; Henrard (n 270) para 17; Manual: ILO Convention on Indigenous and Tribal Peoples (n 270) 8.

The subjective element is not included in the above-mentioned Art 7(1) (h) of The Elements of the Crime of the ICC. On the exceptional nature of this provision (and other provisions aiming to protect social groups from persecution), see further below.

(²⁷⁴) See Section II(b) above.

(²⁷⁵) See, e.g., regarding the definition of 'people' under the First Protocol, Yves Sandoz and others (eds) Commentary on the Additional Protocols (n 270) 53.

(²⁷⁶) See, e.g., regarding 'minority groups', Henrard (n 270) paras 14– 16, and the authorities cited therein; see in that regard on the definition of 'social group' under the Refugees Convention, OHCHR, Minority Rights (n 272).

 $(^{277})$ On the exceptional nature of legal rules aiming to protect social groups from persecution or discrimination, see further below.

(²⁷⁸) See Section II(b) above.

 $(^{279})$ See, e.g., Arts 13–16 of the Convention on Indigenous Peoples; Henrard (n 270) para 18.

(²⁸⁰) Art 1(2) of the Indigenous Convention provides as follows: 'Selfidentification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply'. The *Manual: ILO Convention on Indigenous and Tribal Peoples* explains that 'Convention No. 169 is the

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first international instrument which recognizes self-identification of indigenous and tribal peoples as a fundamental criterion'. *Manual: ILO Convention on Indigenous and Tribal Peoples* (n 270) 8.

(²⁸¹) The absence of governmental recognition of a *minority group* is not considered as a determinant fact. Henrard (n 270) paras 14, 16; OHCHR, Minority Rights (n 272).

 $(^{282})$ As discussed above, the internal element of self-identity should not constitute an essential element with regard to legal rules that aim to protect persecuted groups.

(²⁸³) Jenkins (n 2) 12, see also 11-13.

(²⁸⁴) See Section IV(b) above.

(²⁸⁵) See Section IV(b) above.

(²⁸⁶) See Section IV(c) above.

 $(^{287})$ On the right of minority groups to maintain their identity, see, e.g., Henrard (n 270) para 23-4.

 $(^{288})$ Art 4(2) of the Treaty on European (consolidated version) provides that: 'The Union shall respect the equality of Member States before the Treaties as well as their national identities' [2012] OJ C 326.

(²⁸⁹) See, e.g., the North American Free Trade Agreement (signed 17 December 1992, entered into force 1 January 1994) (1993) 32 *ILM* 289 (NAFTA) Art 2106 and annex 2106. On the application of this provision to investment disputes, see, e.g., *UPS v Canada* (Award on the Merit) UNCITRAL (24 May 2007) [166], [169]. On cultural exception in NAFTA, see Jingxia Shi, *Free Trade and Cultural Diversity in International Law* (Hart Publishing, 2013) 232–9.

(²⁹⁰) For an analysis of cultural exception in the GATT and GATS (including aspects of national identity), see, e.g., Sandrine Cahn and Daniel Schimmel, 'The Cultural Exception: Does It Exist in GATT and GATS Frameworks' (1997) 15 *Cardozo Arts and Entertainment Law Journal* 281.

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Annex 1023

Thomas D. Grant, Aggression Against Ukraine: Territory, Responsibility, and International Law (2015)

Aggression against Ukraine Territory, Responsibility, and International Law

Thomas D. Grant

palgrave macmillan

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boundaries and at times going so far as to challenge the cohesion of States. There is a great deal to be said, and to be done, about participants in international relations that are not States.

There are limits, however, to a theory that posits the eclipse of territorial power. The limits become patent when that power shows its teeth. Even the largest non-State actor has few options at its disposal on the day when the local police shutter its offices or the national parliament nationalizes its assets. It is as helpless as it was a hundred years ago if its property and personnel are caught in the cross-fire of armed conflict. As for the individual, if the State chooses to lock him in a cell *incommunicado* for years at a time, the prospect that the new international order will vindicate his rights provides cold comfort at best. The legal institutions of a de-territorialized world may offer remedies later; but, on the day, the State's power is what matters, and the power of the State to destroy and to disrupt is unrivaled. Even in a world where diverse extraterritorial effects are now commonplace, the most potent incidents of State power remain those that the State exercises in its territory. This is a reality that may have submerged in the age of global governance, but it never disappeared.

It is this reality that entails a central—arguably, the most central—characteristic of the international order that emerged after 1945. To an extent that had not been seen before, a shared understanding exists of the territorial limits of each State's power.⁴ The international order that emerged is, in short, an order of settled boundaries and enduring territorial settlements.

The emergence at the same time of a system of international law of unprecedented scope and effect is not a mere coincidence. The system of international law as it now serves us would not have come into being without the territorial settlement. This is because State power is territorial power; and international law begins with the proposition that each State knows where it may exercise power as a manifestation of its own legal order and where, absent special considerations of international law, it may not. Each State is responsible for the exercise of power in its territory. The vast majority of public institutions—including especially institutions of coercion are still State institutions and, so, clarity regarding the territorial responsibility of States is indispensable if those institutions are not to fall into conflict. A legal system perhaps can survive in time of general conflict among States; but, if it does survive, it will be a system of bare minimums. Conflict between States is inimical to a public order based on rules.

A practitioner of the law, or a scholar absorbed in the remarkable realities of international law as it exists today, well may give little or no thought to the antecedents that made it possible for international law to achieve its present form. It has been a long time since the general public order was affected by States going to war over territory. Those incidents of territorial conflict that have occurred since 1945 have mostly concerned small areas, and the States in conflict have limited their claims to asserting an existing title. Before March 2014, few States arguably none—asserted a right to change title by force. Territorial questions thus have been left to the margins, a matter for specialist lawyers and cartographers. The result has been a conception of international law and its institutions that takes the geography out of the law. In that conception, which is the prevailing one

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today, the system of rules is now so potent and far-reaching that, having dissolved the old conflicts over territory and supplanted them with a regulated public order, the rules sustain themselves.

The rise of the non-State actor as a focal point of theory and of practice has played a major role in this conceptual development. How the State might breach its obligations to a corporation, how a State might abuse the rights of an individual and what remedies against the State such parties have when injured-are central questions in the system as it has functioned over the past half century. But the injury that may be done when a State comes into conflict with another State is greater by far. The international legal system has not quite ignored this. By the same token, when it has addressed inter-State conflict, it has done so as a largely cautionary exercise,⁵ seldom as a response to an actual eruption between States,⁶ and never a war between major States endangering the system as a whole. That sort of conflict has been largely absent, or it has been confined to situations where it is really only a special case of State power directed against individuals-that is, a dispute in one form or another about how the deployment of force by a State affects human rights or humanitarian law. In turn, the absence of true, system-jeopardizing inter-State conflict reinforces the prevailing conception that the solutions to the present problems of international life are to be found in that supposedly self-sustaining international law system. Scarcely considered are the questions of whether the system is in truth self-sustaining and, if not, what sustains it. The present work means to sound a cautionary note about the prevailing conception and its omissions.

The law has inherent strengths as a means for bringing order to society. The purpose here is not to question the inherent strengths. It is instead to suggest that international law would not have emerged in its present form amid global disarray; and that the definitiveness and finality of the territorial settlement have been the central factor in providing the requisite minimum order. The territorial settlement has created and preserved the conditions in which international law has thrived. If the geographic limits of States' power had not been identified and agreed with definitiveness and finality, then the sheer growth of international governance would not have been possible. International law in its modern form has enabled its many practitioners and other stakeholders to think about things other than the territorial settlement; but that settlement remains the necessary precondition of the functioning of the law. It is dubious to suppose that international law in its present form would survive their loss. It is for this reason that a challenge to the territorial settlement requires a full response.

The present work concerns the most serious challenge to the territorial settlement since 1945. The annexation of territory from Ukraine, which the Russian Federation announced in March 2014, is one of the very few instances since 1945 in which a State has undertaken by force to impose a new territorial settlement. It is the first since 1945 in Europe. And it is the first in which a Permanent Member of the Security Council has sought by force to extend its own borders and thus to aggrandize its territorial power.⁷ It not only threatens a Member State of the United Nations, but it also threatens the system that the stability and finality of the territorial settlement for seventy years has enabled to thrive. It is a threat of a character that international lawyers had assumed would not arise again.

6 • Aggression against Ukraine

Addressing the Challenge: An Unanswered Need

The annexation of Crimea is not the first modern incident to cause despondency to settle over those who study and practice international relations and international law. A prevalent view holds, with weariness, that this is yet another example of a large State using force without accountability and outside a system of rules. In that view, we have seen it all before. Those addressing the situation, even while examining its particulars, adopt an air of resignation over the whole.

That the State which carries out a serious breach of international law would adduce special considerations in its defense is to be expected. It comes as no surprise that there are apologists for annexation. The surprise is that the response to date in the mainstream of the field would be resigned in the face of an act so at odds with the modern law.

Resignation here is accompanied by a particular view of events, which, put succinctly, is this: Ukraine now reaps what other States have sown. This is the view, expressed by some, that armed interventions by other States in other places in recent times have been in essence the same and thus opened the door to the present crisis.⁸ In this view, the annexation of Crimea belongs to a continuum of recent events, and this act—the disruption by force of the territorial integrity of a member State of the United Nations—is, at most, a change in degree from recent practice, but not a change in kind. As such, in this view, aggression against Ukraine merits no more alarm than past incidents, as it constitutes no more serious challenge against the legal system than what came before.

The present work takes a different view. It does not accept that the invasion and putative partition of Ukraine in 2014 is an event to which the door was opened by interventions in Kosovo or Iraq. It considers instead that aggression against Ukraine marks a potential turning point; that international law therefore must respond to it as strongly as possible to reject or to isolate its effects; and that, for the law to do so, :hose who interpret and apply the law must recognize the fundamental discontinuty between the recent past and the present act of aggression, however controversial :he recent past may be.

When considering arguments that rely upon history it is important not to confuse the timelines. On the date of Russia's aggression against Ukraine, eleven years had elapsed since a coalition of States intervened in Iraq and forcibly replaced the government of that State. Zhou Enlai may have told Henry Kissinger in the early 1970s that it was still too soon to assess the impact of the French Revolution—though the timelines there indeed seem to have been confused; it later became clear that he was talking about the 1968 student unrest, not the events of 1789.⁹ Either way, the passage of time is relative. In relation to the Russian intervention against Ukraine, virtually no time at all passed before radical claims and radical steps in the pursuit of those claims appeared in alarming succession. The president of the Republika Srpska declared that the separation of Crimea from Ukraine "will create a new pracice in the world" and the time would be soon at hand for the dissolution of Bosnia and Herzegovina.¹⁰ Some weeks later the China National Offshore Oil Corporation a State-controlled enterprise of China) placed a drilling platform in an area subject o Viet Nam's maritime entitlement; China threatened to impose its competing

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The Crimean Tatar Question: A Prism for Changing Nationalisms and Rival Versions of Eurasianism^{*}

Andrew Wilson

Abstract: This article discusses the ongoing debates about Crimean Tatar identity, and the ways in which the Crimean Tatar question has been crucial to processes of reshaping Ukrainian identity during and after the Euromaidan. The Crimean Tatar question, it is argued, is a key test in the struggle between civic and ethnic nationalism in the new Ukraine. The article also looks at the manner in which the proponents of different versions of "Eurasianism"—Russian, Volga Tatar, and Crimean Tatar—have approached the Crimean Tatar question, and how this affects the attitudes of all these ethnic groups to the Russian annexation of Crimea.

Key words: Crimean Tatars, Euromaidan, Eurasianism, national identity, nationalism—civic and ethnic

Introduction

In the period either side of the Russian annexation of Crimea, the Crimean Tatar issue has become a lodestone for redefining the national identities of all the parties involved. The mainstream Crimean Tatar movement has been characterized by steadfast opposition first to the Yanukovych regime in Ukraine and then to Russian rule. This position has strengthened its longstanding ideology of indigenousness and special rights, but it has also

^{*} The author is extremely grateful to Ridvan Bari Urcosta for his invaluable help with research for this article, to Bob Deen and Zahid Movlazada at the OSCE HCNM, to Professor Paul Robert Magocsi, and to the anonymous reviewers who made useful comments and criticisms.

belatedly cemented its alliance with Ukrainian nationalism. Meanwhile, Ukraine's would-be new supra-ethnic civic identity draws heavily on the Crimean Tatar contribution. Russia's attempted incorporation of Crimea has been hampered by its unwillingness to give proper space to Crimean Tatar identity, despite its promotion of a rival loyalist Crimean Tatar movement.

The Crimean Tatar issue is also a prism through which rival versions of the resurgent idea of Eurasianism are redefining themselves. Russian Eurasianism is the best known of these, both in general and as a cover story for the annexation of Crimea; but other versions and repudiations of the Eurasian idea have taken new forms in Crimean Tatar and Ukrainian circles, and also among the Volga Tatars of Kazan.

This article is in five parts. First is a brief historical background. Next, the Crimean Tatar issue is discussed as a factor in changing Ukrainian politics and identity debates. There then follows an analysis of debates within the Crimean Tatar movement, especially the conflict between the traditional ideology of indigenous rights and the Crimean Tatar version of Eurasianism. The latter is then compared with all-Russian and Volga Tatar versions of Eurasianism. Finally, the article examines identity debates within Crimea in 2014, finding that during that year, these debates were mainly focused on the doctrine of "Russian historical rights," meaning little space has been found for Crimean Tatar identity in occupied Crimea.

Background

The Russian annexation of Crimea was formally declared on 18 March 2014. In his victory speech, Putin claimed that "in people's hearts and minds, Crimea has always been an inseparable part of Russia," at least since the baptism of Vladimir (Volodymyr) the Great, prince of Kievan Rus', in 988. "Residents of Crimea," he continued, "say that back in 1991 they were handed over like a sack of potatoes," leaving them stranded when "the Russian nation became one of the biggest, if not the biggest ethnic group in the world to be divided by borders." In independent Ukraine "time and time again attempts were made to deprive Russians

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of their historical memory, even of their language and to subject them to forced assimilation," and in 2014 they were threatened by "terror, murder and riots" organized by the "nationalists, neo-Nazis, Russophobes and anti-Semites [who] executed this coup" in Kyiv. Russia's role, however, was merely to facilitate "self-determination," to "help create conditions so that the residents of Crimea for the first time in history were able to peacefully express their free will regarding their own future."¹

Subsequent studies have confirmed the initial impression that the real coup was in Crimea. The government was changed unconstitutionally after government buildings were occupied by Russian soldiers and the Ukrainian Berkut militia, after their role in the killings in Kyiv.² Plans for the coup had been laid through secret contacts with Crimean politicians several months in advance.³ The crowds outside were organized by the same Crimean politicians,⁴ and reinforced by bogus demonstrators flown in from Russia, but "to play the part of ordinary Crimeans."⁵ The referendum of 16 March on joining Russia was conducted under conditions of occupation, and the results were rigged.⁶ Contrary to the official claim that 96.8% voted "yes" to union with Russia on a turnout of

¹ "Address by the President of the Russian Federation," *President of Russia Official Site*, 18 March 2014, http://en.kremlin.ru/events/president/news/20603. Unless otherwise stated, all URLs cited below were accessible on 3 March 2017.

² Taras Berezovets, *Anektsiia: ostiv Krym. Khroniky hybridnoi viiny* (Kyiv: Bright Star, 2015).

³ Mikhail Zygar, *All the Kremlin's Men: Inside the Court of Vladimir Putin* (New York: Public Affairs, 2016), 274–79; Daniel Treisman, "Why Putin Took Crimea," *Foreign Affairs* (May/June 2016).

⁴ Rustam Temirgaliev, interviewed by Petr Kozlov, "Rustam Temirgaliev o razvitii sobytii, privedshikh k referendumu v Krymu," *Vedomosti*, 16 March 2015, www.vedomosti.ru/politics/characters/2015/03/16/esli-eto-imelo-opredelennu yu-rezhissuru---rezhisseru-nuzhno-postavit-pyat-s-plyusom.

⁵ Zygar, All the Kremlin's Men, 279; Sergei Kanev, "Geroi pod grifom 'Sekretno," Novaia gazeta, 16 June 2014, https://www.novayagazeta.ru/articles/2014/06/16/ 59974-geroi-pod-grifom-171-sekretno-187; and Sergei Kanev, "Spetsturisty," Novaia gazeta, 2 July 2014, https://www.novayagazeta.ru/articles/2014/07/01/ 60170-spetsturisty.

⁶ Halya Coynash, "Myth, 'Observers' and Victims of Russia's Fake Crimean Referendum," *Human Rights in Ukraine*, 16 March 2016, http://khpg.org/ en/index.php?id=1458089893&w=referendum.

80.4%, the Russian Human Rights Council reported that the turnout was between 30% and 50%, of whom only 50%–60% voted for union.⁷ The veteran Crimean Tatar leader Mustafa Dzhemilev claimed that the Crimean Tatars' participation was minimal and that only 34% voted in Crimea overall.⁸

That said, there was a baseline of support for joining Russia— 41% in a real poll held in early February;⁹ and local politicians had pushed for Russian intervention as much as acting as Moscow's puppets (in an effort to save their positions from uncertain politics in Kyiv, but also to get rid of outsiders imposed on them by President Yanukovych).¹⁰ But Crimea has not "always been an inseparable part of Russia." It was first annexed by the Russian Empire in 1783. It was only "Christianized" or Russified after the Crimea War in 1853–56.¹¹ Previously, the Crimean Tatar Khanate had been the dominant force in the region for over three hundred years, having separated in the 1440s from the Golden Horde, which itself had conquered the peninsula in the thirteenth century. Kievan Rus' seems to have had no more than colonies in Crimea. Crimea was part of Soviet Ukraine after 1954, and independent Ukraine after 1991. Ukrainian historians

⁷ "Problemy zhitelei Kryma," Sovet pri Prezidente RF po razvitiiu grazhdanskogo obshchestva pravam cheloveka, 21 April 2014, http://old.president-sovet.ru/ structure/gruppa_po_migratsionnoy_politike/materialy/problemy_zhiteley_kr yma.php (though see the subsequent disclaimers).

⁸ "Mustafa Jemilev: 'In Fact 34,2% of Crimean Population Took Part in Pseudo Referendum on March 16," *Mejlis official web site*, 25 March 2014, http://qtmm.org/en/news/4373-mustafa-jemilev-in-fact-34-2-of-crimean-popu lation-took-part-in-pseudo-referendum-on-march-16. In a speech to the UN, he said 32%, "Crimean Tatars: Dzhemilev Fears Violence Under Russian Rule," Unrepresented Nations and Peoples Organization, 7 April 2014; http://unpo.org/article/17022.

^{9 &}quot;How Relations between Ukraine and Russia should look like? Public Opinion Polls' Results," *Kiev International Institute of Sociology (KIIS)*, 4 March 2014, http://kiis.com.ua/?lang=eng&cat=reports&id=236&page=1.

¹⁰ Kimitaka Matsuzato, "Domestic Politics in Crimea, 2009–2015," *Demokratizatsiya* 24, no. 2 (Spring 2016): 225–56. Unfortunately, Matzusato bases some of his analysis around the "Korsun massacre," an alleged attack on Crimeans by Ukrainian nationalists, for which little actual evidence exists.

¹¹ Mara Kozelsky, Christianizing Crimea: Shaping Sacred Space in the Russian Empire and Beyond (DeKalb, IL: Northern Illinois University Press, 2010); and Kelly O'Neill, Southern Empire: The Logic and Limits of Russian Rule in the Crimea (Yale University Press, forthcoming).

point to a long history of earlier engagement, with local Ukrainian Cossacks having a more intimate interaction with the peninsula than the northerly Muscovite state.¹²

Since the annexation, Ukrainian schools and media have been closed.¹³ (At the last census in 2001, 24% of the population was Ukrainian, compared to 58% Russian, and 12% Crimean Tatar).¹⁴ On the other hand, Putin promised that the Crimean Tatars would be better treated by Russia than by Ukraine. But between 17,000 and 20,000 Crimean Tatars had left the peninsula by February 2016, according to Crimean Tatar leaders.¹⁵ Disappearances, extrajudicial killings, torture, and ill treatment in Crimea have been documented by the OSCE,¹⁶ and by the European Parliament. The NGO "Crimea SOS" kept a running count of cases of human rights violations, shown on a map of Crimea—279 as of 24 February 2017.¹⁷

Kyiv's Neglect

But Ukraine did not play its hand well, either. In so far as Kyiv had a "Crimea strategy" between the dissolution of the USSR in 1991 and

¹² Valerii Smoliy (chief editor), *Istoriia Krymu v zapytanniakh ta vidpovidiakh* (Kyiv: Naukova dumka, 2015).

³ "Report of the Human Rights Assessment Mission on Crimea (6–18 July 2015)," OSCE HCNM, 8 September 2015, www.osce.org/odihr/report-of-the-humanrights-assessment-mission-on-crimea.

⁴ See http://2001.ukrcensus.gov.ua/eng/results/general/nationality/.

⁵ Interview with Mustafa Dzhemilev, *RBK Ukraina*, 10 February 2016, www.rbc.ua/rus/interview/dzhemilev-voprosu-deokkupatsii-kryma-udelyaets ya-1455039385.html.

OSCE HCNM, "Human Rights Assessment Mission in Ukraine. Human Rights and Minority Rights Situation," The Hague/Warsaw, 12 May 2014, www.osce.org/odihr/118476. For other reports on the human rights situation in Crimea, see OSCE HCNM, "Report of the Human Rights Assessment Mission on Crimea (6–18 July 2015)," OSCE HCNM, 8 September 2015, www.osce.org/odihr/180596; Andrii Klymenko, "Human Rights Abuses in Occupied Crimea," Freedom House/Atlantic Council, March 2015, www.atlanticcouncil.org/publications/reports/human-rights-abuses-in-russiaoccumpied-crimea; and "The Human Rights Situation in Crimea, in particular of the Crimean Tatars," 3 February 2016, www.europarl.europa.eu/sides/get Doc.do?type=MOTION&reference=P8-RC-2016-0173&language=EN.

¹⁷ See the map at http://crimeamap.krymsos.com/eng/map.html.

Russian annexation in 2014, it was largely a defensive one. Russianbased separatism was seen as the main threat. Even this policy was myopic, however, as it assumed this would come in the form of a locally based movement, rather than external attack. Kyiv therefore concentrated on buying off that movement by turning a blind eye to the criminalization of the local elite—and was reluctant to push the Crimean Tatar issue too hard for fear of gifting that elite a mobilizational issue. Even when the supposedly Europeanizing Viktor Yushchenko was Ukrainian president from 2005 to 2010, according to Mustafa Dzhemilev, "we were surprised by his indifference."¹⁸ At their first official meeting in 2005, Yushchenko even asked the Crimean Tatars to drop their 1991 Declaration of Sovereignty—an exclusive historical claim to self-determination in Crimea (see below)—as less important than, and a threat to, Ukraine's legal sovereignty.¹⁹

Ironically, it was Yushchenko's successor, the Russianspeaking Viktor Yanukovych, who helped revive autonomist sentiment in Crimea before 2014 by so forcibly putting his own guys in charge. Everyone, including local Russian nationalists, Crimean Tatars, and Ukrainophiles, resented the rule of the so-called *makedontsy* (the "Macedonians," the rulers from the north, a pun on the town of Makiivka in Yanukovych's home region of Donetsk). According to Rustam Temirgaliev, Deputy Head of the Cabinet of Ministers of Crimea in the first half of 2014, there were two trends in Crimea over the winter of 2013-14: the first, "the wave that removed the 'donetskies' was bound up with the second trend—reunification with Russia."²⁰ Resentment against the *makedontsy* shaped local politics more than the largely mythical threat of "Ukrainian fascism," until Russian intervention shaped the final outcome.²¹

¹⁸ Author's interview with Mustafa Dzhemilev, 17 January 2010.

¹⁹ Diliaver Osman, "Kryms'ki tatary i Ukraina: robota nad omylkamy," *Krym. Realii*, 13 August 2014, http://ua.krymr.com/a/26529110.html.

²⁰ "Rustam Temirgaliev o razvitii sobytii."

²¹ Temirgaliev was a Volga Tatar, but with a Crimean Tatar wife, who tried to steer a middle course, compromising with the occupying authorities, in the spring of 2014; but Russia soon lost interest in such policies.

THE CRIMEAN TATAR QUESTION 7

Kyiv's neglect of the Crimean Tatars was a multiple error. Mainstream Crimean Tatar ideology was based on the same underlying principle of indigenous rights as Ukrainian nationalism. Clearer support for their cause would have helped to deflate the grandiose and ahistorical Kremlin narrative about "eternal Russian" Crimea, and to combat broader Russian attempts to undermine Ukrainian identity and history as a whole. The Crimean Tatars were also the best organized political force on the peninsula—their 12% (13% by 2014) of the population made much more impact on local politics, at both governmental and street level, than the 24% who were Ukrainian but highly Russified.

In fact, Kyiv had abdicated so much power on the peninsula by the 2010s that Crimean Tatar leaders could claim "we are a pro-Ukraine force... sometimes we are the only pro-Ukrainian force."²² The constitutional mechanisms that Kyiv introduced in the 1990s to subordinate local political institutions proved ineffective in 2014, when a majority of local politicians and bureaucrats simply swapped sides. Mustafa Dzhemilev complained that the local security forces had "mostly been trained to fight Crimean Tatars" rather than Russian separatists.²³ Dzhemilev's successor Refat Chubarov summed up his view of the situation in May 2016: twenty-three years of neglect had "led to the [paradox] that the positions of the Ukrainian authorities on the peninsula were the weakest [of all]. Russia took advantage of this."²⁴

By contrast, Kyiv kept the main Crimean Tatar political institution at arm's length. The Qurultay, and its smaller plenipotentiary body the Mejlis, was chosen in well-organized elections every five years from 1991. But Kyiv argued that a de facto parliament challenged the authority of the Ukrainian state. President Leonid Kuchma devised a compromise in 1999, setting up a "Council of Representatives of the Crimean Tatar People Attached to the President of Ukraine"—a formulation that disguised the fact

²² Author's interview with Refat Chubarov, 17 January 2010.

²³ "Mustafa Dzhemilev: We are Being Trapped," *Kyiv Weekly*, 16 May 2014.

²⁴ "Chubarov nazval prichinu poteri Ukrainoi Kryma," Lenta.ru, 19 May 2016, https://lenta.ru/news/2016/05/19/chubarov/.

that its membership was basically the Mejlis. The Council concentrated mainly on practical issues like citizenship and education, but Kyiv felt unable to commit many resources to addressing the returnees' greatest everyday concerns, which were land and housing.

Debating Ukrainian Crimea

Nor did Kyiv ever make a strong case for the Ukrainianness of Crimea. As a result, Kyiv had no strong narrative to back up the principle of the inviolability of state borders when Russia violated it in 2014. Only since the annexation has there been a rediscovery of the earlier writings on this issue, which was first raised by Ukrainian intellectuals in the late nineteenth and early twentieth centuries. As these earlier texts show, the twin issues of Crimea and the Crimean Tatars have long been a part of Ukrainian identity debates, though not always pulling in the same direction.

For the historian Mykhailo Hrushevskyi (1866–1934), Crimea was the third Ukraine. The first two Ukraines were Galicia in the west, which connected Ukraine to Germanic Europe, and the central Dnipro region, with its historical ties to Russia. The outlet to the south via Crimea, and the north–south axis in general, were the key factors encouraging the consolidation of the other Ukrainian elements, which, once they were a consolidated part of an independent Ukrainian state, would allow Ukraine to become a regional leader rather than an object of struggle between east and west.²⁵ For the geographer Stepan Rudnytskyi (1877–1937), Crimea and the Black Sea completed the natural geographical space of Ukraine's north-south river systems: "the whole Ukrainian nation took its way southeast along the Ukrainian rivers. To this day [writing in 1918] the national territory of the Ukraine is advancing irreversibly in that direction."²⁶ Without the Black Sea, Ukrainian

²⁵ Hennadii Korol'ov, "Nova Ukraina bez Rossii: chornomors'ka oriientatsiia u pohliadakh Hrushevs'koho," in his *Federalizm Mykhaila Hrushevs'koho: mify, uiavlennia, proekty* (Kyiv: Institute of History, 2012), 167–85.

²⁶ Stephen Rudnitsky, *Ukraine. The Land and its People* (New York: Ukrainian Alliance of America, 1918), 230–31.

civilization would be circumscribed, pressed back north into the forest zone.

For the nationalist geographer Yurii Lypa (1900–44), Ukraine was a natural "vault," the northern shore of the "Black Sea fortress."²⁷ Crimea was therefore the key to a future Ukrainian geopolitics. The "integral nationalist" thinker Dmytro Dontsov (1883–1973), writing in 1919, likewise argued that "Sevastopol with Crimea is the key to [potential future Ukrainian] rule over the [then Russian] Hinterland," that is, the interiors of Eurasia, "which in 1855 [before the Paris Conference that ended the Crimean War] was Russia and is now Ukraine."²⁸ For Lypa, Crimea and the Black Sea were also the link to a wider world and a future chain of alliances in the Caucasus, Turkey, and the Middle East. Russia's apparent domination of Eurasia would not last: in the not-too-distant future a Ukrainian quadrant in south-west Eurasia would be a natural ally of a Central Asian quadrant, while the Chinese pushed towards Siberia—Russia would be left with historical Muscovy in the north-west.²⁹

Lypa's doctrine was more of a claim to Crimea than recipe for a healthy relationship with the Crimean Tatars. Rudnytskyi and Lypa were strong opponents of Russian imperialism and claimed not to believe in any Ukrainian equivalent; but they did approve of a form of Ukrainian colonialism, that is, the supposedly "natural" expansion of Ukrainian settlement into neighboring lands. In Lypa's case this involved the explicit threat of displacing the Crimean Tatars.³⁰ "In Crimea the Ukrainians are winning the battle of blood. The Tatar population is no more than a quarter," he wrote in 1941, before the Deportation of the Crimean Tatars in 1944. "Experiments with blood and anthropological measures," he continued, "show that the Tatars long ago lost their anthropological identity in Crimea

²⁷ Yurii Lypa, *Chornomors'ka doktryna* (Odesa: Ukrainian Black Sea Institute, 1942), 9.

²⁸ Dmytro Dontsov, "O hranytsiakh Ukrains'koi derzhavy pid vzhliadom politychnym," 1918, reprinted *in Istoriia Krymu*, 314.

²⁹ Yurii Lypa, *Rozpodil Rosii* (L'viv: Instytut Narodoznavstva, 1995—reprint of the 1941 edition), 52 and 61.

³⁰ Lypa, Chornomors'ka doktryna, 15–17.

and have become Ukrainians by blood, leaving only the Tatar language." $^{\ensuremath{\mathsf{3}}\ensuremath{^1}\xspace}$

Ukrainian Orientalism

There is a Ukrainian version of Orientalist scholarship, however, which has been characterized by more understanding of and support for the Crimean Tatar cause.³² The Ukrainian Orientalist tradition is less well known than its Russian "Eurasian" counterpart. Part of its raison d'être is to deny the claims of the Russian version; consequently, unlike its Russian counterpart, it does not make universalist claims for the whole of Eurasia,³³ and is more concerned with cultural and historical links than geopolitics.

For the founding father of Ukrainian Oriental studies, Ahatanhel Krymskyi (1871–1942), whose surname indicates his partly Crimean and Lipka (Lithuanian) Tatar origins, Crimea was a channel for healthy cultural synthesis between Ukraine and the east. Thomas Prymak, Krymskyi's second-generation disciple, has argued that "interactions between Ukraine and [broadly] Turkey have played a large role in the formation of modern Ukrainian culture, in which the Cossack era is so prominent."³⁴ According to a series founded by Likbez, an online and publishing project aimed at Russian speakers, in 2016:

Traditional Ukrainian historiography (history writing) usually centers on the history of just the Ukrainians. But the existence of nomads, the Golden Horde and the Crimean Khanate are also important for us. The Crimean Tatars are, apart from the Ukrainians, the only people in contemporary Ukraine who have their own separate state history here. It was precisely the

³¹ Lypa, *Rozpodil Rosii*, 73–74.

³² Dmitri Shlapentokh, "From Russian to Ukrainian Eurasianism: The New 'Historical' Friends and Enemies," *Asian Ethnicity* 14, no. 4 (2013): 449–66.

³³ Tatiana Zhurzhenko, *Borderlands into Bordered Lands: Geopolitics of Identity in Post-Soviet Ukraine* (Stuttgart: ibidem-Verlag, 2010), 53.

³⁴ Thomas Prymak, "Slightly Slanted Eyes? Ukrainians, Turks and Tatars," *The Ukrainian Weekly*, 23 October 2011, updated in December 2015 at www.slideshare.net/ThomasMPrymak/slightly-slanted-eyes.

Crimean Tatars who activated and stimulated the appearance of Ukrainian Cossackdom, which began the creation of modern Ukraine.³⁵

This inter-relationship supposedly outweighed religious tensions. According to the historian Valerii Vozgrin (see below), "Crimea played for the Sich [the Cossacks' military base] the very important role of natural counterweight to powerful 'fraternal' Christian states."³⁶ And vice versa: the Cossacks fought for, or alongside the Crimean Tatars: "the Litva-Rus state supported the establishment of the Crimean state."³⁷ A recent popular series of books on military weapons and uniforms has sections on both Ukrainians and Crimean Tatars, depicting them fighting together against common enemies more often than against each other.³⁸ It has been argued that this tendency towards mutual influence and mutual aid happened "spontaneously, without any prior arrangement, in a neighborly, human manner."³⁹ More likely, it served political and military purposes.⁴⁰

The modern-day emphasis on a historiography of "partnership" was most evident in a book published by the Ukrainian Institute of National Memory (memory.gov.ua) in 2016. The book is entitled *Nash Krym* ("Our Crimea"), a clear rejoinder to the Russian nationalist slogan *Krym nash!* ("Crimea is ours!"). Key chapters talk of "How the Cossacks with the Crimean Tatars defended Crimea from the Turks" in the seventeenth century; parallel fates in the eighteenth century, when "both peoples [the

³⁵ Olena Bachyns'ka *et al., Lytsari dykoho polia. Pluhom i mushketom. Ukrains'kyi shliakh do Chornoho moria* (Kharkiv: Klub simeinoho dozvillia, 2016), 3–4. "Litva" is normally mistranslated as the medieval Grand Duchy of "Lithuania." The author calls it "Litva–Rus" to stress the Slavic influence in the state. The series grew out of the online project at likbez.org.ua.

³⁶ Valerii Vozgrin, Istoriia krymskikh tatar. Ocherki etnicheskoi istorii korennogo naseleniia Kryma v chetyrekh tomakh (St. Petersburg: Nestor-Istoriia, 2013), vol. 1, 633.

³⁷ Bachyns'ka *et al., Lytsari dykoho polia,* 3–4.

³⁸ See, pre-eminently, K. A. Lypa and O. V. Rudenko, *Viis'ko Bohdana Khmel'nyts'koho* (Kyiv: Nash chas - Ukrains'ka militarna istoriia/Zhyva istoriia, 2010).

³⁹ Vozgrin, *Istoriia krymskikh tatar*, vol. 1, 635.

⁴⁰ Communication with Professor Paul Robert Magocsi, 28 February 2017.

Cossacks and the Crimean Tatars] lost their independence"; and the "Ukrainian-Crimean Tatar union of the revolutionary era" in 1917.⁴¹

In another Ukrainian book published in 2017, Russian Myths about Ukraine and her Past, a whole section is devoted to debunking common Russian tropes about the Crimean Tatars, and exposing them as divide-and-rule tactics. One myth was that "Ukrainians and Crimean Tatars are irreconcilable neighbors, between whom there neither was nor is any alternative to fierce competition." Another was that "Turks and Tatars strove to enslave Ukrainians and convert them to Islam. The switch to Russia's supremacy saved Ukraine from Turkic-Tatar expansion." Third was the Russian myth that "Ukrainian Cossacks led a sacred religious war as Christians against Turks and Tatars."42 On the contrary, the two were natural allies against Muscovy, and "the Crimean Khanate had neither the strength nor any plans to absorb Ukrainian lands." "Throughout its history," the Khanate was always open to, and tolerant of, Cossack settlers—a "free Ukrainian population" existed in Crimea "since the times of Kievan Rus'."43

As well as mutual stimulus, there was cultural intermingling. According to Prymak again, "there are about 4,000 current Ukrainian words of Turkic origin, about the same as the number of Arabisms in modern Spanish."⁴⁴ Contrary to Lypa's abovementioned claim of a one-way process of Crimean Tatar assimilation, there has in fact been centuries of ethnic intermingling and mutual influence (even if this was partly because of the Crimean Tatars' role in the local slave trade). According to Prymak, "Islamic slavery was never quite the same as plantation slavery in the ancient world or in America"; manumission was common and "integration and assimilation were not the exception, but rather the rule… Among the

⁴¹ Yaroslav Antoniuk *et al., Nash Krym: nerosiis'ki istorii ukrain'skoho pivostrova* (Kyiv: KIS/Ukrainian Institute of National Memory, 2016), 11, 10 and 131.

⁴² "Mify pro Krym," in Viktor Brekhunenko, *Viina za svidomist'. Rosiis'ki mify pro Ukrainu ta ii mynule* (Kyiv: Ukrainian Institute of Archaeology, 2017), 229–52.

⁴³ *Ibid.*, 237 and 242.

⁴⁴ Prymak, "Slightly Slanted Eyes?"

present-day Crimean Tatars, there is most certainly a good dose of Slavic and Ukrainian blood." 45

For some Ukrainians, the need for a common front with the Crimean Tatar cause was clear before the 1944 Deportation (in Crimean Tatar, *Sürgünlük*), especially after their separate attempts to establish independent statehood both ended in failure after 1917. Oleksandr Shul'hyn (Shul'gin/Shulgin, 1889–1960), the former foreign minister of the short-lived Ukrainian National Republic, reflecting on the issue in 1934, argued in favor of overcoming historical tensions:

Crimea—a land of mixed population where no one has a majority—was once a stronghold of the Crimean Tatars, our historical enemy-allies but now our friends. Ukraine has always respected and will respect the national rights of the former state rulers of Crimea, and we are certain that Ukraine has and will be the surest friend of the Tatars in the struggle for the freedom of Crimea from foreign pretensions.⁴⁶

That said, the Ukrainian nationalists of the 1930s were largely based in inter-war Poland; and were unable to influence wartime events in Crimea in 1941–44. Later, however, a handful of Ukrainian dissidents of the 1960s and '70s like Petro Grigorenko agitated for the Crimean Tatar cause alongside the Ukrainian. The idea of *parallel statehood* began to develop. ⁴⁷ Because the Crimean Tatar state-building project had historically proceeded in tandem with the Ukrainian project, it was its natural ally in the present day. Some form of self-rule for the Crimean Tatars in Crimea was therefore not an alternative to Ukrainian rule over the peninsula, but was in fact the best means of securing that rule.⁴⁸ Claims to a truly *Ukrainian* statehood in Crimea have to rely on Hrushevskyi's argument that Kievan Rus' was

⁴⁵ *Prymak*, "Slighted Slanted Eyes?"; and Paul Robert Magocsi, *This Blessed Land: Crimea and the Crimean Tatars* (Toronto: University of Toronto Press, 2014), 48.

⁴⁶ Oleksander Shul'hyn, *Bez terytorii: ideolohia ta chyn Uriady U.N.R. na chuzhyni* (Paris: Mech, 1934), 102.

⁴⁷ "Parallel statehood" is a key theme in the book by the Kapranov brothers, *Mal'ovana istoriia Nezalezhnosti Ukrainy* (Kyiv: Hamazyn, 2013).

⁴⁸ The Crimean "Autonomous Soviet Socialist Republic" was part of the Russian Republic when Lypa *et al.* were writing in the 1930s and early 1940s.

really Ukraine–Rus', or go back to earlier periods like the Scythian era.⁴⁹ According to one far-from-nationalist commentator, Kost' Bondarenko, "the Khans of the Giray dynasty [the Crimean Khanate's ruling family, direct descendants of Genghis Khan] are just as much 'our' national heroes as the Cossack Hetmans."⁵⁰ But it took the events of 2013–14 to really accelerate the process.

The New Civic Ukraine

It has become commonplace to talk of the emergence of a new Ukrainian civic nationalist identity associated with the Euromaidan and the war in the east. But there has been much debate as to whether it was cause or consequence, and came before or after Russia's interventions. Ukraine has also seen a parallel rise in *both* a new civic and ethnic nationalism.⁵¹ The new Ukraine has embraced multi-lingual, multi-ethnic, and multi-confessional realities that were often seen as a source of weakness in the past. The Crimean Tatars are a key part of this new positivity towards pluralism. In fact, given the centrality of the Crimean issue, they are arguably the key part. But at the same time, there has been a reinvention, even a "Europeanization" of some strands of Ukrainian nationalism, i.e. the growth of an anti-Islamic animus more typical of the Front National in France or the Party for Freedom in the Netherlands.⁵²

There were positive attitudes towards Crimean Tatars in Ukrainian "liberal circles" before 2014, but at a mass cultural level it was only "after the annexation of Crimea that everyone in mainland

⁴⁹ Mykhailo Videiko, Ukraine from Trypillia to Rus (Kyiv: Krion, 2010).

⁵⁰ Kost' Bondarenko, *Istoriia v profil*' (Kyiv: Znannia, Fund of Ukrainian Politics, 2012), 11.

⁵¹ For example, Volodymyr Kulyk, "National Identity in Ukraine: Impact of Euromaidan and the War," *Europe-Asia Studies* 68, no. 4 (June 2016): 588–608; and Winfried Schneider-Deters, "Euromaidan, Rebirth of the Ukrainian Nation, and the German Debate on Ukraine's National Identity," *Euromaidan Press*, 27 November 2015, http://euromaidanpress.com/2015/11/27/the-euromaidan-therebirth-of-the-ukrainian-nation-and-the-german-debate-on-ukraines-national -identity/2/.

⁵² Tadeusz A. Olszański, "Ukraine's Wartime Nationalism," OSW Commentary, no. 29, 28 August 2015, www.osw.waw.pl/sites/default/files/commentary_179_ 0.pdf.

Ukraine started to adore and love [sic] Crimean Tatars,"⁵³ with a fashion for Crimean Tatar cuisine being matched by the success of films such as the big-budget *Haytarma* ("Return") (2013), by Akhtem Seitablaiev, about a Crimean Tatar pilot in the Soviet air force at the time of the 1944 Deportation, and *Return with the Dawn* (2013) and *Sensiz* ("Without You") (2016) by the young director Nariman Aliev. The Deportation is now commemorated in mainstream Ukrainian media in a spirit of solidarity. The Crimean Tatar singer Jamala was chosen to represent Ukraine in the 2016 Eurovision Song Contest with her song "1944," partly to further this process, and won.

The Crimean Tatars were also a useful fit for the manner in which many Ukrainian intellectuals sought to characterize the Euromaidan. The "revolution and the nation it forged," it has been argued, "should not be conceptualized in terms of fixed identities," but through "publicly expressed ideas and values."⁵⁴ Crimean Tatars could therefore fight for, and even symbolize, the new multi-ethnic cause. Mustafa Dzhemilev agreed: "Only in Ukraine, can 'Banderites' protect synagogues, Jews create self-defense hundreds [the name for decentralized groups of self-organized protestors in the Euromaidan events], Russians become Ukrainian nationalists and Crimean Tatars shout: Crimea—is Ukraine!"⁵⁵

Optimists like the analyst Abdulla Rinat Mukhametov claim a unique role for the Crimean Tatars in "today's Ukraine as a special subject," and as a leading part of the new Ukrainian "political nation."⁵⁶ This is supposedly in sharp contrast to Russia, where "the specific interests of Muslims and particular Muslim peoples are not represented at the federal level." Mukhametov paints a possibly one-

⁵³ Emine Ziiatdinova, "Kak menialas' identichnost' krymskikh tatar," *Lb.ua*, 11 July 2016, http://blogs.lb.ua/dictaphone/339926_menyalas_identichnost_krimskih. html.

⁵⁴ Ilya Gerasimov, "Ukraine: The First Postcolonial Revolution," *Aspen Review*, no. 3 (2015), www.aspeninstitute.cz/en/article/3-2015-ukraine-the-first-postcolonialrevolution.

⁵⁵ Quoted by Sergei Naumovich on Facebook, 13 August 2015, www.facebook. com/sergonaumovich/posts/449816821864692.

⁵⁶ Cited in Paul Goble, "'I'm Proud to Be a Ukrainian,' Crimean Tatar Leader Says," Window on Eurasia, new series, 26 February 2016, http://windowoneurasia2.blo gspot.co.uk/2014/02/window-on-eurasia-im-proud-to-be.html.

sided picture of the Crimean Tatars' "loyalty and patriotism toward Ukraine."⁵⁷

The logo of the "Free Crimea" NGO (Figure 1, below) depicts this new symbolic unity by intertwining the two national symbols the Ukrainian trident and the Crimean Tatar *damğa*—as reverse images of one another in the same family tree. According to the logo's designer, artist Andrii Yermolenko,

The tree that symbolizes the Tatar genus *[rid]* grows from these powerful roots. So does the Ukrainian. I painted this family tree on the logo. Tatar Crimea and Ukrainian Crimea grow from the same root. I wanted to show that Crimea is Ukrainian, and that Crimean Tatars and Ukrainians are one political nation.⁵⁸



Figure 1. Logo for the "Free Crimea" NGO, by Andrii Yermolenko. Source: freecrimea.com.ua.

Crimean Tatars were increasingly prominent in Ukrainian politics and society after 2014. Sevhil Musaieva was editor of the leading internet site *Ukrains'ka Pravda*. Emine Dzheppar was the First Deputy Minister for Information Politics. Crimean Tatar leaders Mustafa Dzhemilev and Refat Chubarov were resident in Kyiv after having been banned from Crimea for five years. But the

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⁵⁷ Goble, "'I'm Proud.""

⁵⁸ "Andrii Yermolenko: Kryms'ki Tatary i Ukraintsi—tse odna politychna natsiia," Islam v Ukraini, 9 February 2015, http://islam.in.ua/ua/novyny-u-krayini/andri y-yermolenko-krymski-tatary-i-ukrayinci-ce-odna-politychna-naciya.

brain drain also arguably increased the self-isolation of the Crimean Tatars left in Crimea, particularly given their association with the Ukrainian national cause.

Official policy in Kyiv towards the Crimean Tatars has shifted belatedly since the annexation—but not as far as many would want. In March 2014 the Ukrainian parliament recognized the Crimean Tatars as a "rooted people" (see below) and the Mejlis as the "higher representative organ of the Crimean Tatar people."⁵⁹

In November 2015 parliament classed the 1944 Deportation as "genocide."⁶⁰ But parliament has yet to follow through with a detailed law on Crimean Tatar rights. There are signs that this situation may change, however; in 2016, an official conference was held under the slogan "One root—three peoples," that is, accepting that the Crimean Tatars, Krymchaks, and Karaim are the three native peoples of Crimea (on which more below).⁶¹ A similar slogan, "Three Peoples—One Root: Karaim, Crimean Tatars, and Krymchaks" was used in official promotional materials produced for the International Day of the World's Indigenous Peoples, on 9 August 2017, providing some belated recognition of the claim to "rootedness" (see Figure 2 below).

⁵⁹ See the law at http://zakon4.rada.gov.ua/laws/show/1140-vii.

⁶⁰ See the law at http://zakon5.rada.gov.ua/laws/show/792-19.

⁶¹ "MIP predstavil rolik 'Odin koren'—tri naroda' (VIDEO)," QHA, 8 August 2016, http://qha.com.ua/ru/obschestvo/mip-predstavil-rolik-odin-koren-tri-narodavideo/163818/.



Figure 2. Source: "'Try narody—odyn korin"—Mininformpolityky stvorylo rolyk do dnia korinnykh narodiv," Islam v Ukraini, 10 August 2017, http://islam.in.ua/ua/novyny-u-krayini/try-narody-odyn-korinmininformpolityky-stvorylo-rolyk-do-dnya-korinnyh-narodiv.

There has been some progress towards the theoretical recognition of some kind of Crimean Tatar ethnic autonomy in occupied Crimea,⁶² a proposal that Kyiv had ignored before 2014. There was also some talk of setting up a Crimean Tatar autonomous district just north of Crimea in Kherson, on territory formerly controlled by the Crimean Tatar Khanate,⁶³ or of a government-in-exile or Mejlis Muftiat operating in continental Ukraine.⁶⁴ In June 2016, President Poroshenko proposed changing Chapter Ten of the Ukrainian Constitution to guarantee, albeit in carefully-chosen non-specific words, "the inalienable right of the Crimean Tatar people to self-determination as part of a sovereign and independent Ukrainian

⁶² See for example the mock billboard "Welcome to the Crimean Tatar National Autonomy" at http://qha.com.ua/en/politics/billboard-welcoming-to-crimean -tatar-republic-set-up-at-entrance-to-crimea/134148/.

⁶³ Anastasiia Rinhis, "Chubarov: Vony znushchait'sia nad kryms'kymy tataramy, a Ukraina postachaie im tovary," Ukrains'ka Pravda, 10 September 2015, www.pravda.com.ua/articles/2015/09/10/7080788/.

⁶⁴ "Krymskie tatary sozdaiut Muftiiat na materikovoi chaste Ukrainy: 'V Krymu on polnost'iu podchinen okkupantu,'—Dzhemilev," *Tsenzor.net*, 4 January 2016, http://censor.net.ua/news/367898/krymskie_tatary_sozdadut_muftiyat_na_m aterikovoyi_chasti_ukrainy_v_krymu_on_polnostyu_podchinen_okkupantu.

state."⁶⁵ In September 2016 parliament voted to change the status of Crimea from a territorial to a Crimean Tatar national autonomy, and a draft law was introduced to this effect in April 2017—though critics claimed going ahead with the measure would only further alienate the Russian majority in occupied Crimea. Others have proposed granting the Crimean Tatars, or the Crimean Tatar language, special rights at a national level, even proposing Crimean Tatar language classes for all students in all schools.⁶⁶

The New Ukrainian Nationalism and the Crimean Tatar Question

Ukrainian nationalists have also rethought their attitude towards the Crimean Tatars, though not universally. The need to oppose Russian aggression against Crimea has pushed the issue to the forefront, as has the Crimean Tatars' disproportionate contribution to the Euromaidan demonstrations and to the war in the east, and their leading role in the protests against annexation.

But Ukrainian nationalists and the Crimean Tatars have not always been allies. For many traditional Ukrainian nationalists, Crimea is supposed to be Ukrainian land, and while denying it to Russia has been the priority,⁶⁷ this has certainly not meant a friendly attitude towards the Crimean Tatars. The OUN (Organization of Ukrainian Nationalists) depicted the Crimean Tatars as just as much an enemy as the Russians, Jews, or Poles. The OUN "Decalogue," for example, a nationalist version of the Ten Commandments first published in 1929, refers mystically to "the Spirit of the eternal

⁶⁵ "Poroshenko: Maiemo vnestu u Konstytutsiiu prava kryms'kykh tatar na samovyznachennia u skladi Ukrainy," Ukrains'ka Pravda, 28 June 2016, http://www.pravda.com.ua/news/2016/06/28/7113064/.

⁶⁶ "Krym otrymaie shyroku avtonomiiu abo kryms'ka mova bude ofitsiina po vsii Ukraini—Ali Tatar-zad," *Gazeta.ua*, 6 July 2016, http://gazeta.ua/articles/movazavtra/_krim-otrimaye-shiroku-avtonomiyu-abo-krimska-mova-bude-oficijnapo-vsij-ukrayini-ali-tatarzade/708780.

⁶⁷ The Crimean "Autonomous Soviet Socialist Republic" was part of the Russian Republic when Lypa *et al.* were writing in the 1930s and early 1940s.

element that has kept You from Tatar floods," as the would-be guiding force of the new revolutionary nationalism.⁶⁸

But even the right-wing fringes had begun to rethink their attitudes in the 2000s. In 2005 the activist Vasyl' Ivanyshyn wrote an influential article "The Crimean Knot," in which he argued that "Crimea in its current state is a delayed-action mine under the sovereignty and even the very statehood of Ukraine."⁶⁹ A Crimean rather than Crimean Tatar Republic, he argued, was a breeding ground for potential Russian separatism. According to the group Tryzub ("Trident"), which Ivanyshyn helped found, in 2005:

The Crimean Tatars do not have their national metropolis outside Ukraine. The Ukrainian land is their only native land, from which they were forcibly deported by the imperial-communist regime, and therefore they have the right to return to their native land. In Ukraine, the Crimean Tatars are not [just] a national minority, but the indigenous population of this part of the Ukrainian land on which they became a nation. Only in Ukraine can the Crimean Tatars focus as a nation and take care of their comprehensive national revival self-affirmation of statehood, and guarantee their future. For us, the national rights of the Crimean Tatar people, their desire for their own national state is natural, undeniable, and beyond discussion. This desire can be realized: a) only on the territory of Ukraine; b) only under the flag of the Ukrainian national idea and within a Ukrainian national state; c) only with the participation and assistance of the Ukrainian nation; d) only in the form of Crimean Tatar–Ukrainian autonomy.⁷⁰

Other nationalist parties like Svoboda have been less generous, however.⁷¹ So too has the notorious Azov battalion, founded by the group Patriot of Ukraine in 2014, which has supposedly reinvented itself with reference to "contemporary European neo-Nazism

⁶⁸ The text can be found at https://uk.wikisource.org/wiki/Декалог_українськог о_націоналіста.

⁶⁹ "'Krymsk'yi vuzol' Vasylya Ivanyshyna," *Banderivets*', 9 October 2015, http://banderivets.org.ua/krymskyj-vuzol-vasylya-ivanyshyna.html.

⁷º "Prohrama realizatsii ukrains'koii natsional'noii idei u protsesi derzhavotvorennia," *Tryzub*, 20 August 2005, http://dontsov-nic.com.ua/wp-co ntent/uploads/2016/01/Nasha-prohrama.pdf.

⁷¹ "Eduard Leonov: Teperishnia zlochynna vlada v svoikh utyskakh kryms'kykh tatariv ne daleko vidiishla vid komunistychnykh poperednykiv", *Svoboda*, 18 May 2013, www.svoboda.org.ua/diyalnist/novyny/039190/.

instead of Banderite⁷² traditions,"⁷³ and tried to exploit pan-European sentiments against radical Islam, campaigning against a mosque in L'viv. Azov also participated in the blockade of Crimea in 2015–16 (see below), but simultaneously took pains to proclaim that "We are in support of Crimea being Ukrainian, and not Tatar. We are not there to support the Tatars."⁷⁴

Refat Chubarov has accused Russia of promoting radicals from the international pan-Islamic organization Hizb ut-Tahrir "to show the world 'bad' Crimean Tatars,"⁷⁵ but has also expressed some solidarity with arrested members of that organization.⁷⁶ Statements of this kind are only likely to inflame the radical Azov type of Ukrainian nationalism.

"Rootedness"

The great paradox of contemporary Crimean Tatar nationalism is that its key principles have moved to the forefront of public debate precisely at a time when the Crimean Tatars have lost control of their homeland. The central tenet of Crimean Tatar nationalism is that the Crimean Tatars are "rooted" in Crimea.⁷⁷ The Russian word for this is *korennoi* ("rooted"); the Ukrainian is *korinnyi*. In English one might say "indigenous," or "autochthonous," but the botanical association built into the Slavic terms is significant, suggesting as it does a claim to an organic linkage between territory and ethnicity. According to this concept of indigeneity, ethnic and national groups

⁷² Stepan Bandera was the leader of the more radical branch of the OUN.

⁷³ Olszański, "Ukraine's Wartime Nationalism," 1.

⁷⁴ Halya Coynash, "Ukraine's Police Must Not Collaborate with Azov Xenophobes," *Human Rights in Ukraine*, 3 February 2016, http://khpg.org/en/in dex.php?id=1454456536.

^{75 &}quot;Rosiia namahaet'sia pokazaty svitu 'pohanykh' kryms'kykh tatar—Chubarov," Hromads'ke TV, 27 January 2017, http://hromadske.ua/posts/rosiia-namahaiet sia-pokazaty-svitu-pohanykh-krymskykh-tatar.

⁷⁶ "U Krymu shche 2 krymsk'ykh tatar zvynuvatyly u prychetnosti do 'Khizbut-Takhrir," Ukrains'ka Pravda, 18 April 2016, www.pravoda.com.ua/news/2016/04 /18/7105912/.

⁷⁷ Nataliya Belitser, Kryms'ki tatary yak korinnyi narod: istoriia pytannia i suchasni realii (Kyiv: Ministry of Information Policy, 2016), http://mip.gov.ua/files/pdf/ blicer_pro_krimtat.pdf.

may often move or resettle, but they are "rooted" in a given territory if their development as a cultural group took place there.

The Crimean Tatars accept that the Krymchaks and Karaim are also *korennye* to Crimea. Both groups are Jewish, but speak a language close to Crimean Tatar. The Krymchaks write in Hebrew characters, and the Karaim language is Hebrew-influenced. Like the Crimean Tatars, both groups claim to predate the Mongol incursion of the thirteenth century and are de facto an agglomeration of many local ethnicities. But neither group had their own state to rival the Crimean Tatar claim on Crimea, and both are in any case small in number. In 1897 there were 3,300 Krymchaks and 5,400 Karaim (the Karaim were then a privileged merchant class, officially distinguished from both Ashkenazi and Krymchak Jews), but the 2001 Ukrainian census counted only 280 Krymchaks and 715 Karaim (the 2014 exercise by the Russian occupying authorities recorded 228 and 535).⁷⁸

The Crimean Tatar Khanate was a dynastic state. The idea of ethnic "rootedness" developed in the late nineteenth and early twentieth century, after Crimea was annexed by the Russian Empire in 1783, although pan-Turkism overlapped with the Young Tatars' *(Genc Tatarlari)* idea of "island Crimea" as a natural homeland, propagated by intellectuals like Üsein Abdurefioğlu Bodaninsky (1877–1938), Osman Nuri-Asanoğlu Aqçoqraqli (1878–1938), Noman Çelebicihan (1881–1918), and Cafer Seydamet Qırımer (1889–1960). Çelebicihan in particular is an important symbol of modern Crimean Tatar identity: he helped found the political parties Vatan ("Fatherland") and the original Milli Firka ("National Party"—see below), served as both President and Mufti of the Crimean People's Republic in 1917,⁷⁹ wrote the national anthem, and was murdered by

⁷⁸ See http://2001.ukrcensus.gov.ua/eng/results/general/nationality/ for the Ukrainian census. For the disputed Russian version, see "Tablitsy s itogami Federal'nogo statisticheskogo nabliudeniia 'Perepis' naseleniia v Krymskom federal'nom okruge" (sic), *Federal'naia sluzhba gosudarstvennoi statistiki* website, www.gks.ru/free_doc/new_site/population/demo/perepis_krim/tabkrim.htm.

⁷⁹ A Qurultay ("assembly") of 76 delegates was elected by universal Crimean Tatar suffrage on 17 November 1917. The 1991 Qurultay was therefore dubbed the

the Bolsheviks in 1918. Çelebicihan established good relations with the Ukrainian People's Republic in Kyiv, and is used as a symbol of the Crimean Tatars' alignment with Ukraine today, even though in real life he was also inclined towards negotiating with Bolsheviks in 1917–18 (which didn't stop them assassinating him).

Paradoxically, pan-Turkism was only definitively replaced by the idea of a separate Crimean Tatar nation under Soviet rule.⁸⁰ As throughout the USSR, the promotion of "ethnogenesis"-the affirmation of as ancient a history as possible for the titular peoples of the Soviet republics⁸¹—was part of the official ideology of the national communist period of the 1920s. The official name of the policy was korenizatsiia ("putting down roots"). The homogenizing effects of Soviet rule, especially the creation of "a common Crimean Tatar grammar and language based on the central mountain dialect," 82 helped smooth over what were still then substantial differences between three main ethnic sub-groups: the coastal Yaliboyu, mountain Tats and steppe Nogai. Arguably, this process was remained incomplete until the common trauma of Deportation and enforced exile after 1944.83 This idea of homeland was also ironically reinforced by the Soviet authorities' reluctance to ease the conditions of exile, or to create stable conditions for the Crimean Tatars in Central Asia, and by the long campaign to return to the homeland that began in the 1960s.⁸⁴ The political aim and the organization around it became a defining feature of Crimean Tatar

[&]quot;second." After the Bolshevik seizure of power, the Qurultay proclaimed the Crimean People's Republic, which lasted until the Bolsheviks took over Crimea in January 1918.

Brian Glyn Williams, The Crimean Tatars: From Soviet Genocide to Putin's Conquest (London: Hurst and Company, 2015), 59–60; Magocsi, This Blessed Land, 98–99.

 ⁸¹ The Crimean ASSR created in 1921 was named after the peninsula, not after any ethnic group; but some commentators have argued that ethnic rights were just as important as in Dagestan or Nakhichevan; Williams, *Crimean Tatars*, 59–60.
 ⁸² Williams, *Crimean Tatars*, 77

⁸² Williams, *Crimean Tatars*, 75.

⁸³ Ibid., 150; and Ye. S. Kul'pin, Krymskie tatary i vyzovy XXI veka (Simferopol: ARIAL, 2014), especially 45–58, "Transformatsiia krymsko-tatarskogo etnosa (1944–1996)."

⁸⁴ Brian Glyn Williams, "The Crimean Tatar Exile in Central Asia: A Case Study in Group Destruction and Survival," *Central Asian Survey* 17, no. 2 (1998): 285–317.

identity in itself, helping to explain the tenacity of resistance to Russian annexation after 2014.

The central reference point for modern Crimean Tatar nationalism is the Declaration of National Sovereignty passed by the Qurultay in 1991, which declares that "Crimea is the national territorial autonomy of the Crimean Tatar people, on which they alone possess the right to self-determination." ⁸⁵ According to Chubarov, "Our principles, our demands are that the Crimean Tatars in all circumstances must live on their own land. I know that the Karaites, and Krymchaks follow exactly the same opinion."⁸⁶

The idea of Mongol origin is rejected, because it is useful to Russian nationalists. If the Crimean Tatars only arrived in the thirteenth century, then that allows Russia to claim precedence and pre-eminence from what was in reality a patchy pattern of Slavic settlement before then.⁸⁷ One Russian *History of Crimea* rushed out in 2015, compresses the history of the Crimean Tatar Khanate into only one of thirteen chapters, after long sections depicting Crimea as the "northern outpost of the Byzantine empire" and before discussing the Imperial and Soviet eras.⁸⁸

In the Mejlis version of Crimean Tatar identity, Crimean Tatar history is much older. The Mongol influence was only added onto that of other native elements. Crimean Tatar identity is itself "civilizational," a mixture of ethnic traditions, which were allowed to mingle in a spirit of toleration. This view is best expressed in the massive four-volume *History of the Crimean Tatars: Sketches of an Ethnic History of the Rooted Population of Crimea*, published in 2013

⁸⁵ Andrew Wilson, "Politics in and Around Crimea," in Edward Allworth (ed.), *Tatars of the Crimea: Return to the Homeland* (Durham, NC: Duke University Press, 1998), 281–322.

⁸⁶ "Krymskie Tatary dolzhny zhit' na svoiei zemle—Chubarov," Ukrinform.ru, 9 August 2016, www.ukrinform.ru/rubric-community/2064227-krymskie-tatarydolzny-zit-na-svoej-zemle-cubarov.html. See also Chubarov's remarks at a launch of Vozgrin's book Istoriia krymskikh tatar in Simferopol' on 14 August 2013, at www.youtube.com/watch?v=GR8N76RMn04.

⁸⁷ "Krymskie tatary: mify i real'nost'," *Istoricheskaia pravda*, 7 March 2014, www.istpravda.ru/research/8156/.

⁸⁸ S. Z. Kodzova (chief editor), *Istoriia Kryma* (Moscow: Russian Military-Historical Library, 2015). See also Kirill Kochegarov, *Krym v istorii Rossii* (Moscow: Russkoe slovo, 2014).

by Valerii Vozgrin, who is Russian but a native of Simferopol. His magnum opus was endorsed by the Mejlis,⁸⁹ after which he lost his job in Russia. According to Vozgrin, "Crimean Tatar ethnoculture" was itself an agglomeration of four cultures: "the Mediterranean (Christian), Islamic (Moorish), Steppe (predominantly Turkish) and German-Scandinavian (Goth)."⁹⁰ According to another author,

many waves of humanity came to the Crimea—the Scythians, the Goths, the Genoese, the Tatar-Mongols ... but the Crimean Tatars never came here [i.e. they have always lived here]... The nation of Crimean Tatars emerged and formed itself in the Crimea as a result of long-term, comprehensive and mutual assimilation of residues of the original inhabitants of Crimea: Tauri,⁹¹ Cimmerians with the Sarmatians, Scythians, Pechenegs, Polovtsians, Goths, Genoans, Greeks and other newcomer peoples. From this complex "conglomerate" a new ethnic unit emerged—the Crimean Tatar people, with its distinctive national culture, language, religion, traditions, customs and a clear identity, national economy, market, territory, statehood, and capital cities.⁹²

Despite annexation and repression since 2014, this idea of rootedness is still strong, expressed in the slogan *Qirim-Millet-Vatan* ("Crimea-Nation-Homeland"). One influential Facebook post by Nariman Dzhelial, the deputy chair of the Mejlis, criticized the older generation's idea that it was enough just to "live in our homeland"—unity and action were what mattered, he insisted.⁹³ But he still argued that Crimean Tatars should stay in Crimea,

⁸⁹ "'History of Crimean Tatars' by Vozgrin Presented in Crimea," *QHA*, 15 August 2013, http://qha.com.ua/en/society/history-of-crimean-tatars-by-vozgrin-pres ented-in-crimea/129253/.

⁹⁰ Vozgrin, *Istoriia krymskikh tatar*, vol. 1, 351–52.

⁹¹ The Tauri, mentioned by Herodotus, gave their name to the Russian terms Tavrida or Taurida. Their origins are obscure—different theories have them as remnants of the Scythians, Cimmerians, or related to the Abkhaz.

⁹² Yurii Osmanov, Pochemu Krym—istoricheskaia rodina krymskotatarskogo naroda? (Simferopol: Biznes-inform / NDKT, 2012 version), 8 and 9. Osmanov headed the supposedly more "moderate" NDKT party in the 1990s (see below).

Post by Nariman Dzhelial, 13 May 2016, https://mobile.facebook.com/15minut. kiev/posts/480626958789511?_mref=message_bubble&_rdr.

despite all the persecutions.⁹⁴ Another article on Crimean Tatar identity in 2016 emphasized patriotism, tolerance, non-violence, and the role of education as "almost a cult."⁹⁵ According to the sociologist Ol'ga Dukhnich, there are three components in the "ensemble... of Crimean Tatar identity," namely: "cultural identity based on tradition... political identity linked to political ambitions... [and] religious identity." Dukhnich also agreed that, "Another feature that we have seen mainly in young people is the identity of a citizen of Ukraine."⁹⁶ The Crimean political scientist Lenora Diul'berova added that generations of protest movement and consequent traditions of "political communication" and "political subjectivity" were also part of Crimean Tatar identity.⁹⁷ The Crimean Tatars had been appealing to the international community for fifty years: they were used to couching such appeals in the universal language of human rights, rather than the cultural framing of *ummah*.

The religious component of Crimean Tatar nationalism may now be reviving after declining in the years of Soviet exile. But, like the "new Ukraine," albeit to a lesser degree, the Crimean Tatars themselves are also a new civic nation. What matters is not "ethnic purity," but commitment to the cause. Not all of those who joined the Crimean Tatar battalions fighting in the east or blockading Crimea (see below) were Crimean Tatar. There is some flexibility when it comes to defining ethnicity—Jamala, winner of the Eurovision Song Contest and widely recognized as Crimean Tatar, was born in Osh, Kyrgyzstan to a Crimean Tatar father and an Armenian mother. In general, many Crimean Tatar communities have a long history of intermingling with other groups, including Azov Greeks.

⁹⁴ "Nariman Dzhelial: Krymskie tatary dolzhny ostavaťsia v Krymu," QHA, 5 January 2016, http://qha.com.ua/ru/obschestvo/nariman-djelyal-krimskietatari-doljni-ostavatsya-v-krimu/153351/.

⁹⁵ "Krymskie Tatary. Who We Are?" *Ukrains'ka Pravda*, 16 May 2016, www.pravda.com.ua/rus/columns/2016/05/26/7109808/.

⁹⁶ Cited in Mustafa Chaush, "Identichnost' krymskikh tatar posle anneksii Kryma: zashchitnaia reaktsiia i otsutstvie dialoga," *Krym.Realii*, 13 November 2014, http://ru.krymr.com/a/26689906.html.

⁹⁷ Chaush, "Identichnost' krymskikh tatar."

The alternative possibility would be the emergence of a radical and fundamentalist strain within Crimean Tatar Islam. Before 2014, ironically, that possibility was constrained by the hegemonic position of the Muftiate; since 2014, its control over Crimean Tatar religious life has weakened. Many radicals left in the first wave of exiles in 2014; and it is hard to tell how much of the local "extremist" threat is real or a FSB invention. But if the Crimean Tatars remain alienated and unintegrated, the possibility will grow over time.

Tatarism

The Mejlis strongly rejects "Tatarism"—the ideology positing the existence of a pan-Tatar identity shared by Kazan Tatars, Crimean Tatars, and Bashkirs. From 1944 to 1989 the adjective "Crimean" was not used administratively-according to Soviet ideologues, the exiled Crimean Tatar diaspora was simply part of the broader Tatar nation based in Kazan.98 But Mejlis supporters have dismissed the very term "Tatar" as a "mythological ethnonym."99 They argue, for example, that, "In fact the actual words 'Tatar-Mongol,' [hardly appear] in the Crimean Tatar language, four to five times less than in Russian";100 and that, "The Crimean Tatars are not the same as the 'Mongol-Tatars.' Deriving the Crimean Tatars from any other 'Tatars' only on the basis of the consonance of ethnonyms is totally unscientific; the term 'Tatar' has too many completely different meanings."¹⁰¹ Consequently, there has been a long-running campaign to drop the term "Tatar" altogether and leap-frog to the more straightforward ethnonym of "Crimean," Qirimli or Kirimli-the latter being the title of a film on Crimean Tatar history made by Burak Arliel in 2014.

⁹⁸ R. Bukharaev, "Kazanskie i krymskie tatary: odna natsiia—dva naroda?" LiveJournal, 21 November 2008, http://ulr.livejournal.com/91930.html.

⁹⁹ "Mificheskii etnonim 'Tatary,'" *Avdet*, 7 April 2014.

¹⁰⁰ Osmanov, Pochemu Krym—istoricheskaia rodina krymskotatarskogo naroda?

^{o1} Sergei Gromenko, "Krymskie tatary—eto 'mongolo-tatary'? Mif i razvenchanie," Krym.Realii, 1 August 2016, http://ru.krymr.com/a/27891416.html.

The rejection of "Tatar" identity and resistance to the use of "Tatarism" as a means of pulling the Russian version of Eurasianism more towards Asia leads to the emphatic claim that the "Crimean Tatars are a European people" (a claim made easier by the similar stance of the Kemalist tradition in Turkey). Thus, for example, Dzhemilev has argued that, "Many European peoples took part in the ethnogenesis of the Crimean Tatars. This didn't happen without Turkic tribes and Mongols. But in appearance only ten percent of Crimean Tatars are Mongol."¹⁰² The idea of a European identity also has its roots in the long history of the Crimean Tatar movement's appeals to international organizations.¹⁰³ Official Mejlis policy is therefore (perhaps surprisingly) unequivocal. According to Dzhemilev, "we support Ukraine's integration into the EU and NATO."¹⁰⁴

In Russian historiography, the Crimean Tatar Khanate is often depicted as little more than a slave-trading enterprise, or as an empty vessel, a channel for pan-Islamic or pan-Turkish Ottoman Russophobia. In the *History of Crimea* published in Moscow in 2015 it is baldly stated that "the flourishing of the peninsula [only] began after the return [sic] of the Russian population" after 1783.¹⁰⁵ According to Vozgrin, however, the Khanate was both a substantial civilization in its own right, and a second al-Andalus, home to a "Proto-Renaissance" from the fourteenth century, with a tolerant, open society. The Khanate allowed the flourishing of historical Christian communities (mainly Armenian and Greek) and of the two varieties of local Judaism. "The humanism of Islam in contrast to the European [version]," Vozgrin argues, "was universal."¹⁰⁶

¹⁰² "Krymskie tatary—yevropeiskii narod," *Avdet*, 10 November 2015, http://avdet.org/ru/2014/11/10/krymskie-tatary-evropejskij-narod/.

¹⁰³ Gul'nara Bekirova (ed.), Mustafa Dzhemilev: "Na protiazhenii desiatiletii golos krymskikh tatar ne byl uslyshan...": Materialy k biografii, vystupleniia, interv'iu (Kyiv: Stilos, 2014).

¹⁰⁴ Author's interview with Dzhemilev, 17 January 2010.

¹⁰⁵ Kodzova (ed.), *Istoriia Kryma*, 4.

¹⁰⁶ Vozgrin, Istoriia krymskikh tatar, vol. 1, 336 and 361. Section four is called "The Proto-Renaissance in Crimea." See also Gul'nara Abdulaeva, Bitvy iz istorii Khrymskogo Khantsva. Ocherki (Simferopol: Krym uchpedgiz, 2013).

THE CRIMEAN TATAR QUESTION 29

The Crimean Tatars, the Euromaidan, War, and Blockade

The Crimean Tatars' strong support for Ukrainian statehood and for a European Ukraine made them early supporters of the Euromaidan protests. Official participation was organized by Akhtem Chiigoz, deputy chair of the Mejlis. The first big trip to bring supporters from Crimea came as early as the week beginning 26 November 2013.¹⁰⁷ But many other Crimean Tatars made their own way, especially students from Kyiv, L'viv, and Kharkiv, helped by the local NGO "Crimean Fraternity in Kyiv" run by two Crimean Tatar businessmen, the Umerov brothers Rustem and Aslan. By the beginning of December 2013 more than a hundred were present on the Maidan.¹⁰⁸ A Crimean Tatar "hundred" was formed in January 2014. Its leader Isa Akaev showed some sympathy for Right Sector,¹⁰⁹ with sporadic contacts between Crimean Tatars and rightwing activists developing at this time. And in Crimea, as even Temirgaliev admitted, at the crucial moment just before the coup, and even though he had used Party of Regions' money to assemble a crowd, "our supporters numbered a little less than those of the Mejlis—somewhere like 60 to 40 in favor of the Mejlis."10 Hence the need for bogus demonstrators brought in from Russia to sway the balance.111

When the war in east Ukraine began later in 2014, this organizational base led to the participation of many Crimean Tatars as both front-line fighters and activists. In November 2014, Mustafa Dzhemilev claimed 450 Crimean Tatars were taking part in total.¹¹² A "Crimea" patrol unit was formed as early as June 2014. In 2016 the

¹⁰⁷ Idil P. Izmirli, "Crimean Tatars Support EuroMaidan Protests in Kyiv," *Eurasia Daily Monitor* 10, no. 219, 6 December 2013, https://jamestown.org/program/crimean-tatars-support-euromaidan-protests-in-kyiv/.

¹⁰⁸ "Sotni kryms'kykh tatar vyrushyly na Maidan—predstavnyky Medzhlisu," *RFE/RL*, 21 January 2014, www.radiosvoboda.org/a/25237628.html.

¹⁰⁹ See Isa Akaev on Facebook, www.facebook.com/isa.akaev.3?ref=br_rs.

¹¹⁰ "Rustam Temirgaliev o razvitii sobytii."

¹¹¹ Kanev, "Spetsturisty."

¹¹² "Mustafa Dzhemilev: okolo 450 krymskikh tatar uchastvuiut v antiterroristicheskoi operatsii," *Krym. Realii*, 24 November 2014, http://ru.krymr. com/a/26708362.html.

formation of a Noman Çelebicihan Battalion, named after the hero of 1918, was announced. It aimed to have 560 members, but initially claimed 250 to 300.¹¹³ The blockade of Crimea that began in September 2015 was led by another paramilitary group dubbed Asker ("Soldier"), organized by the former businessman Lenur Isliamov,¹¹⁴ in partnership with Ukrainian nationalist groups. The blockade had a notable impact on the peninsula's electricity, food, and water supplies.¹¹⁵ It was lifted in January 2016 after the government of Ukraine imposed its own restrictions.

Crimean Tatar Eurasians

The Qurultay/Mejlis claims to be a Crimean Tatar parliament. It was last elected in 2013, when the rules were changed to allow for greater competition within the electoral process. But the Mejlis has always had external opponents as well as internal rivalries, and critics of its alliance with Kyiv and support for a European Ukraine. The 1991 Qurultay was organized by the OKND (Organization of the Crimean Tatar National Movement), after a split with the rival NDKT (National Movement of the Crimean Tatars)—largely because the latter opposed the former's organizational radicalism, i.e. the claim that the Mejlis was a de facto parliament. The NDKT was led first by Yurii Osmanov and then by Vasvi Abduraimov after Osmanov's death in 1993. Both men were prone to using key tropes of early 1990s Eurasianism: Abduraimov condemned the "anti-Slavic and pan-Turkic policy" of the OKND and argued that "in Crimea the Slavo-Turks (Crimean Tatars, Russians and Ukrainians) have a real possibility to create and perfect a micro-model for a Slavo-Turkic

¹¹³ Vladimir Golovko, Okupatsiia Kryma. "Russkii mir" protiv Ukrainy (Kyiv: COOP Media, 2016), 104–5; and "In the Crimean Tatar battalion of the national guard have joined 250 people. All will be up to 580—islyamov," News from Ukraine, 18 January 2016, http://en.reporter-ua.ru/in-the-crimean-tatar-battalion-of-th e-national-guard-have-joined-250-people-all-will-be-up-to-580-islyamov.html.

¹¹⁴ See the interview with Isliamov by Svitlana Kriukova and Sevhil' Musayeva-Borovyk, "Lehenda pro more. Odyn den' na kordoni z Krymon," *Ukrains'ka Pravda*, 26 February 2016, www.pravda.com.ua/articles/2016/02/26/7100363/.

¹¹⁵ Andrew Wilson, "No Stability under Occupation in Crimea," *ECFR*, 18 March 2016, www.ecfr.eu/article/commentary_crimea_no_stability_under_occupation604.

'superunion."¹⁰⁶ He even sent an open letter to Russian leaders in 2008 asking for their protection from the "nationalist-leaning official authorities in Ukraine."¹¹⁷

In one-off Crimean elections in 1994, when the Crimean Tatars briefly had an ethnic quota of fourteen seats, the Qurultay/Mejlis ran and won the vote (despite presenting itself as a parliament), with 89.3% of the vote against 5.5% for the NDKT. The NDKT faded away thereafter, with Abduraimov shifting attention to a new party, Milli Firka (taking the name of the original "National Party" in 1917), which was officially registered in 2007. Unlike the "nationalist" Mejlis, Milli Firka emphasized "integration of the Crimean Tatar people with the Turkic world on the basis of the Islamic world view," and Eurasianist cooperation with "the heads of the Turkic states and the heads of the Turkic Republics of the Russian Federation."¹¹⁸

Yanukovych's Divide-and-Rule Policy

The organizational strength and leading position of the Mejlis was already under challenge before 2014. Milli Firka and other loyalist Crimean Tatar groups were actively promoted by the authorities during the Yanukovych years, especially in 2011–13. This was done in an attempt to split and/or discredit the Mejlis; the aim to "divide and rule" was what mattered most here, and so less attention was paid to the ideological dimension. The extent to which the Ukrainian authorities' efforts on this front may have overlapped with the Russians' is hard to assess: the divide-and-rule operation was run by a local political technologist, Andrii Yermolaev, on behalf

 ⁿ⁶ Vasvi Abduraimov, "Geopoliticheskie aspekty krymskogo uzla," Areket, no. 3, 28 February 1994; interview in Vseukrainskie vedomosti, 22 June 1995; Wilson, "Politics in and Around Crimea," 281–22, at 284; and S. M. Chervonnaia (ed.), Krymsko tatarskoe natsional'noe dvizhenie, vol. 4 (Moscow: Russian Academy of Sciences, 1997), 104–09.

¹¹⁷ Halya Coynash, "The Crimea's Interests Not Represented," *Human Rights in Ukraine*, 15 September 2008, http://khpg.org/en/index.php?id=1221486403.

[&]quot;Strategiia i taktika Milli Firka na sovremennom etape (2009–2011 gg.)," Millifirka.org, 16 May 2009, www.milli-firka.org/content/BFEA/title/Стратегия-и/.

of Serhii L'ovochkin, Yanukovych's Chief of Staff until January 2014. $^{\rm 109}$

In 2012 a new "Crimean Tatar National Front" was launched with the authorities' covert support, led by a long-term Mejlis critic Lentun Bezaziiev,¹²⁰ and including Abduraimov's Milli Firka. The Front leant towards pan-Tatarism, including local representatives of other Tatar and Bashkir groups, declaring that "the Crimean Tatars, Kazan Tatars, and Bashkirs are fraternal peoples, whose historical fate has for centuries been intertwined."¹²¹

Another "cloning" operation was run against the civic movement Avdet ("Return"), which had campaigned against Crimean Tatar homelessness since 2005. Its well-drilled activists were seen as a threat by the Yanukovych authorities—and an asset to be taken over. Avdet split in May 2011 and its offshoot Sebat ("Steadfast") was henceforth controlled by the Party of Regions featuring prominently in local "anti-Maidan" demonstrations in the winter of 2013–14.¹²²

Yanukovych also reformatted the "Council of Representatives of the Crimean Tatar People" that President Kuchma had set up in 1999. In two purges in 2011 and 2013 Yanukovych removed Dzhemilev as chair and replaced him with Bezaziiev and Abduraimov, as well as replacing the old composition of 33 members of the Mejlis with only eight from the Mejlis and 11 from the loyal opposition. Not surprisingly, this led to a boycott by the Mejlis.¹²³

¹¹⁹ Author's interview with Yuliia Tyshchenko, 13 June 2016.

¹²⁰ Anvar Derkach, "A New Crimean Front," *The Ukrainian Week*, 7 March 2012, http://ukrainianweek.com/Politics/52392. Lentun Bezaziiev had been both a Communist and a Tymoshenko MP, and ended up in the Party of Regions.

¹²¹ "Kazanskie tatary i bashkiry Kryma tozhe voshli v Krymsko-tatarskii narodnyi front," Novoross.info, 2 February 2012, www.novoross.info/politiks/11105kazanskie-tatary-i-bashkiry-kryma-tozhe-voshli-v-krymsko-tatarskiy-narodny y-front.html.

¹²² "Krymskie tatary: 'My ne "titushki", a tozhe ukrainskii narod," *Segodnia.ua*, 18 December 2013, www.segodnya.ua/regions/krym/krymskie-tatary-my-ne-titus hki-a-tozhe-ukrainskiy-narod-483773.html. See also the article in the Mejlis paper *Avdet*, "Kto oni—mogilevskie tatary?" *Avdet*, 24 June 2013, http://avdet.org/ru/2013/06/24/kto-oni-mogilevskie-tatary/.

¹²³ Andrew Wilson, "The Crimean Tatars: A Quarter of a Century after Their Return," *Security and Human Rights* 24, no. 3–4 (2013): 418–31.

The loyalist group were known as the "Mogilev Tatars" (after Anatolii Mogilev, who controlled Crimea for Yanukovych from 2011 to 2014), or the "*kazanskie*" because they were always saying that life for Muslims was better in Russian Kazan. It did not help that Mejlis supporters called their rivals "Crimean Tatar *vatniki*" or "mankurts" (derogatory terms for redneck Soviet chauvinists and traitors to the national cause, respectively).¹²⁴

The conflict reached a peak during the elections to the Qurultay in 2013. Mustafa Dzhemliev's plans to be replaced by his long-term deputy Refat Chubarov were almost stymied by the internal opposition. Chubarov only squeaked home by 126 votes to 114 against his rival Remzi Iliasov, who represented both genuine dissenters and those promoted by the Yanukovych authorities.¹²⁵ Chubarov did little to build bridges after his victory; and so potential splits were already present in the Crimean Tatar movement on the eve of the Euromaidan protests.

Russian Eurasianism and the Crimean Tatars

Russian ideologues who pushed the annexation of Crimea have also pushed this Crimean Tatar version of Eurasianism. According to the supporters of Aleksandr Dugin and Lev Gumilev, "the Crimean Tatars are a Turkic ethnic group that can feel comfortable in the bosom of Eurasianism." In typically florid language, they have argued that the Crimean Tatars are part of "the political merger of the Forest and the Steppe," the "duumvirate" of "Russians and Finno-Ugric" peoples with "Volga Tatars, Bashkirs." "The mountains do not play a significant role in the life of the Crimean Tatars, as opposed to the Caucasians," so cultural synthesis is supposedly all the easier. "The frames of Eurasianism are so broad that they fit the Buddhist culture of the Kalmyks and the Islamic culture of the Crimean Tatars."¹²⁶

¹²⁴ Andrei Zaremba, "Prizyv krymskikh mankurtov," *Krym. Realii*, 4 November 2015, http://ru.krymr.com/a/27344659.html.

¹²⁵ Wilson, "Crimean Tatars," 427.

¹²⁶ Vladislav Gulevich, "Krymskie tatary i yevraziistvo," *Geopolitica.Ru*, 8 August 2012; available at http://vgulevich.livejournal.com/16668.html.

The embrace of this version of Eurasianism will lead to a happy future for the Crimean Tatars in Crimea. "The acceptance of Eurasianism by the Crimean Tatars is not impossible because of some ethnic particularities," as the Mejlis would argue, "(there are even Eurasians in far from Russophile Poland), but because of the anti-Crimean Tatar activity of the Crimean Tatar Mejlis, deliberately leading its people into conflict with the Slavic population of the peninsula."¹²⁷

The Russian version of Eurasianism also contains a view of history diametrically opposed to the idea of a European Crimean Tatar identity, allied to the Ukrainian identity. According to the Gumilev Center (gumilev-center.ru), a think-tank devoted to promoting the ideas of the Eurasianist thinker Lev Gumilev (1912-92), a fatal divergence occurred "back in the 13th century, in the era of the departing Golden Horde and the division of Ukraine between West and the East." "The Prince of Galicia - Western Ukraine -Danylo, unlike other [Rus] principalities led by Aleksandr Nevskii, defected to the West, took the crown from the hands of the Pope. Later there was a division on cultural and religious grounds: in western Ukraine many profess Greek Catholicism and recognize the supremacy of the Pope." In the Russian north, however, "Aleksandr Nevskii made an alliance with the Tatars, became the adopted son of Batu, preserved the Orthodox faith and Russian culture, which later allowed the creation of a great Russia." Therefore, "the Golden Horde is not a taboo for Russian Tatars, it is part of the history of not only the Tatars, but also the history of Russia and Eurasia, a very important part... The Eurasian approach allows the Tatars to be an important and influential force in Russia and Eurasia, which serves as a common home."128

Pavel Zarifullin, head of the Gumilev Center, has more radical ideas of common origin, as expressed in his book *The New Scythians*

¹²⁷ Gulevich, "Krymskie tatary."

¹²⁸ Iskander Akhmedov, "Most 'Tatarstan-Krym': chto zhdet krymskikh tatar v Yevrope, initsiativy Tatarstana, novye realii Kryma i pochemu ruku Moskvy nuzhno pozhať," *Gumilev Center*, 5 March 2014, www.gumilev-center.ru/mosttatarstan-krym-chto-zhdet-krymskikh-tatar-v-evrope-iniciativy-tatarstana-no vye-realii-kryma-i-pochemu-ruku-moskvy-nuzhno-pozhat/.

(newskif.su), calling for Russian-Crimean Tatar Union as the basis for a new invigorated Eurasianism. In a speech to Milli Firka several weeks before the annexation in January 2014, he declared that

Crimea has a special role. The peninsula has a sacred value as the laboratory of the Friendship of the Peoples. Formed over many generations... Crimea was the end of the last Scythian kingdom and the beginning of others... The Russians, Ukrainians, Tatars, and Kazakhs all trace their origins from the Scythians...The Crimean Tatar people are by default Eurasian... Crimea is the starting point of any project, and will become a miniature of Eurasia.¹²⁹

Volga Tatar Eurasianism

Meetings and discussions between the Volga Tatars and Crimean Tatars were encouraged by the Kremlin in 2014, but only led to polemic on both sides.¹³⁰ The Volga Tatar side pushed the idea of pan-Tatarism, and attacked Crimean Tatar "separatism." According to one Tatar activist Iskander Akhmedov,

Some representatives of Crimean Tatar organizations, after meetings with the delegations of the Republic of Tatarstan, gave interviews to the right and to the left, in which they actually began to refute the kinship of the Tatars and the Crimean Tatars. Furthermore, they stated that the language of the Turkmen people, the Gagauz, Azerbaijanis, Turks is closer to the Crimean Tatar than Tatar, although the Tatar and Crimean Tatar language belongs to the same subgroup—Kipchak, and is very far from those mentioned above. Tatars and Crimean Tatars understand each other without problems.¹³¹

Among some Crimean Tatars there is a quite common desire to get rid of the proud name "Tatars" in the name of the people. They begin to call themselves just "Crimeans." Some believe their ancestors are some Tavrians-Scythians, Italians, "proto-people," while ignoring the huge, decisive role of ancient Tatars and Turks in their ethnogenesis. But the desire to prove his indigenousness should not turn into the absurd and the denial of the nearest relatives. Such shameful attempts to escape from their history, origin, and

¹²⁹ "Russko-krymsko tatarskii soiuz," *Gumilev Center*, 30 January 2014, www.gumilev-center.ru/russko-krymskotatarskijj-soyuz/.

¹³⁰ See also Victor Shnirel'man, "Useful Eurasianism, or How the Eurasian Idea is Viewed from Tatarstan," in Mark Bassin and Gonzalo Pozo (eds.), *The Politics* of Eurasianism: Identity, Popular Culture and Russia's Foreign Policy (New York and London: Rowman and Littlefield, 2017), 223–42.

¹³¹ Akhmedov, "Most 'Tatarstan-Krym."

kinship are reminiscent of our home-grown Tatarstan Bulgarists [who claim that the Volga "Tatars" are not Tatars at all, but the descendants of the Volga Bulgars].

Some Crimean Tatars dream of Europe. But it is necessary to look at the rights of Muslims in Europe. It is necessary to look at the situation with the expectation of Turkey to become a full member of the EU ... It is worth remembering, for example, the decision of the people of Switzerland, adopted in a referendum, to ban the construction of minarets. Think of the fragmented, mixed federation of Bosnian Muslims.¹³²

Kazan historians were writing an alternative history of the Crimean Tatar people, based on the claim that, according to Kazan Tatar historian Marat Gibatdinov, "the Crimean Tatars have always been part of the big family of the Tatar nation."133 The Mufti of Moscow and Chuvashia, Albirhazrat Krganov, has lectured on "Volga Tatars and Crimean Tatars: Common Historical Destinies."134 But the main ideologue of Volga Tatar nationalism is the historian Rafael Khakimov, who was also the main ideologue of "Russian Islam"135-a secularized Islam subordinated to the needs of Tatar Republican nationalism, subordinated in turn to the raison d'état of the Eurasian idea. Khakimov endorsed an Asia-leaning form of Eurasianism in a pair of essays entitled "Who are the Russians?" and "Who are you, Tatars?" In the first, Khakimov claimed that "the Russians are no more European than the Tatars."¹³⁶ "Russian" was in any case an ambiguous concept. "The Russian (Russkii), the German, the Pole, the Georgian, the Finn, the Tatar—it is all Russia

¹³² Akhmedov, "Most 'Tatarstan-Krym.""

¹³³ "Uchebnik istorii krymskikh tatar pishut v Kazani," *BBC Russian Service*, 11 November 2014, www.bbc.com/russian/international/2014/11/141111_crimean_ tatars_history_book_tatarstan.

¹³⁴ "Dukhovno-prosvetitel'skii soiuz krymskikh i povolzhskikh tatar pozvolit sozdat' polnotsennyi tatarskii mir—Krganov," *Islamskii portal*, 25 March 2014, www.islam-portal.ru/novosti/104/4749/.

I35 Sometimes confusingly called "Euro Islam."

¹³⁶ "Tatar Historian: 'Russians are No More European than are the Tatars," *Euromaidan Press*, 9 June 2014, http://euromaidanpress.com/2015/06/09/tatarhistorian-russians-are-no-more-european-than-are-the-tatars/.

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(*Rossiia*)."¹³⁷ Up to and including the time of Ivan the Terrible, the conqueror of Kazan, "Moscow was half Tatar," "an international city." Muscovy was founded on the principles of the Great Horde. "Ivan III is credited with the honor of separation from the Horde, which is not true. He spoke out against the Khan of the Great Horde Akhmat as an impostor, but was not at war with the Golden Horde and did not undermine its foundations. These foundations were loosened themselves without the help of the Russians." The true "source for the construction of the Russian empire" was therefore Tatar *passionarnost*', not the declining strength of the Byzantine empire. "After the collapse of the Golden Horde the Russian idea turned to the Byzantine tradition, close in faith, [and] joined the statehood of the Horde and Orthodoxy, after which Tatar ideas acquired a completely new, Christian-Byzantine shell."¹³⁸

The Volga Tatars, meanwhile, according to Khakimov, are a once-mighty nation reduced to a "slave psychology" by Imperial Russian and then Soviet divide-and-rule policy. The aim of this policy had been "to make every ethnic group of Tatars a separate nation with its own literary language and thus do away with the nation," splitting away the Crimean Tatars and Bashkirs.¹³⁹

Divide-and-Rule Continues after 2014

The mainstream Crimean Tatar movement, as represented by the Mejlis, was weakened but not destroyed by Yanukovych. In fact, one of the reasons for the Russian coup d'état in Crimea in February 2014 was to forestall the installation of a Crimean government with strong participation by the Mejlis led by Refat Chubarov, who had hoped to become the chair of the Crimean parliament, and to receive "a third of the posts" in the new government.¹⁴⁰ Temirgaliev

¹³⁷ "Rafael' Khakimov: 'Kto takie russkie?'" *Biznes online*, 9 March 2013, www.busi ness-gazeta.ru/article/76466/.

¹³⁸ Ibid.

¹³⁹ "Rafael' Khakimov: 'Khto ty, Tatarin?'" *Intelros,* 2013, www.intelros.ru/?news id=203.

¹⁴⁰ "Rustam Temirgaliev o razvitii sobytii." See also Berezovets, Anektsiia, 65–66; Matzusato, "Domestic Politics in Crimea," 245–48; and Chubarov's account of

even claims that the Mejlis threatened his supporters: "we will achieve it with or without you, we have everything good with the future new government in Kyiv... We will just come and throw you all out of here."¹⁴¹

The annexation changed everything. Once Dzhemilev rejected Putin's initial overtures, it was now even more important to split the Mejlis, building on Yanukovych's previous work, but with tougher and cruder tactics. Most Ukrainian security service personnel (SBU) in the Crimea defected to the Russian FSB, and it was they who then used their contacts, information, and agents to arrest recalcitrant Mejlis members and promote the "loyalists."¹⁴² They were joined by old FSB hands from the North Caucasus, peddling the same card of the "radical Islamic threat."¹⁴³ Interestingly, this seemed to be easier or more instinctive than playing divide-and-rule among Crimean Tatar ethnic sub-groups, even though most leaders of the Mejlis are Yaliboyu.

A mixture of old and new bodies to rival the Mejlis duly appeared after February 2014, building on the splits of 2011–13. All have duly spoken out against "extremism" and the blockade of Crimea. All have peddled versions of Eurasianism.¹⁴⁴ The new program adopted by Milli Firka in 2014 declared the party an "active supporter of the Eurasian integration of the Crimean Tatar people."¹⁴⁵ One activist Murat Yazydzhiev was much blunter: after "Crimea reunited with Russia by peaceful means ... the idea of the national state loses its

various Crimean Tatar meetings at www.facebook.com/dogrujol/posts/ 1201282769966875.

⁴¹ "Rustam Temirgaliev o razvitii sobytii."

¹⁴² Author's interview with Yuliia Tyshchenko, 13 June 2016.

¹⁴³ "Krym radikaliziruetsia, yesli siloviki RF povtoriat opyt Severnogo Kavkaza, zaiavili uchastniki diskussii na 'Kavkazskom uzle,'" Kavkazskii Uzel, 27 June 2014, www.kavkaz-uzel.eu/articles/244906. On personnel changes in Crimea, see Nikola Petrov, "Krym: prevrashchenie ukrainskogo poluostrova v rossiiskii ostrov," Counterpoint (Kontrapunkt) no. 1 (September 2015), www.counterpoint.org/wp-content/uploads/2015/09/petrov_counterpoint1.pdf.

¹⁴⁴ Dmitry Sosnovsky, "Crimean Identity: Yesterday, Today, Tomorrow," Russia in Global Affairs, 7 June 2014, http://eng.globalaffairs.ru/number/Crimean-Identity-Yesterday-Today-Tomorrow-16714.

¹⁴⁵ "Remzi Il'iasov sleduet programmu Milli Firka," *Milli Firka*, 26 November 2014, www.milli-firka.org/c/DBAGJHJB.

meaning," he declared. A "new idea that can unite all Crimean Tatars living in Crimea" was therefore needed. "And this idea is simple—the Crimean Tatars are Russians!"¹⁴⁶

Two potential alternatives to the Mejlis now appeared; the difference between them was unclear-both operated in parallel. The Qirim (K'yrym) Public Movement was established in October 2014—Yazydzhiev was a member. Qirim Birligi ("Crimea Union") was established in June 2014 and was headed by Refat Chubarov's defeated opponent in the previous year's Qurultay election, Remzi Il'iasov, who was also made Deputy Chairman of the State Council of Crimea. Il'iasov was personally close to Sergei Aksenov, who was declared Crimean Prime Minister after the February 2014 coup in Crimea. By November 2014 Aksenov was referring to Il'iasov as "the leader of the Crimean Tatar people."147 Il'iasov and a group of three to four former members of the Mejlis favored cooperating with the new authorities. Initially, they assumed that the Qurultay-Mejlis system could be retained, but subordinated to Russian legislationas they hoped to take it over. Il'iasov duly called for new elections for the Qurultay and Mejlis in 2015, planning that its leaders would be elected in the place of the likes of Dzhemilev and Chubarov, but the Mejlis proved surprisingly resilient and loyal to its existing leadership. A would-be conference of Qirim in July 2015 attracted twenty former members of the Meilis, instead of the two hundred (out of two hundred and forty-eight) that had been predicted.¹⁴⁸

This strategy explains why the Mejlis was not shut down immediately, but was eventually banned as an "extremist organization" in 2016 once the takeover plan had failed. Qirim and Qirim Birligi meanwhile have followed the Russian line through every twist and turn since 2014, for example denouncing "the

¹⁴⁶ Murat Yazydzhiev, "Krymskie tatary nachinaiut ob"ediniat'sia vokrug novoi idei," *Belogorsk News*, 2 November 2015, www.belogorsknews.ru/2015/11/blogpost_2.html.

⁴⁴⁷ "Aksenov nazval Il'iasova 'liderom krymsko tatarskogo naroda,'" *Krym.Realii*, 17 November 2014, http://ru.krymr.com/a/26696272.html.

¹⁴⁸ Golovko, Okupatsiia Kryma, 107.

terrorism prepared by the Ukrainian special services," during the war scare of August 2016.¹⁴⁹

In November 2014, a Public Council of the Crimean Tatar People emerged, gathering together twenty-two NGOs. Ruslan Balbek, Deputy Prime Minister of Crimea, another former delegate of the Qurultay, heads the Crimea Generation youth movement in opposition to the Mejlis, and he became the first Crimean Tatar Duma MP in September 2015—marking him out as another potential loyalist leader.¹⁵⁰ Sebat was again used for "Anti-Maidan" demonstrations, including in Moscow.¹⁵¹ Several of its leaders, including the head Seidamet Gemedzhi, were, however, subject to "prophylactic" arrests, as the authorities struggled to control their activities.¹⁵² Crimean Tatar businesses have come under pressure, especially after a new umbrella business organization was set up in February 2016 led by Rustem Nimetullaiev. ATR, the Crimean Tatar media company, was shut down in April 2015, and replaced with a "clone," Millet ("Nation"). Millet clearly had broader pan-Turkic or Eurasian ambitions, as it planned to broadcast to Russia, Ukraine, Central Asia, and Turkey.153

The same strategy of (threatened) divide-and-rule was more successful in cowing the Mejlis's religious allies, the Spiritual Directorate of Muslims of Crimea (DUMK), led since 1999 by the Mufti of Crimean Muslims haji Emirali Ablaev. As with political parties and NGOs like Sebat, the Yanukovych era had already seen the artificial emergence of a rival to DUMK, the Spiritual Center of Muslims of Crimea (DTsMK), which was registered in December

¹⁴⁹ "Krymskie tatary pochtili pamiat' rossiiskikh voennykh, pogibshikh pri zaderzhanii diversantov," *Russkaia vesna*, 20 August 2016, http://rusvesna.su/ news/1471712987.

¹⁵⁰ "Ruslan Bal'bek: mezhnatsional'noe soglasie v Krymu—prezhde vsego," Krymskii vektor, 28 May 2014, http://crimeavector.com.ua/obschestvo/7551-rus lan-balbek-mezhnacionalnoe-soglasie-v-krymu-prezhde-vsego.html.

¹⁵¹ "'Sebat' podderzhal Prezident Rossii na 'Antimaidane,'" *Milli Firka*, 4 February 2015, www.milli-firka.org/c/DBAGKCKC.

¹⁵² "V Krymu arestovan aktivist krymskotatarskoi organizatsii 'Sebat," *Grani.Ru*, 29 January 2015, http://graniru.org/Politics/Russia/m.237332.html.

 [&]quot;Pro-Russian Crimean Tatar TV Channel Starts Satellite Broadcasting," *RFE/RL*,
 1 April 2016, www.rferl.org/content/crimea-pro-russian-tatar-tv-station/27648
 579.html.

2010. In 2014 the DTsMK became a new "Taurida Muftiate," with links to the radical Lebanese group al-Ahbash.¹⁵⁴ One of the oldest mosques in Crimea, the sixteenth-century Juma-Jami in Yevpatoriia was forcibly handed over to the Taurida Muftiate in September 2014. After this, Ablaev got the message, especially as the DUMK was much more reliant on its mosques and other physical infrastructure than the Mejlis. Since the Yevpatoriia incident, Ablaev has talked up the benefits of "dialogue" with the occupation authorities.¹⁵⁵

Without citing any evidence, pro-Russian authorities claim that the Crimean Tatars' support is evenly split between Qirim Birigli and the Mejlis.¹⁵⁶ The last reliable evidence was the 2013 Qurultay elections, when turnout was just over 50%.¹⁵⁷ According to one ex post facto survey, 72% of Crimean Tatars followed the call by the Mejlis to boycott the 2014 "referendum" on union with Russia;¹⁵⁸ and there have been no reliable opinion polls under the occupation. Remzi Il'iasov did not take many supporters with him when he left the Mejlis. Some defectors, like the businessman Lenur Isliamov, have gone back and forth between the Mejlis and its competitors. A substantial number of neutrals or drifters exist in between the two camps. The 2014 "census" conducted by the Russian occupying authorities recorded 232,340 Crimean Tatars (10.8%), but a big jump in those calling themselves just "Tatars," to 44,996 (2%), compared to 245,291 Crimean Tatars (10.2%) and only 13,602 "Tatars" (0.6%) in the last official Ukrainian census in 2001.159

¹⁵⁴ "'Tavricheskii muftiat' ulichili v sviaziakh s opasnoi livanskoi sektoi," *Islam News.ru*, 2 July 2015, www.islamnews.ru/news-466828.html.

¹⁵⁵ Compare Vladislav Mal'tsev, "'Krym nash' dlia muftiia Ablaeva," NG religii, 1 April 2015; www.ng.ru/ng_religii/2015-04-01/1_crimea.html; and the hostile critique of Ablaev by Sergei Stel'makh, "Gromkoe' molchanoe muftiia Ablaeva," Krym.Realii, 28 January 2017, http://ru.krymr.com/a/28263312.html.

¹⁵⁶ "50% of Crimean Tatars Support 'Qirim Birligi': Nimetullaev," *QHA*, 23 October 2014, http://qha.com.ua/en/politics/50-of-crimean-tatars-support-quot-qirim-birligi-quot-nimetullaev/132495/.

¹⁵⁷ "Results for Elections to Qurultay Known," *QHA*, 19 June 2013, http://qha.com.ua/results-of -elections-for-qurultay-known-127731en.html.

¹⁵⁸ Wojciech Górecki, "The Peninsula as an Island. Crimea in its Third Year since Annexation," OSW, 22 November 2016; www.osw.waw.pl/en/publikacje/pointview/2016-11-22/peninsula-island-crimea-its-third-year-annexation.

¹⁵⁹ See note 78.

Ironically, the Crimean Tatar Eurasianists can claim some of their authority from the work of the founding father of Crimean Tatar intellectual life, Ismail Gasprinski (1851–1914). Gasprinski was a Jadidist¹⁶⁰ reformer and believer in pan-Turkism, but in the climate of the times he thought the Russian Imperial authorities could promote such unity, appealing to them to take all of the "Turkic-Tatar" world under their wing. In his works Russian Islam: Thoughts, Notes and Observations of a Muslim (1881) and Russian-Eastern Agreement: Thoughts, Notes and Wishes (1896), Gasprinski called for harmony and cooperation within the "Russian-Muslim world, lying between the European and the Mongolian worlds in the central parts of the hemisphere, at the crossroads of all roads and trade relations, cultural, political and martial. Both their neighboring worlds-European and Mongolian-are overcrowded." Europe, always seeking to expand to the east, was always "acting against Russia and against the Muslim."161 Aleksandr Dugin quoted Gasprinski approvingly in a "Eurasianist" speech in Ankara in July 2016, ironically coinciding with the failed coup in Turkey.¹⁶² Dugin even tried to instrumentalize the Crimean Tatar connection as a means of bringing Turkey back closer to Russia.

Crimean Identity

Finally, there is the issue of the place of the Crimean Tatars within a broader Crimean identity, if one is accepted to exist.¹⁶³ For many local Russian-speaking intellectuals, Crimea is simply part of a

¹⁶⁰ The Jadids or "Progressives" were part of a modernizing Islamic reform movement in the last years of the Russian empire, which sought to improve education and cultural standards.

¹⁶¹ Ismail Bei Gasprinskii (Gaspraly), "Russkoe musul'manstvo. Mysli, zametki i nabliudeniia musul'manina," and "Russko-vostochnoe soglashenie: mysli zametki i pozhelaniia," in L.V. Shepot'ko (ed.), Otechestvennaia istoriia: Khrestomatiia (Vladivostok: Naval University, 2005), 165–71, at 169 and 70.

¹⁶² See the video of Dugin's speech at www.youtube.com/watch?v=9yFOb_TjtE.The remarks are 39 minutes in.

⁶⁵³ Oles' Cheremshina, "Yest' li otdel'naia krymskaia identichnost'?" *Krym.Realii*, 30 April 2014, http://ru.krymr.com/a/25368172.html.

broader Russian nation.¹⁶⁴ For others it is part, and a key part of Russian-led Eurasia.¹⁶⁵ For others, there is a specific regional identity, of a multi-national "Crimean people."¹⁶⁶ According to the local academic Andrei Mal'gin, writing in 2000,

irredentism was never the dominant mentality of the Russian-speaking majority in the peninsula... the idea of recreating the Crimean autonomy was based primarily on the need [for the Crimean population] to distance itself from Moscow and establish local control over the use of resources of the Crimea and its environment... In this respect, Crimean autonomism was very reminiscent of regionalism in Siberia and the Urals, with their views on the value of a small regional homeland.¹⁶⁷

The idea of a "Crimean People" rarely included the Crimean Tatars, however. Insofar as it has been used since 2014, it has been to claim the artificial unity displayed in the referendum on joining Russia. The occupying authorities have used crude tactics to depict the Crimean Tatars as jihadists.¹⁶⁸ They have also backed the idea that the local Greeks are the true "rooted" people of Crimea,¹⁶⁹ with Putin himself saying in May 2014 (after the Mejlis leaders had

¹⁶⁴ Andrei Surkov, "Russkie—korennoe naselenie Kryma. Istoriia," Novorossiia, 8 March 2014, http://novorus.info/news/history/13878-istoriya-kryma-russkiekorennoe-naselenie.html.

¹⁶⁵ See, for example, the website of "Krymskoe respublikanskoe obshchestvennoe dvizhenie 'Yevraziia,'" www.krod.narod.ru.

⁶⁶⁶ Eleanor Knott, "Do Crimeans See Themselves as Russian or Ukrainian? It's Complicated," *The Monkey Cage*, 3 December 2015, www.washingtonpost.com/ news/monkey-cage/wp/2015/12/03/do-crimeans-see-themselves-as-russian-orukrainian-its-complicated/.

¹⁶⁷ Andrei Mal'gin, "Novoe v samosoznanii etnicheskikh grupp Kryma," http://www.archipelag.ru/authors/malgin/?library=1172; first published in Ostrov Krym no. 3(9) (2000).

¹⁶⁸ Halya Coynash, "New Weapon Against Dissent in Crimea: 'Ideology of Terrorism," *Human Rights in Ukraine*, 26 February 2015, www.khpg.org/en/ index.php?id=1424552129; and Coynash, "Russia Accuses Crimean Tatar Leaders of Recruiting for Islamic State," *Human Rights in Ukraine*, 12 October 2015, http://khpg.org/en/index.php?id=1444434154.

¹⁶⁹ V. K. Mordashov, "Kto v Krymu korennoi—slaviane, tatary, ili greki?," Krymskie izvestiia, March 1992, available at the website of Narodnyi Front "Sevastopol'-Krym-Rossiia", http://sevkrimrus.narod.ru/ZAKON/koren4.htm.

rebuffed his overtures) that the Greeks "were there before us."¹⁷⁰ The Greek, or Byzantine, link reinforces the Russian version of the myth of Vladimir's baptism in 988. And the local Greeks are now reassuringly small in number—only 3,036 in Crimea in 2001 and 2,877 in 2014, although they number 200,000 in Russia and Ukraine as a whole.¹⁷¹

Once again, however, this is a selective reading of history at best. The older community with deeper historical links to Crimea, and a history of intermingling with the Crimean Tatars, are the Azov or Mariupil' Greeks. The Pontic Greeks and Arvanites (speakers of a dialect of Albanian) that came from the Balkans and Anatolia in the late eighteenth and nineteenth centuries had stronger links to the Imperial state that invited them—and it is presumably these loyalist Greeks that Putin had in mind.

But in truth, many Crimean intellectuals either neglected the Crimean Tatar issue before 2014 or were downright hostile. Even when the idea of a "Crimean People" and the Crimea as a local "small homeland" was promoted, it was based on supposed "external" threats, and first and foremost among these was "the myth of Crimean Tatar indigenousness." This myth should be opposed, as should the myth (or *mifologema*) of "Ukrainianness," the "geopolitical construct of EuroAtlanticism," and, ironically, Crimeans' own apathy.¹⁷²

Conclusions

Crimea's future will mainly be determined by international politics. But shifting identity politics will shape the environment in which

[&]quot;70 "Putin: nado tshchatel'no prorabotat' vopros o korennykh narodakh Kryma," *RIA Novosti*, 16 May 2014, http://ria.ru/crimea_today/20140516/100804624 4.html.

¹⁷¹ Paul Goble, "Another Punished People, the Pontic Greeks, Posing New Problems for Moscow in Crimea," *Eurasia Daily Monitor*, 12, no. 194, 27 October 2015, https://jamestown.org/program/another-punished-people-the-pontic-gr eeks-posing-new-problems-for-moscow-in-crimea/.

¹⁷² Anatolii Filatov, "Russkii Krym: vneshnie ugrozy i vnutrennie vyzovy. Krym poka izbegaet ukraintsva," *Russkie.org*, 18 November 2011, www.russkie.org/ index.php?module=fullitem&id=24007.

the relevant decisions are made. The mainstream Crimean Tatar position that they are not a national minority, but a nation rooted in Crimea as their only homeland will ensure their continued opposition to Russian annexation, regardless of the legal status of the peninsula. The Eurasianist alternative offered by the occupying Russian authorities seems to have had less effect in building rivals to the Mejlis than their crude divide-and-rule tactics. Any prospects for attempts to build a genuine multi-ethnic Russian Crimea were jeopardized by the tactics used to secure annexation in 2014.

Alternatively, Crimean Tatars could accommodate to the realities of Russian annexation, if the Mejlis is seen by sufficient numbers of ordinary Crimean Tatars as too radical, and if the authorities commit to practical issues like land and housing. So far, Crimean Tatar education in Crimea has not been subject to the same restrictions as Ukrainian, more Crimean Tatars have gone on the Hajj via the Russian quota, ¹⁷³ and the long-awaited prestigious Cathedral Mosque construction project is going ahead in Simferopol.

But the biggest impact of the Crimean Tatar issue since 2014 has been on helping to reshape Ukrainian national identity and nationalism. Two potential new civic identities, Ukrainian and Crimean Tatar, feed off one another—although the long-term triumph of neither is currently guaranteed.

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¹⁷³ Abdullah Asanov, "Hajj 'at a Discount,' Russian Style," *Islam v Ukraini*, 1 October 2014, http://islam.in.ua/en/ukrainian-news/hajj-discount-russian-style.

Annex 1025

Michael Kofman et al., Lessons from Russia's Operations in Crimea and Eastern Ukraine, RAND Corporation (2017)



Lessons from Russia's Operations in Crimea and Eastern Ukraine

Michael Kofman, Katya Migacheva, Brian Nichiporuk, Andrew Radin, Olesya Tkacheva, Jenny Oberholtzer

How Russia Annexed Crimea

This chapter looks at Russia's operation to annex Crimea. We begin with the basic question of what happened. The chapter provides a concise chronology of the events that took place during the Russian invasion and then delves into analysis of the Russian successes and failures during the operation. What follows is an exploration and an effort to discern what broader takeaways can be made from the Ukrainian experience for other countries. We discuss the important factors that enabled—or hindered—Russia's invasion of the peninsula. At the end of this chapter, we address whether the annexation of Crimea should be considered as a potential model for Russian military action elsewhere and what it might tell us about the military capabilities of Russia's armed forces.

The Balance of Forces

According to a credible source, at the onset of its conflict with Russia, Ukraine kept a force of roughly 18,800 personnel stationed in Crimea, most of which were in its navy.¹ However, in February, Ukraine's interim defense minister assessed this number as closer to 15,000 troops.

¹ "Ukraine Troops Leave Crimea by Busload; Defense Minister Resigns After Russia Seizes Peninsula," CBS News, March 25, 2014; "Transcript of a Secret Meeting of the National Security Council February 28, 2014 [Стенограмма секретного заседания СНБО 28 февраля 2014 года]," ECHOMSK blog, February 23, 2016. This reference is the Russianlanguage version of Ukraine's declassified National Security Council meeting on February 28, 2014, to discuss the response to Russian military activity in Crimea.

This force included 41 tanks, 160 infantry fighting vehicles, 47 artillery systems, and heavy mortars.² The navy's coastal defense troops included a missile artillery brigade, two independent marine battalions, and a coastal defense brigade.

Other Ukrainian assets in Crimea were not as potent. Most of Ukraine's air force units were in disrepair. Of the 45 MiG-29 fighters at Belbek airbase near Sevastopol in southwest Crimea, only four to six were operational.³ Ukrainian air defenses included Buk-M1 and S-300 surface-to-air missile systems, which were at questionable readiness levels but could still be potent deterrents. A contingent of 2,500 Ministry of the Interior troops was also present, although they perhaps had little defense value. During national leadership meetings in February, Ukraine's minister of defense considered approximately 1,500–2,000 troops as dependable and willing to follow if ordered to fight the Russian military.⁴

Russia had roughly 12,000 military personnel in the Black Sea Fleet at the time, the only infantry unit of which was the 810th Independent Naval Infantry Brigade. The Russian Naval Infantry was staffed by contract troops, who are better trained, paid, and equipped than typical conscript units. In terms of numbers and available firepower, these forces were inferior to Ukraine's units in Crimea, lacking infantry fighting vehicles, armor, or artillery. However, the terms of Russia's basing agreement with Ukraine offered substantial leeway to transfer in units from the mainland if needed, offering a large upload capacity.

A Chronology of Events

Ukrainian and Russian units went on alert on February 20, 2014, as Maidan protests in Kyiv escalated into violent clashes with government security forces. Russian operations in Crimea effectively began on

² Colby Howard and Ruslan Pukhov, eds., *Brothers Armed: Military Aspects of the Crisis in Ukraine*, Minneapolis, Minn.: Eastview Press, 2014.

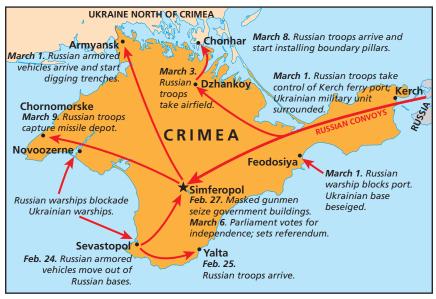
³ Howard and Pukhov, 2014.

⁴ "Transcript of a Secret Meeting of the National Security Council February 28, 2014 [Стенограмма секретного заседания СНБО 28 февраля 2014 года]," 2016.

February 22 and 23, as battalions of Spetsnaz (elite infantry) units and Vozdushno-Desantnye Voyska (Airborne Forces or VDV) left their bases, while others were airlifted close to the strait separating Russia from Crimea. Figure 2.1 provides an overview of Russian operations in Crimea through March 9.

On February 24, the city council in Sevastopol installed a Russian citizen as mayor, and several units from the 810th Naval Infantry arrived in the city square in armored personnel carriers (APCs), in violation of the rules governing basing arrangements in Crimea.⁵ This was the first tangible sign that Russia had decided to intervene militarily to change the political order on the peninsula. On February 25, the *Nikolai Filchenkov*, an Alligator-class landing ship carrying 200 Rus-





RAND RR1498-2.1

⁵ Howard Amos, "Ukraine: Sevastopol Installs Pro-Russian Mayor as Separatism Fears Grow," *Guardian*, February 25, 2014.

sian special operations forces (likely Special Operations Command, Russia [KSO]),⁶ arrived in Sevastopol. In addition to bringing specialoperations forces units that would subsequently be used in the covert takeover of Crimea, it also may have later evacuated Yanukovych.⁷

On February 26, Russian President Vladimir Putin ordered a snap inspection involving 150,000 troops from parts of the Western and Central Military District.⁸ A drill of this scale was not unusual. The new minister of defense, Sergei Shoigu, had been frequently ordering large snap readiness checks and simultaneous drills since 2013. This exercise, however, was used specifically as a diversion and cover for troop movements. Ostensibly, the exercise was not focused on Ukraine's borders but to move VDV and Spetsnaz troops northward in Russia. Roughly 40 Ilyushin Il-76 military transports left Ulyanovsk airbase in Russia, with a large portion of these moving units to Anapa, a staging area just east of Crimea.

On February 27, 50 special-forces operators from the KSO unit pretending to be a local "self-defense militia" seized the Crimean Parliament and raised a Russian flag over the building.⁹ Another large landing ship with 300 Russian soldiers arrived following proper border procedures to enter Ukraine but without advance notice to Ukrainian authorities as stipulated in agreements. Later that night, Russian sol-

⁶ In early 2012, Russia formed a new special-forces unit called *KSO*. This is a small unit modeled closer to Delta Force in the United States, designed to operate independently and abroad. By contrast, the Spetsnaz are military reconnaissance and saboteur units intended to operate alongside conventional formations and more representative of elite infantry.

⁷ Howard and Pukhov, 2014.

⁸ Niklas Granholm, Gudrun Persson, Johannes Malminen, Jakob Hedenskog, Carolina Vendil Pallin, Anna Sundberg, Johan Eellend, Johan Norberg, Carina Lamont, Tomas Malmlöf, Mike Winnerstig, Kaan Korkmaz, Märta Carlsson, Mikael Eriksson, Niklas Rossbach, Susanne Oxenstierna, Bengt-Göran Bergstrand, Ulrik Franke, John Rydqvist, Erika Holmquist, and Fredrik Westerlund, *A Rude Awakening. Ramifications of Russian Aggression Towards Ukraine*, Stockholm: Swedish Defense Research Agency, FOI-R-3892, June 16, 2014.

⁹ Video of the entry and seizure of the Crimean Parliament by Russian special forces was recorded by the building closed-circuit television cameras at the entrance. Their entry is visibly facilitated by the local police. Euromaidan PR, "Ukraine War: Russian Special Forces Seize Parliament Building in Crimea Ukraine," August 16, 2014.

diers without markings surrounded Belbek Air Base. On the morning of February 28, a convoy of three Mi-8 transport helicopters and eight Mi-35M attack helicopters crossed into Ukraine without permission, giving Russia the ability to neutralize Ukrainian armor and operate at night.¹⁰ Ukraine scrambled fighters, deterring further helicopter units from transferring, but the Mi-35s already were operating openly over Crimea and supporting Russian forces on the ground.

In sum, Russian movements of late February 2014 effectively boxed in Ukraine forces, even though Russian capabilities were limited to one incomplete naval infantry brigade and several hundred special-forces operatives. On February 28, Russian forces also seized Simferopol airport, canceled all flights, and began airlifting VDV units into Crimea. Still at a distinct numerical disadvantage, on March 1–2, Russia brought reinforcements by heavy landing ships. These units spread across the peninsula without much resistance, quickly encircling or taking over bases and military facilities. Armed with light utility vehicles and APCs, the Russian units had little firepower but high mobility.

Ukraine saw its docked fleet blockaded by Russian ships; the commander of its navy, Denis Berezovsky, defected to Russia.¹¹ Russia had hoped this would prompt further defections, but it did not. Instead, Russian forces made ad hoc arrangements with trapped Ukrainian troops at bases across the peninsula to maintain the siege without violence. Russian troops applied heavy psychological pressure, propaganda, and promises to Ukrainian commanders to get them to defect, with little success until after the annexation in March.¹²

From March 6 on, Russia began a conventional troop buildup over the Kerch ferry crossing in eastern Crimea, bringing in units from

¹⁰ Howard and Pukhov, 2014.

¹¹ Of these, mostly smaller support vessels were operational. Ukraine's only major surface combatant, a *Krivak*-class frigate, was away at the time and not in the Black Sea.

¹² Large numbers of enlisted and officers either switched sides or resigned their commission and stayed in Crimea after the official annexation was complete. These included some highprofile commanders and unit members who managed to escape Crimea with their equipment but subsequently returned.

motor rifle brigades, towed artillery, a variety of air-defense units, and antiship missile batteries. The Russian military also began to mass units on Ukraine's eastern border as a threat and diversion. Russian forces sealed Crimea off from mainland Ukraine at its northern crossing points. They severed landline communications between the Ukrainian mainland and bases on Crimea; supposedly, in some areas, cellphone signals were jammed, possibly from ship-based equipment.¹³ Russian soldiers also cut electricity to some bases to apply pressure on the besieged Ukrainian troops within.

In brief, Ukraine had lost effective command and control over its units on the peninsula roughly one week into the operation. Russian intelligence also used this time to organize self-defense units consisting of local militia,¹⁴ Cossacks (a distinct cultural group of East Slavic people common to the region), and former special police called *Berkut*.¹⁵ Russian airborne troops also donned police uniforms to help keep order among the population under the pretense of being local security forces.

Crimea's local leadership likely did not coordinate with the Kremlin, and the lack of integration was evident in the scheduling of a plebiscite on Crimea's fate. The Crimean Parliament initially declared a referendum on independence for May 25, then moved it to March 30, before finally deciding on March 6 to hold the vote on March 16. As the likelihood of its operation's success increased, without any apparent resistance or evidence of counterattack by Ukrainian forces, Moscow sought an earlier referendum date, moving up the timetables for annexation. Igor "Strelkov" Girkin, who would help lead the insurgency in Eastern Ukraine, later recounted that local officials were not

¹³ Shane Harris, "Hack Attack," Foreign Policy, March 3, 2014.

¹⁴ Roger N. McDermott, *Brothers Disunited: Russia's Use of Military Power in Ukraine*, Fort Leavenworth, Kan.: Foreign Military Studies Office, 2015.

¹⁵ Berkut were a special unit within Ukraine's police force under the Ministry of Interior. They were responsible for much of the fighting on the Maidan and, allegedly, for deaths among civilians. The interim government disbanded Berkut; many former "Berkuts" then came to Crimea and the Donbas to join the separatist cause.

enthusiastic participants in the events but had to be rounded up by paramilitaries to hold the official vote on accession to Russia.¹⁶

The political process to hold a referendum appeared to be hastily organized and improvised. Indeed, there were two votes: one to leave Ukraine, which was necessary for Crimea to become an independent polity, and a final referendum to accede to the Russian Federation. Russia may have considered turning Crimea into a frozen conflict (i.e., bringing about a cessation of active conflict without a change in political status) before the Crimean Parliament voted to secede from Ukraine.¹⁷ The March 16 referendum would become the political instrument to annex the peninsula, a process that concluded on March 18.

Russia annexed Ukraine with no direct Russian casualties. There were perhaps six associated deaths, including from interactions among opposing groups, such as when, on March 19, a vigilante shot a Ukrainian warrant officer and a Russian Cossack during negotiations outside a base. From March 19 to March 25, Russian forces seized Ukrainian bases in Crimea, most of which offered no resistance. Moscow promised to honor the rank of and provide better pay and benefits to any Crimea-based Ukrainian soldiers who defected and accepted Russian citizenship. Most did so, in large part because they were stationed near families and homes on the peninsula.¹⁸ Ukraine's defense minister was subsequently forced to resign, announcing that, out of 18,000 soldiers and families, only 6,500 chose to leave for Ukraine proper.¹⁹ Even among those who left, such as the 10th Naval Aviation Brigade,

¹⁶ "Girkin: 'Militia' Pressured Crimean Deputies into the Auditorium for Voting [Гиркин: «Ополченцы» сгоняли крымских депутатов в зал для голосования]," Krymr.org, January 24, 2015.

¹⁷ Michael B. Kelley, "Crimean Parliament Votes Unanimously to Become Part of Russia," *Business Insider/Military and Defense*, March 6, 2014.

¹⁸ Officers in Ukraine and Russia are provided with apartments, which are often in short supply. More than likely, any officer that left Crimea could expect to have housing difficulty, since Ukraine lacked the apartments and funds to address the displaced.

¹⁹ "Ukraine Troops Leave Crimea by Busload; Defense Minister Resigns After Russia Seizes Peninsula," 2014.

some soldiers later resigned and returned to Crimea.²⁰ By March 26, the annexation was essentially complete, and Russia began returning seized military hardware to Ukraine.²¹

Russia's Information Campaign

An information campaign preceded, accompanied, and followed Russian military operations in Crimea. Its primary audience was the Russian public at home, with Crimean residents as a secondary consideration. The Russian media always maintained some coverage on events in Crimea for its own domestic public, but this intensified as the clashes between the pro-government forces and the protesters in Kyiv grew more violent. The Maidan protest movement, which began in November 2013, had animated Russia's already-intense manipulation of information aimed at its own citizens, warning them of the dangers of closer ties with the EU. Its campaign included subsuming or pushing to the margins the few remaining domestic independent media outlets, thereby gaining further control and power to shape views in Russia of the events in Ukraine.²² Existing government outlets, such as *RIA Novosti* and *Voice of Russia*, were consolidated into *Russia Today*, now known as *RT*.²³

At the time, most of Eastern Ukraine and Crimea watched Russian television and, typical of the former Soviet space, the overwhelming majority of the population received their news from televised

²⁰ bmpd (user), "The Defection Of Ukrainian Navy Troops Into the Russian Armed Forces After Leaving Crimea [Переход военнослужащих ВМС Украины в Вооруженные Силы России после оставления Крыма]," Livejournal blog, March 5, 2016.

²¹ The process of returning Ukrainian military equipment was halted when Kyiv launched the Anti-Terrorist Operation in Eastern Ukraine later that year. However, Russia did return a large portion of Ukraine's aviation and naval assets because most of it was not serviceable. Russia did keep a handful of operational ships, adding them to its Black Sea Fleet. "Russia Will Give Ukraine the Military Equipment from Crimea [Россия передаст Украине военную технику из Крыма]," RG.RU, March 28, 2014.

²² Olga Oliker, Christopher S. Chivvis, Keith Crane, Olesya Tkacheva, and Scott Boston, *Russian Foreign Policy in Historical and Current Context: A Reassessment*, Santa Monica, Calif.: RAND Corporation, PE-144-A, September 2015.

²³ Stephen Ennis, "Putin's RIA Novosti Revamp Prompts Propaganda Fears," *BBC Monitoring*, December 9, 2013.

media. Ukraine had largely ceded Russian-language information to Russian-based outlets since its independence from the Soviet Union in 1991, particularly in Crimea. While Moscow did not officially promote Russian media in Ukraine, Russian media markets were so much larger than Russian-language markets in Ukraine that their information and entertainment channels were dominant among Russian-speaking Ukrainians. Russian forces turned off nine Ukrainian television channels on March 9, leaving access to Russian channels only.²⁴ Channels from Ukraine remained accessible via satellite receivers.

When the Yanukovych government collapsed in early 2014, Russian rhetoric on the events in Ukraine became more severe. Russian media typically referred to Ukraine's interim government and the protest movement that brought it about as a "fascist junta." There were three goals to Russia's information campaign during the operation to seize Crimea: discrediting the new government in Ukraine, emphasizing the grave danger to Russians in Ukraine, and ensuring the display of broad support for Crimea's "return home" to the safety of Russia. Table 2.1, based on additional RAND research, summarizes strategic themes of Russian messaging on Ukraine.

On February 26, Russia began aggressively promoting its message that regime change in Ukraine was illegitimate. That day was one day prior to the Russian military takeover of government buildings in Crimea. This message was advanced by several Russian figures and elites; for example, Sergei Mironov, leader of Russian political party Spravedlivaya Rossiya, on the Russia 24 news channel,²⁵ and Ramzan Kadyrov, head of the Chechen Republic, on the LifeNews channel²⁶ contended that Russians were under threat in Crimea and required protection and that Russia needed to act to secure their safety. The message was straightforward: "[N]ationalists and fascists took power

²⁴ "How the Audience of Ukrainian TV Channels Changed in Crimea [Як змінився перегляд українських телеканалів у Криму]," *Forbes*, April 2, 2014.

²⁵ "Mironov: Russia Must Protect Russians in Crimea," vesti.ru, February 26, 2014.

²⁶ "Ramzan Kadyrov: Russia Will Not Give Ukraine into the Hands of the Bandits [Рамзан Кадыров: Россия не позволит отдать Украину в руки бандитам]," *LifeNews*, February, 26, 2014.

General Themes	On the Ukrainian Government	On the Role of Western Countries
 The Crimean land historically belonged to Russia. The transfer of Crimea to Ukraine in 1954 was a historical mistake of the Soviet period. Ethnic Russian and all Russian-speaking popu- lations in Crimea were under imminent ultra- nationalist threat. Russia was not involved in events in Crimea. The March 16 referen- dum on independence was legitimate, demon- strating the will of the people of Crimea. Ukrainian soldiers voluntarily gave up their weapons and pronounced their alle- giance to Russia. 	 The Ukrainian government acts in the interests of the United States and other foreign powers. The Maidan movement is overrun by (violent) ultra-nationalists. Ukraine's president was overthrown in an illegitimate coup d'état, backed by the West. The pro-European population of Ukraine are ideological descendants of Nazi supporters and fascists. 	 Western countries, and especially the United States, are the core orchestrators of the events in Ukraine. The primary U.S. motivation is the expansion of the North Atlantic Treaty Organization (NATO) and containing Russia. The United States is pressuring Europe to impose sanctions against Russia and is the driving force of a policy of containment against Moscow. Russian policy is not a departure from previ- ous Western interven tions to change bor- ders and create new political entities, such as in Kosovo.

Table 2.1 Themes of Russia's Strategic Communication on Crimea

NOTE: Based on RAND research into the Russian information campaign led by one of the authors in 2015. See Appendix A for a more detailed analysis of the themes and tools used in Russia's strategic-communication campaign.

in Kyiv, they will force Russians to abandon the Russian language and present a general threat."²⁷

At a March 4 press conference, Putin said that his country had no plans to annex Crimea and that there were no Russian soldiers on Crimean soil. Such claims were part of the official campaign of public denial; this, after all, intended to be a covert takeover. Putin claimed that the dismay of Western powers over the situation was utterly hypo-

²⁷ "Mironov: Russia Must Protect Russians in Crimea," 2014; and "Ramzan Kadyrov: Russia Will Not Give Ukraine into the Hands of the Bandits [Рамзан Кадыров: Россия не позволит отдать Украину в руки бандитам]," 2014.

critical and if Crimea were to return to Russia, it would not violate any norms or create new precedents. Putin further claimed that Russia was not planning to invade Ukraine, but the country might be forced to intervene if the situation of Russians in Ukraine worsened. This was a veiled threat, given the large amount of Russian forces arrayed near Ukrainian borders. He also claimed that the snap military exercises on Ukraine's border were planned long ago and had nothing to do with the ongoing events.²⁸

In addition to traditional media, a seemingly grassroots mobilization campaign in Crimea to counter the Maidan movement also played a role in Russia's strategic communications. This campaign originated from the Russian-speaking population of Crimea, although some alleged the Russian government was behind it.²⁹ A movement called *Stop Maidan* emerged in Simferopol. Its message relied on visual outdoor ads—tents with logos, in addition to banners saying "no to extremism" and "no to foreign intervention." The messages used by the anti-Maidan activists in Crimea resonated with Russian-media statements depicting Maidan protests as foreign organized and Maidan participants as fascist extremists.³⁰ The movement also used direct calls

 $^{^{28}}$ "Anti-Constitutional Coup and Seizure of Power—President Gave an Assessment of What Happened in Kiev [Антиконституционный переворот и захват власти— Президент РФ дал оценку тому, что произошло в Киеве]," Channel One [Смотрите оригинал материала на], March 4, 2014.

²⁹ Allison Quinn, "Why Moscow's Anti-Maidan Protesters Are Putting on an Elaborate Pretence," *Guardian*, February 26, 2015.

³⁰ "In Simferopol, the Activists of the 'STOP Maidan' Collect Signatures for Greater Autonomy of Powers [В Симферополе активисты «СТОП Майдан» собирают подписи за расширение полномочий автономии]," Arguments of the Week, February 13, 2014; "Flier distributed in Crimea," February 1, 2015, noted:

Your neighbor, Aleksandra Dvoretskaya—the traitor of Crimea, supports criminal Maidan. The blood and lives of those killed are on her consciousness. She receives money from an American secret services funded organization and had received training in extremism in the USA [Ваша соседка Александра Дворецкая—предательница Крыма, поддерживает преступный Майдан. На ее совести кровь и жизни убитых людей. Получает деньги в общественной организации, финансируемой американскими спецслужбами, Прошла обучение экстремизму в США].

to action, suggesting people sign a government petition and demand greater autonomy in Crimea.

Characteristics of the Crimean Operation

Russian operations in Crimea represented, by all accounts, an efficient seizure of territory from another state executed with speed and competency. However, the lack of resistance on the Ukrainian side presents important caveats to that assessment. The next section discusses noteworthy structural conditions, decisions, and variables that enabled Russian success or became a hindrance. We consider such aspects as history, geography, language, and social factors, along with existing military agreements, forces in place, and decisions made by Ukrainian authorities during the crisis.

Russian-Crimean History

Invasion and annexation are significantly easier if the invading force is perceived to be friendly and legitimate. Russia's Black Sea Fleet was historically based in Crimea; therefore, much of the population viewed its personnel as a friendly force. Crimea was distinct in that militaries belonging to two different states were based there. Both were viewed as legitimate by the population, their presence historically valid. Nikita Khrushchev and the Supreme Council of the Soviet Union transferred Crimea from under the government of the Russian Soviet Federative Socialist Republic to the government of the Ukrainian Soviet Socialist Republic in 1954. As both republics were a part of the Soviet Union, the move was largely symbolic and of little practical consequence. Because of its large Russian population, Crimea's links with Russia have remained very important,³¹ and Russia's military on the peninsula represented a bond to Russians on the mainland and was perceived to be an important part of the economy. Furthermore, the Crimeans had fewer economic reasons to fear or protest annexation, as incomes, sala-

³¹ Calamur Krishnadev, "Crimea: A Gift to Ukraine Becomes a Political Flash Point," NPR, February 27, 2014.

Annex 1026

Regional Centre for Human Rights, et al., Crimea Beyond Rules: Thematic Review of the Human Rights Situation under Occupation, Vol. 3, Right to Nationality (citizenship) (2017)

Crimea Issue N° 3 beyond rules

Right to nationality (citizenship)

Thematic review of the human rights situation under occupation



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РЕГІОНАЛЬНИЙ ЦЕНТР ПРАВ ЛЮДИНИ REGIONAL CENTRE FOR HUMAN RIGHTS

Regional Centre for Human Rights - NGO, the nucleus of which consists of professional lawyers from Crimea and Sevastopol, specializing in the field of international human rights law.

rchr.org.ua



Rights Union

Ukrainian Helsinki Human Rights Union - non-profit and non-political organization. The largest association of human rights organizations in Ukraine, which unites 29 NGOs, the purpose of which is to protect human rights.

helsinki.org.ua



CHROT - expert-analytical group, whose members wish to remain anonymous.

Some results of work of this group are presented at the link below :

precedent.crimea.ua

Dear readers,

Crimean events at the beginning of 2014 have challenged the post-war system of international security. They stirred up the whole range of human emotions - from the loss of vital references to the euphoria, from joyful hope to fear and frustration. Like 160 years ago, Crimea attracted the attention of the whole Europe. In this publication we have tried to turn away from emotions and reconsider the situation rationally through human values and historical experience. We hope that the publication will be interesting to all, regardless of their political views and attitudes towards those events.

- S. Zayets
- R. Martynovskyy
- D. Svyrydova

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Introduction

The periodic review "Crimea beyond rules", prepared by joint efforts of several organizations and invited experts, aims to help the international community, human rights organizations, international and national bodies and structures as well as anyone who wants to better understand the human rights situation in Crimea.

Each review is themed around a specific topic and includes a number of analytical articles, references to international regulations, standards and legislation relating to the chosen themes as well analysis of prospects for potential complaints or those already filed with the international bodies for the protection of human rights. The series of thematic reviews "Crimea beyond rules" is devoted to the study and description of violations of human rights and rules of international humanitarian law resulting from the continuing aggressive expansion on the side of the Russian Federation in respect of Crimea as a part of the territory of Ukraine.

During the occupation and subsequent annexation of the Crimean peninsula, the Russian Federation announced all Ukrainian nationals living in Crimea its subjects. Residents of the occupied territory faced a difficult choice. On the one hand, by obtaining Russian passports, they formally took the oath of allegiance to the State which had committed an act of aggression against their sovereign-country. On the other hand, during a short period of time (in fact - 18 days) they could try to submit the "declaration about the willingness to retain the nationality of Ukraine" to one of the four offices which accepted such declarations in Crimea. In this case, they suddenly became foreigners at home and were severely limited in their rights.

Using the imperfection of international standards in this ng situations of statelessness and resolving cases of dual nationality. Arbitrary change and imposition of a nationality became a new challenge to which the world was not ready. Having imposed its nationality, the Russian Federation «forced into loyalty» the population of the occupied peninsula under threat of criminal liability (see. Art. 275 of the Criminal Code «High Treason»).

It is important to understand that the situation in Crimea is fundamentally different from the current practice of issuing passports of the Russian Federation nationals on the so-called «unrecognized territories» (Transnistria, Abkhazia and South Ossetia). Thus, residents of the «unrecognized territories» may obtain Russian nationality only on its own initiative, by addressing the competent bodies with the appropriate application. In Crimea, the Russian authorities themselves decided the nationality issue for more than 2.3 million people, declaring them subjects of the Russian Federation.

The situation regarding the nationality which arose from the annexation of Crimea should also be distinguished from cases of secession of territories and the succession of States. In cases of secession or succession there takes place an entirely legitimate transfer of the territory under the control of another State which is in accordance with international law. At the same time, the occupation and subsequent annexation of Crimea by the Russian Federation were carried out with gross violation of these norms, of what the international community has been consistently informing since March 2014 and calling on the authorities of the Russian Federation to return control over Crimea to Ukraine. Because of this, any attempt to apply to Crimea the relevant rules concerning the secession or succession of states are inadmissible.

In the post-war world, a person is more and more recognized as a subject of international law. That is why a change of nationality of Cri-mean residents can and should be considered in the context of relations of four actors: Ukraine, as the country of existing nationality, Russia, as the country that imposes its nationality, the actu-al resident of the Crimean peninsula and the third countries.

The existing practice of various international judicial bodies concerns cases of violations related to the deprivation of nationality or refusal in its granting. So, in cases related to the imposition of nationality there can be set new precedents. More information about these and other issues can be found in the current review.

International law assumes that the occupation is a temporary regime. We are also convinced that the need for such reviews is provisional. Being optimistic, we believe that the main task of these materials should be apprehension of what had happened and generalization of experience in order to prevent further human rights violations in Crimea or other regions of the world.

The authors of the review: the team of human rights activists, experts and scholars from *Regional Centre for Human Rights* (<u>rchr.org.ua</u>), *Ukrainian Helsinki Human Rights Union* (<u>helsinki.org.ua</u>), as well as *expert and analytical group CHROT*.

The Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted and proclaimed by resolution 217 A (III) of the UN General Assembly on 110 December 1949 and is an act of the so-called «soft law». However, compliance with the obligations under the Declaration is the subject of continuous monitoring by the international community, even if its provisions are not reflected in the texts of other, more binding international instruments.

In particular, along with other documents, the Declaration provisions are the foundation of the Universal Periodic Review (UPR), and its violation can be the reason for individual appeals to the United Nations Human Rights Council in accordance with the Human Rights Council Resolution 5/1 of 18 June 2007 (former procedure 1503).

Article 15 of the Universal Declaration of Human Rights guarantees the right of every person to a nationality, and also prohibits the arbitrary deprivation of the nationality or the right to change it.

The full text of the document can be found following the link¹.

International Covenant on Civil and Political Rights

The Covenant was adopted by resolution 220 A (XXI) of the UN General Assembly on 16 December 1966. Ukraine (at that time - the USSR as an independent member of the UN) signed the Covenant on 20 March 1968 and ratified it on 19 October 1973.

Russia, not being an independent member of the UN, has inherited the obligations under the Covenant as the legal successor of the Soviet Union. The Soviet Union signed the document on 18 March 1968. Presidium of the Supreme Council of the USSR ratified it on 18 September 1973.

The document entered into force in Ukraine and the Soviet Union (and respectively in the Russian Federation) simultaneously, on 23 March 1976.

ARTICLE 24

[...] 3. Every child has the right to acquire a nationality.

The full text of the document can be found following the link².

Convention relating to the Status of Stateless Persons

The Convention was adopted in New York on 28 September 1954 by the Conference of Plenipotentiaries convened in accordance with resolution 526 A (XVII) of the Economic and Social Council on 26 April 1954. It entered into force on 6 June 1960. It was ratified by Ukraine on 11 January 2013 and entered into force for it on 23 June 2013.

The Russian Federation is not a party to the Convention.

The Convention provides a definition of the concept of a stateless person, declares rights, obligations of persons who are not citizens of any state, by setting that the treatment of such persons can not be worse than that of the citizens of the state in which they find themselves (e.g. in terms of freedom to practice their religion), or to foreign nationals residing in the territory of such state. It also regulates the issues of movable and immovable property, copyrights and industrial rights of stateless persons, their associations and the right to appeal to the courts (Chapter II). In addition, Chapters III and IV regulate the employment and social security, and Chapter V regulates administrative measures (freedom of movement, identity

1 http://www.ohchr.org/en/udhr/pages/language.aspx?langid=eng

² http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

documents, travel documents, taxes, removal of property, deportation, naturalization).

The full text of the document can be found following the link³.

Convention on the Reduction of Statelessness

The Convention was adopted and signed in New York on 30 August 1961 pursuant to resolution 896 (IX), adopted by the General Assembly of the United Nations on 4 December 1954. The Convention entered into force on 13 December 1975. It was ratified by Ukraine on 11 January 2013 and entered into force for it on 23 June 2013.

The Russian Federation is not a party to this Convention.

The Convention requires States to grant their nationality to a stateless person and prohibits to deprive a person of his nationality, if such deprivation would render him stateless. An exception is made in the context of loyalty relations: the demonstration of disloyalty by nationals empowers the State to deprive them of nationality regardless of the consequences.

ARTICLE 8

1. A Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless.

2. Notwithstanding the provisions of paragraph 1 of this article, a person may be deprived of the nationality of a Contracting State:

(a) In the circumstances in which, under paragraphs 4 and 5 of article 7, it is permissible that a person should lose his nationality;

(b) Where the nationality has been obtained by misrepresentation or fraud.

3. Notwithstanding the provisions of paragraph 1 of this article, a Contracting State may retain the right to deprive a person of his nationality, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time:

(a) That, inconsistently with his duty of loyalty to the Contracting State, the person:

(i) Has, in disregard of an express prohibition by the Contracting State rendered or continued to render services to, or received or continued to receive emoluments from, another State, or

(ii) Has conducted himself in a manner seriously prejudicial to the vital interests of the State;

(b) That the person has taken an oath, or made a formal declaration, of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.

The full text of the document can be found following the link⁴.

International Convention on the Elimination of All Forms of Racial Discrimination

The Convention was adopted by resolution 2106 (XX) of the UN General Assembly on 21 December 1965, signed on 7 March 1966 and entered into force on 4 January 1969. The Ukrainian Soviet Socialist Republic signed the Convention on 7 March 1966. The Presidium of the Supreme Soviet of the Ukrainian SSR ratified it on 21 January 1969, and on 7 April 1969 it entered into force for Ukraine.

Russian Federation, not being at that time an independent member of the UN, inherited the obligations of the Convention as the legal successor of the USSR. The Soviet Union signed the document on 7 March 1966. The Presidium of the Supreme Soviet of the USSR ratified it on 22 January 1969, and on 4 March 1969 it entered into force.

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³ http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

⁴ http://www.ohchr.org/EN/ProfessionalInterest/Pages/Statelessness.aspx

ARTICLE 1

[...]

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

[...]

ARTICLE 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

[...] (d) Other civil rights, in particular: [...] (iii) The right to nationality; [...]

The full text of the document can be found following the link⁵.

The Convention on the Rights of the Child

Convention was adopted by resolution 44/25 of the UN General Assembly on 20 November 1989 and entered into force on 2 September 1990. The Ukrainian Soviet Socialist Republic signed the Convention on 21 February 1990, and ratified the decision of the Verkhovna Rada of the Ukrainian SSR on 27 February 1991. For Ukraine, the Convention entered into force on 27 September 1991.

The Russian Federation, not being at that time an independent member of the UN, has inherited the obligations of the Convention as the legal successor of the USSR. The Soviet Union signed the document on 26 January 1990, the Supreme Soviet of the USSR ratified it on 13 June 1990 and on 15 September 1990, the Convention entered into force.

The Convention is particularly interesting, because it considers nationality as one of the elements of identity. It is difficult to assume that upon reaching adulthood, a nationality becomes irrelevant. This provision can be used as a key to the consideration of certain issues of nationality in the context of the right to respect for private life.

ARTICLE 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and. as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

ARTICLE 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

[...]

The full text of the document can be found following the link⁶.

http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx
 http://www.ohchr.org/en/professionalinterest/pages/crc.aspx

The Convention on Certain Questions relating to the Conflict of Nationality Laws

The Convention was signed in the Hague on 12 April 1930. It entered into force on 1 July 1937 from the date of the deposit of instruments of ratification or accession on behalf of ten members of the League of Nations or non-members of the League of Nations states. The Soviet Union at the time did not sign and ratify it; respectively, Ukraine and the Russian Federation are not parties to this international treaty, but its provisions could be used as a source of customary law.

Chapter I of the Convention establishes the general principles applicable to matters relating to the Conflict of Nationality Laws. These include, in particular:

- the right of each State to determine under its own law who are its nationals. At the same time, this law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality (Art. 1);
- the right of each State to determine any question as to whether a person possesses the nationality of a particular State in accordance with the law of that State (Art.2);
- the right of each State to regard as its national a person having two or more nationalities (Art. 3);
- an inability of the State to afford diplomatic protection to one of its nationals against a State whose nationality such person also possesses (Art. 4);
- the right of a third State to treat a person having more than one nationality as if he had only one, the nationality of the country in which he is habitually and principally resident, or the nationality of the country with which in the circumstances he appears to be in fact most closely connected (Art. 5);
- the right of a person to renounce one of two nationalities if this nationality was acquired without any voluntary act on his part (Art. 6).

The full text of the document can be found following the link⁷.

UN General Assembly Resolution 55/153 of 30 January 2001 On nationality of natural persons in relation to the succession of States

Resolution was adopted on the basis of articles on nationality of natural persons in relation to the succession of States prepared by the International Law Commission the Article 3 of that document expressly provides that «the present articles apply only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.»

The resolutions of the UN General Assembly following the occupation of Crimea recognized that the actions of the Russian Federation violated the principles of international law.

Thus, the Russian Federation has no legal grounds for references to articles on nationality of natural persons in relation to the succession of States in support of their actions in relation to the imposition of nationality of the Russian Federation to all nationals of Ukraine who resided and were registered in the territory of the Crimean peninsula at the time of its annexation and occupation by the Russian Federation.

The full text of the document can be found following the link⁸.

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http://eudo-citizenship.eu/InternationalDB/docs/Convention%20on%20certain%20questions%20relaing%20to%20 the%20conflict%20of%20nationality%20laws%20FULL%20TEXT.pdf
 http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/55/153

Declaration on the human rights of individuals who are not nationals of the country in which they live

The Declaration was adopted by resolution 40/144 of the UN General Assembly on 13 December 1985.

The Declaration proclaims the right of aliens to life and security of person, to protection from interference with privacy and family life, including in respect of home and correspondence; the right to be equal before the courts; the right to choose a spouse, to marry, to found a family; the right to freedom of thought, opinion, conscience and religion, as well as other rights as defined in Part 1 of Article 5 of the Declaration.

Part 2 of the same Article declares the following rights of aliens: the right to leave the country; the right to freedom of expression; the right of peaceful assembly; the right to own property alone as well as in association with others, subject to domestic law.

Article 8 defines the rights of aliens lawfully residing in the territory of a State. They, in particular, have the right to appropriate working conditions, fair wages and equal remuneration for work, the right to join trade unions, the right to health protection, medical care, social security, social services, education and recreation.

The full text of the document can be found following the link⁹.

The European Convention on Nationality

The Convention was signed on 6 November 1997 and entered into force on 1 March 2000. Ukraine signed the Convention on 1 July 2003, ratified it on 20 September 2006. The Convention entered into force for Ukraine on 1 April 2007.

The Russian Federation signed this Convention on 6 November 1997, but has not ratified it.

The Convention establishes guarantee of the right to a nationality for each person as well as a guarantee in order to avoid cases of statelessness, arbitrarily deprivation of nationality, lack of automatic consequences in relation to a nationality of a spouse, regardless of change in marital status or change of the nationality by the other spouse (Art. 4). This can be considered as an element of respect for the will of persons while changing the nationality.

It also sets out the grounds for the acquisition and deprivation of nationality, especially loss of nationality at the initiative of the individual, a simplified procedure for the recovery of nationality by former nationals, procedures relating to nationality, cases of multiple nationality, rights and duties related to multiple nationality.

It should be noted that the ratification of this Convention has been made by Ukraine with reservations. In particular, in the Law of 20 September 2006 N° 163-V «On ratification of the European Convention on Nationality» Ukraine declared that it excludes Chapter VII from the scope of the Convention.

The provisions of this chapter provide that persons possessing the nationality of two or more parties to the Convention shall be required to fulfil their military obligations in relation to one of those States Parties only.

In practice, this may mean that persons who had to obtain a Russian passport in the occupied territory of the Autonomous Republic of Crimea and Sevastopol and were called up for military service in the Armed Forces of the Russian Federation, after the performance of such a service can be conscripted for military service in the Armed Forces of Ukraine. However, this clause does not matter in relation to the Russian Federation, because the Russian Federation is not a party to that Convention. Attention should also be paid to the explanatory report at the end of the text of the Convention on the official website of the Verkhovna Rada of Ukraine.

9 http://www.un.org/ga/search/view_doc.asp?symbol=a/res/40/144

Crimea beyond rules The text of the Law on ratification can be found following the link¹⁰.

The full text of the Convention in English can be found following the link¹¹.

The full text of the Convention in Ukrainian, with the explanatory report mentioned above can be found following the link¹².

The UN General Assembly Resolution the action of Israel in the Syrian Golan

The UN General Assembly has repeatedly assessed the Israeli practices in the occupied territories (see, for example, this resolution). Special attention shall be drawn to the Resolution A/RES/55/134 of 8 December 2000, which urged to refrain from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the Syrian Golan occupied by Israel.

<u>Convention for the Protection of Human Rights and Fundamental Freedoms (European</u> <u>Convention on Human Rights)</u>

The Convention was signed in Rome on 4 November 1950 and entered into force on 3 September 1953.

Ukraine ratified the Convention on 17 July 1997. The Convention entered into force for Ukraine on 11 September 1997.

Russia ratified the Convention on 30 March 1998. The Convention entered into force for the Russian Federation on 1 August 1998.

The European Court of Human Rights has repeatedly stressed that the Convention does not protect the right to a nationality. Indeed, the Convention does not contain a provision, which would fully or partially reproduce the provisions of Art. 15 of the UDHR. However, the Court has repeatedly considered cases, where it recognized that in some situations, issues related to the deprivation of nationality may affect matters within the scope of Art. 8 of the Convention (right to respect for private and family life) and even discrimination (Art. 14 in conjunction with Art. 8 of the Convention).

In particular, the interest in this aspect is presented in the cases *Genovese v. Malta, no.* 53124/09, § 30, 11 October 2011 and Kuric and Others v. Slovenia, no. 26828/06, 26 June 2012.

Nevertheless, it appears that the imposition of Russian nationality as a result of the occupation of Crimea may also raise new issues in the context of Art. 8 of the Convention. In particular, this may be related to issues of national identity and forced loyalty (see, in particular, comments on the Convention on the Rights of the Child and on Art. 275 of the Criminal Code of the Russian Federation).

Judgments of the European Court of Human Rights

A brief summary of the three most typical judgments of the European Court regarding important human rights issues in the context of citizenship, is given below. The Court itself notes in these judgments that initially ECtHR denied the admissibility of cases related to issues of citizenship, given that "the Convention does not guarantee the right to citizenship." Nevertheless, the case law has evolved whereby the issues of this category have come in view of the Court. These cases are characterised by the fact that

the Court does not evaluate national authorities' actions or decisions on determination of the applicants' citizenship as such, but carefully considers consequences of these decisions and their impact on the lives of the applicants in the context of Article 8 of the Convention. In particular, the Court found no violation of Art. 8 of the Convention in cases RAMADAN v. MALTA and GENOVESE v. MALTA, since the decisions of national authorities were rather formal, and had no real impact on the lives of the applicants. For example, in the case

12 http://zakon3.rada.gov.ua/laws/show/994_004/

¹⁰ http://www.un.org/ga/search/view_doc.asp?symbol=a/res/40/144

¹¹ http://www.coe.int/ru/web/conventions/full-list/-/conventions/rms/090000168007f2c8

RAMADAN v. MALTA the applicant, even though deprived of his Maltese citizenship, was not expelled from the country, deprived of his job, he had no documents seized and did not suffer any other serious consequences. Similarly, the case GENOVESE v. MALTA concerned only a request of the applicant's mother for her child to be granted Maltese citizenship despite the fact that they resided in Scotland . In contrast, in the case KURIĆ AND OTHERS v. SLOVENIA the consequences of the authorities' decisions were enormous for applicants and affected all their lives.

In the context of the situation of the imposition of Russian citizenship to residents of Crimea the consequences of such decision can be significant for possible lodging of complaints with the European Court. Technically, the attribution of Russian citizenship to Crimean residents looks like granting them additional rights, and not depriving of them. But in fact, these "additional rights" are a heavy burden for many people. Many people perceive the imposed identification of Crimean Ukrainians as citizens of the Russian Federation in the context of the ongoing conflict very painful. But these consequences are not limited to the inner discomfort only: like any other citizens of the Russian Federation (and citizens only!), they are liable under Art. 275 of the Criminal Code of the Russian Federation for treason against the State in the event of demonstrating loyalty to Ukraine. This means that if they are not required to be directly loyal to the Russian authorities, still they must refrain from any active manifestation of disloyalty. However, it should be understood that those of the Crimean people who decided and managed to declare "the desire to keep the existing citizenship of Ukraine" found themselves in the position of the applicants in the case KURIĆ AND OTHERS v. SLOVENIA.

CASE OF RAMADAN v. MALTA

(21 June 2016, Application no. 76136/12)

The case was examined by the European Court of Human Rights upon the complaint about the applicant's deprivation of Maltese citizenship in the context of Art. 8 of the Convention. The applicant was deprived of his citizenship on the grounds that he had obtained it by fraud. As a result, he became an apatride (a stateless person).

In this regard, the Court emphasized that an arbitrary denial of a citizenship might in certain circumstances raise an issue under Art. 8 of the Convention because of the impact of such denial on the private life of the individual. Although, in this case the Court found no violation of the Convention, the conclusion that the consequences of changes of nationality ratione materiae fall within the Art. 8 of the Convention is significant in the context of this review. The Court also underlines that the private life is a concept that is wide enough to embrace aspects of a person's social identity.

In this case, the Court reiterated that the Convention does not guarantee the right to citizenship. However, in this case likewise in others, the Court draws attention not to the fact of deprivation of citizenship, but on the related (derived) changes in the applicant's private life.

The full text of the judgment can be found following the link¹³.

CASE OF GENOVESE v. MALTA

(11 October 2011, Application no. 53124/09)

The case was examined by the European Court of Human Rights upon the complaint about the refusal of the Maltese authorities to recognize the applicant's right to Maltese citizenship. The applicant was an illegitimate son of a citizen of the United Kingdom and a citizen of Malta. The father refused to acknowledge the applicant to be his son and his mother had to prove the paternity in court. Nevertheless, in spite of the fact established in court, that the father of the child was a citizen of Malta, the Maltese authorities refused to recognize the child as its citizen.

On highlighting that the right to citizenship is not as such a Convention right, the Court also noted that its denial in the present case was not such as to give rise to a violation of Article

13 http://hudoc.echr.coe.int/eng?i=001-163820

8 of the Convention. Nevertheless, the Court concluded that the impact of citizenship on social identity was such as to bring it within the general scope and ambit of Article 8 of the Convention in the aspect of the right to respect for private life.

The full text of the judgment can be found following the link¹⁴.

CASE OF KURIĆ AND OTHERS v. SLOVENIA

(12 March 2014, Application no. 26828/06)

This case was examined by the Grand Chamber of the European Court of Human Rights upon the complaint of several former citizens of Yugoslavia against the actions of Slovenia, as a result of which the applicants lost their status of citizens and the formal right to stay in this country. Although the individual situation of each applicant differed, they were all united by the fact that they were living in Slovenia at the time of the proclamation of independence of the Republic (after the dissolution of Yugoslavia) and did not express their will regarding its future status (did not acquire citizenship of Slovenia, and did not apply for a permission to stay). After a while, the Slovenian authorities cleared the records of the applicants as persons legally residing in the country, whereupon they were deprived of many rights, which they enjoyed previously and which were granted to the citizens (the right to work, social benefits, access to health care, the ability to replace lost documents, etc.), and in some cases they even run a risk of expulsion. Thus, the authorities' decision on the applicants' status as citizens or residents of the country had a profound impact on the whole range of their rights.

The Court concluded that the impact of such decision of the authorities on personal and family life of the applicants did not comply with the guarantees of Article 8 of the Convention. The full text of the judgment can be found following the link¹⁵.

The American Convention on Human Rights

The Convention was adopted at the Inter-American Conference on Human Rights on 22 November 1969 in San Jose. It entered into force on 18 July 1978.

This Convention establishes a regional human rights protection system similar to the European one. The text of the Convention reflects the specific approach to human rights typical for the American continent. At the same time, the right to a nationality was included to the catalog of human rights as a separate item after the Universal Declaration of Human Rights. In this issue American Convention differs from the European Convention on Human Rights, where the European Court with great difficulty recognizes the right to a nationality as a circumstance pertaining to personal or family life (see the relevant section in the analytical materials).

ARTICLE 20. RIGHT TO NATIONALITY

1. Every person has the right to a nationality.

2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.

3.No one shall be arbitrarily deprived of his nationality or of the right to change it.

The full text of the Convention can be found following the link¹⁶.

<u>Convention with respect to the laws and customs of war on land</u> (The Hague Convention IV)

This Convention is one of the documents adopted at the Peace Conferences in the Hague in the years 1899 and 1907. The document was adopted on 18 October 1907. For the Russian

¹⁴ http://hudoc.echr.coe.int/eng?i=001-106785

¹⁵ http://hudoc.echr.coe.int/eng?i=001-111634

¹⁶ http://www.hrcr.org/docs/American_Convention/oashr5.html

Federation the document came into force on 21 November 1909, for Ukraine – on 29 May 2015. Adoption of the Convention was seen as the embodiment of the rules of customary international law. Consequently, they are also binding for states that are not formally parties to the Convention. The rules laid down in the Regulation, have been partially confirmed and developed in the Additional Protocols of 1977 to the Geneva Conventions of 1949.

ARTICLE 45 OF REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND (THE HAGUE REGULATION).

It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

The full text of the Convention can be found following the link¹⁷.

The Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War

The Fourth Geneva Convention was adopted on 12 August 1949 under the auspices of the International Committee of the Red Cross. It entered into force on 21 October 1950. The participants of the Convention (as well as the other three Geneva Conventions, adopted on the same day in 1949) are all the nations of the world. The Convention contains provisions on the protection of the civilian population in the context of armed conflict, in particular the occupation.

Article 67 of the GC IV provides that the occupying military courts shall take into consideration the fact the accused is not a national of the Occupying Power. It is customary to interpret this provision in the sense that persons who prior to the occupation had nationality of a State possessing sovereignty over the relevant territory retain it¹⁸.

Forced recruitment of residents of the occupied territory into the armed forces of the occupying Power is a serious violation of international humanitarian law and a war crime (see. Wagner precedent¹⁹, Berger precedent²⁰, Article 147 of the GC IV, Art. 8 (2) (a) (v) of the Rome Statute of the International Criminal Court²¹).

ARTICLE 47

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

ARTICLE 68

[...]

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

[...]

The full text of the Convention can be found following the link²².

¹⁷ https://ihl-databases.icrc.org/ihl/INTRO/195

¹⁸ Dinstein Y. The International Law of Belligerent Occupation. — Cambridge, 2009. — P. 53.

¹⁹ http://www.worldcourts.com/ildc/eng/decisions/1946.05.03_France_v_Wagner.pdf

²⁰ http://www.worldcourts.com/imt/eng/decisions/1949.04.13_United_States_v_Weizsaecker.pdf#search=%22weizsaecer%22

²¹ https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

²² https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AE2D398352C5B028C12563CD002D6B5C& action=openDocument

Robert Wagner Case

In the summer of 1940, Robert Wagner was appointed by Hitler to be a Gauleiter²³ and at the same time the imperial viceroy in occupied France Alsace for the purpose of germanization and nazification of the region. Prior to that, Wagner served as Gauleiter and the governor of Baden. In the early years of the German occupation he made many attempts to encourage the Alsatians to voluntarily serve in the German army. In general, for the German side the idea of recruiting volunteers failed (only about 2,300 people, mostly Germans of Alsace responded to the call). The solution to this problem was the introduction of conscription.

Conscription was introduced in Alsace by the Order of 25 August 1942. In accordance with section 1 of the Order compulsory military service in the German armed forces for all Alsatians of German nationality was introduced in Alsace. The Order was made public simultaneously with the Decree on acquisition of German nationality by all Alsatians. This Decree was issued by the Minister of Internal Affairs of the Third Reich on 23 August 1942, and also was applied to the population of Lorraine and Luxembourg. These measures were approved by the Supreme Command of the Wehrmacht, in particular, Hitler and Keitel. Consequently, the spread of German citizenship entailed an obligation for the population of these territories to serve in the German army.

On 29 July 1945 Wagner was arrested by US occupation forces and handed over to the French authorities. On 23 April 1946 he was brought before the Permanent Military Tribunal in Strasbourg. The Tribunal charged Wagner, in particular, with the instigation of the French to take up arms against France, as well as with organization of recruitment of the French into the enemy (German) army. As a result, on 3 May 1946 the tribunal sentenced Robert Wagner to death and confiscation of all property in favor of the people.

Gottlob Berger Case

Gottlob Berger was brought to trial by the American Military Tribunal at Nuremberg in the case of «Wilhelmstrasse». On 1 April 1940, Berger was appointed Chief of the SS Main Office, and in July 1942 became Himmler's liaison officer for the Ministry of the Occupied Eastern Territories. Also, at various times he served as commander of the reserve forces, the head of the Service for Prisoners of War in Germany, the chief of staff of the German Volkssturm (People's Volunteer Corps) and General of the Waffen-SS.

Regarding Berger through a judicial process in the clearest possible terms, it was noted that, "the program implemented in Serbia and Croatia was also carried out in Latvia, Lithuania, Poland, Russia, Luxembourg, Alsace and Lorraine. Without a doubt, defendant Berger is guilty of committing crimes against humanity by the fact that he and his departments were involved in forcing the citizens of these countries to the Germanization or other methods for the purpose of recruitment into the German armed forces".

On 11 April 1949 the American Military Tribunal sentenced Gottlob Berger to 25 years in prison.

These precedents again prove the fact that the right to a nationality and violation of this right is closely linked to other human rights violations, right up to international crimes, which is the forced recruitment of inhabitants of the occupied territory into the armed forces of the occupying Power.

Nottebohm Case²⁴

International Court of Justice in its famous judgment in the Nottebohm case of 6 April 1955, said that it is the sovereign right of each State to decide who are its nationals, provided

23 Gauleiter was the party leader of a regional branch of the National Socialist German Workers' Party 24 http://www.icj-cij.org/docket/files/18/2674.pdf

3 Right to nationality issue (citizenship) that this process must be properly regulated by international law. International Court of Justice has upheld the principle of «effective nationality", that which accorded with the facts and based on stronger factual ties between the person concerned and one of these States whose nationality is involved. These factors include the habitual residence of the individual concerned but also the centre of his interests, his family ties, his participation in public life, attachment shown by him for a given country and inculcated in his children, etc.

Case of Yean and Bosico v. Dominican Republic²⁵

The Inter-American Court of Human Rights in its judgment in the case of Yean and Bosico v. Dominican Republic acknowledged the ethnic discrimination of citizens of the Dominican Republic of Haitian descent and confirmed, as enshrined in the aforementioned American Convention on Human Rights, the right of every person to citizenship as a prerequisite for equal enjoyment of all rights in the society. Inter-American Court in its decision also noted that the regulation of nationality issues is the responsibility of the state, but international law imposes certain restrictions on the implementation of such powers. The Court upheld this argument in another case of lvcher-Bronstein v. Peru²⁶, but also noted²⁷ that the right to a nationality is an inalienable right of all people and has an important influence on the legal existence of a natural person.

Joint statement of the participants of the Conference of European Constitutional Courts concerning respect for territorial integrity and international law in administering constitutional justice of 10 September 2015 (Batumi Declaration)

The Constitutional Court of the Russian Federation played its role in the formal recognition of the annexation, having considered the so-called "treaty on the accession of Crimea" in terms of its constitutionality, and spoke in favor of the legality of admitting the so-called "Republic of Crimea" and the "City of Federal Importance Sevastopol" to the Russian Federation (see the relevant section in the Russian legislation). At the same time the Constitutional Court of the Russian Federation also assessed provisions regarding citizenship of the Crimean residents (see below the section in the Russian legislation).

The position of the Constitutional Court of the Russian Federation was condemned by some participants of the Conference of European Constitutional Courts, which was held in Batumi in September 2015. In particular, on 10 September 2015, there was signed the so-called Batumi Declaration, which noted that the Constitutional Court of the Russian Federation formally had a decisive role in the process of annexation of the Crimean Peninsula, and without its judgment the annexation could not be recognized as lawful under national Russian legislation (the illegality of the annexation in the context of international law is not in question in the text of the declaration).

The full text of the document can be read below in this review

JOINT STATEMENT CONCERNING RESPECT FOR TERRITORIAL INTEGRITY AND INTERNATIONAL LAW IN ADMINISTERING CONSTITUTIONAL JUSTICE

As it is known, on 19 March 2014, the Constitutional Court of the Russian Federation passed the judgment in the case «On the verification of the constitutionality of the

²⁵ http://www.refworld.org/docid/44e497d94.html

²⁶ http://www.corteidh.or.cr/docs/casos/articulos/seriec_74_ing.pdf

²⁷ http://www.corteidh.or.cr/docs/opiniones/seriea_04_ing.pdf

international treaty, which has not yet entered into force, between the Russian Federation and the Republic of Crimea on the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities within the Russian Federation». By that unprecedented judgment, the Constitutional Court of the Russian Federation recognised that the agreement between the Russian Federation and the so-called «Republic of Crimea», located in the territory of Ukraine, is an international treaty, as well as that the so-called «Republic of Crimea» has the status of an international legal entity.

It is important to note' that the Constitutional Court of the Russian Federation formally has a decisive role in the process of the annexation of foreign territories. Under Paragraph 1 of Article 8 of the Federal Constitutional Law of the Russian Federation «On the Procedure of Admission to the Russian Federation and Creation of a New Subject of the Russian Federation in Its Composition», an international treaty on the accession of a new entity to the Russian Federation may be ratified only after the Constitutional Court of the Russian Federation. Thus, under the Russian legislation, the above-mentioned judgment was necessary in order to formally annex part of the territory of Ukraine — Crimea and the City of Sevastopol. Without that judgment, the annexation of Crimea and the City of Sevastopol could not be formally accomplished. Therefore, the Constitutional Court of the Russian Federation, by adopting its judgment of 19 March 2014 within one day after the so-called «Treaty» was signed, performed an instrumental role in accomplishing and justifying the annexation of Crimea.

We recall that, under international law, such annexation of a foreign territory is a manifestation of aggression and cannot be justified by any consideration.

In this context, it should be noted that not a single European state has recognised this annexation and that the general international consensus as to the illegality of the «Crimean referendum» and the annexation of Crimea is, inter alia, expressed in United Nations General Assembly Resolution no. 68/262 «The territorial integrity of Ukraine» (2014), Parliamentary Assembly of the Council of Europe Resolutions no. 1988 «Recent developments in Ukraine: threats to the functioning of democratic institutions» (2014), no. 1990 «Reconsideration on 2

substantive grounds of the previously ratified credentials of the Russian delegation» (2014) and no. 2034 «Challenge, on substantive grounds, of the still unratified credentials of the delegation of the Russian Federation» (2015), European Parliament Resolution no. 2014/2699(RSP) «On Russian pressure on Eastern Partnership countries and in particular destabilisation of eastern Ukraine» and the OSCE Parliamentary Assembly Resolution «The continuation of clear, gross and uncorrected violations of OSCE commitments and international norms by the Russian Federation» (2015). The conclusions concerning the illegality of the «Crimean referendum» were also stated in the Opinion of the European Commission for

Democracy through Law (Venice Commission) on «Whether the decision taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organise a referendum on becoming a constituent territory of the Russian Federation or Restoring Crimea's 1992 Constitution is compatible with constitutional principles» (2014).

We consider that the judgment of 19 March 2014 of the Constitutional Court of the Russian Federation amounts to a grave violation of international law (the universally recognised norms of international law, including those consolidated in the 1945 Charter of the United Nations, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the 1975 Final Act of the Conference on Security and Cooperation in Europe). Consequently, it may be concluded that this judgment is not in accordance with the fundamental principle of the rule of law, which obliges courts to

comply with the general principles of law, the main principles of international law and the values of democratic constitutional order,

We reiterate that the Statute of the Conference of European Constitutional Courts makes the full membership of European Constitutional Courts in this organisation conditional upon the conduct of judicial activities by its members in accordance with the principle of judicial independence, the fundamental principles of democracy, the rule of law and the duty to respect human rights (Paragraph 1 (a) of Article 6),

We, therefore, invite the members of the Conference of European Constitutional Courts to consider adopting the «Declaration on respect for territorial integrity and international law in administering constitutional justice», which has been proposed by the Constitutional Court of Ukraine.

This Joint Statement is open for signature to the memberS of the Conference of European Constitutional Courts,

Batumi, 10 September 2015

SIGNED BY:

1. On behalf of the Constitutional County Ukraine Hend of Delegastion for Stanislar Shevchuk 2, President of the Constitutional Court of the Republic of Lithurania 2 Dainius Zalimas andy in funki, president of the Countribution Count of Roland 4. George PAPWASHULL President, Constructured Court of Georgia 5: On behalf at the Court tational Court of leoldons Alexandry Variase A haup 6. Mos representaces justicear a technology morris heresateretarthan to accepteres VCA PARSallie rethert & Nounast whate recisionse chymas wrang Lay Study a serie of a figure C8472244 Reference 4+154; Apable Stores too. till Haver & Dertonster

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Constitution of Ukraine

Date of approval and number: 28 June 1996, no. 254k/96-VR Effective date: 28 June 1996

ARTICLE 4.

There is single citizenship in Ukraine. The grounds for the acquisition and termination of Ukrainian citizenship are determined by law.

ARTICLE 25.

A citizen of Ukraine shall not be deprived of citizenship and of the right to change citizenship. A citizen of Ukraine shall not be expelled from Ukraine or surrendered to another state. Ukraine guarantees care and protection to its citizens who are beyond its borders.

ARTICLE 26.

Foreigners and stateless persons who are in Ukraine on legal grounds enjoy the same rights and freedoms and also bear the same duties as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties of Ukraine. Foreigners and stateless persons may be granted asylum by the procedure established by law.

ARTICLE 33.

Everyone who is legally present on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions established by law.

A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time.

The full text of the Constitution can be found following the link²⁸.

Law of Ukraine "On the Unified state demographic register and the documents confirming citizenship of Ukraine, certifying the identity or its special status"

ARTICLE 13.

Titles and types of documents issued with the application of the Unified state demographic register.

1. Documents, execution of which is provided by this Law with the application of the Register, in accordance with their purpose are divided into:

1) documents certifying the identity and confirming citizenship of Ukraine:

a) a Ukrainian passport;

b) a Ukrainian international passport;

c) a diplomatic passport of Ukraine;

d) a service passport of Ukraine;

e) a seafarers' identity document;

f) a crew member certificate;

g) an ID card to return to Ukraine;

h) a Ukrainian temporary certificate.

The full text of the Law can be found following the link²⁹.

Law of Ukraine "On Citizenship of Ukraine"

Date of approval and number: 18 January 2001, no. 2235-III

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http://www.coe.int/t/dghl/cooperation/ccpe/profiles/ukraineConstitution_en.asp
 http://zakon2.rada.gov.ua/laws/show/1601-18

Effective date: 1 March 2001

Contents: the Law regulates the procedure for acquisition of citizenship, defining the grounds for such an acquisition (Art. 6), as well as the procedure for termination of citizenship (Art. 17 voluntary termination of citizenship of Ukraine).

The citizenship of Ukraine is based, in particular, on the principles of a single citizenship, prevention of statelessness, impossibility of deprivation of citizenship, retention of citizenship, regardless of the citizen's place of residence (Art. 2).

The full text of the Law can be found following the link³⁰.

<u>The Law of Ukraine "On Securing the Rights and Freedoms of Citizens and the Legal</u> <u>Regime on the Temporarily Occupied Territory of Ukraine"</u>

Date of approval and number: 15 April 2014, no. 1207-18

Effective date: 27 April 2014

Contents: Part 1 of Art. 6 of the Law secures the rights of citizens residing in the temporarily occupied territory for issuance of documents certifying Ukrainian citizenship.

Part 4 of Art. 5 determines that compulsory automatic enrollment of Ukrainian citizens, who reside in the temporarily occupied territory, to the citizenship of the Russian Federation is not recognized by Ukraine and is not ground for deprivation of Ukraine's citizenship.

The full text of the Law can be found following the link³¹.

<u>The Law of Ukraine «On Creation of the Free Economic Zone «Crimea» and on</u> <u>Peculiarities of Exercising Economic Activity in the Temporarily Occupied Territories</u> <u>of Ukraine»</u>

Date of approval and number: 12 August 2014. no. 1636-VII

Effective date: 27 September 2014

Contents: Art. 8.3. of the Law stipulates that state guarantees concerning benefits and social assistance do not apply to citizens who live in the territory of the FEZ Crimea and are either stateless or have citizenship of a foreign state, as well as to the citizens of Ukraine who also have the citizenship of the occupying state. Transitional provisions of the Law established that foreigners and stateless persons, citizens of Ukraine who live in the temporarily occupied territory of Ukraine or temporarily staying in the other territory of Ukraine are recognized non-residents for the purpose of customs formalities.

The full text of the Law can be found following the link³².

Law of Ukraine "On ensuring the rights and freedoms of internally displaced persons"

Date of approval and number: 20 October 2014, no. 1706-VII Effective date: 22 November 2014

Contents: IDPs can receive documents certifying their identity, special status and citizenship if they appeal to the central executive body at the place of their factual residence (Art. 6).

The full text of the Law can be found following the link³³.

³⁰ http://www.coe.int/t/dghl/standardsetting/nationality/National%20legislation/Ukraine%20LawCitizenship%20 consol%20June05_ENG.pdf

³¹ http://mfa.gov.ua/en/news-feeds/foreign-offices-news/23095-law-of-ukraine-no-1207-vii-of-15-april-2014-on-securingthe-rights-and-freedoms-of-citizens-and-the-legal-regimeon-the-temporarily-occupied-territory-of-ukraine-withchanges-set-forth-by-the-law-no-1237-vii-of-6-may-2014

³² http://zakon4.rada.gov.ua/laws/show/1636-18

³³ https://www.brookings.edu/wp-content/uploads/2016/07/Ukraine-IDP-Law-November-2014.pdf

Constitution of the Russian Federation

Date of approval: 12 December 1993

Effective date: 01 October 1993

Contents: Art. 6 stioulates that the citizenship of the Russian Federation shall be acquired and terminated according to federal law; it shall be one and equal, irrespective of the grounds of acquisition. Every citizen of the Russian Federation shall enjoy in its territory all the rights and freedoms and bear equal duties provided for by the Constitution of the Russian Federation. A citizen of the Russian Federation may not be deprived of his or her citizenship or of the right to change it.

Art. 62 of the Constitution allows dual citizenship for Russian citizens.

The full text of the Constitution can be found following the link³⁴.

Law of the Russian Federation of 28 November 1991 no. 1948-I "On Citizenship of the Russian Federation"

The Law on Citizenship was adopted in connection with the proclamation of independence by the Russian Federation in 1991. In 2002, the text of the Law was redrafted (see below).

Of a particular interest are the provisions on granting Russian citizenship to former USSR citizens residing in the territory of the Russian Federation on the date of entry into force of this Law. Persons of this category had the right to declare their unwillingness to have citizenship of the Russian Federation during a year after the Law came into force. In comparison, the residents of Crimea were given less than a month to think about this decision, and the period, during which the opportunity to "express the desire to keep the citizenship of Ukraine" existed de facto, was less than 18 days.

ARTICLE 13. RECOGNITION OF CITIZENSHIP OF THE RUSSIAN FEDERATION

1. All former Soviet citizens permanently residing in the territory of the Russian Federation on the date of entry into force of this Law shall be recognized as citizens of the Russian Federation, unless they declared their unwillingness to have Russian citizenship within one year after that day.

The full text of the document can be found following the link³⁵.

<u>Federal Constitutional Law "On Admitting to the Russian Federation the Republic of</u> <u>Crimea and Establishing within the Russian Federation the New Constituent Entities</u> <u>of the Republic of Crimea and the City of Federal Importance Sevastopol"</u>

Date of approval and number: 20 March 2014, no. 6-FKZ Effective date: 21 March 2014

Contents: Art. 4 of the FCL regulates the recognition of citizenship of the Russian Federation for the citizens of Ukraine and stateless persons who permanently reside in the territory of the Republic of Crimea or Sevastopol. Thus, all Ukrainian citizens and stateless persons who reside in the territory of the Republic of Crimea or Sevastopol shall be recognized as citizens of the Russian Federation. Persons willing to retain their nationality or remain stateless must declare this within 1 month after admitting the Republic of Crimea to the Russian Federation. Otherwise, citizens shall be recognized as citizens of the Russian Federation without any second citizenship. In addition, the Law imposes restrictions for holding positions in state

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³⁴ http://www.constitution.ru/en/10003000-01.htm

³⁵ http://www.democracy.ru/library/laws/federal/1948-I_fz/

and municipal bodies by the Russian citizens who have a second citizenship or the right of permanent residence in a foreign country. Art. 11 of the Law also guarantees the citizens of Ukraine and stateless persons residing in the territory of the Republic of Crimea at the time of admitting the Republic of Crimea to the Russian Federation the right to social assistance only in case they acquire Russian citizenship.

Typical form of declaration that was strictly recommended to fulfill by those Crimeans who wanted to avoid Russian citizenship:

	От гражданина
	Дата рождения
	Место рождения
	Проживающего по адресу
	Паспорт
	Заявление
я	
Российской Федерации и в соответсти Республики Крым о принятии в Росси составе Российской Федерации новых С правовым статусом иностраиного г	ния себя гражданином (своих несовершеннолетних детей вии со статьей 5 Договора Российской Федерации и ийскую Федерацию Республики Крым и образования в х субъектов (Москва, 18 марта, 2014 год) ражданина, лица без гражданства и необходимостью ентов, а также правовыми последствиями принятого мног
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Crimea beyond rules

FMS of Russia	
From a citizen	

Date of birth

Place of birth__

Residing in___

Passport details_____

Declaration

declare the willingness to retain my citizenship of Ukraine (status of a stateless person) for myself and my minor children ______

In light of this, I refuse to be recognized (to recognize my minor children) as a citizen of the Russian Federation according to the Article 5 of the Agreement between the Russian Federation and the Republic of Crimea on admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities (Moscow, March 18, 2014).

I am aware of a legal status of a foreigner, a stateless person and necessity to make relevant documents, as well as legal consequences of my decision.

(date)

(signature)

Federal Law "On Citizenship of the Russian Federation"

Date of approval, number: April 19, 2002, no. 62-FZ Effective date: 1 July, 2002

Contents: Art. 4 of the Law contains the principles concerning the citizenship of the Russian Federation and the rules that regulate relations in the field of the Russian citizenship. In addition, it defines grounds, conditions and procedure for acquisition and termination of citizenship of the Russian Federation. Art. 6 of the FL allows dual citizenship for Russian citizens. The list of grounds for acquisition of citizenship of the Russian Federation is not exhaustive (Art. 11: at birth, on reinstatement in the citizenship, on admission to the citizenship, etc.).

Arts. 18 and 19 of the Law contain grounds and regulate the manner of renunciation of citizenship of the Russian Federation on the basis of free will of a person. Art. 20 provides that renunciation of citizenship shall not be permitted if a person: a) owes an incomplete obligation towards the Russian Federation, established by the federal laws; b) is under indictment in a criminal case in the Russian Federation or under a sentence of conviction which has taken effect and is pending execution; c) possesses no other citizenship and guarantee for the acquisition thereof.

The full text of the Law can be found following the link³⁶.

36 http://www.consultant.ru/document/cons_doc_LAW_36927/

<u>Presidential Decree of the Russian Federation "On approval of the Regulations on the</u> order of consideration of issues of citizenship of the Russian Federation"

Date of adoption and number: 14 November, 2002, no. 1325 (revised on 4 August, 2016). Contents: It regulates the procedure for submission and review of documents for renunciation of citizenship of the Russian Federation.

The following data must be provided among other things in an application for renunciation of citizenship: series, number, date of issue of a Russian passport and the authority which has issued this document. A copy of passport must be enclosed to this application.

Thus, the exercise of the right to renounce Russian citizenship is impossible for persons who have refused to obtain Russian passports and whom the Russian Federation, nevertheless, considers its citizens.

The full text of the Decree can be found following the link³⁷.

<u>The Agreement between the Russian Federation and the Republic of Crimea on the</u> <u>Admitting of the Republic of Crimea in the Russian Federation and on Establishing</u> <u>New Constituent Entities within the Russian Federation</u>

Date of signature: 18 March 2014 Date of ratification: 21 March 2014 Effective date: 1 April 2014

Contents: the Agreement specifies that the citizens of Ukraine and stateless persons permanently residing on the day the Republic of Crimea was admitted to the Russian Federation are recognized as citizens of the Russian Federation. An exception are persons who, within one month from the date of acceptance of the Republic of Crimea into the Russian Federation declare their desire to maintain their existing citizenship or otherwise remain stateless. Changes regarding the period of notice have been made to the Federal Law «On Amendments to Art. Art. 6 and 30 of the Federal Law «On Citizenship of the Russian Federation" and Certain Legislative Acts of the Russian Federation». The term has been extended to January 1, 2016.

The full text of the Agreement can be found following the link³⁸.

Decision of the Russian Federation Constitutional Court on 19 March 2014 no. 6-II "On the constitutionality of the International Agreement, not yet in force, between the Russian Federation and the Republic of Crimea on admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities"

Date of approval: 19 March 2014

Contents: The Court considered the request of the President of the RF on the constitutionality of the International Agreement concluded between the RF and Crimea. The Court found that the Agreement corresponds to the Constitution of the RF. It was found that the provision on granting citizenship of the RF and the obligation to notify dual citizenship or statelessness is not inconsistent with the Constitution, because it does not compel to renounce another citizenship or remain stateless while ensuring, if desired, the right to acquire Russian citizenship without taking any actions for this purpose.

The full text of the decision can be found following the link³⁹.

³⁷ http://www.consultant.ru/document/cons_doc_LAW_39607/0b46424cde96ea7d9427d2c3d28d0bac40dd8cb4/

³⁸ http://pravo.gov.ru/proxy/ips/?docbody=&nd=102171897&rdk=&backlink=1

³⁹ https://goo.gl/dtHuRw

<u>Federal Law of the RF "On amendments to Art. 6 and 30 of the Federal Law "On</u> <u>citizenship of the Russian Federation" and certain legislative acts of the Russian</u> <u>Federation"</u>

Date of approval and number: 23 May 2014, no. 142-FZ Effective date: 4 August 2014

Contents: The Federal Law introduces amendments to some legislative instruments regarding Russian citizens who reside within the boundaries of the Russian Federation and who have another citizenship or the right of permanent residence in another country. These citizens shall be obliged to notify in writing of any other citizenship or the right of permanent residence within 60 days from the date of acquisition of a second citizenship or the right of permanent residence. The procedure for notification of such citizenship is also regulated. Violation of the established procedure for notification shall entail the imposition of an administrative fine (Art.19.8 of the Code of Administrative Offences). The Criminal Code was amended imposing liability in the form of a fine, forced labor for failure to fulfill a notification obligation (Art. 330.2 of the Russian Criminal Code). Citizens who acquire Russian citizenship in accordance with the Agreement on admitting to the RF the Republic of Crimea no. 6-FKZ shall be deemed to have the Russian citizenship only, in case of filing an application for their reluctance to be citizens of a foreign state. The deadline for notification of a second citizenship and punishment for violation of the established procedure for notification, as well as punishment for failure to notify and concealing dual citizenship is effective from 1 January 2016 (Art. 6 of the Federal Law of the RF "On citizenship").

The full text of the document can be found following the link⁴⁰.

Federal Law "On amendments to Art. 6 of the Federal Law "On citizenship"

Date of approval and number: 19 December 2014, no. 507-FZ

Effective date: 31 December 2014

Contents: Art. 6 of the Federal Law "On citizenship" is supplemented with part 3, which states that citizens who have multiple citizenship and file no notice within 60 days of their foreign citizenship or the right of residence in a foreign state shall be obliged to submit such notification not later than 30 days from the date of entry into the territory of the RF. Citizens who arrive in the Russian Federation in a manner not requiring a visa and on the date of entry into force of this Law are citizens of that foreign state only shall submit a notification of another citizenship or the right of permanent residence in other country prior to January 1, 2016.

The full text of the Law can be found following the link⁴¹.

<u>Federal Law "On amendments to the Federal Law "On the legal status of foreign citizens</u> <u>in the Russian Federation" and certain legislative acts of the Russian Federation"</u>

Date of approval and number: 14 November 2014, no. 357-FZ Effective date: 24 November 2014

In accordance with this Law, foreign citizens staying lawfully in the territory of the Russian Federation, arriving in the Russian Federation in a manner not requiring a visa and reaching the age of 18 shall be entitled from January 1, 2015 to be employed on the basis of a work permit both by individuals and legal entities. Thus, the Crimean people who are not citizens of the Russian Federation in accordance with the Russian laws shall be obliged to obtain a work

⁴⁰ https://rg.ru/2014/06/06/grajdanstvo-dok.html41 https://rg.ru/2015/01/12/grazhdanstvo-dok.html

permit. Clarifications on the employment can be found following the link⁴².

The full text of the Law can be found following the link⁴³.

Decree of the Russian Government dd. October 29, 2015 no. 2197-r on the establishment of quotas for issuing permits for temporary residence in the Russian Federation to foreign citizens and stateless persons

In accordance with this Decree, in 2016, the Crimean Federal District (including the "Republic of Crimea" and Sevastopol) was provided with 1900 temporary residence permits for foreign citizens and stateless persons (1500 for Crimea and 400 for Sevastopol).

The full text of the document can be found following the link⁴⁴.

Criminal Code of the Russian Federation

The Criminal Code of the Russian Federation contains two articles that are of direct relevance to citizenship.

First of all, it is Art. 275 of the Criminal Code of the Russian Federation, which provides for liability for high treason. The subject of the offense under this Article is a citizen of Russia. This provision, in addition to direct collection of information constituting a state secret, provides for liability for rendering any assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation. Obviously, in the context of the conflict between the Russian Federation and Ukraine the imposition of Russian citizenship predetermines the prosecution of Crimean people for any active demonstration of loyalty to Ukraine. Given that the classification of the activities to such that are directed against the security of the Russian Federation is carried out in a quite subjective way, this provision predetermines repressions against the Crimean people.

Moreover, the provisions of Art. 330.2 of the Criminal Code of the Russian Federation provide for liability for failure to notify the Russian authorities of the citizenship (nationality) of another state. In fact, it is a means of control over possible loyalty of citizens to other countries.

ARTICLE 275. HIGH TREASON

High treason, that is act of espionage committed by a citizen of the Russian Federation, disclosure to a foreign state, an international or foreign organization, or their representatives of information constituting a state secret that has been entrusted or has become known to that person through service, work, study or in other cases determined by the legislation of the Russian Federation, or any financial, material and technical, consultative or other assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation -

shall be punished by deprivation of liberty for a term of twelve to twenty years with or without a fine in an amount of up to five hundred thousand rubles or in the amount of the wage or salary, or other income of the convicted person for a period of up to three years and with restriction of liberty for a term of up to two years.

Note. A person who has committed crimes stipulated in this Article, or Articles 276 and 278 of this Code, shall be relieved from criminal liability if he has facilitated the prevention of further damage to the interests of the Russian Federation by informing the governmental authorities of his own free will and in due time, or in any other way, if his actions contain no other corpus delicti.

⁴² http://mtrud.rk.gov.ru/rus/info.php?id=622731

⁴³ http://www.consultant.ru/document/cons_doc_LAW_171225/

⁴⁴ http://government.ru/media/files/WSuem3sXQhKEsRQIJ4CNsW2M1J94eeup.pdf

ARTICLE 330.2. FAILURE TO COMPLY WITH THE OBLIGATION TO NOTIFY OF THE CITIZENSHIP (NATIONALITY) OF A FOREIGN STATE OR A RESIDENCE PERMIT OR ANY OTHER VALID DOCUMENT CONFIRMING THE RIGHT TO PERMANENT RESIDENCE IN A FOREIGN COUNTRY (PROVIDED BY THE FEDERAL LAW OF 04.06.2014 NO. 142-FZ)

Failure to comply with the obligation determined by the legislation of the Russian Federation to notify the relevant territorial body within the federal executive body authorized to exercise the functions of control and supervision in the field of migration about the citizenship (nationality) of a foreign state or a residence permit or any other valid document confirming the right to permanent residence in a foreign country - shall be punished by a fine in an amount of up to two hundred thousand rubles or in the amount of the wage or salary, or other income of the convicted person for a period of up to one year or by compulsory labor for a term of up to four hundred hours.

The full text of the document can be found following the link⁴⁵.

Ruling of the Constitutional Court of the Russian Federation of 4 October 2016 no. 18-P in the case regarding the verification of constitutionality of Part 1, Article 4 of the Federal Constitutional Law "On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol" upon A.G. Olenev's complaint

The reason for this decision was the problem that had arisen with respect to getting a Russian passport by persons who actually lived in Crimea, but were not registered there.

When considering this case, the Constitutional Court of the Russian Federation referred to the principle of respect for the will of certain persons. According to the authors of this review, this position does not fit well with the other part of this decision: the Constitutional Court substantiates its findings with the Russia's succession to the Crimean Peninsula and considers the connection of "new citizens" with the annexed territory as a ground for granting citizenship (this idea is borrowed from the UN General Assembly Resolution on Nationality of Natural Persons in Relation to the Succession of States). The contradiction in the position of the Constitutional Court is that if the same principles apply to persons who were officially registered in Crimea, then their will to be recognized as Russian citizens was rudely ignored, as they were subjected to mass collective naturalization as something that comes together with the annexed territory.

The full text of the document can be found following the link⁴⁶.

45 http://www.consultant.ru/document/cons_doc_LAW_10699/2ca391674eeaa02069722fa3f13cbb41cce0a95d/
 46 http://doc.ksrf.ru/decision/KSRFDecision247212.pdf

Constitution of the Republic of Crimea

Date of ratification: 11 April 2014

Effective date: 12 April 2014

Contents: Part 3 of Art. 62 of the Constitution defines the head of the Republic of Crimea as a citizen of the Russian Federation without citizenship of a foreign state or a residence permit or any other document confirming the right of permanent residence of a Russian citizen in a foreign country.

The full text of the Constitution of the "RC" can be found following the link⁴⁷.

47 https://rg.ru/2014/05/06/krim-konstituciya-reg-dok.html

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<u>German Czechoslovakian treaty relating to citizenship and options of 20 November</u> <u>1938</u>⁴⁸

This treaty was adopted with the aim to resolve issues of citizenship between Germany and Czechoslovakia as a result of the occupation of the territory of the latter in October 1938. Since the end of World War II, due to the insignificance of the Munich agreement on the division of Czechoslovakia in 1938 all the acts that took the form of an international treaty, in particular, the said contract would be recognized as invalid.

Despite an early invalidation of the Treaty, there is reason to believe that its adoption largely affected the «post-war» fate of many Germans living in the occupied territories of Czechoslovakia. We are talking about the forced eviction of the German minority in Czechoslovakia who acquired German citizenship before the end of World War II. The eviction of the civilian population, being illegal from the point of view of modern international law, was made on the basis of decrees of Czechoslovak president Edvard Beneš.

Thus, in accordance with Beneš Decree of 2 August 1945 regarding the change of the Czechoslovak citizenship for persons of German and Hungarian ethnic origin, citizens of Czechoslovakia of German or Hungarian national origin who acquired German or Hungarian citizenship by the order of the occupation authorities, lost the right to citizenship of Czechoslovakia on the day of acquiring this citizenship.

The text of the treaty of 20 November 1938

The governments of Germany and Czechoslovakia, willing to settle the issues of citizenship and options arising from the reunification of Sudeten German areas with the German Reich, authorized:

on behalf of the German Government – Ministerialdirektor of the Ministry of Foreign Affairs, Mr. Dr. Friedrich Gauss, and Ministerial Adviser in the Reichsministerium, Mr. Dr. Hans Globke.

On behalf of the Government of Czechoslovakia - Mr. Dr. Antonin Koukal, Ministerial Adviser of the Ministry of Justice in Prague,

who agreed on the following provisions:

§1.

Those citizens of Czechoslovakia who as of 10 October 1938 were living in one of the communities reunited with the German Reich, from 10 October 1938 acquire German citizenship while losing Czechoslovak citizenship, if they

a) were born before 1 January 1910 in the territory, reunited with the German Reich, or

b) lost their German citizenship on 10 January 1920,

or

c) are the children or grandchildren of a person who is subject to the conditions of a) or b) or

d) are the wives of persons who are subject to the terms of paragraphs a), b) or c)

Citizens of Czechoslovakia of German national origin, who as of 10 October 1938 resided outside the territory of the former state Czechoslovakia from 10 October 1938 receive German citizenship while losing Czechoslovak citizenship, if they as of 10 October 1938 had the right to citizenship in one of the communities reunited with the German Reich.

A wife does not acquire German citizenship if a husband does not acquire it.

§2.

The German Government is entitled up to 10 July 1939 to require persons of not German

national origin who, according to the provisions of this Treaty shall remain citizens of Czechoslovakia and moved to the territory, reunited with the German Reich, since 1 January 1910, as well as their descendants with Czechoslovak citizenship, to leave the German Reich during the three-month period.

The Government of Czechoslovakia takes these persons in its territory.

The Government of Czechoslovakia is entitled up to 10 July 1939 to require persons of German national origin, who by the time this Treaty enteres into force are citizens of Czechoslovakia and moved to the territory of the modern Republic of Czechoslovakia since 1 January 1910 as well as their descendants to leave the territory of the Czechoslovak Republicduring the three-month period.

At the same time, these persons are deprived of citizenship of Czechoslovakia. The German government takes them into its territory. This provision shall not apply to persons who have received Czechoslovak citizenship after 30 January 1933 and until the date indicated had been citizens of Germany or Austria.

§ 3.

Persons not of German national origin, who under the provisions of § 1 acquire German citizenship, have until 29 March 1939 the right to opt for Czechoslovak citizenship.

§ 4.

Persons of German national origin, who remain citizens of Czechoslovakia, have until 29 March 1939 the right to opt for German citizenship. This provision shall not apply to persons who received Czechoslovak citizenship after 30 January 1933 and until the date indicated had been citizens of Germany or Austria.

§ 5.

One can inform about the willingness to opt:

a) in favor of Czechoslovak citizenship in the territory of the Czechoslovak Republicin the Ministry of Internal Affairs in Prague,

outside the Czechoslovak Republicin the competent executive authority of Czechoslovakia; b) in favor of German citizenship in the territory of the German Reich in the lower competent administrative authority,

outside the German Reich in the authorized German consulate.

§ 6.

The territorial competence of the authorities referred to in § 5 is determined by the place of residence, and in the absence of residence, place of location of an optant.

If the application of option is submitted to the territorially incompetent authority, other than specified in § 5, then the latter passes it to the territorially competent authority. The date of submission of the application shall be the date of its receipt in the first instance.

§ 7.

Application of option is submitted to the authority referred to in § 5 being recorded or in writing. Signature under the application submitted in writing must be certified by the official representative of the State whose citizenship is chosen, by the court or the notary.

Application of option may also be submitted by an authorized representative. The signature under a power of attorney must be certified by any of the instances referred to in the paragraph 1.

Certification is exempt from fees, taxes, stamp duties and other charges.

§ 8.

The competent authority of the state whose citizenship is selected, checks the prerequisites for the option. In the Czechoslovak Republic, this checking is reserved for the Ministry of Interior in Prague.

If the conditions for the option are met, the authority shall immediately issue a certificate of option for an optant, and notify the authority designated by the other Government.

In the certificate of option there should be also specified family members subject to the option.

The option enters into force at the time an application of option is received by the authorities dealing with the choice of citizenship.

The procedure of option does not provide for any fees, taxes, stamp duties and other charges.

§ 9.

Any person having reached the age of 18 may submit the application of option.

The wife does not have the right to opt for their own; option by the husband covers a wife. This rule does not apply if the marriage is dissolved in court.

For persons under 18, for persons over 18 years, for whom there are grounds for depriving them of their legal capacity, as well as for persons who are deprived of legal capacity or over whom a temporary custody (guardianship) is established, option could be made by their legal representatives, even if the latter has no right of option. In order to assess the grounds for the application of option under this paragraph, the date of submission of the application of option to the authorities dealing with the choice of citizenship is fundamental.

§ 10.

The option is irreversible.

However, if persons for whom the legal representative has exercised the right of option, reach the age of 18 years before the expiry of the option period or until the expiration of that period the basis of their legal representation is no longer valid, they can cancel option within the time limit. The abolition of the option is covered by the provisions of §§ 5-7, respectively.

§ 11.

According to this Treaty, a place of residence of a person is the place where the person has settled with the intention of long-term residence.

If a person has more than one place of residence, the place that he indicates as his place of residence, is fundamental.

§ 12.

Persons who are required to leave the territory of the German Reich or the Czechoslovak Republic, as prescribed under § 2, as well as optants that until 3 March 1940 move their place of residence to the State in favor of which they have opted, are permitted to take all movable property, which they had as of the date of this Treaty, and they are exempt from any duties. An exception is cash, securities and collections that are of particular historical or cultural significance to the country of export. Consideration of these issues should be specified by a special agreement.

§ 13.

To check and resolve all issues that arise in the execution of this Treaty, a Mixed Commission is created, to which each of two Governments shall send an equal number of representatives. This Commission is particularly charged with the responsibility of:

1. the development of proposals to facilitate the exchange of populations, as well as

clarification of fundamental questions that arise in this exchange;

2. the verification of doubt in regard to citizenship.

The Commission may appoint a sub-committees on specific issues if necessary.

§ 14.

This Treaty shall enter into force on 26 November 1938.

Done in duplicate, in the German and Czechoslovak languages. Berlin, 20 November 1938.

Friedrich Gauss Antonin Koukal Hans Globke [Source: The monthly magazine of Foreign Policy 5 (1938), no. 9, pp 1213-1216].

The Treaty in the original language can be found following the link⁴⁹.

Resolution of the Crimean Supreme Council on legislative initiative for the right of citizens of the Republic of Crimea to dual citizenship

18 December 1992, N° 223-1

1. In accordance with Article 1 of the Law of Ukraine "On citizenship of Ukraine" and Article 21 of the Constitution of the Republic of Crimea to consider it necessary to propose to the Supreme Council of Ukraine and the President of Ukraine to speed up decision-making on the exercise of the right to dual citizenship by the Crimean citizens.

2. To temporarily suspend in the territory of the Republic of Crimea the execution of decisions by the law enforcement bodies on citizenship of Ukraine in relation to the Crimean citizens, who haven't still decided on their belonging to Ukraine.

3. To instruct the Permanent Commission of the Supreme Council of Crimea for legislation, lawfulness and system of justice to prepare proposals on the practical exercise of the right of the Crimean citizens to dual citizenship.

The full text of the document can be found following the link⁵⁰.

⁴⁹ http://www.forost.ungarisches-institut.de/pdf/19381120-1.pdf

⁵⁰ http://precedent.crimea.ua/documents/postanovlenye-verhovnoho-soveta-kryima-o-zakonodatelnoj-ynytsyatyve-povoprosu-realyzatsyy-prava-hrazhdan-respublyky-kryim-na-dvojnoe-hrazhdanstvo-ystorycheskye-materyalyi/

Crimean cases

The Russian authorities exploit the "automatic obtaining of nationality" for prosecuting pro-Ukrainian activists. The best-known examples are cases of **Oleg Sentsov** and **Aleksandr Kolchenko** who were arrested and transferred to the territory of the Russian Federation on suspicion of committing criminal offenses. Both are citizens of Ukraine and during the occupation lived in Crimea. The Office of the United Nations High Commissioner for Human Rights <u>highlighted</u> in its report of July 15, 2014 (para. 188):

"It would appear that since Sentsov did not explicitly renounce Russian citizenship within the deadline provided under Russian legislation, he is automatically considered to have become a Russian citizen."

Particularly, the "Kolchenko's case" should be mentioned in the context ofnationality, as it indicates the compulsory nature of the "automatic nationaity" of the Russian Federation, which does not depend on the will of a person. The court denied the retention of the Ukrainian citizenship by Kolchenko, despite the fact that Kolchenko while being in custody in Moscow could not apply for Russian citizenship and obtain a Russian passport. Kolchenko confirms that he has taken no actions to obtain Russian citizenship. The only document that has been certifying his identity since the time of his arrest is his Ukrainian passport. Kolchenko considers himself a citizen of Ukraine, and Ukraine recognizes Kolchenko's Ukrainian citizenship.

The court decided to deny the retention of the Ukrainian citizenship by Oleksandr Kolchenko. The court's decision to deny the retention of the Ukrainian citizenship contradicts international law, Russian and Ukrainian legislations. Therefore, Kolchenko is deprived of the right to nationality, despite the fact that no one can be deprived of nationality arbitrarily. In addition, the judgment violates Article 16 of the International Covenant on Civil and Political Rights of 1966, which guarantees that everyone shall have the right to recognition everywhere as a person before the law. Thus, Kolchenko's legal personality is based on his Ukrainian nationality, and his legal nexus as a national of Ukraine remains unchanged outside Ukraine. In this case, the court, deciding in the name of the Russian Federation, unreasonably refuses to recognize Oleksandr Kolchenko's legal personality (*Report of the Crimean Human Rights Field Mission for January 2015, p. 16*).

Eventually, the North Caucasus District Military Court <u>sentenced</u> Oleg Sentsov and Oleksandr Kolchenko to 20 and 10 years of imprisonment in a strict regime penal colony, respectively, as Russian citizens. At the same time, Kolchenko with assistance of his lawyer Svetlana Sidorkina <u>filed a complaint</u> to the European Court of Human Rights about the compulsory imposition of the Russian nationality.

This "automatic" acquisition of Russian nationality by nationals of Ukraine in Crimea is illegal, since the internal procedures of the Russian Federation for its acquisition fail to comply with the applicable international conventions, customary international law and the principles of the nationality law (in particular, see <u>The European Convention on Nationality, Nottebohm case</u>).

Those Crimeans who for one reason or another have not declared their «desire to preserve their existing citizenship of Ukraine», but still do not wish to be considered as citizens of the Russian Federation, faced a "curious" situation. Often in this situation, these people do not apply for the issuance of Russian passports, while continuing to use the passport of citizen of Ukraine.

Some of these people have applied for a residence permit as citizens of Ukraine. Mainly, this situation ends with failure. Denial is usually motivated by the fact that, in accordance with the law of 6-FKZ applicants are considered as citizens of Russia, and a residence permit may be granted only to foreign nationals.

Those Crimeans who try to renounce the imposed citizenship of the Russian Federation also end up in a complicated situation. Russian legislation makes no exception for Crimeans,

Crimea beyond rules and thus they have to undergo the procedure of renouncing the citizenship in a general way. This procedure, among other things, requires a RF passport. Thus, here is a vicious circle: in order to get rid of the imposed citizenship, you must first recognize yourself a citizen of Russia and formally apply for a passport.

If Crimeans do not have a «document confirming the legality of staying in the territory of Russia» (Russian passport or residence permit) this leads to restriction or deprivation of many of their rights. Without Russian passport or a residence permit it is impossible be formal employment, apply for health services, social benefits and pensions.

Imposition of citizenship as a new human rights violation and a way of implementing aggressive expansion by the Russian Federation in the context of the occupation of Crimea

By Serhiy Zayets Lawyer and expert of the NGO "Regional Centre for Human Rights"

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Introduction

After the occupation of the Crimean Peninsula the Russian Federation collectively naturalized the population of Crimea. This fact raises a number of questions that have no ready answers in today's environment. Firstly, it is a way of seizing the territory together with the population. Secondly, it is interference in Ukraine's internal affairs and nationality relationship that existed between the Crimean residents and the Ukrainian state. Finally, Russia has violated international human rights standards, interfering in the internal sphere of an individual. It is this aspect – the violation of human rights by means of imposition of nationality – that is a focus of this study.

It should be realized that the occupation and actions directed at the appropriation of the occupied territory is a phenomenon that happened perhaps for the first time in the European system of human rights protection. The similar situation, which can be compared to Crimea, is the Turkish invasion of Northern Cyprus. However, the current level of economic, legal, information, cultural and other relations rises new issues which did not exist or were not so high-profile during the invasion of Cyprus. Furthermore, Cyprus still remains the so-called unrecognized territory that Turkey has never tried to make a part of its own country.

Crimea also differs from other unrecognized territories, including Transnistria, Abkhazia and South Ossetia⁵¹. The Russian Federation has been carrying out the "passportization" of the population in these territories for quite a long time already. However, the main difference from the Crimean situation is that the expression of individual's will is needed in order to obtain Russian nationality in these territories and there is no temporal limitation. In other words, those who are unwilling to acquire Russian nationality can avoid it. But in Crimea there was held quick collective passportization, during which there was no possibility to consciously respond to the situation.

In the postwar time contemporary international law addressed the issues of eliminating statelessness⁵² and resolving cases of dual nationality. However, the issue of protection against arbitrary imposition of nationality has so far remained unnoticed by the international community. It is time when these issues must also take their rightful place in international discussions.

Historical background

In early 2014, Russia committed an act of military aggression against sovereign Ukraine and tried to annex part of its territory - the Crimean Peninsula. The beginning of the active phase

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⁵¹ See, for example, Human Rights in the Occupied Territories of Georgia: Information Note Distributed by the Delegation of Georgia during OSCE Review Conference - Human Dimension Session (Warsaw, 30 September - 8 October 2010). – Access mode: http://www.osce.org/home/73289?download=true (date of reference: 01/11/2016).

⁵² See, for example, materials of the United Nations High Commissioner for Refugees (UNHCR) about the campaign to stop statelessness. – Access mode: http://www.unhcr.org/pages/53174c306.html (date of reference: 01/11/2016).

of such actions should be considered the third decade of February⁵³.

The occupation was carried out under the protection the so-called "green men" - armed men without insignia. Later in the documentary "Crimea: The Way Back Home", Russian President Vladimir Putin recognized that those were the Armed Forces of the Russian Federation⁵⁴. According to numerous press reports, many of the participants of the occupation were awarded with a medal "For the return of Crimea", but the official list of the medaled persons is not available⁵⁵.

On 27 February 2014, by a decision of the Verkhovna Rada of the Autonomous Republic of Crimea (ARC), captured and controlled at the time by the armed men, there was scheduled an all-Crimean referendum⁵⁶. The initial date of the referendum was set on the day of presidential elections in Ukraine –25 May 2014. Then the referendum was rescheduled for 30 March and finally - for 16 March 2014. The latter was the date when the referendum took place⁵⁷.

Reliable data on the results of voting is not available, and public statements of those involved in its organization and conduct contain contradictory information⁵⁸. Despite that fact, on 18 March 2014, (in two days after the referendum) an agreement "on admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities" (hereinafter - "Agreement") was signed⁵⁹.

The next day the Constitutional Court of the Russian Federation by its decision dd. 19 March 2014 no. 6-P acknowledged this Agreement as such that corresponds to the Constitution of

55 According to the site life.ru: ca. three hundred Russian citizens were awarded with a medal "For the Return of Crimea".-Access mode: https://life.ru/t/новости/I5I348 (date of reference: 01/01/2016).

⁵³ On 23 February 2014, on the Nakhimov Square in the city of Sevastopol there was held a rally, during which a Russian citizen Oleksiy Chaly was "elected" as the so-called "people's mayor". Then the city was surrounded by checkpoints. Later, on 26 February 2014, in front of the building of Verkhovna Rada of Crimea, that was taken over by people unknown at that time, there was held a meeting of pro-Russian and pro-Ukrainian forces (the latter included the Crimean Tatars). However, the medal "For the return of Crimea", legalized by the Order of the Ministry of Defense of the Russian Federation no. 160 of 21 March 2014 bears the dates 20.02.14 - 18.03.14. The Verkhovna Rada of Ukraine by the Law of 15 September 2015 specified the date of the beginning of the occupation: the beginning of the occupation is officially considered to be 20 February 2014.- Access mode: http://zakon0.rada.gov.ua/laws/show/1207-vii.

⁵⁴ Andriy Kondrashov: Film "Crimea: The Way Back Home" (All-Russian State Television and Radio Broadcasting Company, 2015).- Access mode: https://russia.tv/brand/show/brand_id/59195/ (date of reference: 01/11/2016). The film has English subtitles. Regarding the participation of Russian troops, please, watch from 1:05:00.

⁵⁶ Resolution of the Autonomous Republic of Crimea "On holding of the all-Crimean referendum".- Access mode: http:// crimea.gov.ru/act/11689 (date of reference: 01/11/2016).

⁵⁷ During this short period, not only any public debate was not organized, but also Ukrainian and Crimean Tatar activists were severely persecuted. See, for example, the report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine dd. 15.04.2014, prepared after the visit of Assistant Secretary General for Human Rights Ivan Šimonović to Crimea: "the presence of paramilitary and so called self-defence groups as well as soldiers in uniform without insignia, widely believed to be from the Russian Federation, was not conducive to an environment in which voters could freely exercise their right to hold opinions and the right to freedom of expression. There have also been credible allegations of harassment, arbitrary arrest, and torture targeting activists and journalists who did not support the referendum. Furthermore, seven persons were reported as missing <...> While the Tatar community was promised numerous concessions, including Government positions as well as the recognized status as indigenous peoples, the majority of the members of the community chose to boycott the referendum. OHCHR was informed by representatives of Crimean Tatars that no more than 1,000, out of a population of 290,000-300,000, participated in the 16 March referendum" (para. 6) .- Access mode: http://www.ohchr.org/Documents/Countries/UA/ Ukraine_Report_15April2014.doc (date of reference: 01/11/2016).

⁵⁸ According to the statement of Mykhaylo Malyshev, the so-called "Head of the Crimean Parliament Commission on organization and holding of the referendum" 1 million 250 thousand 426 people voted in Crimea. This is without Sevastopol <.> With Sevastopol the number of people voted made up 1 million 724 thousand 563 people." (Quoted by the Newspapers: "Crimea has chosen Russia." – Access mode: https:// www.gazeta.ru/politics/2014/03/15_a_5951217. shtml (date of reference: 01/11/2016). According to this statement, more than 474 thousand people voted in Sevastopol, while the total number of population (including children who do not have the right to vote) was a little over 385 thousand people.

⁵⁹ On the peninsula, in compliance with Article 133 of the Constitution of Ukraine, there were established two administrative units equal in status - the Autonomous Republic of Crimea (hereinafter - ARC) and the city of Sevastopol, which had been existing in that form since declaration of independence of Ukraine in 1991. The two administrative units had the same status, and none of them was subordinate to the other. Nevertheless, the referendum was also conducted in the city of Sevastopol. By tangent rule the terms regarding the city of Sevastopol were included in the "agreement".- Access mode: http://kremlin.ru/events/president/news/20605 (date of reference: 01/11/2016).

the Russian Federation⁶⁰.

On 21 March 2014, Russian President Vladimir Putin signed the law on ratification of the Agreement and the Federal Constitutional Law no. 6-FKZ "On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol" (hereinafter - the Law 6-FKZ)⁶¹.

This Law came into force on 1 April 2014. Since that time, its provisions began to be formally applied by the occupation authorities on the Crimean Peninsula. However, it should be noted that according to Article 1 of the "Agreement" the so-called Republic of Crimea deemed to be admitted to the Russian Federation from the date of signing of this Agreement, i.e. from 18 March 2014.

The occupation has been followed by numerous violations of human rights: freedom of movement, property rights, freedom of speech, freedom of religion, the right to a fair trial and so on. At the same time, some of these violations themselves are also international crimes: for example, transfer of the Crimean residents from the occupied territory and vice versa, transfer of the civilian population of the Russian Federation to the occupied territory significantly changes the population profile of the peninsula. Conscription of residents of the occupied territory into the Russian Armed Forces is another example of such an offense. A prerequisite for this and other offenses is arbitrary imposition of Russian nationality, which is being analyzed below.

International legal qualification of the Russian Federation's actions in Crimea

The UN General Assembly Resolution 3314 of 14 December 1974 defines aggression as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State or in any other manner inconsistent with the Charter of the United Nations⁶².

The Ukraine's territorial integrity is guaranteed by a package of international legal agreements from the UN Charter to the Final Act of the Conference on Security and Cooperation in Europe.

According to the so-called Budapest Memorandum⁶³ signed by the Russian Federation along with Great Britain and the United States, the signatories made a commitment to respect the independence and sovereignty and the existing borders of Ukraine and refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, ensuring 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 Nations⁶⁴.

The UN General Assembly Resolution 68/262 on Ukraine's territorial integrity of 27 March 2014 called upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the referendum held on 16 March 2014 and to refrain from any

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⁶⁰ See the Judgment of the Constitutional Court of the Russian Federation of 19 March 2014 no. 6-P.- Access mode: https:// rg.ru/2014/03/19/ks-site-dok.html (date of reference: 01/11/2016). On 10 September 2015, at the Conference of European Constitutional Courts in Batumi there was signed the so-called Batumi Declaration, which noted the crucial role of the Constitutional Court of the Russian Federation in legalizing the occupation and annexation of the Crimean Peninsula.

⁶¹ Federal Constitutional Law no. 6-FKZ "On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol". - Access mode: http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=200047 &fld=134&dst=100136,0&rnd=0.46997960940071615#0 (date of reference: 01/11/2016).

⁶² UN General Assembly Resolution no. 3314 of 14 December 1974.- Access mode: http://www.un.org/ru/documents/decl_ conv/conventions/aggression.shtml (date of reference: 01/11/2016).

⁶³ Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-proliferation of Nuclear Weapons of 5 December 1994.- Access mode: http://zakon4.rada.gov.ua/laws/show/998_158 (date of reference: 01.11.2016).

⁶⁴ Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-proliferation of Nuclear Weapons.- Access mode: http://zakon2.rada.gov.ua/laws/show/998_158 (date of reference: 01/11/2016).

action or dealing that might be interpreted as recognizing any such altered status⁶⁵.

External conditions in which Crimeans had to choose their citizenship

According to Article 4 of the Federal Constitutional Law no. 6-FKZ "from the date of the admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities Ukrainian nationals and stateless persons who had been permanently residing in the Republic of Crimea and the City of Federal Importance Sevastopol were recognized as nationals of the Russian Federation, except for persons who within one month thereafter declared their willingness to retain their and (or) their minor children's other nationality or remain stateless." ⁶⁶

As mentioned above, according to the "Agreement" the "Republic of Crimea" is deemed to be admitted to the Russian Federation from the date of signing of the "Agreement", i.e. from 18 March 2014. Thus, starting exactly from that date the term envisaged by Art. 4 of the Law 6-FKZ was restricted. That term ended on April 18. But since the legislation of the Russian Federation started being applied on the peninsula from 1 April 2014, according to the Law no. 6-FKZ, as mentioned earlier, so the general term for the submission of that application de jure was reduced to 18 days.

As of 4-9 April 2014, in Crimea there were operating only two offices of the Federal Migration Service (FMS), which received applications, in Sevastopol and Simferopol. As of 10 April, 9 FMS offices were operating in: Sevastopol, Simferopol, Yalta, Bakhchisaray, Bilogorsk, Yevpatoriya, Saki, Kerch and Dzhankoy⁶⁷. It was reported by the Human Rights Monitoring Mission in Ukraine (hereinafter – HRMMU) in its periodic report on the human rights situation in Ukraine of 15 May 2014⁶⁸.

In total, ca. 3500 persons filed applications "declaring their will to keep their and (or) their minor children's other nationality or remain stateless." ⁶⁹

As indicated in the report of the Commissioner for Human Rights in the Republic of Crimea in 2014, "transitional period", the time allotted for integration of the <...> region from the established system of law and governance into the system of public institutions of the Russian Federation <...> is characterized by internal contradictions, inconsistency, interchange of progressive development phases, often combined with conflicts in the application of laws. This leads to the fact that an ordinary person is lost in a variety of new rules of life different from those, which he got accustomed to." ⁷⁰

That is not to say that the inhabitants of Crimea were fully deprived of possibility to express their will to acquire Russian nationality. However, the conditions in which they had to choose (instantaneous loss of familiar landmarks in everyday life, lack of adequate information about consequences, extremely short term, infrastructural constraints, etc.) did not enable to make an informed choice⁷¹. Observations show that the majority of Crimeans did not try to make their choices and acquired the status of Russian nationals "with the tacit consent" after the

⁶⁵ UN General Assembly Resolution of 27 March 2014 no. 68/262 "Territorial integrity of Ukraine".- Access mode: http:// www.un.org/ru/documents/ods.asp?m=A/RES/68/262 (date of reference: 01/01/2016).

⁶⁶ Law no. 6-FKZ, ibid.

⁶⁷ For comparison: offices of the Federal Migration Service in which one could apply for a Russian passport, have been established within the network of similar offices of the State Migration Service of Ukraine. These offices were located, as a rule, within walking distance of the place of residence of citizens in big cities.

⁶⁸ Para. 27 of the periodic report of the UN Human Rights Monitoring Mission in Ukraine on the situation of human rights in Ukraine of May 15, 2014.- Access mode: http://www.un.org.ua/images/stories/Report_15_May_2014ua.pdf (date of reference: 01/11/2016).

⁶⁹ See the Report of the Commissioner for Human Rights of the Russian Federation for 2014, p. 99.- Access mode: http:// ombudsmanrf.org/www/upload/files/docs/appeals/doklad2014.pdf (date of reference: 01/11/2016).

⁷⁰ Report of the Commissioner for Human Rights in the Republic of Crimea in 2014, p. 4.- Access mode: http://crimea. gov.ru/textdoc/ru/7/act/393pr.pdf This document is of great evidentiary value, since the credentials of the author L.E. Lubinaya as the Commissioner for Human Rights are recognized by the Russian Government.

⁷¹ The term "informed choice" is used by analogy with the fixed term "informed consent to medical treatment", which provides for such consent on the basis of sufficient and timely information about the nature of medical treatment, the associated risks and possible consequences.

expiry of the 18-day term⁷².

In the meantime, any option of choice, which had to be made by the Crimeans, led to a deterioration in their situation: they had to choose between a significant restriction of rights (up to a complete loss of legal personality) and the oath of allegiance to the aggressor state.

Consequences of renunciation of Russian nationality

Applying to renounce Russian nationality automatically led to the fact that this person acquired the status of a foreigner with the relevant restrictions (related to employment, the right to social benefits, migration control, prohibition of participation in political activities and to be engaged in public life, etc.). But unlike the common situation when a foreigner deliberately moves to a foreign country and agrees to relevant limitations, this category of Crimean residents found themselves to have a status of foreign nationals at home. The further stay on the peninsula became entirely dependent on the discretion of the occupation authorities as to permission to stay.

The former nationals of Yugoslavia in Slovenia faced similar problems. The European Court of Human Rights in the case *Kurić and Others v Slovenia*⁷³ concluded that such situation entails a loss of legal personality, and declared it incompatible with Article 8 of the European Convention on Human Rights <respect for privacy>. In addition, the Court also held that the applicants had been subjected to discriminatory treatment on the ground of national origin⁷⁴.

At the time of the disintegration of Yugoslavia, all nationals had dual nationality - of Yugoslavia itself (which was used effectively) and one of the republics, it was composed of (before the disintegration that nationality was purely nominal and did not influence the possibility of living in another republic and participating in the elections). After the disintegration of Yugoslavia, the former Yugoslav nationality lost its meaning. Instead Slovenia provided a certain period to all those willing to get their own nationality or a permission to stay. After the deadline, those who did not use the right provided were "erased" from the register of residents. Applicants for various reasons did not use the opportunity to determine their status in the republic and found themselves in the category of "the erased". This led to the fact that they were in a position that the ECtHR defined as the loss of legal personality when they had the severely limited ability to exercise their rights or even were fully deprived of them.

Consequences of acquiring the status of Russian citizens

It is much harder to understand the situation of the persons who in the period up to 18April 2014 had not submitted the above said application and thus acquired the status of Russian citizens regardless of subsequent obtaining a passport or avoidance of getting it. "New citizens" avoided the problems associated with the loss of legal personality. In fact, they have received a full range of rights enjoyed by Russian nationals by birth in Russia.

In this aspect it looks as if the Russian Federation has done its best and made the Crimean inhabitants equal to any national of Russia. But in fact this is not true. Since the acquisition of nationality involves not only getting a set of rights but also certain duties and the possibility of imposing restrictions by the state. Therefore, the situation that has signs of external equality, actually has a negative impact on "new nationals" having Ukrainian identity, who are now obliged, for example, to use arms to defend the Russian Federation, which, in turn, is in

⁷² According to the observations of the NGO "Regional Center for Human Rights" there are recorded a large number of people in Crimea and those who left the occupied territory, who did not submit an application regarding unwillingness to obtain Russian nationality, but also did not apply for obtaining a Russian passport. We should understand that pursuant to the Russian laws such persons are also considered nationals of the Russian Federation, despite the lack of proper documents. See further, for example, O. Kolchenko's example.

⁷³ Case of KURIĆ and others v. SLOVENIA.- Access mode: http://hudoc.echr.coe.int/eng?i=001-111634 (date of reference: 01/11/2016)

⁷⁴ According to the UN Convention on the Elimination of All Forms of Racial Discrimination the discrimination on the ground of national origin is a form of racial discrimination.

conflict with Ukraine.

Nationality also includes the creation of certain loyalty relationship that affects the private life and may cause a serious internal conflict in a person. Such situation may raise the question about violation of the right to respect for private life under Article 8 of the European Convention on Human Rights. It is the analysis of compliance of Russia's actions on imposing nationality with international standards that we are going to focus on.

We should make a reservation: this relates to nationals of Ukraine who were loyal to their homeland and lived in Crimea at the time of occupation (regardless of whether they left the occupied territory thereafter or continue to live there). For those who welcomed the fact of annexation and the status of Russian nationals, the problem does not exist: they have just taken the opportunity.⁷⁵

Arbitrary imposition of nationality as a new challenge

When we talk about imposition of nationality as an entirely new challenge, it should be emphasized that existing precedents are related only to the history of the World War II. The Permanent Military Tribunal at Strasbourg and the U.S. Military Tribunal at Nuremberg sentenced consequently Robert Wagner (1946)⁷⁶ and Gottlob Berger (1949)⁷⁷ for actions related to Germanization of the population in the occupied territories and its mobilization as German nationals. However, these cases concerned the imposition of nationality as one of the objective elements of war crimes or crimes against humanity and related to the violation of international humanitarian law. According to Art. 45 of the Regulations concerning the Laws and Customs of War on Land (1907) it is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power⁷⁸.

Prerequisites for viewing the imposition of nationality in the context of human rights violation arise with the adoption of core international human rights treaties. Due to the development of an international catalogue of human rights standards a person was recognized as international legal personality and ceased to be exclusively a toy in the hands of the sovereign. Hence there arose a need to take into account person's will in matters that previously were only within the scope of interstate politics.

In its Advisory Opinion OC-4/84 of 19 January 1984 regarding the proposed amendments to the naturalization provision of the Constitution of Costa Rica the Inter-American Court of Human Rights noted that, despite the fact that it is traditionally accepted that the conferral and regulation of nationality are matters for each state to decide, contemporary developments indicate that international law does impose certain limits on the broad powers enjoyed by the states in that area. And thus the manners in which states regulate nationality matters n cannot today be deemed within their sole jurisdiction; those powers of the state are also circumscribed by their obligations to ensure the full protection of human rights. The classic doctrinal position, which viewed nationality as an attribute granted by the state to its subjects, has gradually evolved to the point that nationality is today perceived as involving the jurisdiction of the state as well as human rights issues (para 32, 33)⁷⁹.

The classic case on nationality is the so-called case of Nottebohm reviewed by the International Court of Justice⁸⁰. In this case the Court drew a conclusion that today has

⁷⁵ This material is devoted to consideration of issues of nationality in terms of human rights and exactly in this context there were made reservations. However, the forced extraterritorial collective naturalization of nationals of the other state also violates international public law in terms of inter-State relations.

⁷⁶ Access mode: https://www.phdn.org/archives/www.ess.uwe.ac.uk/WCC/wagner1.htm (date of reference: 01/11/2016).

⁷⁷ Access mode: http://www.worldcourts.com/imt/eng/decisions/1949.04.13_United_States_v_Weizsaecker. pdf#search=%22gottlob berger% 22 (date of reference: 01/11/2016).

⁷⁸ Access mode: https://www.icrc.org/rus/resources/documents/misc/hague-convention-iv-181007.htm (date of reference: 01/11/2016).

⁷⁹ Access mode: http://www.corteidh.or.cr/docs/opiniones/seriea_04_ing.pdf (date of reference: 01/11/2016).

⁸⁰ LIECHTENSTEIN v. GUATEMALA, International Court of Justice (ICJ), 1955.- Access mode: http://www.icj-cij.org/docket/ files/18/2674.pdf (date of reference: 01/11/2016).

become classic: "Naturalization is not a matter to be taken lightly. To seek and to obtain it is not something that happens frequently in the life of a human being. It involves his breaking of a bond of allegiance and his establishment of a new bond of allegiance. It may have far-reaching consequences and involve profound changes in the destiny of the individual who obtains it. It concerns him personally, and to consider it only from the point of view of its repercussions with regard to his property would be to misunderstand its profound significance. In order to appraise its international effect, it is impossible to disregard the circumstances in which it was conferred, the serious character which attaches to it, the real and effective, and not merely the verbal preference of the individual seeking it for the country which grants it to him." (p. 24)

Although, in the above case issues of nationality are considered in the context of international relations, the definition of this phenomenon given by the International Court of Justice enables to consider it through the system of international human rights standards as well.

International standards for nationality as the right included in the international catalogue of human rights

Nationality is viewed as a category contained in the catalogue of human rights in compliance with the Universal Declaration of Human Rights. Under Article 15 of the Declaration everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The International Covenant on Civil and Political Rights somewhat narrows the context and reads only the child's right to acquire a nationality (Art. 24).

The right to a nationality is regulated in more details by Article 20 of the American Convention on Human Rights. Its provisions guarantee every person the right to the nationality of the state in whose territory he was born, and prohibits arbitrary deprivation of nationality or of the right to change it.

The European Convention on Human Rights, in contrast to these international instruments, does not at all contain provisions on nationality. The European Court noted that the right to a nationality is not as guaranteed by the Convention, although under certain conditions the issue of violation of Article 8 may arise in the context of nationality.

In particular, in the case *Genovese v. Malta* (Application no. 53124/09, 11 November 2011, § 30) the ECtHR noted: "The Court ... reiterates that the concept "private life" is a broad term not susceptible to exhaustive definition. It covers the physical and psychological integrity of a person. It can therefore embrace multiple aspects of the person's physical and social identity. <...> The provisions of Article 8 <respect for private life> do not, however, guarantee a right to acquire a particular nationality or citizenship. Nevertheless, the Court has previously stated that it cannot be ruled out that an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial (deprivation) on the private life of the individual." ⁸¹ In this judgment, the Court noted that Malta had violated Article 14 <prohibition of discrimination> in conjunction with Article 8 of the Convention

It should be emphasized that the whole case-law of international judicial and quasi-judicial bodies, where the issue of human rights violations in the aspects related to nationality was raised, refers first of all to negative actions of states (deprivation of nationality, denial to

81 Access mode: http://hudoc.echr.coe.int/eng?i=001-106785 (date of reference: 01/11/2016).

3 Right to nationality issue (citizenship) Crimea beyond rules renounce nationality or other similar acts)⁸². The situation of imposition of nationality, as happened in Crimea, has not been the subject of legal assessment to be conducted by international bodies yet⁸³. This new phenomenon has not also been the subject of theoretical study to be carried out by research workers⁸⁴.

And though the European Court of Human Rights addresses nationality issues very carefully, Crimean situation is a favorable opportunity to review the preliminary findings and develop practices in this regard.

Although, as it has been repeatedly noted, the European Convention contains no guarantees on the right to nationality, a status of nationals can be considered as aspect of the right to privacy guaranteed by Article 8 of the Convention. In particular, self-identification is a manifestation of a private life. According to Article 8 of the Convention on the Rights of the Child a nationality is an element of the child's identity. There is no reason to state, especially considering the position of the International Court of Justice in the Nottebohm's case regarding the fundamental nature of nationality in the life of each person that nationality loses such meaning for an adult person.

In other words, the fact that the ECtHR does not contain provisions that guarantee a person the right to nationality, in no way excludes that the arbitrary imposition of nationality cannot give rise to circumstances which are incompatible with the guarantees provided by Article 8 of the European Convention on Human Rights <right to respect for private life>.

The arbitrary imposition of nationality on Crimean inhabitants, therefore, on the one hand, is forcing the legal relationship between the inhabitants of Crimea and the Russian Federation, on the other hand represents interference of the Russian Federation in the relationship that emerged earlier and existed between the residents of Crimea and the Ukrainian state. Due to this, actions of the Russian Federation directed at the imposition of nationality are not within its sovereign jurisdiction. Rather the opposite: Russia violated its obligations under the Budapest Memorandum, interfered in the internal affairs of Ukraine and relations between the Ukrainian state and its nationals.

Before the occupation there were no effective relations between the Crimean residents and Russia, which could be the ground for the formalization of nationality relations. It is rather the opposite: the occupation and imposition of nationality became a prerequisite for certain relationship between the Crimean inhabitants and the Russian state. Such relations are undesirable for many Crimean people.

The possibility of reviewing this issue in the context of human rights gives each victim of Russian aggression the opportunity to protect their rights when everybody can directly appeal to international judicial and quasi-judicial bodies (including the ECtHR and the UNCHR). The use of these mechanisms does not depend on the political will inside the state and allows everyone to initiate a dialogue not only in the context of international relations but also in humanitarian dimension.

Situation as viewed by the Constitutional Court of the Russian Federation

By its Judgment no. 18-p of 4 October 2016 the Constitutional Court of the Russian Federation tried to analyze the decision of the Russian Government relating nationality taking

⁸² See, for example, decisions of the ECtHR in the cases Riener v. Bulgaria (no. 46343/99, 23 May 2006), Petropavlovskis v. Latvia (no. 44230/06, § 83, ECHR 2015), Karassev v. Finland (dec.), no. 31414/96, Slivenko v. Latvia (dec.) [GC], no. 48321/99, Savoia and Bounegru v. Italy (dec.), no. 8407/05, 11 July 2006; Dragan and Others v. Germany (dec.), no. 33743/03, 7 October 2004; Mennesson v. France; Fedorova v. Latvia (dec.), no. 69405/01, 9 October 2003; Dadouch v. Malta; Slepcik v. the Netherlands and the Czech Republic (dec.), no. 30913/96, 2 September 1996, and so on.

⁸³ Now specialists of the NGO "Regional Center for Human Rights" are preparing an appication to the ECtHR and the United Nations Human Rights Committee regarding discrimination and violation of the right to respect for private life through the Russia's imposition of nationality.

into consideration the norms of international law.

In this case, the subject to the proceedings of the Constitutional Court of the Russian Federation was the right of Ukrainian nationals and stateless persons who resided in Crimea without official registration to acquire nationality under the Law no. 6-FKZ.

The Constitutional Court referred to the European Convention on Nationality (Strasbourg, 6 November 1997), the Russia's succession with respect to Crimea and the UN General Assembly Resolution 55/153 of 12 December 2000 "Nationality of natural persons in relation to the succession of States" ⁸⁵. Let us try to consider, how the supreme body of constitutional justice of Russia has interpreted them.

First of all, significant is the reference to the European Convention on Nationality, which though is signed by Russia, is not however ratified yet. Since the Convention is not ratified by Russia, the reference to its provisions is essential in terms of recognition of its binding nature at least in the form of customary law. On referring to the Convention, the Constitutional Court cited its preamble, which states that account should be taken both of the legitimate interests of States and those of individuals. However, the Court did not go beyond citing, that is why the issue concerning the way of applying the indicated principle to the Crimean situation remains open.

Nevertheless, the above analysis of Russia's actions in Crimea shows the disregard for the rights and interests of individuals in the occupied territory and the arbitrary imposition of nationality. Thus, Russia has violated provisions of international law which binding nature for the Russian Federation is recognized by the Constitutional Court of the state.

Regarding the reference to the Russia's succession with respect to Crimea, the Constitutional Court of the RF mentioned the UN General Assembly Resolution 55/153 of 12 December 2000 "Nationality of natural persons in relation to the succession of States". Article 3 of the Declaration provides that its provisions apply only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.

As it has been already noted, the UN General Assembly Resolution of 27 March 2014 called upon all States to refrain from actions aimed at the disruption of the territorial integrity of Ukraine, including any attempts to modify Ukraine's borders and not to recognize any alteration of the status of the Crimean Peninsula. Under such conditions the rules of international law exclude the possibility of Russia's succession to Crimea, and therefore the reference to the UN General Assembly Resolution 55/153 of 12 December 2000 is also irrelevant⁸⁶.

Finally, the Constitutional Court, referring to the Resolution 55/153, has given considerable prominence to the person's connection with a particular territory. However, this approach reduces the status of people to serfs who are captured together with the land.

At the same time, it is necessary to mention again that in Nottebohm's classic case the focus in issues of nationality was put on the effective links of a person not with the territory, but the state itself. A different approach would mean that people could not reside long outside their country of nationality, as it would inevitably result in their naturalization: increase in length of stay in a particular territory would lead to the strengthening of links with this territory and weakening of links with the territory of origin. Author is unaware of origins of the concept of nationality based on a connection with the territory, but its flaws have been demonstrated.

However, if we apply the principle of effective connection with the state itself, not the

⁸⁵ Access mode: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/568/59/PDF/N0056859.pdf?OpenElement. (date of reference: 01/11/2016).

⁸⁶ The statement on succession generates many other objections: the capture of Crimea occurred without taking into account the sovereign will of the Ukrainian state; Ukraine, which owns the peninsula, continues to exist; there is no "people of Crimea", who could have the right to self-determination, however, there is a multiethnic population of the peninsula; the Republic of Crimea and especially the city of Sevastopol have never been subjects of international law and were not recognized by anyone to be such during a short period in March 2014, and therefore could not conclude international agreements, etc. This also deprives Russia of the possibility to refer to many other international agreements and principles of international law as they also cannot be applied because of a violation of fundamental obligations under the UN Charter.

territory, it is necessary to stress once again that at the time of the occupation there was no connection between the population of the peninsula and the Russian Federation, sufficient for the nationality relations. At the same time, the imposition of nationality inevitably created such links.

It is worth to mention one more time that the above decision of the Constitutional Court was made in the context of the right of persons, who do not have a registered place of residence in Crimea, to a nationality under the Law no. 6-FKZ. And in fact, following the above logic the Constitutional Court of Russia tried to confirm this right of theirs. However, these principles themselves cannot be applied to the naturalization of other nationals, and that is why they themselves enable to conclude that Russia has violated international law.

Thus, the existing attempts to legitimize the presence of the Russian Federation in Crimea roughly and obviously run against the rules of international law violated during the occupation.

Ukraine's reaction to Russia's actions

According to Art. 5 of the Law of Ukraine "On guaranteeing the rights and freedoms of nationals and on the legal regime in the temporarily occupied territory of Ukraine" the forced automatic acquisition of the nationality of the Russian Federation by the Ukrainian nationals residing in the temporarily occupied territory is not recognized by Ukraine and is not accepted as a ground for loss of nationality of Ukraine⁸⁷.

At the same time, Ukraine's position to some extent is inconsistent. For example, according to the para. 12.7 Art. 12 of the Law of Ukraine "On creation of the free economic zone "Crimea" and peculiarities of economic activities in the temporarily occupied territory of Ukraine" bank savings guarantees are not applicable to nationals of the Russian Federation. This provision was practically extended to Crimean residents who have to submit a declaration of having no nationality of the Occupying Power. There can be also foreseen the issues regarding the access of the Crimean residents to public service, classified information and others related to security and the vulnerable situation in which the residents of Crimea found themselves due to the imposed nationality.

This indicates that Ukraine cannot entirely ignore the actions of the Russian Federation directed at the collective naturalization of the Crimean population and is compelled to take into account this fact, even declaring its legal nullity.

Practical consequences of collective naturalization

The most vulnerable group of nationals of Ukraine who have suffered negative consequences of Russia's actions are children deprived of parental care. According to the Office of the Ukrainian Parliament Commissioner for Human Rights, as of 01.08.2014 there were 4228 of such children in Crimea. Since the beginning of the occupation the authorities of the Russian Federation took control over administration of the institutions that provided care for such children. On the grounds of "respecting the best interests of the child" in favor of these children there was not filed any application "declaring willingness to keep their existing ... other nationality." ⁸⁸

Persons who at the time of the occupation were held in custody belong to another vulnerable group. The administration of places of detention did not properly secure their right to refuse to be recognized Russian citizens as well. Thus they were deprived of consular protection and the right to be transferred to the Ukrainian authorities for serving their sentences. The

⁸⁷ Law of Ukraine "On guaranteeing the rights and freedoms of nationals and on the legal regime in the temporarily occupied territory of Ukraine."- Access mode: http://zakon0.rada.gov.ua/laws/show/1207-vii (date of reference: 01/11/2016).

⁸⁸ See the statement of Head of the Department on Observance of the Rights of the Child, Non-discrimination and Gender Equality A. Filipyshyna of 05/06/2015 submitted to the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.- Access mode: http://www.ombudsman.gov.ua/ua/all-news/pr/5615-sm-aksana-filipishina-prava-ditini-vkrimu-pochali-porushuvati-vid-samogo/; http://health.unian.net/country/1085947-ukrainskim-detyam-sirotam-v-kryimuprinuditelno-prisvaivayut-rossiyskoe-grajdanstvo.html (date of reference: 01/11/2016).

most famous manifestation of this problem is a situation in which political prisoners Oleh Sentsov and Oleksandr Kolchenko found themselves⁸⁹. Referring to the fact that they have acquired Russian nationality, Russian authorities refused to transfer them to Ukraine under the Convention on the Transfer of Sentenced Persons (1983). Deputy Minister of Justice of Ukraine S. Petukhov published the information about it on his Facebook page⁹⁰. However, this problem actually concerns hundreds of Ukrainian prisoners who as of today are being transferred from Crimea to the territory of the Russian Federation.

The amended Law "On nationality of the Russian Federation" is in force from 04.06.2014⁹¹. According to Art. 6 of the Law nationals of the Russian Federation (except for those permanently residing outside the Russian Federation), who also have another nationality or a permanent residence permit in a foreign country, must notify in writing a territorial body of the Federal Migration Service of these circumstances. Russian nationals permanently residing outside of Russia shall submit such a notification within thirty days after entering the territory of Russia. Russian passport is a prerequisite for such an application. No exceptions are made for Crimean residents who at the time of the occupation had Ukrainian nationality, moreover these provisions became binding upon them from January 1, 2016⁹². Failure to abide by these regulations results in criminal liability under Art. 330.2 of the Criminal Code of the Russian Federation. Violation of notification terms results in administrative liability.

This itself can be viewed as a violation of the right to respect for private life, as these legal provisions are a requirement to report a loyalty relationship with other state. In the context of Crimea such interference cannot have a legitimate purpose. In addition, in this way Russia actually forces the Crimean residents to get passports of the Russian Federation and declare their loyalty to Ukraine.

A number of other provisions of the legislation and administrative practice also force the Crimean residents to obtain Russian passports. As stated in the aforementioned report of the Commissioner for Human Rights in the Republic of Crimea, the absence of a Russian passport "makes it impossible to exercise almost all the rights and freedoms set forth in the Constitution. In particular, these include inability to work, ineligibility for social security..." The cases of social benefits termination in Crimea for Ukrainian nationals who have not received a Russian passport or a residence permit, as well as problems with employment of such nationals started to be recorded by the Regional Center for Human Rights after the so-called "transition period" from January 1, 2015⁹³.

Conclusions

With the occupation of Crimea there emerged a situation when almost all residents of the occupied territory were recognized Russian nationals without the effective links with the country of their "new nationality". The emergence of such links was not a prerequisite for granting the status of nationals, but on the contrary, its consequence.

Formally having the possibility to choose a nationality, but not actually being able to make an informed choice because of lack of time, information, and other circumstances, the nationals of Ukraine found themselves at a crossroads facing two equally bad options: to lose

⁸⁹ O. Sentsov and O. Kolchenko were detained in Simferopol in May 2014 on charges of involvement in the terrorist group, brought to Moscow and later sentenced under Articles 205 and 205.4 of the Criminal Code of the Russian Federation to 20 and 10 years of imprisonment respectively. They did not submit the application regarding renunciation of Ukrainian nationality, as well as did not receive Russian passports. They do not recognize themselves as nationals of the Russian Federation. However, the Russian Government refuses to transfer them to the authorities of Ukraine in order to serve their sentence, referring to the fact that they have acquired the status of Russian nationals under the Law no. 6-FKZ.

⁹⁰ Access mode: https://www.facebook.com/photo.php?fbid=1796566357285662&set=a.1434318470177121.1073741828. 100007969451473&type=3&theater (date of reference: 01/11/2016).

⁹¹ Access mode: http://www.consultant.ru/document/cons_doc_LAW_36927 (date of reference: 01/11/2016).

⁹² Access mode: https://web.archive.org/web/20160209125758/http://www.82.fms.gov.ru/press/news/item/51894/ (date of reference: 01/11/2016).

⁹³ Access mode: http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf (date of reference: 01/11/2016).

legal personality and become foreigners at home or to refuse their own Ukrainian identity and swear allegiance to the aggressor state. The given circumstances and in particular the collective nature of naturalization of persons outside the sovereign territory of Russia indicate that the will of the nationals did not have a significant impact on results. The absence of a special status for the inhabitants of the occupied territories and making them equal to ordinary foreigners complicate or make the residence in Crimea impossible for Crimeans without obtaining a Russian passport.

The collective extraterritorial nationalization undermines the value of nationality institute in international law, because it allows to degrade the nationals' legal connection with the state, depriving them of all the privileges they had due to that connection (for example, the right to consular protection). These actions enable to bring the population of a certain territory under control of authorities of the aggressor state, threaten the world order and are a means of aggressive expansion of the Russian Federation.

In Crimea, there was created a dangerous precedent for which contemporary international law appeared unprepared. Mainly addressing the issues of eliminating statelessness, international law has left the issue of arbitrary imposition of nationality almost entirely neglected. This issue today requires attention from the international community and development of new additional principles because it has a significant impact both in the context of foreign policy relations and public international law as well as in the context of human rights.

The possibility of reviewing the situation in the context of international human rights standards gives each victim affected by Russia's actions the opportunity to directly appeal to international judicial and quasi-judicial bodies in order to protect his rights and initiate a dialogue at international level.

Recommendations to the international community:

• With assistance of the institute of special rapporteurs of the international organizations to provide a detailed examination of the situation regarding the imposition of Russian nationality on residents of the occupied territory of the Crimean Peninsula.

• To attract international expert institutions to develop recommendations on resolving the situation resulting from the imposition of Russian nationality on residents of the occupied territory of the Crimean Peninsula.

• To attract international expert institutions to develop universal standards for ensuring the rights of persons subjected to naturalization protecting them against the arbitrary actions of the state, taking into account such nationals' will and protecting their rights.

• With assistance of consular services to ensure control over the non-recognition of the status of Russian nationals obtained by nationals of Ukraine who live in the occupied territory of the Crimean Peninsula (for example, in terms of impermissibility of issuing visas to such people as Russian nationals through the relevant consular institutions, in terms of prohibition for consular institutions of the Russian Federation to provide such nationals with consular assistance, their extradition to the Russian Federation or at the request of Russia, etc.).

Consequences of human rights violations by the Russian Federation in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol (the question of citizenship)

International Covenant on Civil and Political Rights (hereinafter - the Covenant) provides an example of the general principle of equality that underlies international human rights law (IHRL) in its relation to non-citizens, and the limited nature of the exceptions to this principle. According to part 1 of Article 2 of the Covenant, each State party:

Crimea beyond rules «undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, birth or other status".

Moreover, Article 26 of the Covenant states that:

"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, birth or other status".

International Court of Justice, the Human Rights Committee of the United Nations, as well as states in practice believe that the provisions of the Covenant apply also in the occupied territories⁹⁴.

The UN Human Rights Committee explains that:

«The rights enshrined in the Covenant apply to **everyone**, irrespective of reciprocity, and **irrespective of his or her nationality or statelessness.** Thus, the general rule is that each one of the rights of the Covenant must be guaranteed **without discrimination between citizens and aliens**.»

The Human Rights Committee also noted that the right of non-citizens can be accompanied only by such limitations that may be lawfully imposed under the Covenant. More specifically, the Covenant permits to the States to draw distinctions between citizens and non-citizens with respect to two categories of rights: political rights explicitly guaranteed to citizens (participation in public affairs, right to vote and to be elected and to have access to public service), and freedom of movement⁹⁵.

Similar to Part 1 of Article 2 of the Covenant, Part 2 of Article 2 of the International Covenant on Economic, Social and Cultural Rights declares that States parties guarantee the rights enunciated in that Covenant «without any discrimination as to race, color... **national or social origin** ... or other status»⁹⁶.

In its turn, the Committee on the Elimination of Racial Discrimination, in its recommendation XXX on discrimination against non-citizens indicated that⁹⁷:

«States have an obligation to guarantee equality between citizens and non-citizens in the enjoyment of their civil, political, economic, social and cultural rights to the extent recognized under international law and as set out in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on civil and political Rights».

As a result of violations of international law by the Russian Federation in the context of the imposition of Russian citizenship to citizens of Ukraine, those who reside in the occupied territories of Crimea do not enjoy those rights that had to be guaranteed under international law. Moreover, in the context of the occupation of the AR Crimea and Sevastopol they are very often at risk of their own safety and well-being (criminal and administrative liability, discrimination, especially on ethnic grounds, etc.)

1. A passport of a citizen of the Russian Federation is a prerequisite for the realization of a significant number of rights to residents of Crimea. Namely, it is more complicated for him to receive all kinds of social benefits, obtain a driver's license, register a vehicle, be employed

⁹⁴ Sassoli, "How Does Law Protect In War", Volume I, Outline of IHL (3rd Edition), p. 357.

⁹⁵ See General Comment number 15 (1986) of the Human Rights Committee on the position of aliens under the Covenant.; With regard to freedom of movement, Article 12 (1) provides "the right to liberty of movement and freedom to choose his residence" only to persons who are "lawfully within the territory of a State", i.e., apparently permitting restrictions against migrants without proper documents.

⁹⁶ http://www.ohchr.org/Documents/Publications/noncitizensen_ru.pdf

⁹⁷ http://www.refworld.org/docid/45139e084.html

in certain positions (public institutions), obtain of land plots, free medical care, re-registration of ownership⁹⁸. This was openly declared by the official representatives of the authorities of the Russian Federation.

Office of the United Nations High Commissioner for Human Rights in its report of 15 April 2014 on the human rights situation in Ukraine noted⁹⁹:

«Measures such as the introduction of Russian citizenship will complicate the lives of those who want to preserve their Ukrainian citizenship in Crimea and will raise questions about the legality of residence, the loss of social and economic rights, including the right to work.»

Commissioner for Human Rights in the Republic of Crimea ("Ombudsperson"), in his report for 2014 confirmed this fact:

«It is not necessary to explain the legal consequences of the absence of the passport of the State in which as person resides. This makes for a person impossible to implement **almost all the fundamental rights and freedoms** (emphasis is the author's note), set forth in the Constitution. In particular, it leads to impossibility to be employed, to receive social security, which could lead to lower standards of living and an increase in the crime rate. Therefore, I believe that immediate measures should be taken to address the problems of citizens related to the possibility of obtaining passports".¹⁰⁰

The Ombudsperson in this report also notes that according to information received in the Office of the Federal Migration Service for the Republic of Crimea for the period from March 2014 there were issued 1,560,162 passports of Russian citizens. Given that the approximate population of Crimea is about 2.3 million. That is to say that as of the end of 2014 slightly less than 1 million people are not passportized in Crimea¹⁰¹. Hence, so many people do not enjoy a significant number of their rights, either being opposed to the imposition of Russian passports, or due to objective reasons (mentioned in the first section) being unable to obtain Russian citizenship.

2. Federal Law of the RF no. 142-FZ «On Amendments to Articles 6 and 30 of the Federal Law» On Citizenship of the Russian Federation" and Certain Legislative Acts of the Russian Federation» **was adopted on 04.06.2014.** This law establishes the possibility of criminal liability for concealing the existence of a second citizenship (for Crimeans, this norm of law of the Russian Federation will take effect from 1 January 2016)¹⁰². After that date, all the citizens of Ukraine who are registered and living in Crimea will have to report if they have Ukrainian citizenship. Whereby concealing of information on citizenship entails serious liability up to criminal (art. 330-2 of the Criminal Code)¹⁰³. If the citizens inform about their dual citizenship after the schedualed date or indicate incomplete or obviously inaccurate data, they will face administrative responsibility - a fine of 500 to 1000 rubles. All the internally displaced persons from Crimea can also get under these rules. On 21 September 2015 on the official website of the Federal Migration Service of Russia there was published a clarification on the notification about the other citizenship and renouncing the Ukrainian citizenship by Crimeans¹⁰⁴.

Taking into account the above mentioned, it can be assumed that if the situation does not change in Crimea regarding citizenship the residents of Crimea who have preserved Ukrainian

Archive: https://web.archive.org/web/20160209125758/http://

Crimea beyond rules

⁹⁸ A striking example is the situation with the judges in the territories occupied by the Russian Federation. According to article 4 of the Federal Constitutional Law of the Russian Federation No 6ZH, before the setting up of federal courts in the territory of Crimea, the justice on behalf of the Russian Federation is dispensed in these areas by the courts which were operating at the time of the occupation, and the judges of these courts are receiving the status of persons who replace judges of these courts. The condition for the admission of these persons to justice was obtaining of Russian citizenship, the transfer of passport of Ukraine to the Russian authorities, as well as the submitting to the Russian authorities of a declaration about renunciation of Ukrainian citizenship.

⁹⁹ http://www.un.org.ua/images/stories/Report_15_April_2014_en.pdf

¹⁰⁰ http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf .

¹⁰¹ http://crimea.gov.ru/textdoc/ru/7/act/393pr.pdf

¹⁰² http://www.rg.ru/2014/06/06/grajdanstvo-dok.html

¹⁰³ http://www.consultant.ru/popular/ukrf/10_45.html

¹⁰⁴ http://www.82.fms.gov.ru/press/news/item/51894/. www.82.fms.gov.ru/press/news/item/51894/

passports, may face further problems connected with informing about «dual» citizenship.

3. In accordance with the Decree of the Government of the Russian Federation «On the distribution among the constituent entities of the Russian Federation of quotas for the issuance of temporary residence permits in the Russian Federation for 2015 for foreign citizens and stateless persons» no. 2275-r of 14 November 2014, there was established the quota for residents of Crimea (the citizens of Ukraine and other states) for the issuance of permits for temporary residence in the Russian Federation for 2015. The quota for Crimea is 1500 permits, of them 400 permits for the city of Sevastopol¹⁰⁵ (in 2014 this quota was 5,000 permits for the AR Crimea and 400 for Sevastopol).

Citizens of Ukraine who do not wish to obtain Russian citizenship, but wish to constantly continue to live in Crimea, are limited in their ability to get a temporary residence permit in the territory over which the sovereignty of Ukraine is extended. Thus, those persons who exceed the allocated quota will not be able to get the documents in order to continue to reside permanently in Crimea.

Restrictions and other quotas regarding where non-citizens may live in the state, particularly the restrictions and quotas which may be associated with an element of coercion, can violate their right to freedom of movement¹⁰⁶.

4. In a particularly vulnerable position were orphans and children in the care or custody of state authorities. According to official data as of 08.01.2014, there were 4228 of such children in Crimea. Administration of all the institutions of Crimea began to collaborate with the Russian authorities. Children are effectively deprived of the right to choose citizenship (obtaining of Russian passports is provided upon reaching the age of 14). On **05.06.2015** the Head of the Department for observance of the rights of the child, non-discrimination and gender equality of the Secretariat of the Commissioner for Human Rights of Verkhovna Rada of Ukraine Aksana Filipishina informed about this problem during a press conference on «Violations of children's rights in the occupied Crimea»¹⁰⁷.

¹⁰⁵ http://government.ru/media/files/7CP91bGabOg.pdf

¹⁰⁶ European Commission against Racism and Intolerance, Second report on Denmark (CRI (2001) 4, paras. 18–25).

¹⁰⁷ http://www.ombudsman.gov.ua/ua/all-news/pr/5615-sm-aksana-filipishina-prava-ditini-v-krimu-pochali-porushuvativid-samogo/; http://health.unian.net/country/1085947-ukrainskim-detyam-sirotam-v-kryimu-prinuditelno-prisvaivayutrossiyskoe-grajdanstvo.html

«CRIMEA BEYOND RULES. Thematic review of the human rights situation under occupation.» - Vol. 3 - Right to nationality (citizenship) / Edited by S. Zayets, R. Martynovskyy, D. Svyrydova. – Kyiv, 2017. – 52 p.

The publication is aimed at representatives of international organizations, diplomatic missions, government bodies and professional legal community, who need information on the practical application of international human rights standards under occupation of the Crimea.

Thematic review is published in electronic form and is for free distribution. The materials are available in three languages - Ukrainian, Russian and English. Use of Content is permitted with the obligatory reference to the source and authorship. If the author of the material is not explicitly stated, all rights to the material belong to the expert-analytical group CHROT. The materials included in the publication, as well as other materials on the topic can be found on the website <u>precedent.crimea.</u> <u>ua</u>

CRIMEA BEYOND RULES

Other issues of the series.

By the time this issue is published, the following issues has already came out or are ready for publication:

Issue 1. The right to liberty of movement and freedom to choose residence.

Issue 2. Right to property.

Special issue. Transfer by the Russian Federation of parts of its own civilian population into the occupied territory of Ukraine.

Issue 3. Right to nationality (citizenship).

Issue 4. Freedom of expression (under preparation).

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Annex 1027

Natan Lerner, The UN Convention on the Elimination of All Forms of Racial Discrimination (2015)

The UN Convention on the Elimination of All Forms of Racial Discrimination

Reprint Revised by Natan Lerner

By

Natan Lerner



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VIII

A Polish amendment to add, after paragraph (d) (v), a new sub-paragraph (vi)—the right to inherit—was adopted.

Discussion in the Third Committee

Several amendments were submitted in the Third Committee to the draft as approved by the Commission on Human Rights. An amendment by Czechoslovakia to insert the word "national" before the words "or ethnic origin" in the introductory paragraph was adopted by a majority. The Committee also adopted an amendment by Bulgaria to insert, in paragraph (c), after the word "elections," the words "to vote and to stand for election."

A proposal of Mauritania, Nigeria and Uganda to add, in paragraph (d) (iv), the words "and choice of spouse," after the word "marriage," was accepted. The Committee rejected by thirty-seven votes to thirty-three, with twenty-four abstentions, a proposal by the same countries to replace paragraph (e) (vi) by the following text: "The equal right to organize cultural associations and to participate in all kinds of cultural activities."

4 Contents of Article 5

The Declaration on the Elimination of all Forms of Racial Discrimination does not contain any general article enumerating rights particularly guaranteed. Article 3 of the Declaration refers to civil rights, accesss to citizenship, education, religion, employment, occupation, housing and equal access to any place or facility intended for use by the general public. Article 5 of the Declaration deals with political and citizenship rights and equal access to public service, and Article 7 proclaims the right to equality before the law and to equal justice under the law, and the right to security of person and protection by the State against violence or bodily harm.

Article 5 of the Convention has an opening paragraph and six paragraphs enumerating some rights selected for special mention. The opening paragraph refers to Article 2 of the Convention, which determines the fundamental obligations of States Parties, repeats—unnecessarily, according to some delegates—their undertaking to eliminate racial discrimination in all its forms, and imposes upon them the obligation to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law. This is the general principle, intended to be as wide as possible, for which purpose the word "everyone" was used.⁵⁴ The inclusion of the words "equality before the law" in the opening, and not in the enunciating paragraph,

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⁵⁴ The word "everyone" was objected to, since some delegates considered that distinctions between citizens and non-citizens could legitimately be made by any State with regard to the enjoyment of some rights, as determined by Art. 1 of the Convention.

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has also the same purpose of establishing the general principle. The word "notably" was used in order to avoid a restrictive interpretation of the rights enumerated.

As said before, some delegations would have preferred a more general and less detailed wording, with a view to preventing such an interpretation, which could be deemed as logical in the light of the extension of the enumeration. There were also proposals to add a clause stating that the omission of any rights mentioned in the Universal Declaration did not imply that such a right was intentionally excluded from protection by the Convention.

The enumeration of rights in Article 5 should, thus, not be considered as exhaustive. The Article is a typical catalogue of human rights with regard to which discrimination on grounds of race, colour or national or ethnic origin is prohibited. Most of the rights correspond to those listed in the Universal Declaration. No attempt will be made here to discuss the nature, scope or interpretation of the enumerated rights.⁵⁵

Paragraph (a) refers to *the right to equal treatment before the tribunals and all other organs administering justice.* There were proposals to proclaim the right to a "fair trial" and to "equal treatment before the courts." Finally the words used were agreed upon as clear and broad enough.

The paragraph guarantees the right of everyone who seeks justice before a competent organ not to be discriminated against because of racist motivations. It should not be confused with Article 6 of the Convention, which refers to protection and remedies through the competent tribunals in case of violations of the Convention.⁵⁶

Paragraph (b) deals with the *right to security of person and protection by the* State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution. The wording of the Declaration on the Elimination of all Forms of Racial Discrimination was here followed.⁵⁷

The violence or bodily harm can be inflicted by public officers or by private individuals or groups. The word "institutions" should be intepreted as referring to violence or harm inflicted through agents or officials of an institution. The purpose of the paragraph is to avoid any distinction in the protection of individuals against any violence, whoever inflicts it.

⁵⁵ See, inter alia, N. Robinson, The Universal Declaration of Human Rights, New York, 1958, and H. Lauterpacht, International Law and Human Rights, London, 1950. See, also, as relevant, the rich literature on the European Convention on Human Rights.

⁵⁶ See Art. 7 of the Universal Declaration of Human Rights and Arts. 14 and 26 of the Covenant on Civil and Political Rights.

⁵⁷ See Art. 3 of the Universal Declaration and Art. 7 of the Covenant on Civil and Political Rights.

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Paragraph (c) deals with *political* rights, in particular active and passive electoral rights, i.e. to vote and to stand for election, on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service. Article 6 of the Declaration on the Elimination of all Forms of Racial Discrimination refers to political and citizenship rights and to the right to participate in elections through universal and equal suffrage.⁵⁸

Paragraph (c) does not deal with the problem of citizenship. The principle is that nobody should be deprived, because of reasons of race, colour, national or ethnic origin, of political rights to which he is entitled as a national of the country. The words "to participate in elections" should be understood in a broad sense, in connection with the words "to vote and to stand for election," as covering the complete set of active and passive electoral rights.

In the Sub-Commission some difficulties arose with regard to a proposal by the Soviet expert to have the right proclaimed to actual participation by racial, national and ethnic *groups* in legislative and executive bodies. The amendment was withdrawn when the majority of the experts stated their opposition to a reference to groups, on the basis of the view that the Convention should protect the rights of the individual and not touch the complicated matter of the rights of groups as such.

Paragraph (d) deals, in its nine sub-paragraphs, with "other civil rights."⁵⁹ Those mentioned *in particular* are:

- the right to freedom of movement and residence within the border of the State. The Convention here literally follows the wording of Article 13(1) of the Universal Declaration of Human Rights;⁶⁰
- (ii) the right to leave any country, including his own, and to return to his country;⁶¹
- (iii) the right to nationality. Article 15(1) of the Universal Declaration proclaims that everyone has the right to a nationality. Article 3 of the

- 60 See Art. 12 of the Covenant on Civil and Political Rights.
- 61 See Art. 13(2) of the Universal Declaration and Art. 12 of the Covenant on Civil and Political Rights.

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⁵⁸ See Art. 21 of the Universal Declaration and Art. 25 of the Covenant of Civil and Political Rights.

⁵⁹ The term "civil rights" is not used in Art. 1 of the Convention. The omission cannot be covered by the words "any other field of public life" since some rights mentioned in Art. 5 under the heading of "civil rights" do not belong to the field of "public life."

Declaration on the Elimination of all Forms of Racial Discrimination deals with "access to citizenship";⁶²

- (iv) the right to marriage and choice of spouse. As expressed before, the words "and choice of spouse" were added in the Third Committee, at a suggestion of Mauritania, Nigeria and Uganda. This addition is related to the laws existing in some countries that prohibit inter-racial marriage;⁶³
- (v) the right to own property alone as well as in association with others. This is the literal text of Article 17(1) of the Universal Declaration. The Covenants do not mention this right;
- (vi) the right to inherit. The Commission on Human Rights adopted a Polish amendment to mention specifically this right, to which neither the Universal Declaration, nor the Covenants, nor the Declaration on the Elimination of All Forms of Racial Discrimination refer explicitly;
- (vii) the right to freedom of thought, conscience and religion. This right is proclaimed in Article 18 of the Universal Declaration and Article 18 of the Covenant on Civil and Political Rights;
- (viii) *the right to freedom of opinion and expression*, which is recognized by Article 19 of the Universal Declaration and Article 19 of the Covenant on Civil and Political Rights;
- (ix) the right to freedom of peaceful assembly and association. The Convention followed the wording of Article 20(1) of the Universal Declaration. Articles 20 and 21 of the Covenant on Civil and Political Rights deal, respectively, with those two.

Paragraph (e) refers to *economic, social and cultural rights*, and mentions in particular the following:

(i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration. These are the same rights enunciated in Article 23, paragraphs (1), (2) and (3) of the Universal Declaration. The rights of employment and occupation are also mentioned in Article 3 of the Declaration on the Elimination of all Forms of Racial Discrimination. In connection with this sub-paragraph, the provisions of

⁶² Art. 24 of the Covenant on Civil and Political Rights states that every child has the right to acquire a nationality, but no reference is made to adults.

⁶³ The Universal Declaration, Art. 16(1) proclaims the right to marry and to found a family. Art. 23 of the Covenant on Civil and Political Rights and Art. 10 of the Covenant on Economic, Social and Cultural Rights deal with this right.

the ILO Convention concerning Discrimination in Respect of Employment and Occupation, and Articles 6 and 7 of the Covenant on Economic, Social and Cultural Rights, should be taken into consideration;

- (ii) the right to form and join trade unions. This right is established in paragraph (4) of the above-mentioned Article of the Universal Declaration and in Article 8 of the Covenant on Economic, Social and Cultural Rights;
- (iii) the right to housing, mentioned in Article 3 of the Declaration on the Elimination of all Forms of Racial Discrimination and included among the rights enunciated in Article 25 of the Universal Declaration. This right is enunciated in Article 11 of the Covenant on Economic, Social and Cultural Rights;
- (iv) the right to public health, medical care and social security and social services. These rights are enunciated in Article 25 of the Universal Declaration. Articles 12 and 9 of the Covenant on Economic, Social and Cultural Rights deal with these aspects;
- (v) the right to education and training. The right to education is mentioned in Article 3 of the Declaration on the Elimination of all Forms of Racial Discrimination, and is dealt with in Article 26 of the Universal Declaration and Articles 13 and 14 of the Covenant on Economic, Social and Cultural Rights. The provisions of the UNESCO Convention Against Discrimination in Education should also be taken into consideration.

The word "education" should be used in the sense of the definition contained in the UNESCO Convention. Situations like those enumerated in Article 2 of the UNESCO Convention—separate educational systems or institutions in order to keep the two sexes apart, or for religious or linguistic reasons, or in order to provide additional educational facilities shall not be deemed to constitute discrimination, when permitted in a State. The right to training should be connected with the right to work as established in subparagraph (i). The ILO Convention deals with the right to vocational training, also recognized in Article 6 of the Covenant on Economic, Social and Cultural Rights;

(vi) the right to equal participation in cultural activities. Article 27 of the Universal Declaration and Article 15 of the Covenant on Economic, Social and Cultural Rights deal with this right.

The last paragraph, (f), refers to *the right of access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafés, theatres, parks.* Articles 3 of the Declaration on the Elimination of all Forms of Racial Discrimination proclaims that *everyone shall have equal access to any*

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place or facility intended for use by the general public. This right is not mentioned in the Universal Declaration.

The enunciation of public places and services should not be interpreted in a restrictive way, as indicated by the use of the words "such as."

Article 6. Remedies Against Racial Discrimination

Article 6 reads:

States Parties shall assure to everyone within their jurisdiction effective protection and remedies through the competent national tribunals and other State institutions against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

1 Discussion in the Sub-Commission

The Sub-Commission considered three drafts, proposed, respectively, by Messrs. Abram,⁶⁴ Calvocoressi⁶⁵ and, jointly, Cuevas Cancino and Ingles.⁶⁶ After a discussion, Messrs. Abram, Calvocoressi and Capotorti⁶⁷ submitted a new draft, which was orally revised and unanimously adopted. It referred to "effective remedies and protection through independent tribunals" and to the right to obtain from such tribunals reparation for any damages suffered as a result of racial discrimination. The text did not include reference to "other State institutions," as does the final text adopted by the Assembly.

2 Discussion in the Commission

The discussion in the Commission centred around the nature of the tribunals which were to assure remedies and protection and to the question of the remedies themselves.

The Commission finally adopted a revised text proposed by Lebanon, incorporating the various amendments proposed and corresponding very closely to the final text. There was general agreement, in the sense that the tribunals

- 64 E/CN.4/Sub.2/L.308.
- 65 E/CN.4/Sub.2/L.309.
- 66 E/CN.4/Sub.2/L.330.
- 67 E/CN.4/Sub.2/L.339.

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mentioned in the Article should be independent national tribunals. The absence of the word "national" was considered a simple omission. The word "competent" proposed by the Soviet Union, was intended to contemplate the creation of new tribunals that might have to be set up to consider exclusively cases of racial discrimination. It was pointed out, however, that the word was used, in a similar context, in Article 8 of the Universal Declaration of Human Rights, as just meaning legal competence. It was also suggested that the qualification of "impartial" be added when referring to the tribunals, but it was considered unnecessary since the word "independent" had already been used.

The United Kingdom proposed to insert the words "contrary to the present Convention" after "racial discrimination" in order to clarify in which cases the remedies and protection were available. The suggestion was opposed on the ground that it could narrow the scope of the article. Agreement was reached on the phrase as stated in the proposal of Lebanon.

The Commission decided to refer to the "right to seek" reparations, in order to avoid prejudgement on the question whether reparations were pertinent or not in a given case. The representative of Austria proposed to add the words "just satisfaction" to cover cases where pecuniary damages were insufficient. It was decided to refer to "just and adequate reparation or satisfaction," in spite of the fact that some members of the Commission considered that those were subjective terms which would create difficulties for the tribunals. It was understood that the right to obtain reparation should cover not only reparation for financial damage, but also the restoration of the victim's rights.

3 Discussion in the Third Committee

The Third Committee only voted upon one amendment, proposed by Bulgaria, intended to insert the words "and other State institutions" between the words "tribunals" and "against." The amendment was adopted.

4 Contents of Article 6

Article 6 should be compared with Article 8 of the Universal Declaration of Human Rights, Article 2 of the Covenant on Civil and Political Rights, and Article 7(2) of the Declaration on the Elimination of all Forms of Racial Discrimination. The first grants the right to an *effective remedy by the competent natural tribunals for acts violating fundamental rights*. Article 2 of the Covenant refers to an *effective remedy by competent judicial, administrative or legislative authorities*. The Declaration on Racial Discrimination speaks about an *effective remedy and protection against any discrimination on the ground of race, colour or ethnic origin,* through *independent national tribunals competent to deal with such matters*. The Convention goes further than the

Annex 1028

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KREMLIN PROPAGANDA: SOVIET ACTIVE MEASURES BY OTHER MEANS

Yevhen Fedchenko

.

Abstract

This article traces the evolution of Russian propaganda and its role in active measures. Active measures were originally conceived during the Soviet era but still remain operative as they were recently deployed during the Russian occupation of Crimea and the war against Ukraine in Donbas. During these events active measures underwent something of a renaissance as there was the dramatic upsurge in propaganda usage and media manipulation. Fake media stories and forgeries have long played an integral part in the active measures that have been conducted by the Kremlin, which then amends its military capacity and diplomacy efforts to cover up the deceit. The manufacture and dissemination of fake news stories is carried out in a centralized and systematic fashion as the fabrications must be coherent and maintain alignment with the Kremlin's policies and talking points. It will be shown that the use of media-related active measures is not a new phenomenon and was widely utilized by the former Soviet Union as a way of actualizing its foreign policy by clandestine means. When examining more than 500 Russian propaganda pieces, which were debunked by the StopFake.org verification project, it becomes evident that the same of falsification and deception patterns that were common to the USSR already in the 1950's, are still present today. The only difference is the parasitic way in which the current Kremlin propaganda has seized on core liberal Western concepts, such as the promotion of freedom of speech, and then used this as a screen to allow it to deliver 'the other point of view'. Whereas before the Kremlin historically relied on traditional media, such as printed news to distribute its fake news stories, it now makes use of a much wider array of mediums such as the internet and social media.

Sōjateadlane (Estonian Journal of Military Studies), Volume 2, 2016, pp. 141–170 www.ksk.edu.ee/publikatsioonid

What are active measures?

The Russian occupation of Crimea and the war against Ukraine in Donbas was an apogee in terms of propaganda usage, media manipulations, fake news stories, and forgeries propounded by the Kremlin. These are a just a part of the active measures conducted by Russia, which then amends its military capacity and diplomatic actions to conceal the deception. These actions are part of an overall strategy that has been termed hybrid war.

Peter Pomerantsev describes the concept of hybrid war:

Described by scholars as 'hybrid', 'full-spectrum', 'non-linear', 'next-generation', or 'ambiguous'—the variations in the description indicate the slipperiness of the subject—these conflicts mix psychological, media, economic, cyber, and military operations without requiring a declaration of war¹.

The War in the Eastern Ukraine has been devastating and traumatic for the local populace but has had limited national impact, and received even less attention outside of Ukraine, especially since the ceasefire under the auspices of the Minsk agreements was signed. Yet this does not mean that the information war has ceased. As a component of hybrid war, information war is especially alarming because its influences are proliferating and it is having more of a global impact as an increasing number of countries find traces of Russian active measure occurring in their territory.

Information warfare and active measures have evolved since the collapse of the Soviet Union. The ways in which media-related active measures were used separates the Soviet information war from contemporary Russian hybrid war. The Soviet Union considered these activities to mainly be part of covert operations that never were publicly declared, articulated or disclosed and could not be traced back to any Soviet government agencies. The present Russian government coopts these instruments of public opinion manipulation and makes them a visible part of the public discourse for domestic and foreign audiences.

President Putin has used a similar approach to openly describe the importance of the informational component of the military strategy of Russia. At the opening of RT's Spanish-language broadcasting facility in Argentina he stated: "The rapid progress of electronic media has made news reporting

¹ <http://www.theatlantic.com/international/archive/2015/12/war-2015-china-russiaisis/422085/> (accessed February 9, 2016).

enormously important and turned it into a formidable weapon that enables the manipulation of public opinion².

The Kremlin considers such manipulation to not only serve as an important instrument for conducting foreign policy, but also to serve as an instrument for conducting or supplementing military warfare. The Russian military doctrine that was adopted in December 2014 emphasizes the importance of information and information technologies:

11. There is a tendency towards shifting the military risks and military threats to the information space

12.1) The use of information and communication technologies for the militarypolitical purposes to take actions which run counter to international law, and which are aimed against sovereignty, political independence, territorial integrity of states and posing threat to international peace, security, global and regional stability

13.c) subversive information activities against the population, especially young citizens of the State, aimed at undermining historical, spiritual and patriotic traditions related to the defense of the Motherland.³

An older version of the Military Doctrine from 2010 also mentioned (article 13d) of use of information war /.../ to pre-empt the use of the military force or to form positive public opinion after the use of military force⁴.

Anatoliy Nogovitsyn, former Deputy Chief of General Staff of the Armed Forces of the Russian Federation, defines the role of information in hybrid war as follows:

The disorganization of the functioning of key military, industrial, and administrative facilities and systems of the enemy and also the information-psychological effect on his military-political leadership, troops, and population with the use of modern information technologies and means⁵.

During the opening of the RT Spanish broadcasting facility in Argentina on July 2014, President Putin also focused on the importance of media, especially electronic media (first of all television but also Internet):

² <http://en.kremlin.ru/events/president/news/46762> (accessed January 15, 2016).

³ <http://kremlin.ru/events/president/news/47334> (accessed February 05, 2016).

⁴ See <http://kremlin.ru/supplement/461> (accessed January 15, 2016).

⁵ Nogovitsyn, Anatoliy 2009. At the Centre of Attention—Information Security. – Krasnaya Zvezda, 34, February 27, 2009, p. 1.

Intense media warfare has become a mark of the times, when certain nations attempt to monopolize the truth and use it in their own interests.⁶

When Putin speaks of media warfare, he is talking about a war that is being conducted against Russia by unnamed countries. Although the Russian President does not specifically mention who is conducting this war, it is apparent that he means the West in general, and the United States and NATO in particular. This is also overtly stated in the Military Doctrine. This policy puts Moscow reactively in a defensive position and necessitates retaliation:

In <u>a speech to Russia's Academy of Military Sciences in January 2013</u>, Chief-of-Staff Valery Gerasimov complained that Russian knowledge of asymmetric warfare was "superficial." The North Atlantic Treaty Organization, and the United States in particular, had demonstrated their mastery of nonmilitary campaigns in the Arab Spring and Ukraine's pro-Western Orange Revolution in 2004, Gerasimov said. Such modesty is disingenuous. Disinformation and subversion as weapons of war are as old as catapults and cavalry. The Kremlin's advantage in the information age is that all of Russia's major media outlets are under its control, allowing it to hammer its audience with one, unified message. The Kremlin claim that it's in an "information war" with the West implies that there is vast conspiracy among myriad media in the United States and Europe, public and private, to produce the same lies about Russia.⁷

Russia perfectly grasps the importance of propaganda and heavily invests money and human talent into organizations that broadcast to an international audience like RT (formerly known as Russia Today), Sputnik International (formerly known as the Voice of Russia), Ruptly, RIA (that still operate as a brand in Russian), TASS, Russia Insider, Russia Beyond the Headlines (RBTH) and a myriad of other sources of propaganda, fake news stories and falsifications. Some of these "media" organizations are well-known propaganda brands from the Cold War era, while others are quite new.

RT was created in 2005, immediately after the Orange Revolution in Ukraine and was fully operational by the Russian invasion of Georgia in 2008. Sputnik International was launched during the Euromaidan uprising in Kyiv.

⁶ <http://en.kremlin.ru/events/president/news/46762> (accessed January 15, 2016).

⁷ <http://blogs.reuters.com/great-debate/2016/02/07/russia-having-success-in-hybrid-waragainst-germany/> (accessed February 21, 2016).

Both RT and Sputnik International have dropped the word "Russian" from their brand names, which is quite interesting but explainable. They do not work for the Russian market, their coverage is not primarily Russia, and they do not promote the nation branding of Russia as many have asserted. For example, Shawn Powers calls RT

a part of global engagement strategy that combines Russian and international media platforms to communicate and articulate Russian foreign policy. The most developed of these is Russia Today (RT), which is a Russian satellite television broadcasting system similar to Qatar's Al Jazeera or France 24.⁸

The editor in chief of RT, Margarita Simonyan, offers an altogether different rationale for RT that is not at all connected to nation branding:

To some extent, if you are not equipped for broadcasting abroad - then it's like you do not have the army. When there is no war you do not need it. But when the war has already started you cannot create it in a week.⁹

The website of Sputnik International states that their mission is "offer guidance in a multipolar world, while respecting every country's national interests, culture, history and traditions". The reality, however, is precisely the opposite, as the Kremlin "has systematically learnt to use the principles of liberal democracies against them in what we call here "the weaponization of information"¹⁰.

In other words, the Kremlin is using these so called 'media' organizations to deny other societies their right to their own culture, history and traditions, and does so through the twisting of facts, the dissemination of fake news stories, and falsifications in order to undermine the policy making process or compromise certain core values and institutions:

Like RT, the German branch of Sputnik – named after the satellite that established the Soviet claim to supremacy in space almost 60 years ago – is part of the Rossiya Segodnya media empire. Its mandate is to broadcast Moscow's

⁸ **Powers, S**. 2011. U.S. international broadcasting: An untapped resource for ethnic and domestic news organization. In Public Policy and Funding the News. Retrieved from < http:// fundingthenews.usc.edu/related_research/4_Carnegie_USInternationalBroadcasting.pdf> (accessed February 05, 2016).

⁹ <https://daily.afisha.ru/archive/gorod/archive/ministry-of-truth-simonyan/> (accessed February 24, 2016).

¹⁰ <http://www.interpretermag.com/the-menace-of-unreality-how-the-kremlin-weaponizesinformation-culture-and-money/> (accessed February 24, 2016).

worldview at Putin's behest. Dmitry Kiselyov, the Kremlin's chief propagandist, serves as Sputnik's general director. The only Russian journalist on the EU sanctions list against Moscow, he sees himself as being involved in an "information war." In fact, he says, this is the "primary form of warfare" today.¹¹

The core of the Kremlin's propaganda, both inside and outside Russia, is a post-modernist denial of everything. It is aimed at the total destruction of the entire liberal concept of western society including democracy itself as well as its constituent elements such as free media, fair elections, effective governance, and the right of people to self-determination and self-governance. There is no new ideology contained in current Russian propaganda, because Russia does not have a single, individual ideology. Instead, it borrows a little from everything. In this way, the system produces a large number of "small propagandas", each of them targeting a specific audience. The more messages, the better as this effectively augments confusion. To paraphrase Peter Pomerantsev, one could argue that the aim is not to provide a sole, unified narrative, but to rather create many clashing narratives in order to confuse different audiences with different messages:

Unlike in the Cold War, when Soviets largely supported leftist groups, a fluid approach to ideology now allows the Kremlin to simultaneously back far-left and far-right movements, greens, anti-globalists and financial elites. The aim is to exacerbate divides and create an echo chamber of Kremlin support.¹²

Although Russian propaganda peaked during the war in Ukraine, it was not something that came out of a vacuum. It was in fact a continuation of Soviet propaganda, which never really disappeared, even after the collapse of the Soviet Union. In reality the active measures that are now being used were simply reviewed, rebuilt, transformed, and then applied towards contemporary situations with increased efficiency.

The current Russian propaganda system is often compared to that of the Soviets during the Cold War. This is because the objectives of the current government are the same as they were then, thus modern propaganda borrows and uses similar techniques from the KGB handbook. This makes many terms easily recognizable. Phrases such as the "puppeteers from Washington", and

¹¹ <http://www.interpretermag.com/the-menace-of-unreality-how-the-kremlin-weaponizesinformation-culture-and-money/> (accessed February 24, 2016).

¹² *Ibid.*

"foreign agents" are familiar, yet current propaganda also differs greatly in terms of quantity, quality and the mediums that it uses.

Ideology was a central element of the propaganda of the Soviet Union, which clashed with the values-based counter-propaganda coming from the West. The central role played by the communist ideology ultimately rendered Soviet propaganda weak and ineffective, and ultimately such ideological narratives only appealed to left-leaning political groups or countries.

The US Department of State's, Bureau of Public Affair's, "Special Report on Soviet active measures" from 1981, summarizes some of propaganda setbacks of the Soviets stating that: "Soviet use of Marxist-Leninist ideology to appeal to foreign groups often turns out to be an obstacle to the promotion of Soviet goals in some areas; it is now being deemphasized though not completely abandoned"¹³.

In order to offset these setbacks, the Soviets adopted the concept of active measures (*aktivnyye meropriyatiya*) that refers to operations intended to "affect other nations policies, as distinct from espionage and counterintelligence. Some Soviet active measures included:

- written or spoken disinformation;
- efforts to control media in foreign countries;
- use of Communist parties and front organizations;
- clandestine radio broadcasting;
- blackmail, personal and economic;
- political influence operations.¹⁴

These methods are summarized by the Active Measures Working Group – the interagency taskforce, which was formed in 1981 in order to counter the effects of active measures. The organization was initially under the <u>United States Department of State</u> and then later became part of the <u>United States Information Agency</u> (USIA). In their annual reports produced from 1981 until 1989, the AMWG provided a detailed account of the use of active measures by Soviet Union.

A very important insight into active measures practices of the Soviet Union can also be gleaned from the books written by defectors from the Soviet Union or its satellite socialist states. These individuals often had

¹³ <http://insidethecoldwar.org/sites/default/files/documents/Soviet%20Active%20Measures%20Forgery,%20Disinformation,%20Political%20Operations%20October%201981.pdf> (accessed January 28, 2016).

¹⁴ *Ibid*.

worked inside the disinformation system and had a firsthand glance of its operations. Ladislav Bittman, Mihai Pacepa, Anatoliy Golitsyn, Stanislav Levchenko, and Vasili Mitrokhin were all intimately acquainted with the active measures practices of the Soviet Union and gave striking evidence.

Ladislav Bittman was a former StB Czechoslovak intelligence officer, who defected to the West in 1968. He summarizes some of the methods that were in used during the Soviet era:

Forgeries/.../ are classified into two major categories. The first category includes misleading information (disinformation) that contributes to poor policy decisions among government leaders. This type of fake usually does not require or receive widespread attention of the media. The second type, propagandistic forgery, seeks to mold public opinion in a target country. Propagandistic forgeries take a number of different forms: leaflets in the name of non-existent organizations, counterfeit pamphlets circulated to key individuals and groups, facsimiles and subtle alterations of official publications, reproduction and shading of entire issues of newspapers and magazines, fake personal letters, and phony bank statements. Even duplicate best-sellers have been offered to publishing houses.¹⁵

Moscow's approach included the application of many instruments related to media manipulations, such as general control of the media in foreign countries, complete or partial forgery of media stories, the establishment of bogus media organizations abroad, and the exploitation of journalists who were recruited to serve as collaborators in order to influence the policies of their home nation.

The above description is illustrative because it enumerates exactly the same set of tools that is currently being used by the Kremlin in its deception and disinformation practices. Fake news and forgeries are essential components of active measures and are of especial interest. They will be discussed in greater detail later on.

Another key factor is the existence of a chain of command and the hierarchy that is necessary to produce fake news and forgeries. In order to find the mastermind behind this elaborate system it is worthwhile to take a closer look at how this system was managed in the past. According to the Active Measure Working group report,

¹⁵ **Bittman, L**. 1985. The KGB and Soviet Disinformation: An Insider's View. Pergamon Press, p. 96. [**Bittman** 1985]

Depending on its sensitivity and importance, approval for a forgery may be obtained from the KGB leadership, the International Department of the Central Committee of the Communist Party, or the Secretariat of the Central Committee itself. KGB specialists prepare the forgery under the supervision of the active measures section of the KGBs First Chief Directorate.¹⁶

According to the "Soviet Active Measures in The Post-Cold War' Era 1988– 1991" Report, it was the International Information Department (IDD) of the CPSU Central Committee that was tasked with the manufacture of fake news and forgeries. An examination of its internal organizational chart could offer some guidance as to how the system might be organized today:

The IDD was divided into 6 sectors organized around geographical and functional lines. Each sector employed about half a dozen professionals, who determined the themes, arguments, and information used in Soviet foreign propaganda and the treatment of international affairs in the Soviet press. After these were decided upon, the IID and its successors would hold regular meetings to issue their guidance on international information issues to Novosti, TASS, Radio Moscow, Radio Peace and Progress, and other leading Soviet media.¹⁷

When past methods are compared to current operations, then it must be concluded that there does in fact exist an effective hierarchical system of management that coordinates the production of fake news and disseminates it, across multiple platforms, throughout the world. Without such a management system, it would be impossible to achieve the high level of cohesion between active measures, policy making, the military and the diplomatic corps, and to coordinate and obfuscate events such as the Crimean occupation, and the war in the Eastern Ukraine.

If the Soviet model of command is used as a template then the KGB would be replaced with the FSB and the SVR, who divide their responsibilities according to their spheres of competence and whether the Russian domestic audience or international audience respectively are being targeted. And the GRU, which is in charge of foreign military intelligence, must also

¹⁶ **Soviet Active Measures: Focus on Forgeries**. Foreign Affairs Note, United States Department of State Washington, D.C. April 1983, http://insidethecoldwar.org/sites/default/files/documents/Department%200f%20State%20Note%20Soviet%20Active%20Measures%20 Focus%20on%20Forgeries%20April%201983.pdf> (accessed January 30, 2016). [Soviet Active Measures 1983]

¹⁷ <http://intellit.muskingum.edu/russia_folder/pcw_era/sect_03.htm> (accessed February 01, 2016).

be deeply involved in the planning and conducting of active measures, especially as the Russian Ministry of Defense conducts its military operations. The International Department and the International Information Department of the Central Committee of the Communist Party would be replaced by the Kremlin itself meaning that the Kremlin must currently direct and coordinate active measures. Newsweek quotes Ilya Ponomarev, an opposition Duma deputy:

That role is played by Putin's deputy chief of staff, Alexei Gromov, who calls in chief editors to coordinate the Kremlin line. Gromov distributes the orders to the mainstream media in Moscow, /.../ and his orders are as strict as any in the army.¹⁸

Further pro proof of the Kremlin orchestrating this system of management comes from the text messages hacked by Anonymous International. The texts show that several high-ranking Kremlin officials working in the Presidential Administration, the Government and the ruling United Russia Party are involved in the planning and conducting of media-related active measures. These individuals include Vyacheslav Volodin, Timur Prokopenko, Arkadiy Dvorkovich, Robert Shlegel as well as others¹⁹.

Just as the Soviet leadership, always insisted on the defensive character of their active measures, the current Russian leadership also justifies its actions in the same manner and invokes its moral superiority:

The KGB's active-measures doctrine improbably insisted that its influence operations were 'radically different in essence from the disinformation to which Western agencies resort in order to deceive public opinion': the KGB disinformation operations are progressive; they are designed to mislead not the working people but their enemies – the ruling circles of capitalism – in order to induce them to act in a certain way, or abstain from actions contrary to the interests of the USSR; they promote peace and social progress; they serve international détente; they are humane, creating the conditions for the noble struggle for humanity's bright future.²⁰

¹⁸ <http://europe.newsweek.com/pushing-kremlin-line-251587?rm=eu> (accessed February 20, 2016).

¹⁹ <http://tsn.ua/special-projects/liar/> (accessed February 20, 2016).

²⁰ Andrew, C. 2006. The World Was Going Our Way: The KGB and the Battle for the the Third World – Newly Revealed Secrets from the Mitrokhin Archive. Basic Books, p. 188. [Andrew 2006]

The same idea of moral superiority can be found in views of one of the public faces of contemporary Russian propaganda, Dmitry Kiselev, who

with typical brio, argued that East and West appeared to be trading places. In Russia we now take full advantage of freedom of speech, whereas in the West political correctness, or political expediency in the name of security, have become arguments against freedom of speech.²¹

The ideas of freedom of speech, invoking the moral high ground in the information battle with the West, and offering access to alternative points of view via the Russian 'media' have become cornerstone concepts of Kremlin propaganda. This legacy was inherited from the Soviet past. In Putin's speech for the opening of the RT Spanish 24/7 broadcasting in Argentina in July 2014, he stated:

Your nation is now getting a reputable and, most importantly, reliable source of information on the events and developments in Russia and worldwide. The right to information is one of the most important and inalienable human rights.²²

The statements are however belied by the dissemination of more fake news disguised as real news. The individuals conducting these activities care very little about being caught lying as the audiences will have already consumed the material, thereby making it very difficult to disprove:

Although the fabricators are aware that once a document appears in print the supposed author will promptly deny its authenticity, the Soviets calculate that a denial will never entirely offset the damage from news stories based on the forgery²³.

To make sure that fake news stories are taken at face value by the intended audiences, the publisher will create a composite story that is not completely false but rather combines some of factual information with complete fiction. This mixture of actual facts and mistruths, together with some irrelevant details to make 'news' looking more realistic creates stories from an alternative reality that aligns with the overarching goals of the Kremlin. The investigative journalist Andrei Soldatov describes it as follows: "Active measures

²¹ <http://europe.newsweek.com/pushing-kremlin-line-251587?rm=eu> (accessed February 20, 2016).

²² <http://en.kremlin.ru/events/president/news/46762> (accessed January 15, 2016).

²³ Soviet Active Measures 1983.

were based on 95 percent objective information to which something was added to turn the data into targeted information or disinformation.²⁴?

Also important for a comparative perspective between the Russian and Soviet active measures is an evaluation of each their respective scales. The Soviet forgeries detected by the inter-agency Active Measures Working Group totaled only 4 cases in 1980, 7 in 1981, 9 in 1982, and 12 in 1983²⁵.

Although during the late Soviet period the number of forgeries increased from year to year, the output never came close to the levels of contemporary Russian active measures. In just 2 years, the number of fake news stories that were debunked by StopFake.org amount to more than 500 cases. Part of the reason for this disparity can be attributed to expense. According to the Institute for National Strategic Studies (INSS) at the National Defense University (NDU),

conducting more intense disinformation campaign was expensive for the Soviet Union, with estimated spending of about \$3 to 4 billion per year in hard currency at the beginning of the 1980s. By the end of the decade, some insiders believed that the Soviet Union was spending three to five times that much.²⁶

In addition to extensive outlay, believability and deniability were also essential components of Soviet propaganda. Moreover in order to ensure that fake information appeared more credible and trustworthy, and to avoid direct responsibility, or if necessary, to go so far as to use it in a false flag operation Soviet propaganda would actively employ Communist proxy newspapers to deliver their propaganda messages. Ideally – non-Communist media would also propagate the message. Very often information would be attributed to newspapers such as The Morning Star (British socialist newspaper), L'Humanite (daily newspaper of French Communist party), and Rude Pravo (the newspaper of the Communist party of Czechoslovakia). After being printed in one or several of these papers, the Soviet propaganda outlets could then 'quote'.

Ladislav Bittman explains why it was important to do it this way:

to maintain an aura of authenticity, disinformation must first appear through a mass medium not openly identifiable as pro-Communist. A journalist-agent

 ²⁴ Soldatov, A. 2011. The New nobility of the KGB. Public Affairs, p. 184. [Soldatov 2011]
 ²⁵ http://ndupress.ndu.edu/Portals/68/Documents/stratperspective/inss/Strategic-Perspective-11.pdf (accessed February 10, 2016).

²⁶ *Ibid*.

working for a reputable publication is usually supplied with disinformation and told how to write the story. In most cases, the initial appearance of sensational materials is enough to start a chain reaction of further publicity as other media outlets become interested in the subject. Local communist newspapers are left out of the game to act according to their ideological bias and editorial decision. Even the reaction of Pravda, /.../does not provide the key for understanding the real purpose of the KGB Strategy.²⁷

Manipulation of foreign media is a widespread technique of modern active measures as well. If Russian propaganda is unable to place their doctored stories in Western mainstream media, then they will simply invent fake citations.

In 2015 several Russian web-based media outlets (including the fake <u>Kharkov News Agency</u>, which is actually based in Russia) distorted an actual <u>New York Times article by titling it:</u> "Nazi Terrorist 'Death Squads' Exterminate Ethnic Russians in the Eastern Ukraine" The article falsely cited a nonexistent article from the New York Times about "the extermination of ethnic Russians in the Eastern Ukraine" by Ukrainian volunteer battalions. The actual New York Times article was about three Chechen battalions fighting alongside the Ukrainian army in the eastern part of the country²⁸.

On October 22nd, 2015 the Russia's Ministry of Defense television network Zvezda posted a false report on <u>its website claiming</u> that the "Ukrainian Prime Minister Arseniy Yatsenyuk accuses the leader of the Batkivshchyna political party, Yulia Tymoshenko, of sexual harassment." It was claimed that the original source for the story was an interview given by Yatsenyuk to a journalist of the Russian service of Radio France Internationale (<u>RFI</u>), Elena Servettaz. The RFI Russian service, however, immediately denied that it had made any such report and condemned Zvezda for both making up the sexual harassment story and involving RFI in its distorted coverage²⁹.

During the initial stages of Russia's intervention in Syria, the Russian website <u>Ukraina.ru</u>, which belongs to the MIA Rossiaya Segodnya International Information Agency, (formerly RIA Novosti) published a story written by a relatively unknown American author named Jack Smith. The story argued that Russia was an important player in Syria, and that

²⁷ Bittman 1985, p. 89.

²⁸ <http://www.stopfake.org/en/russian-media-falsely-cite-new-york-times/> (accessed February 25, 2016).

²⁹ <http://www.stopfake.org/en/zvezda-falsely-cites-radio-france-internationale-for-sexualharassment-report/> (accessed February 25, 2016)

Washington was obliged to treat it as an equal. The site presented the story as if it had been published in the prestigious Foreign Policy Magazine, whereas in fact, the cited article had only appeared on an obscure private web site called Foreign Policy Journal³⁰.

The documentary "Ukraine: Masks of revolution" by the French journalist Paul Moreira can be considered another example of the Kremlin security apparatus manipulating foreign media, however, in this particular instance it occurred without the journalist's prior knowledge or deliberate involvement. The film was commissioned and shown recently by the French commercial TV channel CANAL+, and included many factual mistakes and irregularities which unintentionally were in complete alignment with the Kremlin's narrative of events in Ukraine. According to Galya Ackerman, Executive Director of the Paris-based "European Forum-Ukraine", this is a good example of active measures, conducted in the classical Soviet tradition, wherein Western journalists are exploited (without their knowledge):

It is one thing when documentary like this is shown on (Russian) NTV channel or spread by Sputnik International, but when it's broadcasted by (French) CANAL+- that's quite another pair of shoes³¹.

The Soviet legacy of exploiting journalists and their narratives was often taken a step further. In order to 'use' the foreign media to plant the desired fake stories, the USSR found that they would need to create and sustain their own alternative media. The Soviet government would use any means necessary to control, buy or gain access to journalists in foreign countries. Often this was done by simply supporting media establishments in other countries.

For example, according to the report "Soviet Active Measures in The Post-Cold War' Era 1988–1991", the Soviet Union helped to launch the Indian newspaper the Patriot "with KGB funds in order to spread Soviet propaganda and disinformation". This newspaper was later used to break one of the most infamous 'news item' in the history of Soviet active measures, by alleging that that the US government was involved in 'creating' AIDS as part of its biological warfare research and development. Later the same

³⁰ <http://www.stopfake.org/en/fake-using-foreign-policy-s-banner-to-tell-a-pro-russianstory/> (accessed February 26, 2016).

³¹ <http://m.day.kiev.ua/ru/article/media/specoperaciya-la-francaise> (accessed February 5, 2016).

newspaper "falsely claimed that the U.S. was encouraging Turkey to seize northern Iraq³²".

Another example of Soviet influence of a foreign media outlet is the German Magazine *Geheim*, which was founded by Michael Opperskalski in 1985. Although there is no evidence of a direct connection between Opperskalski and the Soviets, Herbert Romerstein (a member of the Active Measures Working Group) advances some troubling findings in his book "Strategic Influence: Public Diplomacy, Counterpropaganda, and Political Warfare". He quotes Hubertus Knabe, a leading German expert on Stasi activities, who "identified the publisher of Geheim with the code name 'Abraham' as Michael Opperskalski³³". Opperskalsi closed his magazine in 1992 but then resumed publishing in 2002. He is now a regular contributor to RT."³⁴

Another difference between the Soviet and Russian active measures is that the Kremlin now takes full advantage of the Internet and social media in order to disseminate their message. These platforms were not available in the Soviet era. Their advent now allows Russia to create and use anonymous sources to spread fake news stories that will later be picked up by mainstream media.

For example, on August 30, 2015 RT published a translated, anonymous post from the blog, Blauer Bote (Blue Courier), in which the writer summarized an article from the Kyiv Post. The original article was about an Azov Battalion children's training camp. Yet while the Kyiv Post article is neutral, the anonymous writer of the German blog deliberately exaggerated and subjectively radicalized the report in his recounting. The writer also included a collection of news stories on the controversial topic of Ukrainian far right nationalists. The exaggerated piece was then picked up by Russia Today. It was presented under the headline "Blauer Bote: Kyiv Newspaper Boasted of Hitler Youth Camps". – Moreover, RT erroneously described some of the material therein as opinion pieces originating from reputable German media outlets. The website, however, offers neither contact information nor the names of the writers³⁵.

³² <http://intellit.muskingum.edu/russia_folder/pcw_era/sect_09a.htm> (accessed February 24, 2016).

³³ Waller, J. M. (ed.) 2009. Strategic Influence: Public Diplomacy, Counterpropaganda, and Political Warfare. Institute of World Politics Press, p. 172.

³⁴ <https://www.rt.com/op-edge/188416-ukraine-special-status-cold-war/> (accessed February 27, 2016).

³⁵ <http://www.stopfake.org/en/russian-and-separatist-media-continue-citing-anonymousblogs-as-official-media/> (accessed February 24, 2016).

The current disinformation campaign is simply a continuation of the policies that began during the Soviet era and endured throughout the Perestroika and Glasnost era. In short, Soviet active measures never actually went away. During the Reagan-Gorbachev summit in 1986, USIA Director Charles Wick confronted Gorbachev personally about Soviet disinformation and Gorbachev responded by saying "no more lies, no more disinformation³⁶".

According to A Report to Congress by the United States Information Agency "Soviet Active Measures in the Era of Glasnost" published in March 1988,

Since the December 1987 summit, state-controlled Soviet media have falsely claimed or suggested that: the United States manufactured the AIDS virus in a U.S. military facility at Fort Detrick, Maryland [Radio Moscow, Feb. 13, 1988]; the United States is manufacturing an ethnic weapon that kills only non-whites [TASS, Jan. 9, 1988; January 1988 Novosti Military Bulletin; Radio Moscow, Feb. 5, 19881; the FBI assassinated Rev. Martin Luther King [Literaturnaya Gazeta Jan. 20, 1988]; the head of the U.S. delegation to the U.N. Human Rights Commission conference in Geneva, Armando Valladares, was jailed in Cuba for bombing stores [Izvestia, Feb. 6, 1988]; 2 the CIA assassinated Swedish Prime Minister Olof Palme, Indian Prime minister Indira Gandhi, and attempted to assassinate Pope John Paul II [Moscow Television, Feb. 9, 1988].³⁷

The Active Measures Working group tasked with monitoring Soviet active measures ceased their activities in 1989. After this date there were no further annual reports summarizing the Soviet activities in this field.

But another Report to Congress titled, "Soviet Active Measures Forgery, Disinformation, Political Operations" predicted that:

there is every reason to believe that the Soviet leadership will continue to make heavy investments of money and manpower in meddlesome and disruptive operations around the world. While Soviet active measures can be exposed, as they have often been in the past, the Soviets are becoming more sophisticated, especially in forgeries and political influence operations. Unless the targets of Soviet active measures take effective action to counter them, these activities will continue to trouble both industrialized and developing countries.³⁸

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 ³⁶ Waller, J. M. (ed.) 2007. The Public Diplomacy Reader. Lulu.com, p. 355. [Waller 2007]
 ³⁷ http://insidethecoldwar.org/sites/default/files/documents/Soviet%20Active%20Measures%20
 ³⁸ http://insidethecoldwar.org/sites/default/files/documents/Soviet%20Active%20Measures%20Forgery%20Disinformation,%20Political%20Operations%20October%201981.pdf
 (accessed January 28, 2016).

The Perestroika historian Brian Crozier also identified a troubling feature of this interim period. During Gorbachev's Perestroika there were disturbing aspects of the Soviet government that the West simply overlooked in its excitement. He writes:

there was, however, a hidden dimension to perestroika, which passed largely unnoticed by the Western media and by Western political leaders: the restructuring of the "active measures" apparatus. In contrast to the "restructuring" of the economy, the perestroika of the overt and covert propaganda apparatus of the Soviet Union was considerably strengthened and made more sophisticated under Gorbachev.³⁹

Andrei Soldatov, an expert on Russian security and Russia's intelligence apparatus, also confirms that the Soviet Union continued their active measure operations into the 2000s:

When the First Chief Directorate was renamed the Foreign Intelligence Service, its Section A was renamed the Section of Assistance Operations. In the early 1990s, the CIA had asked the foreign intelligence service to stop carrying out 'active measures' that undermined the national security of the United States. As a result, the section was given a new name, but its methods, structure, and employees were retained ⁴⁰

Instead of being dismantled, the Soviet propaganda apparatus was carefully revitalized in order to make it more modern and more effective. Valentin Falin, the head of the Novosti Press Agency, and later the head of the International Department of the Central Committee of the Communist Party of the Soviet Union, was one of the architects of this reform. It was he who envisioned the innovative methods for propaganda manufacture and dissemination which would later become actualized in the creation of RT and Sputnik International. Falin writes:

Under capitalism information is the main commodity and you need to sell this commodity. If the government does this – it's doomed to fail. We need to create a state-public company subordinate to the Communist party Central Committee that will combine the Novosti Press agency APN, TASS, the State TV and the Radio Committee, the State Publishing Committee, the State

³⁹ **Crozier, B**. 1996. The Other Side of Perestroika. The Hidden Dimension of the Gorbachev Era. – Demokratizatsiya: The Journal of Post-Soviet Democratization, Vol. 4, No. 1 / Winter 1996. https://www2.gwu.edu/~ieresgwu/assets/docs/demokratizatsiya%20archive/04-1_Crozier.PDF> (accessed February 01, 2016).

⁴⁰ Soldatov 2011, p. 184.

*Cinema Comittee, and the Union of Journalists. The Central Committee should start its own TV channel, TV Pravda and also a global video news agency.*⁴¹

Russian active measures and fake news in Ukraine

Peter Pomeratsev describes the influence of Russian propaganda on Ukraine as follows:

In the case of Russia's ongoing campaign in Ukraine, for example, hyperintense Russian propaganda <u>has cultivated</u> unrest inside the country by sowing enmity among <u>segments of Ukrainian society</u> and confusing the West with <u>waves of disinformation</u>, while Russian proxy forces and covert troops launch just enough military offensives to ensure that the Ukrainian government <u>looks weak</u>. The point is not to occupy territory – Russia could easily annex rebel-held eastern Ukraine – but to destabilize Ukraine psychologically and advance a narrative of the country as a "failed state", thus destroying the will and support inside Ukraine and internationally for reforms that would make Kiev more independent from Moscow.⁴²

Ben Nimo describes anatomy of Russian info-war against Ukraine with the concept of 4Ds:

Russia's narrative can be viewed as an offensive weapon: Its effect is to discredit the West and shift the blame for the Ukraine crisis onto Western shoulders. When it comes to defending Russia, different tactics are used. They can be summed up in four words: dismiss, distort, distract, dismay.⁴³

To better understand the content of the media-related active measures, an examination of materials, researched by the fact-checking project Stopfake. org, which was launched in March 2014 by faculty, students and alumni of the <u>Mohyla School of Journalism</u> in Kyiv, Ukraine is instructive.

Since its inception the Stopfake team has been augmented by journalists, editors, programmers, translators, and others who are concerned about the proliferation of propaganda. The main purpose of this Project is to check

⁴¹ **Фалин, В**. Конфликты в Кремле. Сумерки богов по-русски. <http://mreadz.com/new/ index.php?id=274462> (accessed February 2, 2016), с. 48.

⁴² <http://www.theatlantic.com/international/archive/2015/12/war-2015-china-russiaisis/422085/> (accessed February 9, 2016).

⁴³ <http://www.cepolicy.org/publications/anatomy-info-war-how-russias-propagandamachine-works-and-how-counter-it> (accessed February 05, 2016).

facts, verify information, and refute verifiable disinformation about the events in Ukraine that are being covered by the media. The StopFake team does not represents, nor supported by any particular political party, or commercial organization. This also includes the Ukrainian government. The project is solely focused on maintaining journalistic standards of distributing accurate information.

In its 2 years of its existence Stopfake.org has analyzed, fact-checked and debunked more than 500 stories from Russian media sources (this includes TV, print and internet media, as well as social media, both Government-controlled and private – which is essentially under quasi-governmental control).

The debunked stories can be divided into different types and categories depending on the themes, the means (text, photo, video, meme) and the target audience, i.e. whether it for the Russian domestic audience, the Ukrainian audience, the US/European, or the rest of the world/global audience. We also differentiate stories based on the platforms used to spread them.

By analyzing 500 items of debunked disinformation (fake news stories) we have been able to identify 18 major fake narratives themes that are commonly used by Russian propaganda. They are as follows:

- 1. Coup d'état and Western-backed junta
- 2. Ukraine as a 'fascist state'
- 3. Ukraine as a 'failed state'
- 4. Russia is not a part of the occupation/war
- 5. The Ukrainian army
- 6. Volunteer battalions
- 7. Internally displaced persons (IDPs) and refugees to Russia
- 8. Territorial disintegration of Ukraine
- 9. 'Territorial claims' from neighboring countries
- 10. Fake legitimization of Crimea annexation and occupation of Donbass by foreign governments, international organizations or foreign media
- 11. War in Ukraine is actually conducted by the US, NATO or private contractors
- 12. Decline of Western support for Ukraine
- 13. International organizations manipulated
- 14. Ukraine and the EU
- 15. Disintegration of the EU, decay of the US and West in general
- 16. MH17
- 17. AIDS/ZIKA/ other disease stories
- 18. Ukraine/Turkey/Syria/ISIS

In order to gain a better perspective of the 18 main disinformation themes, it is also worthwhile to do a more detailed analysis of those current propaganda messages that echo the earlier Soviet propaganda patterns. The most common way of depicting post-Maidan Ukraine was to describe events in terms of a *coup d'état*, that is to say a Western-backed group (mostly US-backed junta) seizing power and implementing fascism as the defining ideology of emerging regime in Ukraine.

The Coup d'état and the Western-backed junta

The ouster of the president (Yanukovych) and his government was the most propaganda and manipulation prone events of the entire Maidan movement⁴⁴. The Russian media characterized it as a *Coup d'état* or an illegal overthrow of a legitimate president. The *Ancient regime* leaders who were removed and then fled the country, were harbored in Russia where they were used for further propaganda purposes. While residing there, they had numerous appearances in the Russian media and were subsequently proclaimed as the "Ukrainian government in exile".

According to evidence gained from the text messages hacked by Anonymous International, the main disinformation theme characterizing the maiden movement as a US-backed junta of radicals and banderites, could actually be traced back to the Kremlin itself and Alexey Gromov in particular, who is the Deputy Chief of Staff of the Presidential Administration of Russia. The characterization was propagated and supplied to various media outlets by Timur Prokopenko, the head of the Kremlin internal affairs department⁴⁵.

This disinformation theme was picked up by all Russian mainstream media and social media and became a frame of reference for the depiction of Ukraine-related events over the next two years.

One author who was instrumental in creating this perception is Valentin Zorin. Zorin was one of the most influential propagandists from the Soviet era and is now in his 90's. He still occasionally works for the RIA and still publishes inflammatory articles. In one article that appeared in a government-owned outlet he decried the US government's complicity in the Ukrainian 'coup' stating:

⁴⁴ <https://www.rt.com/news/159664-italy-protest-nazism-ukraine/> (accessed February 27, 2016).

⁴⁵ <http://tsn.ua/special-projects/liar/> (accessed February 20, 2016).

From the very beginning, Washington DC was in charge of the coup d'état in Kiev and relied on extreme nationalistic forces, and banderites who had made oaths to Hitler and committed atrocities against Russians, Jews, and Poles⁴⁶.

Although this was written in 2014–2015, it is impossible to differentiate between these contemporary talking points and the ideological verbiage of the former Cold war era. The purpose of portraying the Euromaidan events as the upshot of US involvement, with Cold War terminology was to mobilize the Russian domestic audience, radicalize audiences in the Eastern and Southern Ukraine (which was planned by Kremlin to be transformed into wider Novorossia separatists' entity) and sow suspicion among Europeans and the rest of the world.

As Ladislav Bittman notes,

Anti-American propaganda campaigns are the easiest to carry out. A single press article containing sensational facts of a 'new American conspiracy' may be sufficient. Other papers become interested, the public is shocked, and government authorities in developing countries have a fresh opportunity to clamor against the imperialists while demonstrators hasten to break the American embassy windows.⁴⁷

Soviet propaganda made use of precisely the same language and visuals in their depictions of US involvement in the potential breakup of the Soviet Union. Almost 30 years later depictions of the US meddling with Ukraine within Russia's exclusive sphere of influence are still present. For example, in early January of 1991 Soviet Television produced a 40-minute documentary titled "The Faces of Extremism" that showed

shots of terrorism in Lebanon, Northern Ireland, and Spain were mixed with film clips of U.S. military operations in Grenada, Panama, and Libya, followed by scenes of a rally held by Rukh (the democratic party in Ukraine], riots in Central Asia, fighting in Azerbaijan, and demonstrations in Lithuania. The narrator suggested that the U.S. government would soon try to organize underground political movements in Central Asia in order to cause the collapse of the Soviet Union.⁴⁸

⁴⁶ <http://ria.ru/coumns/20150526/1066579933.html#ixzz41BRM17eo> (accessed February 27, 2016)

⁴⁷ **Bittman** 1985, p. 23.

⁴⁸ <http://intellit.muskingum.edu/russia_folder/pcw_era/sect_09a.htm> (accessed February 24, 2016).

In 2014 the NTV channel produced a similar 'documentary' titled "Ordinary Fascism: Ukrainian Variant⁴⁹", the intent of which was to create an analogous perception of the events in Ukraine among the Russian domestic audience, much as "The Faces of Extremism" did in the 1990s.

In both 'documentaries' the US government and western non-governmental institutions are accused of engaging in direct and indirect actions to disrupt the Soviet/Russian influence. For example, in 1991, according to the US Congressional Report, the Soviet Defense minister Yazov "joined in the anti-U.S. and anti-democratic chorus, accusing the U.S. National Endowment for Democracy, which aids democratic groups worldwide, of trying to influence events in the USSR⁵⁰".

This historic rhetoric is very similar to the rhetoric that the Kremlin now uses, which accuses organizations of being 'foreign agents'. Even in the case of StopFake.org when opponents want to denigrate the project, they immediately point to the donor support from the National Endowment for Democracy as evidence of US government and CIA involvement⁵¹.

Just as the Soviet Union once did, Russia makes use of an overarching motif to connect the numerous fake news stories and pictures that it uses to characterize the events in Ukraine. It alleges that a Ukrainian junta, as the puppets of America (Washington DC, the White House), usurped power using 'undemocratic' procedures and forced the Ukrainian people into the role of lackeys for the US. Most of the fake stories encountered by the project still support this narrative strand in one form or another. It is encapsulated in fake photos such as the one titled "Kyiv Residents Kneel before Biden⁵²", or the fake news story "Biden Proposes to Federalize Ukraine⁵³", or another fake photo titled "Ukrainian Soldier Kisses the American Flag⁵⁴".

⁴⁹ <http://www.ntv.ru/video/964481/> (accessed February 27, 2016).

⁵⁰ <http://intellit.muskingum.edu/russia_folder/pcw_era/sect_09a.htm> (accessed February 24, 2016).

⁵¹ <http://tvzvezda.ru/news/vstrane_i_mire/content/201602132031-tzwp.htm> (accessed February 23, 2016).

⁵² <http://www.stopfake.org/en/photo-fake-kyiv-residents-kneel-before-biden/> (accessed February 22, 2016).

⁵³ <http://www.stopfake.org/en/fake-biden-proposes-to-federalize-ukraine/> (accessed February 22, 2016).

⁵⁴ <http://www.stopfake.org/en/photo-fake-ukrainian-soldier-kisses-american-flag/> (accessed February 22, 2016).

Ukraine as a fascist state

Russian propaganda depicts Ukraine as having been transformed into de facto fascist state as a result of the coup d'état. All necessary attributes of fascism such as anti-Semitism, racism, homophobia, xenophobia are exploited by the propaganda and are the core of the active measures deployed against Ukraine.

The 'fascist narrative' is one of the most important themes as it connects Ukrainian events with the World war II narrative of, which is a heroic chapter in former Soviet, and now Russian history. It has become the bedrock of the whole anti-Ukrainian and anti-Western propaganda effort and its main points have been used as pretexts to occupy Crimea and have been used to justify the aggression of Russian army in Eastern Ukraine.

The Report "Putin. War", prepared by the Russian opposition, explains why it was important for Kremlin to use the 'fascist narrative': "Rhetoric of war was projected to current political news. This exposed Ukrainian authorities as 'banderite' and 'Nazi' by Kremlin propaganda and Russia got involved in the same cause as in 1941–45 – struggle with fascists⁵⁵".

WWII (or the Great Patriotic war as it's called in Russian historiography) has very strong associations for the people of Ukraine, especially for those who fought in it. Russian propaganda often exploited this association in order to further its aims. Fake reports concerning mistreatment of WWII veterans in Ukraine, such as the revocation of their benefits, bans on celebrations or gatherings, bans on the wearing of medals, and the demolition of war memorials were often circulated. There were even reports of some veterans being beaten. The main purpose of these distorted reports was to incite unrest and foster war mongering and the dissemination of hate speech.

On April 20th, 2015 Russia's private tabloid Lifenews TV channel falsely reported that the head of the Kharkiv regional council had forbade Second World War veterans from wearing St. George ribbons and flags (commemorating the Red Army's victory) at the forthcoming Victory Day's march on May 9^{th 56}.

On September 3, 2015 Russian REN TV and Channel 5 falsely reported that unknown persons had destroyed memorial plaques commemorating Soviet soldiers in Kharkiv.

⁵⁵ **Report "Putin. War**". Edited by Illya Yashyn and Olga Shorina. http://www.putin-itogi.ru/putin-voina/ (accessed February 27, 2016).

⁵⁶ <http://www.stopfake.org/en/kharkiv-forbids-veterans-from-wearing-st-george-ribbons/> (accessed on February 27, 2016).

The news was accompanied by an amateur video uploaded to YouTube. The video shows two men dismantling the memorial plaques and taking them away to an undisclosed location. However, when the spokesperson for the Kharkiv city council was contacted it was in fact confirmed that the plaques had simply been removed for renovation⁵⁷.

On June 30th, 2015 the LifeNews TV channel used a video from the celebration of the anniversary of the Declaration of Ukrainian Independence in Kherson. At a small event in the city's center, young people gathered to read the Declaration aloud and to sing the national anthem. The manipulated report was titled "Nationalists Swear Allegiance to Hitler in Kherson⁵⁸".

In April 2015 the Zvezda TV channel and REN TV published a <u>false</u> report about an unfinished concentration camp financed by a "pro-American" group that had been built to incarcerate those "accused of terrorism and separatism by the ruling regime in Ukraine." The report was based on footage taken by a war correspondent who was standing at the construction site of what was actually an uncompleted prison in the city of Zhdanovka, in the Donetsk region. The correspondent opines: "It is very convenient place to keep prisoners of war here, wouldn't you say? There is such an Eastern European Guantanamo⁵⁹!"

On May 18th, 2015 the government-owned Russia 24 network dedicated a news program to focus exclusively on alleged anti-Semitism in Ukraine. "Vesti at 23:00" aired a report that was followed by a discussion entitled "The new exodus of Jews from Ukraine: Jewish organizations accuse Brussels of keeping the problem of neo-Nazism in Ukraine quiet". StopFake debunked this escalating Russian disinformation narrative and <u>Vyacheslav Likhachev</u>, the head of a prestigious <u>Monitoring group</u> for the rights of ethnic minorities at Association of the Jewish Organizations and Communities of Ukraine (VAAD) confirmed the falseness of the Ukrainian anti-Semitism and neo-Nazi claim⁶⁰.

Fascism is not a new invention, nor is it as prevalent as alleged, but it has certainly been one of the most exploited themes of Soviet active measures. The Russian government has used the term to smear \ policymakers in various

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⁵⁷ <http://www.stopfake.org/en/fake-memorial-plaques-to-soviet-soldiers-destroyed-in-khar-kiv/> (accessed February 27, 2016).

⁵⁸ <http://www.stopfake.org/en/fake-nationalists-swear-allegiance-to-hitler-in-kherson/> (accessed February 27, 2016).

⁵⁹ <http://www.stopfake.org/en/fake-concentration-camp-for-separatists-under-constructionin-donetsk-region/> (accessed February 27, 2016).

⁶⁰ <http://www.stopfake.org/en/jewish-monitoring-group-expert-debunks-russia-24-claimabout-neo-nazis-and-anti-semitism-in-ukraine/> (accessed February 27, 2016).

parts of the world, and has even used it put pressure on entire countries such as postwar Germany, Italy or Austria.

The Intelligence historian Christopher Andrew describes how a 'fascism'– themed narrative was used to undermine the reputation of Egyptian President Saddat:

(KGB) Service A's active measures against Sadat made much of his early enthusiasm for Adolf Hitler. Sadat himself acknowledged in his autobiography that, as a fourteen-year-old when Hitler became Chancellor of Germany, he had been inspired by the way the Führer set out to 'rebuild his country'/.../ As late as 1953 he said publicly that he admired Hitler 'from the bottom of my heart'. The KGB claimed the credit for inspiring publications with titles such as 'Anwar Sadat: From Fascism to Zionism', which portrayed him as a former Nazi agent who had sold out to the CIA.⁶¹

Ion Mihal Pacepa, a high-ranking defector from the Romanian security services, gives a detailed account of how the 'fascism' narrative was an instrumental component of active measure against the Catholic Church after WWII. The Soviets were relentless in "faulting the Catholic church for its role in the rise of Fascism". The same tool was also used to compromise, or as it was called within active measures procedures, 'to frame' Pope Pius XII, the Croatian Cardinal Stepinac and the Ukrainian Cardinal Slipyj who were characterized as 'Nazi collaborators'.⁶²

If monikers such as US-backed junta and fascists are not enough to scare an audience who might not be avid followers of politics, Russian active measures effectively uses what is known as 'human interest stories'. Most of them will be about different diseases and the 'fact' that they were invented by the US government. The purpose of planting such a story is two-fold: first, to scare as many people as possible by playing on their most basic fears, and second – to blame the US for the spread of infections and fuel the new wave of anti-Americanism, which is by default the overall objective of Soviet/ Russian active measures.

The classical example of this would be <u>Operation Infektion</u>, which sought to accuse the United States of deliberately creating the AIDS virus in a government laboratory and then spreading it⁶³.

⁶¹ Andrew 2006, p. 840.

⁶² Pacepa, I. M. 2013. Disinformation. WND Books.

⁶³ <http://insidethecoldwar.org/sites/default/files/documents/Soviet%20Influence%20Activities%20Active%20Measures%20and%20Propaganda%20August%201987.pdf> (accessed February 10, 2016).

In 1983, shortly after its founding, the Indian newspaper The Patriot, broke a story blaming the U.S. military in creating the AIDS virus and releasing it as a weapon. This story appeared first in minor Soviet-controlled outlets. Then in 1985 it was picked up by the Soviet weekly newspaper, Literaturnaya Gazeta where it was published many other outlets:

In 1987 alone, it appeared over 40 times in the Soviet-controlled press and was reprinted or rebroadcast in over 80 countries in 30 languages. The AIDS virus was terrifying and not well understood at the time, so this piece of Soviet disinformation was especially damaging to the U.S. image.⁶⁴

The US government put a lot of pressure on Kremlin and Gorbachev personally to make sure that Soviet Union would stop disseminating such fake stories. All medical research cooperation between the US and USSR was suspended before Moscow finally dropped the story:

The Soviets stopped using the AIDS disinformation story. It became clear, /.../, that they would back off when the cost of their lies became too much for them. As the new disinformation stories appeared, we pressured the Soviets on their failure to carry out Gorbachev's promise.⁶⁵

But this story did not disappear entirely. It was recently revived in another form more recently when a tweet appeared saying that the Ukrainian army in Donbas was firing AIDS infused shells in order to spread it among the local population. This was compounded with accusations asserting that the ZIKA virus originated from US government facilities:

An outspoken former chief Russian sanitary inspector has suggested that the United States could be infecting mosquitos with the Zika virus in the Black Sea area as a form of biological warfare against Russia. In comments to the BBC Russian Service on February 15, Gennady Onishchenko said that Russian scientists have identified a surge since 2012 in the kind of mosquito that carries the virus in Abkhazia, a breakaway Georgian region that borders Russia on the Black Sea coast. "This worries me because about 100 kilometers from the place where this mosquito now lives, right near our borders, there is a military microbiological laboratory of the army of the United States.⁶⁶

⁶⁴ <http://ndupress.ndu.edu/Portals/68/Documents/stratperspective/inss/Strategic-Perspectives-11.pdf> (accessed February 10, 2016).

⁶⁵ Waller 2007, p. 355.

⁶⁶ <http://www.rferl.org/content/former-russian-health-chief-suggests-us-plotting-zika-attack/27555365.html> (accessed February 22, 2016).

On January 26th, 2016 the website Pravda.ru ran a news item claiming that 20 Ukrainian soldiers died and 200 were hospitalized with the deadly California flu virus outside the eastern Ukrainian city of Kharkiv."Doctors have recorded an unknown virus causing extremely high temperatures which cannot be brought down with any medicine", – claimed DNR separatist spokesman Eduard Basurin. On January 22nd, the same Basurin announced at a press conference that Ukrainian soldiers had been admitted to a Kharkiv hospital suffering from a virus "that leaked from an American laboratory located in the village of Shelkostantsia".

None of these fake stories were accompanied by facts or photos and over a period of several days, the two stories gradually melded into each other, thereby gaining greater traction on the web and social media.

There was no mass illness or viral infection among Ukraine's armed forces nor did the Ukrainian Defense Ministry have any information about any such mass illness.⁶⁷

Conclusion

Although Russian propaganda reached its apex during war in Ukraine, it must be kept in mind that it is not a new phenomenon and it is actually a continuation of Soviet propaganda that never truly disappeared even after the collapse of the Soviet Union. In reality modern Russian propaganda is a rejuvenated, rebuilt and transformed version that has been applied to the contemporary situation with increased effectiveness. The contemporary Russian propaganda system and the Soviet system both share the same objectives. The former borrows the same techniques from the latter in its application of active measures. Yet they differ in quantity, quality and the instruments that are used.

By analyzing the more than 500 stories that StopFake has debunked over last two years, it was possible to identify 18 separate disinformation themes, originating from Russian state- and privately owned media. Many of them are variations of the Soviet paradigm, and are built on anti-Americanism, their own moral superiority and falsified historiography.

Most Russian journalists, editors, media managers or policymakers will deny the existence of propaganda or the existence of a vertical chain of command connecting their respective 'media' outlets to the Kremlin. Nor

⁶⁷ <http://www.stopfake.org/en/fake-20-soldiers-die-from-leaked-mysterious-virus/> (accessed February 20, 2016).

will they acknowledge the conduction of active measures. When Margarita Simonyan, the head RT (formerly Russia Today), was questioned as to why RT distorted information in their piece titled: "Putin Will Bring Down Western Economies"⁶⁸ she attributed it to incompetence and lazy journalism. Simonyan explained that usually the twisting or falsification of facts does not arise from evil intentions, but rather can be attributed to the publishing of information from a source without fact checking it first. Others media outlets then republish the story also without bothering to check the information:

There is a huge competition, everybody wants to be the first, quicker, more interesting. All this is done to get more audience. If you are the first to publish something – it will attract audience, that's why you are doing this. It's too long to verify information – someone might be quicker to publish it before you do.⁶⁹

Unfortunately, this is not a sufficient explanation for the hundreds and hundreds of fakes and forgeries coming from Russian media system. They are not results of bad journalism but the result of well-preserved and refurbished system of active Soviet measures used to manipulate media on a global scale and to supplement military and diplomatic efforts.

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⁶⁹ Симоньян, M. Ocoбое мнение, http://echo.msk.ru/programs/personalno/1697080-echo) In> (accessed February 24, 2016).

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Dr. YEVHEN FEDCHENKO, Director, Mohyla School of Journalism (Kyiv, Ukraine), co-founder of StopFake.org

Annex 1029

Patrick Thornberry, The International Convention on the Elimination of All Forms of Racial Discrimination: A Commentary (2016)

The International Convention on the Elimination of All Forms of Racial Discrimination

A Commentary

PATRICK THORNBERRY



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Convention and ensure that the principle of self-governance of local and regional bodies does not hamper its human rights obligations to promote economic, social and cultural rights of disadvantaged or discrimination groups, as per the Convention'.¹⁹³

Discussions in the travaux clarified that 'public institutions' is wider than 'public authorities'. In Hagan v Australia, the State party claimed that the sports trust which owned the stadium which exhibited an offensive racial sign was 'a private body rather than a public authority or government agent', the acts of which therefore fell outside 2(1)(a)which did 'not deal with private acts of discrimination'.¹⁹⁴ This was contested by the petitioner, who pointed out that the trustees were appointed and could be removed by a minister and that their function was 'to manage land for public (community) purposes' and that the trust was 'therefore a public authority or institution for Convention purposes'.¹⁹⁵ The Committee did not comment on the Article 2 point in its reference to 'displaying a public sign considered to be racially offensive'.¹⁹⁶ In light of the general understanding of 'public institutions' in the drafting of Article 2, the more open interpretation of the sub-paragraph coheres better with the letter and spirit of the Convention.

VII. Article 2(1)(b) Not to Sponsor, Defend or Support Racial Discrimination by any Persons or Organizations

The trope of negative statements of obligation in Article 2 continues in Article 2(1)(b), which shifts the emphasis from discrimination by organs of State and 'public institutions' towards discrimination by actors backed by the State, though an expanded reading of 'public institutions' in 2(1)(a) suggests an overlap between the two sub-paragraphs. Non-State actors, or 'private' persons or organizations are not explicitly identified as the focus of the text: the reluctance of the drafters to qualify persons or organizations by 'private' will be recalled.¹⁹⁷ Lerner discerns a 'gradual system of undertakings' in Article 2, moving from negative statements in the first two sub-paragraphs to explicit statements of positive action;¹⁹⁸ 2(1)(b) in his view, 'simply intends to prevent persons or organizations engaged in racial discrimination getting the official support of the State'.¹⁹⁹ The provision complements the other reference to persons and organizations in Article 2, and the proscription of racist organizations in Article 4(b). The negative phraseology does not rule out an active stance by the State vis-à-vis the fulfilment of its obligation: in terms of the typology of obligations referred to above, Ruggie lists 2(1)(b) and 2(1)(d) as aspects of 'the obligation to protect'. 200

¹⁹⁵ Para. 5.4.

¹⁹⁶ Para. 8.

¹⁹⁷ The commentary on the International Law Commission's Draft Articles on State Responsibility for Internationally Wrongful Acts notes that 'the general rule is that the only conduct attributed to the State at the international level is that of its organs of government or of others who have acted under the direction, instigation or control of those organs, i.e. as agents of the State': http://legal.un.org/legislativeseries/documents/Book25/ Book25_part1_ch2.pdf>, commentary on chapter II, para. 2. CEDAW GR 28, para. 13, recalls the due diligence obligation on States parties to prevent discrimination by private actors, adding that the acts of some private actors may be attributed to the State under general international law.

The International Convention, p. 37.

199 Ibid.

²⁰⁰ Mapping State Obligations for Corporate Acts: An Examination of the UN Human Rights Treaty System, Report No. 1 International Convention on the Elimination of All Forms of Racial Discrimination, 18 December 2006, p. 4.

¹⁹³ Ibid.

¹⁹⁴ Para. 4.5.

Practice

Regarding the verbs in the sub-paragraph, 'sponsor' overlaps with 'support' and may be understood in terms of contribution to costs, taking responsibility for the acts of another, or generalized support for a person or organization.²⁰¹ 'Support' is wider and may include assistance, encouragement, or approval as well as financial support; in a related sense it may include 'endure' or 'tolerate'.²⁰² 'Defend' has an altogether more active significance, and, when too active, may be a good candidate to engage proscriptions such as those in Article 4. Regarding the potential application of 2(1)(b), Lerner's examples are those of 'an official publishing house that prints a racist book, or a local government that gives financial support to a school engaging in racial discrimination'.²⁰³ Meron comments that 'support' may (arguably) encompass 'not only the extension of benefits as a positive action but also the failure to impose obligations that are required of other persons or organizations', instancing the granting of tax-exempt benefits to a private organization that discriminates on account of race.²⁰⁴ In view of the extensive interpenetration and blurring of boundaries between public and private activities in modern States, including the financial nexus, the sub-paragraph potentially opens up a broad prospectus. The subparagraph is under-litigated in Article 14 cases. Along with 2(1)(a), the citation of 2(1)(b) was dismissed as irrelevant by the State party in B.J. v Denmark, 205 because that case did not involve State-promoted discrimination. In Hagan v Australia, the State party simply denied that the establishment of the sports ground trust in question, its continued existence, or its response to the claim by Hagan, engaged the sub-paragraph in any manner, a claim that was not commented upon by the Committee.²⁰⁶

2(1)(b) is relevant in principle to discrimination in any field covered by the Convention: activities of individuals as well as collective action are caught by the provision, and the term 'persons' includes legal persons such as corporations as well as natural persons. Cases include organizations close to the apparatus of governance as well as those removed from it. Egregious cases of State support for organizations in close proximity to governance would include, *inter alia*, private militias supported by the State, and funding for political parties. In concluding observations on the Russian Federation, CERD expressed concerned at information that Cossack organizations had engaged in acts of violence against ethnic groups, were used by local authorities to carry out enforcement operations, and enjoyed State funding. The Committee recommended that the State party ensure that no support would be provided 'to organizations that promote racial discrimination', and that Cossack paramilitary units be prevented from carrying out law enforcement functions against ethnic groups.²⁰⁷ The Committee interrogated the Cossack puestion in later observations, concerned by information 'that voluntary "Cossack partos" began to appear in 2012... to carry out law enforcement functions alongside the police'.²⁰⁸ Belgium was

²⁰¹ Concise Oxford English Dictionary (11th edn, Oxford University Press, 2004), pp. 1394-5.

²⁰² Ibid., p. 1448.

²⁰³ Ibid.

²⁰⁴ T. Meron, The Meaning and Reach of the International Convention on the Elimination of All Forms of Racial Discrimination, AJIL 79 (1985), 283–318, 295.

²⁰⁵ Para. 4.3.

²⁰⁶ Para. 4.5.

²⁰⁷ CERD/C/62/CO/7, para. 16.

²⁰⁸ CERD/C/RUS/CO/20-22, para. 14.

Art. 2: Obligations to Eliminate Racial Discrimination

requested to provide information on a law of 1998 on withdrawing financial support to political parties that incite racism or racial hostility.²⁰⁹

Corporations, whether acting territorially or extraterritorially,²¹⁰ have increasingly been drawn into the orbit of Article 2, notably in connection with despoliation of indigenous lands and territories, including sacred sites. The Committee is critical of arrangements for resource exploitation such as permissions for tourism developments, or concessions and licences for mining and logging operations, granted without the free, prior, and informed consent of the indigenous peoples concerned. ²¹¹ GR 23 summarized the seriousness of situations where 'indigenous peoples have been, and are still being, discriminated against and deprived of their human rights . . . and in particular that they have lost their land and resources to colonists, commercial companies and State enterprises'.²¹² The concluding observations of the Committee provide examples of many cases involving indigenous peoples, which are, as noted, accorded a prominent place in the Committee's early warning procedure. In some instances, State bodies are implicated-Article 2(1)(a)-while many cases concern the activities of private corporations enjoying sundry forms of state support and approval. Notable early warning 'decisions' of the Committee include Decision 1(68) regarding the Western Shoshone,²¹³ and a series regarding resource exploitation in Suriname.²¹⁴ Letters of concern at the activities of corporations are more numerous than decisions: instructive illustrations of the Committee's approach include communications to Canada (2008 and 2009); France (2009); Niger (2009 and 2010); Papua New Guinea (2011); Peru (2010); The Philippines (2007-12); and Tanzania (2009-13).²¹⁵ The Committee may link its censuring of corporate activity to 2(1)(d) rather than 2(1)(b) without the implication that such activity is sponsored, defended, or supported by the State.

VIII. Article 2(1)(c) Review Policy, Amend, Rescind, Nullify Discriminatory Laws and Regulations

Continuing the logic of Article 2, instances of State-based and State-supported discrimination referred to in the first two sub-paragraphs require modifications of existing law and policy. The accumulation of verbs suggests an obligation to mount a holistic assault on defective legal structures and institutions. The travaux evidence some difficulties with terminology including the claimed redundancy of 'nullify' following 'rescind'; both were retained in order to satisfy the variety of concepts among legal systems. The injunctions to act are arranged more or less sequentially in that before action is taken, the policy architecture (including laws that express that policy) should be 'reviewed', followed by necessary amendments to laws and regulations, including their rescission. Lerner cites the travaux for the view that 'nullify' is equivalent to 'suppress entirely', which may add

²¹⁴ Decision 1(67), A/60/18, pp. 9–10; 1(69), A/61/18, pp. 10–11.

²¹⁵ Individual letters may be found on the Committee's web page: <http://www2.ohchr.org/english/bodies/ cerd/early-warning.htm>.

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²⁰⁹ CERD/C/60/CO/2, para. 14.

²¹⁰ See remarks on extraterritorial activities of corporations in the present chapter.

²¹¹ In some cases, the concerns have related to the activities of non-indigenous individuals who trespass on indigenous territories, rather than corporations: see for example the series of letter sent to Brazil regarding the Raposa Serra do Sol: http://www2.ohchr.org/english/bodies/cerd/early-warning.htm.

²¹³ A/61/18, pp. 7-10.

as other references, and might suggest a certain narrowing of conception. De Schutter comments that, while 'equality before the law' is 'addressed to law enforcement authorities',⁵ whether executive or judiciary, 'equal protection of the law' is addressed to the lawmaker.⁶ On the other hand, the scope of 'equality before the law', which was adopted in part to cover the alleged vagueness of 'equal justice before the law', was not discussed to any great extent and appears to have been accepted as a principle that was not to be interpreted narrowly.⁷ In practice, 'equality before the law' does not appear to be highlighted by the Committee with any frequency and, in any case, represents only one aspect of the vision of equality in Article 5, which also accounts for 'equal pay for equal work', and 'equal participation in cultural activities'. On one reading, the deployment of multiple references to equality in Article 5 may express little more than an accumulation of tautologies; an alternative, more persuasive reading is that its message of equality implicates wider, more generous meanings than a simple focus on the institutions of justice.

Enough has been said elsewhere in the present work to underline the point that, in its work on Article 5 and other articles, the Committee deploys broad understandings of equality, with an overall focus on active, positive notions of equality that transcend formal statements of principle. Many variants on the equality theme have been referred to, including 'formal equality', 'de facto equality',⁸ 'equality of rights',⁹ 'equality in the enjoyment of rights' of various groups,¹⁰ 'effective equality',¹¹ 'the values of equality and non-discrimination',¹² 'racial equality',¹³ 'equality of women and girls',¹⁴ 'substantive equality',¹⁵ and so on.

Compared with Article 1, the list of 'grounds' in the chapeau of Article 5 is reduced from five to four with the omission of 'descent', an omission that has not inhibited the Committee from applying the framework of Article 5 to descent-based groups, nor to other groups on the basis of intersectionality. General Recommendation (GR) 29 on descent-based discrimination names a spectrum of civil, political, economic, social, and cultural rights drawn from this article that have special resonance for the groups in question.¹⁶ As noted in Chapter 12, the drafting records of Article 5 do not illuminate the reasons for the elision of 'descent' from the list of grounds. Article 5 also uses

Ibid., p. 596. Cf. Article 26 ICCPR.

⁸ GR 32, para. 6. See Chapters 6, 7, and 9 for further discussion.

⁹ Concluding observations on Bolivia, CERD/C/BOL/CO/17-20, para. 14; Guatemala, CERD/C/GTM/ CO/12-13, para. 5.

CO/12-13, para. 5. ¹⁰ Concluding observations on Laos, CERD/C/LAO/CO/16-20, para.15 (gender equality); Portugal, CERD/C/PRT/CO/12-14, para.18 (gender equality); United Arab Emirates, CERD/C/ARE/CO/17, para. 11 (equality between citizens and non-citizens).

¹¹ Concluding observations on Serbia, CERD/C/SRB/CO/1, para. 16 (Roma, Ashkali, and Egyptians).

¹² Concluding observations on Moldova, CERD/C/MDA/CO/8-9, para. 17.

¹³ Concluding observations on Uruguay, CERD/C/URU/CO/16-20, para. 16.

¹⁴ Concluding observations on the Czech Republic, CERD/C/CZE/CO/8-9, para. 18.

¹⁵ Concluding observations on Mauritius, CERD/C/MUS/CO/15-19, para. 14, special measures directed towards the achievement of substantive equality: see also GR 32, para. 6.

¹⁶ See Chapter 6.

⁵ O. de Schutter, *International Human Rights Law* (Cambridge University Press, 2012), p. 577; the phrase 'equal protection of the law' incorporates 'a general prohibition of discrimination on forbidden grounds... whenever it manifests itself in law': P. Thornberry, *International Law and the Rights of Minorities* (Clarendon Press, 1991), p. 285, and references therein. See also W. Vandenhole, *Non-Discrimination and Equality in the View of the UN Human Rights Treaty Bodies* (Intersentia, 2005), Chapter II [henceforth *Non-Discrimination and Equality*].

See discussion in Chapter 12.

'distinction' rather than 'discrimination', whereas 'distinction' is only one member of the typology of discrimination in Article 1.17 In practice, 'discrimination' and 'distinction' are treated as interchangeable: GR 20 on 'non-discriminatory implementation of rights and freedoms' refers simply to the obligation of States under Article 5 to guarantee the enjoyment of rights 'without racial discrimination'.¹⁸

5(a) Equal Treatment before Tribunals and all other **Organs Administering Justice**

The guidelines for 5(a) request information on measures taken to ensure that actions by States parties in the fight against terrorism do not involve racial discrimination and that individuals 'are not subjected to racial or ethnic profiling or stereotyping'. 19 The request footnotes the Committee's 2002 statement on racial discrimination and terrorism in which it was stated, inter alia, that the principle of non-discrimination is to be observed 'in particular in those [matters] concerning liberty, security and dignity of the person, equality before the courts and due process of law, as well as international cooperation in judicial and police matters' in these fields'.20

Background standards on fair trials include Articles 10 and 11 of the UDHR, Article 14 of the ICCPR, and many of the UN human rights treaties, including the Convention against Torture (CAT),²¹ the Convention on the Rights of the Child (CRC),²² the Convention on Migrant Workers (CMW),²³ and the Convention on the Rights of Persons with Disabilities (CPRD),²⁴ as well as the leading regional treaties.²⁵ The standards are amplified by such as General Comment (GC) 29 of the Human Rights Committee, and have been regarded as of jus cogens quality; in terms of derogability under the ICCPR, fair trial standards, even if not explicitly listed as non-derogable, 'create safeguards for those norms that are explicitly listed . . . such as the right to life and the prohibition against torture'.²⁶ On the equality aspect, Shah summarizes the analogous situation under the ICCPR in terms of derivation from Article 26, and implying equal access to courts, equality of arms, and the right to be treated without discrimination.²⁷

The Committee has been greatly exercised in its lifetime by racial disparities in the justice system, including matters of prison sentencing,²⁸ the death penalty,²⁹ the treatment

¹⁷ See Chapter 6.

¹⁹ CERD/C/2007/1; the 5(a) guidelines also request States parties to ensure that claims of racial discrimination are investigated thoroughly, that claims against officials are subject to independent and effective scrutiny, and that GR 31 should be implemented.

A/57/18, Chapter XI.C, para. 6.

²¹ Article 15.

²² Article 40.

²³ Article 18.

²⁴ Article 13.

²⁵ For a fuller list, see S. Shah, 'Detention and trial', in D. Moeckli, S. Shah, and S. Sivakumaran (eds), International Human Rights Law (2nd edn, Oxford University Press, 2014), pp. 259-85, pp. 270-1.

Ibid., p. 271.

²⁷ Ibid., p. 273.

²⁸ Concluding observations on the US, CERD/C/USA/CO/6, paras 20 and 21, the latter with regard to disproportionate use of life sentences without parole against young offenders from racial, ethnic, and national minorities; also CERD/C/USA/CO/7-9, paras 20, 21, 22, and 23, on criminal justice issues more broadly.

CERD/C/USA/CO/6, para. 23; CERD/C/USA/CO/7-9, para. 20.

¹⁸ GR 20, para. 1.

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of young offenders, the plight of indigent accused,³⁰ disproportionate numbers of minorities in the prison system as a result of structural discrimination, etc.³¹ The problem of racialization of justice systems is not confined to criminal processes and extends to civil process and other areas of justice administration, though the Committee has devoted greater space to tribunals that judge criminal cases. The statement in GR 35 on the importance of independent, impartial, and informed judicial bodies in justice systems will be recalled;³² this advice, promoted in the context of combating racist hate speech, is applicable across the spectrum of rights and institutions called upon to address issues of racial discrimination.

GR 31 on racial discrimination in the criminal justice system, adopted by the Committee in 2005, represents its broadest treatment of justice issues.³³ The recommendation implicates Article 5 but also Articles 1 and 6, as well as calling to mind other CERD general recommendations³⁴ and a swathe of human rights instruments.³⁵ In addition to advocating legislative and policy strategies to address racism in the justice system, the recommendation outlines a series of essential steps to be taken at all stages, from access to law and justice, reporting of racist incidents, initiation of judicial proceedings, arrest and detention, through to trial and judgment, sentencing and punishment.³⁶

Issues arising from State responses to the threat of terrorism have been of concern, particularly since the events of 11 September 2001. The Committee has acknowledged the national security concerns of States but insists that human rights obligations condition the security responses. The treatment of non-citizens under anti-terrorism legislation has occasioned many comments. GR 30—the recommendations of which straddle various paragraphs of Article 5—recommends that States parties ensure 'that non-citizens detained or arrested in the fight against terrorism are properly protected by domestic law that complies with international human rights, refugee and humanitarian law'.³⁷ Stereotyping of certain groups as associated with terrorism has been the subject of criticism.³⁸ Practices such as identity, entry, and residence checks on foreigners, extradition,³⁹ and the spectre of *non-refoulement* have all engaged attention,⁴⁰ as well as legislation providing for the indefinite detention of non-nationals suspected of terrorism without charge or trial.⁴¹ The application of loosely drafted anti-terrorism legislation

³¹ Concluding observations on Colombia, CERD/C/COL/CO/14, para. 21, Afro-Colombian and indigenous persons. See also concluding observations on Mexico, linking the high numbers of indigenous in prison with shortcomings in the justice system, particularly with regard to the shortage of interpreters and qualified bilingual justice officials: CERD/C/MEX/CO/16-17, para. 14.

³³ A/60/18, chapter IX; further discussion in Chapter 16.

³⁴ The three GRs (27, 29, and 30) regarding, respectively, the Roma, descent-based groups, and non-citizens.
 ³⁵ The reporting guidelines envisage the blanket implementation of GR 31.

³⁶ Sentencing practices where foreigners found guilty of crimes under Belgian law received more severe

sentences than Belgians were highlighted by the Committee: CERD/C/BEL/CO/15, para. 14.

³⁷ A/59/18, ch. VIII, para. 20; see also Chapter 7.

³⁸ Concluding observations on Australia, CERD/C/AUS/CO/15-17, para. 12, concerning the collection of biometric data of applicants for Australian visas in certain countries.

³⁹ Concluding observations on Albania, CERD/C/ALB/CO/1, para. 25.

⁴⁰ Discussed, *infra*, in relation to Article 5(b).

⁴¹ Concluding observations on the United Kingdom, CERD/C/63/CO/11, para. 17. The Committee has also recommended avoiding arbitrary detention: concluding observations on Australia, CERD/C/AUS/CO/15-17, para. 24; New Zealand, CERD/C/NZL/CO/18-20, para. 20; in the case of Israel, the Committee asserted a violation 'under international human rights law' with regard to practices of administrative detention, CERD/C/ ISR/CO/14-16, para. 27.

³⁰ Ibid., para. 22.

³² Para. 18, further discussed in Chapter 11.

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issue was the right under 5(a) to equal treatment before the tribunals: '5(a) applies to all types of judicial proceedings, including trial by jury'.⁵⁴ In the event, the Committee took the view that the competent judicial bodies of Norway had examined the issue, that it was not for the Committee to interpret the relevant rules on disqualification of jurors, and it was not possible to conclude that a breach of the Convention had occurred.⁵⁵ The Committee nonetheless made the recommendation that 'every effort should be made to prevent any form of racial bias from entering into judicial proceedings' and that in criminal cases 'due attention be given to the impartiality of juries'.⁵⁶ The strictures logically extend to proceedings for war crimes, which should be 'effectively investigated and prosecuted, irrespective of the ethnicity of the victims and the perpetrators involved'.⁵⁷

Access to justice also implicates legal aid and support for programmes of test cases to clarify the rights of minorities and other disadvantaged groups.⁵⁸ In individual sets of observations on justice issues, the Committee has expressed concern regarding the high standards of proof required of indigenous claimants in land rights litigation that inhibits their ability to secure the recognition of their rights.⁵⁹ Preference has been expressed in a number of cases for alternative dispute mechanisms and negotiation to achieve outcomes acceptable to indigenous groups and to States⁶⁰ and the Committee has criticized aggressive, overly adversarial litigation strategies pursued by States in such contexts.⁶¹

The development of cultural integrity norms has influenced justice mechanisms as much as other areas of action.⁶² Traditional authorities and justice systems and customary law are subject to the non-discrimination critique: 'respect for customary law and practices should not be ensured through a general exception to the principle of non-discrimination, but should rather be implemented through positive recognition of cultural rights'.⁶³ The principle that customary and religious systems are required to respect the non-discrimination standard may have particular salience where systems run the risk of multiplying the forms of discrimination experienced by women. The Committee has insisted on a number of occasions that the principle of free choice of system must be applied in order, *inter alia*, to protect 'particularly marginalized and vulnerable persons such as women in traditional societies'.⁶⁴ The approach resonates with that adopted by the Human Rights Council's Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) in a study pointing out that indigenous juridical systems are not static and

⁵⁴ CERD/C/44/D/3/1991 (1994), para. 9.2.

⁵⁵ Ibid., para. 9.5.

⁵⁶ Ibid., para. 10.

⁵⁷ Concluding observations on Croatia, CERD/C/HRV/CO/8, para. 15.

58 CERD/C.CAN/CO/18, para. 26; CERD/C/CAN/CO/19-20, para. 21.

⁵⁹ CERD/C/AUS/CO/15-17, para. 18.

60 CERD/C/CAN/CO/18, para. 22.

61 CERD/C/CAN/CO/19-20, para. 20.

 62 'Traditional' justice mechanisms pertaining to indigenous peoples and other groups are discussed in Chapter 16 on Article 6.

63 Concluding observations on Zambia, CERD/C/ZMB/CO/16, para. 9.

⁶⁴ Concluding observations on Ethiopia, CERD/C/ETH/CO/7-16, para. 12. In the same paragraph, the Committee 'welcomed the...information that the application of religious and customary laws practised by some ethnic groups is subject to the consent of the concerned individuals or groups'. In the case of Namibia, it was recommended that the State party introduce 'a system which allows individuals a choice between customary law systems and the national law while ensuring that the discriminatory aspects of customary law are not applied': CERD/C/NAM/CO/12, para. 11.

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unchanging but dynamic and capable of demonstrating respect 'for both the legal autonomy of indigenous peoples and international human rights law',65 including the demand 'that women's dignity and physical integrity be respected'.66

5(b) The Right to Security of the Person and Protection by the State Against Violence or Bodily Harm, Whether Inflicted by Government Officials or by any Individual, Group, or Institution

Background standards regarding violence and bodily harm are many and various in international human rights law, stemming from Article 3 of the UDHR, which enshrines rights to life, liberty, and security of person, and Article 5 which provides that no-one 'shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Core protections include the right to life and freedom from torture and ill-treatment, as well as protection from the violence associated with genocide and crimes against humanity, and war crimes. The right to life is protected by treaty and customary international law and implicates the issue of application of the death penalty. The prohibition of torture has generated a specific convention (the CAT) as well as a Sub-Committee on the Prevention of Torture, and is treated as a prohibition to be respected under customary international law as well as jus cogens.⁶⁷ Issues of violence are briefly addressed in the Inter-American Convention on Racism and Racial discrimination.⁶⁸ Among groups implicated in CERD recommendations, issues of 'life, liberty and security' are addressed in Article 7 of the UNDRIP, while 'force' is referred to in the context of prohibiting forced assimilation or population transfer, and forcible removal from lands;⁶⁹ ILO Convention 169 also supplies relevant standards.⁷⁰ Violence against women is also the subject of considerable current attention at the international level, particularly following the Declaration on the Elimination of Violence against Women, adopted by the General Assembly in 1993, and the establishment of the mandate of a Special Rapporteur on violence against women in 1994; the adoption by CEDAW of GR 19 also stands as a landmark development. Specific instruments also address the issue, including the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará),⁷¹ and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.72

The wide orbit of the paragraph covers sources of violence whether public or private; its purpose is, according to Lerner, 'to avoid any distinction in the protection of individuals

⁶⁵ Study of Access to Justice in the Promotion and Protection of the Rights of Indigenous Peoples, A/HRC/27/65,

para. 23. 66 Ibid., citing R. Sieder and M.T. Sierra, 'Indigenous Women's Access to Justice in Latin America', Christian Michelsen Institute Working Paper No. 2010.2 (CMI, 2010).

⁶⁷ For a concise review of relevant international norms and standards see N. Rodley, 'Integrity of the Person', in Moeckli et al., International Human Rights Law, pp. 174-94; the chapter provides an extensive account of 'hard' and 'soft' legal provisions as well as a concise reading list and a list of relevant websites.

⁸ In particular, Article 4.

⁶⁹ See in particular Articles 8 and 10.

⁷⁰ Especially Articles 9, 10, and 11. For minorities, see Article 6 of the FCNM.

⁷¹ 33 ILM 1534 (1994).

72 CETS No. 210 (2011).

against any violence, whoever inflicts it'.⁷³ Article 5 is complemented in this respect by Article 4, under which acts of violence are to be declared as offences.⁷⁴ The sweep of the protected right also recalls the references in Article 2 to discrimination by persons, groups, and organizations. Reporting guidelines for 5(b) request a wide spectrum of information, including on measures to prevent violence and to ensure no degree of impunity for perpetrators, to prevent illegal use of force by police, and encourage communication and dialogue between police and victims or potential victims of racial discrimination. The guidelines also refer to encouraging police recruitment of personnel from groups protected under the Convention and to ensuring that non-citizens 'are not returned to a country or territory where they are at risk of being subject to serious human rights abuses, including torture', etc.⁷⁵ Searching the term 'security' in CERD practice throws up embining is the term 'security' in CERD practice throws up embining

Searching the term 'security' in CERD practice throws up multiple references to national security concerns, notably in the context of measures against terrorism,⁷⁶ to social security,⁷⁷ and even to 'private security personnel'.⁷⁸ There is ample practice regarding security of persons, as might be expected in light of the everyday nature of discrimination against groups leading to violence, frustrating the aspiration voiced in the preamble to 'peace and security among peoples'. The need for 'security of person',⁷⁹ 'security and integrity',⁸⁰ 'legal security',⁸¹ 'security and freedom',⁸² have all been referred to by the Committee in many contexts, some of which stand outside the spectrum of violence.⁸³ Besides measures set out in the guidelines, measures to guarantee freedom of worship, legal documentation, and regularization of migration programmes, larger-scale restoration of peace and security may be threatened by a variety of discriminatory practices that require complex, multifaceted responses on the part of State authorities.

Allegations of killings and violence, including allegations of torture,⁸⁴ punctuate the Committee records, whether of members of particular ethnic groups through interethnic violence or otherwise, and of human rights defenders.⁸⁵ Concerns expressed may

⁷³ N. Lerner, *The International Convention on the Elimination of All Forms of Racial Discrimination* (Sijthoff and Noordhoff, 1980), p. 57.

⁷⁴ See Chapter 11.

⁷⁵ CERD/C/2007/1, p. 9, section B.

⁷⁶ Discussion of Article 5(a) in the present chapter.

77 Discussed below in relation to Article 5(e)(iv).

⁷⁸ Concluding observations on Nigeria, CERD/C/NGA/CO/18, para. 19.

⁷⁹ Concluding observations on Korea, CERD/C/63/CO/9, para. 10, with regard to migrant workers.

⁸⁰ Concluding observations on Italy, CERD/C/ITA/CO/16-18, para. 18, of non-citizens and Roma and

Sinti. ⁸¹ Concluding observations on Rwanda, CERD/C/RWA/CO/13-17, para. 14, predictability and legal security required of a criminal law, with respect to legislation on 'the ideology of genocide'.

⁸² Concluding observations on Yemen, CERD/C/YEM/CO/17-18, para. 16, security and freedom of worship.

⁸³ Including the reference to 'nutritional security' in concluding observations on Guatemala, CERD/C/ GTM/CO/12-13, para. 12.

⁸⁴ Concluding observations on Kyrgyzstan, CERD/C/KGZ/CO/5-7, para. 7.

⁸⁵ Sundry examples include concluding observations on Venezuela, CERD/C/VE/CO/19-21, para. 17, murder and killings of the Yupka people; Mexico, CERD/C/MEX/CO/16-17, para. 12, human rights defenders; Kenya, CERD/C/KEN/CO/1-4, para. 15, post-election violence; Australia, CERD/C/AUS/CO/ 15-17, para. 23, assaults on Indian students; Pakistan, CERD/C/PAK/CO/20, paras 16 and 17, against foreigners, and Baluchi and minority women; China, CERD/C/CHN/CO/13, para. 17, inter-ethnic violence.

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States parties have been treated to compendium recommendations on minority education regarding resources, staffing, and curriculum content,¹⁴⁶ recommendations for which may be highly specific.¹⁴⁷ Many recommendations to ratify the UNESCO Convention on Discrimination in Education have been made by the Committee, which has also counselled States to follow the guidelines on education from the UN Forum on Minority Issues¹⁴⁸ and the Expert Mechanism on the Rights of Indigenous Peoples.¹⁴⁹ The stress in these instruments on effective participation of groups in the development of educational policies and strategies, a concept amply validated by international standards, is echoed in a raft of CERD recommendations to States parties.¹⁵⁰ Consistent attention has been paid to access to education for groups under the protective umbrella of the Convention, segregation,¹⁵¹ and the cultural/linguistic component of educational practice.¹⁵²

The Committee has been notably concerned with barriers to access, insisting, as it does throughout the normative spectrum of the Convention, on 'effective access'¹⁵³ to all levels of education, a proposition repeatedly referred to in the case of the Roma.¹⁵⁴ Barriers may arise from a variety of factors,¹⁵⁵ including poverty,¹⁵⁶ and States have been invited to address the educational consequences of such poverty through school subsidies or scholarships for poorer segments of the population or other means.¹⁵⁷ Illiteracy has also been identified as a barrier requiring strong measures to reduce or eliminate it.¹⁵⁸ Linked to the notion of access is that of educational segregation.¹⁵⁹ An active approach to desegregation

¹⁴⁶ Concluding observations on Kazakhstan, CERD/CKAZ/CO/4-5, para. 9: referring to ensuring the adequate quality of the minority schools, adequate funding and resources 'particularly for schools using languages of smaller ethnic groups', the provision of 'adequate professional staff and minority language textbooks', and improved access to university education for students of all ethnic groups without discrimination, including through the adoption of special measures'; the recommendation 'that school textbooks include appropriate consideration of the cultures, traditions and history of minorities and their contribution to Kazakh society', also flows from Article 7.

¹⁴⁷ Such as the recommendation to New Zealand to include references to the Treaty of Waitangi in the final version of the New Zealand Curriculum, CERD/C/NZL/CO/17, para. 20. A Waitangi chapter is included: http://nzcurriculum.tki.org.nz/The-New-Zealand-Curriculum.

¹⁴⁸ Concluding observations on Slovakia, CERD/C/SVK/CO/6-8, para. 16.

¹⁴⁹ Concluding observations on Paraguay, CERD/C/PRY/CO/1-3, para. 14.

¹⁵⁰ Sundry examples of consultation/participation recommendations include those for Argentina, CERD/C/ 65/CO/1, para. 19; Australia, CERD/C/AUS/CO/15-17, para. 21; Colombia, CERD/C/COL/CO/14, para. 22; Czech Republic, CERD/C/CZE/CO/8-9, para. 12; and Ukraine, CERD/C/UKR/CO/19-21, para. 14; the language of consultation with stakeholders may be used, and on the use of cultural mediators.

¹⁵¹ See discussion of Article 3 in Chapter 10.

¹⁵² The education of women and girls belonging to minorities, in light of phenomena of double discrimination, is a regular subject of recommendations: for example, concluding observations on Burkina Faso, CERD/C/BFA/CO/12-19, para. 9; Turkmenistan, CERD/C/CO/12-19, para. 20.

¹⁵³ Concluding observations on Albania, CERD/C/ALB/5-8, para. 16.

¹⁵⁴ Concluding observations on Belarus, CERD/C/BLR/CO/18-19, para. 16; concluding observations on the Russian Federation, CERD/C/RUS/CO/20-22, para. 17.
 ¹⁵⁵ The recommendations of the UN Forum on Minority Issues on education refer to three overlapping

¹⁵⁹ The recommendations of the UN Forum on Minority Issues on education refer to three overlapping dimensions of access: discrimination, physical accessibility, and economic accessibility; the recommendations also refer to 'cultural, gender and linguistic barriers' that may have equivalent access-denying effects: A/HRC/ 10/11/Add.1, 5 March 2009, section IV, 'Equal Access to Quality Education for Minorities'. The Forum recommendations in this respect are adapted from GC 13 of CESCR.

156 CERD/C/ZAF/CO/3, para. 20.

¹⁵⁷ Concluding observations on India, CERD/C/IND/CO/19, para. 25.

¹⁵⁸ Concluding observations on China, CERD/C/CHN/13, para. 23.

¹⁵⁹ Chapter 10 of the present work.

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has been called for in some cases,¹⁶⁰ and policies of segregation, *de facto* or otherwise, roundly criticized as incompatible with equal access of all to quality education. As noted earlier,¹⁶¹ the over-representation of Roma in specialized classes or schools is a problem to be vigorously addressed, replacing the segregation by integration into mainstream education.¹⁶² The Committee has also issued anti-segregationist strictures on mono-ethnic schools in some contexts, or schools of two (ethnically-based) classes under one roof, physically separated and following different curricula.¹⁶³ The methods by which integration may be achieved have been placed in context with regard to travelling families of Roma and others: States parties have been recommended to 'find appropriate solutions' for integrating the children of travelling communities, 'taking into account the community's lifestyle', or more accurately, their culture;¹⁶⁴ the Committee also recognizes the importance of 'culturally sensitive education'. 165

The limitation of the teaching medium to a particular language or languages may also create educational barriers.¹⁶⁶ With regard to special needs schools, the Committee was implicitly critical of the use of language as the criterion for assignment to such schools, supporting State initiatives to reject such a criterion and requesting information on its education of a implementation.¹⁶⁷ The linguistic medium may also function to limit access to education in cases where pedagogical practice does not make adequate allowance for minority or indigenous languages, to the disadvantage of children or other learners from those communities. As the reporting guidelines suggest, concern with language in education is broader than the question of access. Recommendations have emanated from the Committee for bilingual and multilingual education, as well as multicultural and intercultural education.¹⁶⁸ The context is characteristically that of finding a way forward for minority or indigenous groups to preserve and sustain their own languages and cultures while accessing the language of the majority, often coterminous with the national or official language. In this light, bilingual education may be a mechanism for achieving a non-assimilationist objective, while its abolition, especially in the case of threatened languages, is treated as a matter of serious concern.¹⁶⁹

> As evidenced by the foregoing, education questions are prominent in the work of the Committee and its recommendations are copious and increasingly detailed. While

> ¹⁶⁰ Concluding observations on Namibia, CERD/C/NAM/CO/12, para. 13; USA, CERD/C/USA/CO/6, para. 17. ¹⁶¹ Chapter 10 on Article 3, discussion of 'segregation'. Slovable CERD/C/SV

162 Concluding observations on Slovakia, CERD/C/SVK/CO/9-10, para. 11. In addition to D.H. v Czech Republic, and Orsus v Croatia, discussed in Chapter 10, analogous ECHR cases include Horvath and Kiss v Hungary, App. No. 11146/11 (2013); Lavida and Ors v Greece, App. No. 7923/10 (2013); Sampanis and Ors v Greece, App. No. 32526/05 (2008); Sampanis and Ors v Greece, App. No. 59608/09 (2012).

Concluding observations on Bosnia and Herzegovina, CERD/C/BIH/CO/6/Add.1, para. 23.

¹⁶⁴ Concluding observations on Norway, CERD/C/NOR/CO/19-20, para. 20.

165 Concluding observations on Colombia, with regard to Afro-Colombian and indigenous children, CERD/C/COL/CO/14, para. 23.

¹⁶⁶ Concluding observations on Mauritius, CERD/C/MUS/CO/115-19, para. 20.

¹⁶⁷ Concluding observations on Austria, CERD/C/AUT/18-20, para. 17.

¹⁶⁸ See the brief discussion of terminology in Thornberry, 'Education', pp. 328–30.

¹⁶⁹ Concluding observations on Australia, CERD/C/AUS/CO/15-17, para. 21: in response to the abolition of bilingual education in the Northern Territory of Australia, the Committee recommended 'programmes to revitalize indigenous languages and bilingual and intercultural education for indigenous peoples, respecting cultural identity and history'. Cf. the recommendation for language revitalization to El Salvador, CERD/C/ SLV/CO/14-15, para. 21.

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practice is more coherent than a wilderness of single instances, the Committee has not issued a dedicated general recommendation to subsume the main issues into an integrated text.

5(e)(vi) The Right to Equal Participation in Cultural Activities

The cultural participation right in ICERD connects closely with Article 27 of the UDHR on 'participation in the cultural life of the community'. The UDHR standard on cultural participation is notably taken forward by Article 15 of the ICESCR, Article 13 of CEDAW, Article 31 of the CRC, and Articles 43 and 45 of the CMW, which open out participation from the 'life of the community' (singular) in the UDHR to 'cultural life'; ICERD is similarly broad in referring to 'cultural activities'. Regional provisions on culture and participation in culture include Articles 17 and 22 of the ACHPR, Article 14 of the Additional Protocol to the ACHR on Economic, Social and Cultural Rights, and Articles 25 and 42 of the Arab Charter on Human Rights. Key instruments recognizing the identity rights of particular groups are replete with cultural references in line with basic understandings of 'minority' and 'indigenous peoples'.¹⁷⁰

As expressed in Article 5 of the Convention, the culture sub-paragraph overlaps significantly with Article 7 and with the immediately foregoing provision in Article 5 on education, as well as, *inter alia*, the 'civil rights', particularly participation, freedoms of thought, conscience, and religion, and freedom of opinion and expression. While CERD has not issued a general recommendation on participation in cultural activities, culture in a broad sense functions as part of the intellectual scaffolding of a Convention focused on ethnicity and allied concepts, and informs the body of general recommendations and concluding observations.

Reporting guidelines for Article 5 request information on 'participation in cultural life, while at the same time respecting and protecting cultural diversity', and on measures to 'encourage creative activities' by persons belonging to protected groups, and measures to enable such persons 'to preserve and develop their culture'. Information is also requested on facilitating access to media and establishment of own media, measures to 'prevent racial hatred and prejudice in competitive sports', and 'on the status of minority, indigenous and

¹⁷⁰ The definition of 'minority by UN Special Rapporteur Capotorti, cited in Chapter 6, is one of many informal definitions in the international canon that focus on culture, traditions, religion and language': *Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities* (United Nations, 1991), para. 568; the culture reflex is built into Article 27 of the ICCPR, which includes for persons belonging to minorities 'the right... to enjoy their own culture', and to the UNDM, in addition to referring to the protection of identity in Article 1—essentially cultural identity—refers throughout to cultural elements to be recognized and enjoyed; the Council of Europe's FCNM is similarly suffused with cultural concerns throughout its length. Equally, indigenous rights are essentially about the survival of discrete and distinctive groups, whose rights as expressed in ILO Convention 169 or the UNDRIP are culturally based; the very concept of indigenousness is culturally bounded. Among a raft of publications, for basic accounts of the *Rights of Minorities*; Weller (ed.), *Universal Minority Rights* (Oxford University Press, 2007); for indigenous peoples see, *inter alia*, S.J. Anaya, *Indigenous Peoples in International Law* (Oxford University Press, 1996), and P. Thornberry, *Indigenous Peoples and Human Rights* (Manchester University Press, 2002). Extensive further references appear in the bibliography to the present work.

¹⁷¹ Among the general recommendations, see in particular Nos 5, 21, 27, 30, 32, 34, and 35. For a rare, explicit reference to the right, see *Hagan v Australia*, CERD/C/62/D/26/2002 (2002), paras 1, 4.16, and 5.7.

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other languages in domestic law and in the media'.¹⁷² The schedule of requested information pictures culture as a complex of creative activity, institutions, and ways of life pertaining to a plurality of communities, with language presented as a prominent marker of community identity.¹⁷³ Insofar as 'cultural activities' may suggest mere 'manifestations' of culture or cultural 'events', organized or otherwise, any such limitations have been subsumed by the Committee into the broader, organic metaphor of 'cultural life'.

The sub-paragraph has not been developed to any significant extent in the communications procedure under Article 14. According to the petitioner in Hagan v Australia, the presence of a racially offensive sign at a football ground carried the consequence of an inability on his and his family's part to attend the ground, thus impairing their right to equal participation in cultural activities; 174 the specific point was not commented upon by the Committee.

Whereas 'participation' in Article 5(c) is, ex facie, focused on political processes and public service (albeit interpreted more broadly),175 5(e)(vi) links with an undefined prospectus of 'cultural activities'. The understanding of 'participation' and 'taking part' set out in CESCR GC 21 implies activity and engagement through the use of phrases such as 'act freely', 'to choose', 'to identify or not' (with communities), 'to take part', 'to engage', 'to express oneself' (in the language of choice), to 'know and understand', 'to learn', 'to follow a way of life', 'to be involved', etc; issues of access and contribution to cultural life are also regarded as intrinsic to the concept.¹⁷⁶ In CESCR and ICERD, the envisaged active citizenship in political life is paralleled by choice, freedom, and opportunity in cultural life. 'Equal' participation must be assumed to carry its standard meaning in practice, requiring action on the part of the State to secure the effective enjoyment of the right. In particular contexts, participation may become a particularly demanding obligation on governments, intensified by the right to self-determination of indigenous peoples, and the right of persons belonging to minorities, recognized in a variety of instruments, to participation in decisions affecting them.¹⁷⁷ As is evident from the present and immediately preceding chapter, the theme of 'participation' runs though the spectrum of rights in Article 5 as a whole.

The influence of the work of the Committee on Economic, Social and Cultural Rights (CESCR) on the practice of CERD in this respect is notable. In the words of the former Committee, culture 'is a broad, inclusive concept encompassing all manifestations of human existence. The expression "cultural life" is an explicit reference to culture as a living process, historical, dynamic and evolving, with a past, a present and a future.'178

¹⁷³ The reference to racial hatred in competitive sports is more closely attuned to Articles 4 and 7: CERD

GR 35, para. 43. ¹⁷⁴ *Hagan v Australia*, para. 5.7; the case is discussed at greater length in Chapter 17. In response to the point on 5(e)(v), the State party observed, para. 4.16, that it was beyond the Committee's mandate to ensure that the right was established; the mandate was rather to monitor its implementation once granted on equal terms.

See Chapter 13.

176 CESCR GC 21, paras 14 and 15. See also Advisory Committee on the Framework Convention for the Protection of National Minorities, Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, ACFC/31DOC(2008)001.

Discussed in the preceding chapter.

¹⁷⁸ GC No. 21 on the Right of Everyone to Take Part in Cultural Life (Article 15(1)(a) of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/21 (2009), para. 11. See also, ibid., paras 12 and 13.

¹⁷² CERD/C/2007/1, pp. 11-12.

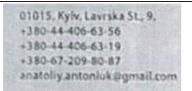
Annex 1030

A.E. Antoniuk, National Coordinator of International Center for the Study of the Preservation and Restoration of Cultural Property in Ukraine, Letter No. 12 (April 2018)



International Center for the Study of the Preservation and Restoration of Cultural Property (ICCROM)





April 27, 2018 No. 12

The Assembly of the Crimean Tatar People

Ref. No. _____

Experts of the International Center for the Study of the Preservation and Restoration of Cultural Property (ICCROM) of Ukraine have reviewed the matter concerning the restoration work at the Palace of the Crimean Khans complex (Khan Palace) in Bakhchysarai in the Autonomous Republic of Crimea.

Numerous photographs of the work and a description of them were submitted.

In addition, archival documents from the UkrNDIprojektrestavratsia Institute [Ukrainian Restoration Research and Design Institute], which performs scientific studies of the Khan Palace complex dating from 1960, 1962, 1965, 1987, 1988 and 1994 and subsequent years, were studied.

In general, it is important to note the high professional level of the studies and decisions made regarding conservation, restoration and renewal of many historical elements of the buildings and the rehabilitation of their authenticity. Guided by the principles of the long-standing school of Ukrainian restoration and by the requirements of international charters on the protection of historical and cultural treasures, the design decisions adopted methods that preserve to the utmost both individual building elements and the historical and artistic appearance of the entire ensemble. The structural elements typical for Tatar Khanate construction in the 16th-18th centuries were preserved to the utmost. Changes or repairs were made to only a portion of the wooden structures. Later layers were removed to return the original paintings and other artistic elements of the period.

Unfortunately, the work being currently done is typical for new construction. The largescale replacement of wooden structural elements with modern materials is not consistent with the construction principles of the Crimean Tatar khanate, subverts the historical accuracy of the entire ensemble, and causes irreparable damage to the history and culture of the Crimean Tatars as a nation. As an illustration of this, one may present the example of the complete replacement of the tiling with new ones. The leakage in certain areas of the roof was the result of damage to sealed joints, since the tiling was made of plastic clay, which dried out over many years and cracked because of the deformation of the wooden load-bearing elements of the roof. Obviously, the tiling should be removed and cleaned, with some damaged elements replaced, and reinstalled on a new watertight layer.

The wooden beams are being unjustifiably replaced with industrial composite beams instead of repairing intact structures. The use of reinforced concrete structures in such historical buildings contributes a genuine dissonance to their authenticity.

The additional loading on the wall and base of the buildings poses a tremendous danger and may lead to an increase in strains and, as a result, to an emergency situation.

It is important to note that in 2003 before the Russian Federation's occupation of Crimea, the Khan Palace in Bakhchysarai was nominated for inclusion in the previous UNESCO World Heritage List. In 2012 the site "Historical Milieu of the Capital of the Crimean Khans in Bakhchysarai" for nomination to that same list included the Khan Palace. According to current rules, these sites are subject to special preservation requirements. All restoration work must be approved by governmental monument protection authorities. And it is also necessary to inform the UNESCO World Heritage Center of this work.

National Coordinator ICCROM in Ukraine

[signature]

A. E. Antoniuk

Annex 1031

Center of Monument Studies, "Restoration" of the Great Khan Mosque (Biyuk Khan-Djami) in Bakhchisaray: On the Tile Roofing (14 March 2018)



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"Restoration" of the Great Khan Mosque (Biyuk Khan-Djami) in Bakhchisaray: on the tile roofing. Expert opinion

The issue of the barbaric restoration of the Khan's palace complex in Bakhchisaray has appeared numerous times in mass media and social networks [see the Crimean Tatars video of 02/07/2018; Crimean Tatars video of 02/15/2018]. Recently, the focus has been on the Biyuk Khan-Djami (the Great Khan Mosque), where so-called "renovation and restoration" work has been underway that is openly destroying this architectural monument. The mosque's roof tiles have been removed and the wooden beams sawed up. A wooden earthquake support has been replaced with one of reinforced concrete and instead of authentic "tatarka" tiles, they plan on laying down Spanish tiles of another technology that differ substantially from the original [The Khan's Palace in Crimea: destruction masked as restoration in 2017. 2.07-2.20].

This situation forces us to explore the history of the restoration of the Biyuk Khan-Djami's roof, describe the technology used in the production of "tatarka" roof tiles, show the ill-advised actions and incompetence of the project planners who decided to replace the entire roof of the mosque with a new product that differs greatly from tatarka.

The Great Khan mosque is one of the earliest buildings of Bakhchisaray, built in the 4th decade of the 16th century. In the chronicle of Sakhib I Geray, describing the construction of the new capital of the Crimean Khanate, a statement reads "The Khan ordered the construction of a beautiful mosque next to the palace" [Gaivorononskiy, 2016].

In the mid-17th century, the Turkish traveler Evliya Chelebi describes it as Sakhib Geray-Khan's most important mosque [Evliya Chelebi 2008, p. 105].

In 1736, during the war of the Crimean Khanate with the Russian Empire, Bakhchisaray was seized by the troops of Field Marshall Christoph von Münnich, who ordered the Khan's capital and palace be burned to the ground. However, before doing this, he ordered Captain Manstein to make a description of the palace (which has been preserved to this day) and only after this did they burn the Khan's residence [Gaivoronskiy 2004, p. 68]. The fire destroyed most of the buildings, after which a new era began for the palace.

After the Russian forces under von Münnich left (1736) and Lassi (1737), architects and artists were sent from Constantinople to restore the palace and construction materials were provided. The restoration began under Khan Selyamet-Giree (1737-1743), documented by a stone tablet mounted over the central entrance to the Khan Mosque from the riverbank. It states that the Khan "built" ("*binaqladi*"), not "restored," the mosque. However, this situation is likely due to the fact that the fire destroyed nearly the entire building except for its stone foundation. It was restored by Selyamet II Geray and already given a new appearance [Gaivoronskiy 2016]. Thus, according to the tablet, the Biyuk Khan-Djami was first restored in 1740 [Sergeyeva 2015, p. 258]. It was then that the mosque was covered with "tatarka" tiles that until recently were a part of its roof.

The next restoration work carried out on the roof was in the 1770s and these were completed before Empress Catherine the Great visited Bakhchisaray [Osmanov 2014, p. 28-29].

The 1820s-30s represented a new phase in the restoration and reconstruction of the roof of the Biyuk Khan-Djami. This work was ordered in time for the arrival in Crimea of Russian Emperor Alexander II and carried out under the supervision of the architect I.F. Kolodin. He wrote that there had been a project to redo the floor, ceiling with beams, walkway, and roof [Osmanov 2016, p. 82].

In the 1890s, the subject of restoring the Khan's palace was raised once again, and this included rebuilding the minarets of the Biyuk Khan-Djami [Osmanov 2015, p. 14].

In 1909 and 1912, while inspecting the mosque and connected galleries, the engineer Sadovskiy discovered that the roof in many places was leaking, the tiles were old, the frame and lathing had rotted, the wooden hood was hanging over the main entrance, which was covered in tiles and sagged, risking collapse. In 1914 this work was extended in order to partially replace the tiles over the galleries, and a temporary wooden awning was installed over the entrance to the mosque [Osmanov 2015, p. 14-15].

In 1917 at the Khan's Palace a National Museum for the Crimean Tatars

was established. More attention began to be paid to the monuments. As a result of the work of the director of the palace museum, U. Bodaninskiy, in 1923-1924 the tiles were replaced on the roof of the Biyuk Khan-Djami and all doors and windows were reinforced [Osmanov 2015, p. 15].

The next restoration and reconstruction work to replace the tile roofing of the Great Khan Mosque took place in the 1950s and 60s [Osmanov 2013, pp. 97, 100; Osmanov 2014a, p. 241].

All the tile replacements described above were carried out using "tatarka" tiles under protection from the 15th/16th centuries until the mid-20th century. In this regard, it is essential to pay particular attention to the technologies involved in manufacturing "tatarka" tiles based on the structure of the tile and its morphological characteristics.

Unfortunately, there are practically no special writings on this type of tile. There is an investigation by I.R. Gusach and D.A. Moiseyev published in the form of small presentation texts at a conference. These describe the production of these items. We shall note that this work is based on the materials in the Bakhchisaray Palace and the Azak Turkish fortress (City of Azov, Rostov Oblast, Russian Federation) [Gysach, Moiseyev, 2017].

The "tatarka" tile was manufactured in a special process. They used a wooden frame, which they set down on a flat surface. Then, they threw an absorbent on top. After this, the master poured the clay mixture and spread it out, running his hands through the clay (slurry) and spreading out the surface with his hands to ensure it was smooth. He then transferred the material into a semi-cylindrical mold which gave the tile its shape. He then brought the mold to the dryer. After drying out, the product was fired. The outer tile surface was smooth after firing, but the inner surface was rough. A very similar method for manufacturing roof tiles was used in Sicily in the mid-20th century, and this can be seen in a mini-film shot in 1951 [Production of tiles and bricks in the Campidano of Oristano, 1951 [translator's note: Oristano is in Sardinia].

What resulted was a nearly rectangular shape (more trapezoid-like), which was curved out in the middle, thereby forming an arch. The curved form was either semicylindrical or wedge-like with a slightly turned down left edge, and this reflects the manufacturing technology applied. It appears the master threw the product onto the mold from left to right. It is also typical for the arch height of the tatarka tile to increase moving down from the top edge to the bottom. Often in the lower part of the tile you will see two to three perpendicular grooves made by hand, so-called "finger spreads" (Figures 1-2). With the help of cylindrical shapes that form as a result of these finger spreads, the tile could be affixed to the roof's earthen underlayer, creating the roof's layout (Fig. 3). Sometimes the "tatarka" would be covered with a slip or glaze both on the outer surface (typical for the Biyuk Khan-Djami) and inner side. We can see separately a stamp on the tile (Figures 4-5) and insignia with snakes (Fig. 6). Similar products were found on the roof of the oldest construction of the palace complex, the Sara Gyuzel' baths (Fig. 6). We have yet to clarify what these decorations mean and their semantic significance. As for the stamps, these are unique to medieval tiles. They will be essential especially in subsequent investigations. The "tatarka" with stamps was discovered in old Bakhchisaray (Figures 4-5) from where the tiles to restore the Bakhchisaray palace complex were taken in the 19th and 20th centuries. The tiles with insignia and stamps are presented because similar shapes with ornaments might have been present on the Biyuk Khan-Djamia, but after the "restorations" of 2017-2018 this information has been lost forever.

I.R. Gusach and D.M. Moiseyev identified technological uniqueness in the manufacturing process of "tatarka" tiles, allowing us to categorize their production into several periods. The main period markers are the linear measurements of the tile and the gradient of the upper right corner. According to investigators' observations, the linear measurements of the "tatarka" tile, in particular its length, tended to decrease from 46-48 cm (the longest being 67 cm) in the 16th century to 33 cm by the turn of the 20th century. A second significant period marker for dating the tile is the gradient of the upper right corner, which over time increased from a near right angle (93 °) in the 16th century to an obtuse angle (110 – 112 °) in the 19th and 20th centuries [Gusach, Moiseyev 2017, p. 17].

An important characteristic of the "tatarka" tile is the color and structure of its body. The color ranges from light red to almost brown, while the structure is either solid or brittle with a dash of lime, gruss, and iron particles both small and large.

The particularities of the tile body and technology applied in the tile's manufacture indicate several production centers that have not yet been discovered. It is most likely that these were located within the Pontiisk region, as it is unlikely the tile was brought from afar for building and renovating roofs. One of these production centers

supposedly was locaetd in the Crimea (there is evidence that one of the sites was discovered not far from the village of Liubimovka on the Kache river, but this information has not been officially published). The tiles may have been specially ordered for renovating the roof of the Biyuk Khan-Djami in the 18th and early 20th centuries. The renovations undertaken in the 20th century were probably undertaken with tiles from destroyed buildings in the old part of Bakhchisaray that could not be restored.

Thus, an analysis of "tatarka" tiles taken from the Biyuk Khan-Djami with their temporary serial IDs gave us valuable information on the periods of the mosque's restoration (which parts of the building's roof and when it was restored). Moreover, such a high volume of for the most part still usable material, along with its typology, designs, and stamps, made it possible to reconstruct the ceramic production process in the Crimea and beyond, providing information on social, economic, and political contacts the peninsula's population enjoyed from the 16th to the early 20th centuries. In fact, an entire layer of the local ethnic population's cultural history had been lost from the late medieval period to the modern age.

They are proposing to replace the authentic "tatarka" roof tiles on the Biyuk Khan-Djami in a "safety upgrade" project with Spanish tiles manufactured by the company VEREA [The Khan's Palace in Crimea: destruction masked as restoration in 2017 2.07-2.20]. According to the tile manufacturer's official website, their tiles are rectangular with a semi-cylindrical arch of equal height along its entire length. The inner and outer surfaces are smooth. The body is a red, solid structure without any visible tincture. The tiles are neither glazed nor do they exhibit finger spreads or a stamp (Figures 7-8). The manufacturers are offering various sizes and colors for their semicylindrical tiles. For the "restoration work," tiles were selected measuring 40x17, model color "AÑEJA" [VEREA premium clay tiles. Official website] (Fig. 9). The tiles are manufactured along a production belt, i.e. the clay is pressed out through an extruder shape and cut at the appropriate length.

Thus, the Spanish tile proposed as a replacement for the "tatarka" tile appears to differ significantly in its external appearance from the "tatarka." Below is a table comparing the tiles, showing the individual differences between the authentic tile and the new tile proposed for the project:

Qualitative properties and	"Tatarka" tile	Tile manufactured by
manufacturing		the Spanish company
technology		VEREA

Tile color	Light red to brown	red
Body structure	Solid or brittle	solid
Tinctures on the body	Dash of lime, gruss, and iron particles both small and large	No visible tinctures
Tile surface	Outer tile surface is smooth, while the inner surface is rough.	Smooth on both outer and inner surfaces
Size	Length decreased over time from 46-48 cm in the 16 th century to 33 cm by the early 20 th century.	40x17
Shape and cut	Semi-cylindrical or trapezoidal, wedge-like with a slightly turned down left edge. Typical increase in arch height from the top edge to the bottom edge. The gradient of the top right corner over time increased from a near right angle (93 °) in the 16 th century to an obtuse angle (110 – 112 °) in the 19 th and 20 th centuries.	rectangular with a semi- cylindrical arch of eaqual height along its entire length. All corners measure 90 °.
Glaze and decoration	Some tiles are covered with a light slip or glaze. Some were found to have snake designs, typical for tiles of the 16 th and 17 th centuries, or a stamp (end of the 19 th – early 20 th centuries).	There are no glaze, finger spreads, or stamps.
Manufacturing method	To manufacture the tiles a wooden frame was used, which they set down on a flat surface. Then, they threw an absorbent on top. After this, the master poured the clay mixture and spread it out, running his hands through the clay (slurry) and spreading out the surface with his hands to ensure it was smooth. He then transferred the material into a semi-	The tiles are manufactured along a production belt, i.e. the clay is pressed out through an extruder shape and cut at the appropriate length. Thereafter, they are dried and fired.

cylindrical mold which gave the tile its shape. He	
then brought the mold to the dryer. After drying	
out, the product was fired.	

With such significant differences in manufacturing methods, qualitative characteristics, and sizes, with no glaze on the roof tiles, if the Spanish tiles are used, it will result in a loss of authenticity for the cultural monument that is the Biyuk Khan-Djami.

In conclusion, we would like to note that the proper way to upgrade the safety of the roof on the Great Khan's mosque would include the following:

1) number the "tatarka" tiles before removal;

2) carry out a scientific study in order to reconstruct the historical events surrounding the restorations and renovations carried out from the $18^{\text{th}} - 20^{\text{th}}$ centuries;

3) analyze the degree of integrity of th e"tatarka" tiles and select those tiles that could be used as roofing material.

4) select museum pieces with designs and stamps and give these to the museums as especially valuable items;

5) restore lost details with the help of tiles manufactured with a technology similar to that of the "tatarka";

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This expertise was conducted at the Center of Monument Studies at the Ukrainian

Academy of Sciences and Ukrainian Historical Monuments Preservation Society (UOOPIK).

Director of the Center of Monument Studies Ukrainian Academy of Sciences and UOOPIK, DPhil in History, Lecturer, honorary contributor to Ukrainian culture

[signature] Ye. N. Titova

[stamp in Ukrainian:] UKRAINE KIYIV Center of Monument Studies Ukrainian Academy of Sciences and Ukrainian Historical Monuments Preservation Society Reg. ID: 16295925



Fig. 8. Tiles manufactured by the Spanish company TEJAS BORJA (screenshot from a video by the "Krym.Realii" company.)



Fig. 6. A "tatarka" tile with "snake" designs from the Sara-Gyuzel' baths.



Fig. 4. A "tatarka" tile with stamp from the old part of Bakhchisaray.



40x17 COVER

MODEL: ANE TA MODELO: ANE JA TILES ON PALLET: 624 TEJAS POR PALET: DATE OF MANUFACTURE: 2017/06/18 FECHA DE FABRICACION: NUMBER OF PALLET: 001 NUMBER DE FALET:

Fig. 9. Tiles from the [Spanish] company [text cut off] in Bakhchisaray (photo by [text cut off] from Facebook. Access: <u>https://www.facebook.com</u> [cut off]



3. Example of a "tatarka" tile layout. Bakhchisaray Palace Complex.



Fig. 1. "Tatarka" tile from the roof of the Biyuk Khan-Djami.

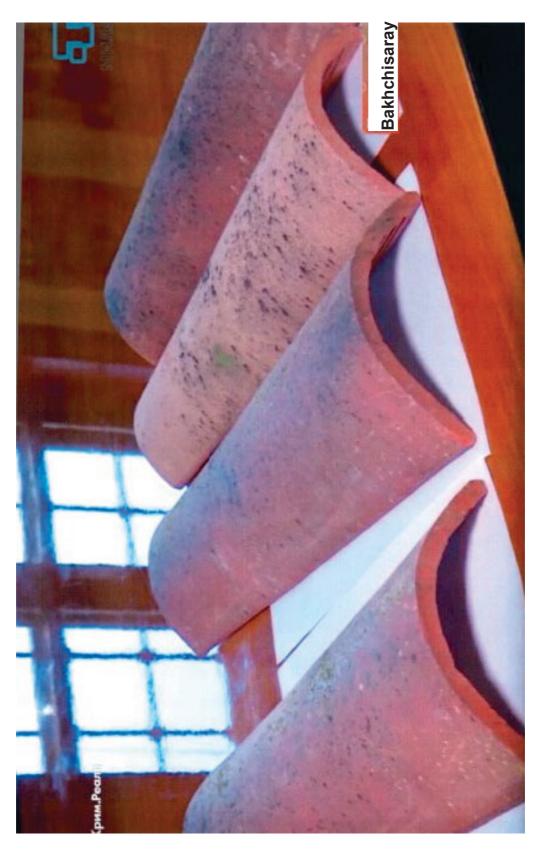


Fig. 7. Tiles manufactured by the Spanish company TEJAS BORJA in the guidebook of the Bakhchisaray Museum of History and Culture (screenshot from a video by the "Krym.Realii" company).



Fig. 5. Insignia on a "tatarka" tile from the old part of Bakhchisaray



Fig. 2. "Tatarka" tile from the roof of Biyuk Khan-Djami

Annex 1032

G. Verdirame, "The Genocide Definition in the Jurisprudence of the Ad Hoc Tribunals", 49 International and Comparative Law Quarterly (2000)

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THE GENOCIDE DEFINITION IN THE JURISPRUDENCE OF THE AD HOC TRIBUNALS

GUGLIELMO VERDIRAME*

I. INTRODUCTION

THE permanence of the genocide definition¹ over more than five decades is remarkable considering how much criticism has been directed against it since the adoption of the Genocide Convention in 1948.² The existence of a stable internationally agreed definition of genocide presents indubitable advantages, particularly if compared with the lasting uncertainties in the definition of other international crimes, such as crimes against humanity. However, the genocide definition is also characterised by a number of problematic aspects and unresolved interpretative questions, some of which have been addressed in the decisions of the ad hoc Tribunals for the Former Yugoslavia and for Rwanda.³ Divergent approaches to the mens rea requirement, to the definition of the four protected groups against whom genocide can be committed, or to the identification of acts that constitute genocide had been confined to an exclusively academic ambit until not long ago, but can now be determinative of an acquittal or conviction. With the exception of one decision by the ICTY,⁴ all other judgments on genocide have come from the ICTR, in whose custody are some of the most prominent members of the interim

2. For example, see Chalk, "Redefining Genocide", and Kuper, "Theoretical Issues Relating to Genocide: Uses and Abuses", in G. J. Andreopoulos (Ed), *Genocide: Conceptual and Historical Dimensions* (1997).

 The crime of genocide is part of the subject matter jurisdiction of both the Rwandan and the Yugoslavia Tribunals. Art. 2, International Tribunal for Rwanda, SC Res. 827, 25 May 1993, (1993) 32 I.L.M. 1203 [hereinafter ICTR]; Art. 4, International Tribunal for the Former Yugoslavia, SC Res. 995, 8 Nov. 1994, (1994) 33 I.L.M. 1602 [hereinafter ICTY].
 Prosecutor v. Jelisic (ICTY-I-95-10). The ICTY has, however, considered aspects of

4. *Prosecutor* v. *Jelisic* (ICTY-I-95-10). The ICTY has, however, considered aspects of genocide law in a number of important decisions under Rule 61, and in decisions confirming indictments.

^{*} University of Nottingham.

^{1.} The definition was first contained in GA Res. 260 (III), which adopted the Convention on the Prevention and Punishment of the Crime of Genocide, 78 UNTS 277 [hereinafter Genocide Convention]. It has been confirmed in other international law instruments since then, most notably the Statutes of the two *ad hoc* Tribunals, *infra* n.3, and the Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (*adopted* 17 Jul. 1998), *in* (1998) 37 I.L.M. 1999 [hereinafter ICC Statute]. The only exception is the 1954 Draft Code of Crimes Against Peace and Security of Mankind, adopted by the International Law Commission, which opted for a non-exhaustive enumeration of genocidal acts. The 1991 and the 1996 Draft Codes have reverted to the Convention definition.

government and of the militias accused of having organised and carried out the 1994 Rwandan genocide.⁵

In examining the application of the genocide definition by the two Tribunals, this article focuses on the development of a purposeful approach to the definition. This tendency has been signalled, for example, by the recognition that rape and sexual violence can amount to genocide in the *Akayesu* case,⁶ and by a more innovative approach to collective identities and membership of the four protected groups in the ICTR decisions *Ruzindanda and Kayishema* and *Rutaganda*, and in the *Jelisic* case decided by the ICTY.⁷

The first section of this article discusses the Convention definition and outlines some of the theoretical problems underlying it. In the following section, the mental element and its application by the two Tribunals is analysed. Thirdly, the article considers a thorny issue, which has perhaps received unduly scant attention to date: the determination of the membership of the four protected groups (national, ethnical,⁸ racial or religious). It is argued that the approach based on the idea that membership of these collective groups is a "social fact" has progressively been superseded by a better approach, which recognises that membership of the alleged perpetrators must be taken into account. The article concludes by examining the recognition of particular acts, such as ethnic cleansing and systematic rape, as amounting to genocide in the jurisprudence of the two Tribunals.

II. THE DEFINITION OF GENOCIDE

ART. II of the Genocide Convention defines genocide as:

any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

5. The Prime Minister at the time of the genocide, Jean Kambanda, and the Deputy Head of the interahamwe, Georges Rutaganda, have already been convicted of genocide by the ICTR. No less than 14 ministers and high-ranking civil servants, together with many military commanders and militia leaders, are still awaiting trial. Some trials of prominent "genocidaires" have taken place in Rwanda; at the time of writing, the trial of the former Minister of Justice, Agnes Ntamabyaliro, accused of being one of the organisers of the genocide, has commenced in Kigali. On the Rwandan genocide, see African Rights, *Death, Despair and Defiance* (1995, 2nd ed.), and Human Rights Watch/Fédération Internationale des Ligues des Droits de l'Homme, *Leave None to Tell the Story* (1999).

6. Prosecutor v. Akayesu, Case No. ICTR-96-4-T, in part reported at (1998) 37 I.L.M. 1399.

7. Prosecutor v. Kayishema and Ruzindana, Case No. ICTR-95-1-T, available on the ICTR web-site www.ictr.org.

8. The term "ethnical", instead of ethnic, is used in the Genocide Convention, probably the result of a solecism that has featured in the legal definition of genocide since then.

- (a) Killing members of the group;
- (b) Causing serious bodily harm or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

This definition represented the minimum common denominator on which a very broad consensus was reached in the aftermath of World War II. It is noteworthy that, in spite of the numerous reservations made to other provisions in the Convention-in particular to Art. IX which establishes the jurisdiction of the ICJ-no reservations were made to Art. II. The United States is the only country to have attached an interpretative declaration to Art. II.⁹ The most problematic aspect of the US declaration is the requirement that the impairment of mental faculties as a result of the infliction of serious mental harm (Art. II, b) be permanent, for it to amount to an act of genocide. Were a similar approach applied to torture, for example, the infliction of mental suffering could be considered to constitute torture only if it had led to the permanent impairment of the mental faculties of the victim. This approach appears inopportune, and has been correctly rejected by the ICTR.¹⁰ Indeed, whether the impairment is permanent or not often depends on the victim's reaction and coping strategy. In addition, a criminal conduct should not be qualified simply on the basis of the victim's psycho-social reaction to the trauma engendered by it.11 The United States tried to propound the view underlying this interpretative declaration in the preparatory commission for the ICC on the elements of crime, but the Working Group, whose conclusions will be endorsed by the members of the Assembly of State

9. It reads: " $(1) \dots$ the phrase 'intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such' appearing in Article II means the specific intent to destroy, in whole or in substantial part, a national, ethnical, racial or religious group as such by the acts specified in Article II.

(2) That the term 'mental harm' in Article II (b) means permanent impairment of mental faculties through drugs, torture or similar techniques".

10. Prosecutor v. Rutaganda, ICTR-96-3-T, at para 50: "The Chamber is of the opinion that 'serious harm' need not entail permanent or irremediable harm". See also Prosecutor v. Musema, ICTR-96-13-I, at para 156.

11. This is particularly so since rape and sexual violence can constitute genocide either as "killing of members of the group" (Art. II, a) in those cases where the woman is killed, or as a way of "causing serious bodily or mental harm to members of the group" (Art. II, b). While for all women rape and sexual violence are undoubtedly traumatising experiences, which can result in a "permanent impairment of mental faculties", under the US declaration, those women who have coped with the trauma of rape without developing a permanent mental impairment would never be considered victims of an act of genocide.

Parties once the Statute enters into force, has preliminarily decided not to include the US proposal in its first draft.¹²

One of the most contentious aspects of the genocide definition is the exclusion of political and social groups from the list of protected groups. In its first resolution on genocide, the General Assembly had initially opted for a broader definition based on the notion of "denial of the right of existence of entire human groups".¹³ But GA Res. 260 (III), which adopted the current text of the Genocide Convention, took into account the concerns of States about the inclusion of political and social groups. As pointed out by Chalk, the exclusion of political and social groups from the protection of the Genocide Convention has important consequences, in particular it means

ignoring the 15 to 20 million Soviet civilians liquidated as "class enemies" and "enemies of the people" between 1920 and 1939; (...) neglecting the roughly 300,000 mentally impaired and mentally ill Germans and others murdered by the Nazis as "life unworthy of life"; (...) overlooking the thousands of homosexuals killed by the Nazis because of their sexual orientation; (...) disregarding the million or more Khmer murdered by the state and the Communist party of Kampuchea in the years from 1975 and 1978.¹⁴

Although these massacres cannot be subsumed under the Genocide Convention, they remain acts prohibited under other international norms. Some authors have, in fact, questioned the importance normally attributed to the exclusion of political and social groups from the Genocide Convention, arguing that human rights and humanitarian law provide adequate ancillary protection.¹⁵ For others, however, the failure to protect political and social groups constitutes the "Genocide Convention's blind spot", but one that is obviated by the emergence of a *jus cogens* prohibition of genocide "broader than the Convention's prohibition".¹⁶ While this latter view may have some theoretical validity, the jurisdiction of the *ad hoc* Tribunals and of the International Criminal Court is limited to the Convention-based definition of genocide. As a result, the international machinery for preventing and for punishing

 Chalk, supra n.2 at 50. The list could continue with the extermination of hundreds of thousands of Communist militants in Indonesia, and the political massacres in Maoist China.
 René Beres, "Genocide and Genocide-Like Crimes", in S. Bassiouni, International

Criminal Law, Vol. I, International Crimes, at 271.

16. van Schaack, "The Crime of Political Genocide: Repairing the Genocide Convention's Blind Spot", (1997) 106 The Yale Law Journal 2261–2262.

^{12.} Art. 9 of the ICC Statute states that "elements of crime shall assist the Court in the interpretation and application of Articles 6, 7, and 8", which deal respectively with genocide, crimes against humanity and war crimes.

^{13.} GA Res. 96 (I). This formulation was very close to the one theorised by the French jurist Lemkin in the 1930s and 1940s (*Axis Rule in Occupied Europe* (1944)).

genocide currently in place cannot enforce the putatively broader *jus* cogens prohibition.

The effectiveness of the Convention regime for preventing and punishing genocide has been the object of critical analysis. Leo Kuper questioned the ability of the State-centred UN system to act against a crime that in almost all situations "is committed by governments or with governments' condonation or complicity".¹⁷ Hurst Hannum condemned the failure of States to bring cases to the International Court of Justice (ICJ) "relating to the interpretation, application and fulfilment of the ... Convention, including those relating to the responsibility of a State for genocide" (Art. IX).¹⁸ In this respect, Bosnia's application against Yugoslavia in 1993 has signalled the belated beginning of inter-State litigation under Art. IX.¹⁹ To the Bosnia case one now needs to add the cases brought by the Federal Republic of Yugoslavia (FRY) against the ten NATO countries in the course of the Kosovo war, which were inter alia based on Art. IX of the Convention, and the case brought by Croatia against the Federal Republic of Yugoslavia.²⁰ In spite of these developments. Hannum's remarks still retain some validity: in the cases now pending before the ICJ, the applicant State is the State directly affected by the alleged commission of genocidal acts. There is to date no example of "altruistic" inter-State litigation brought under the Genocide Convention by a non-directly affected State, reflecting the erga omnes nature of the obligations in the Convention.²¹

While the importance of this litigation originating from the "discovery" of Art. IX should not be underestimated, doubts on the effectiveness of the dispute settlement mechanism under the Convention cannot be easily

18. In particular, Hannum remarked that in the case of the Cambodian genocide "the failure of any state thus far to institute proceedings before the Court is an indefensible abdication of international responsibility" ("International Law and Cambodian Genocide: The Sounds of Silence", (1989) 11 *Human Rights Quarterly* 82 at 84).

19. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia [Serbia and Montenegro]) (Merits) [1996] I.C.J. Rep. 595.

20. Legality of the Use of Force (Federal Republic of Yugoslavia v. Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom, United States) (Request for Interim Measures) [1999] 38 I.L.M. 950; Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia) (Proceedings instituted on 2 July 1999) www.icj-cij.org.

21. The ICJ has emphasised that the obligations deriving from the Genocide Convention are non-contractual and that the Convention is not characterised by competing interests but by a common interest, i.e. "the accomplishment of those high purposes which are the raison d'etre of this Convention", based on moral and humanitarian principles (*Reservations to the Convention on Genocide* [1951] I.C.J. Rep. 15). See also the well-known dictum of the ICJ on the erga omnes nature of obligations outlawing genocide in the Barcelona Traction case (Barcelona Traction, Light and Power Co. Case (Belgium v. Spain) (Merits) [1970] I.C.J. Rep. 3, at paras33–34).

^{17.} Kuper, supra n.2 at 36.

dismissed. First, many States have made reservations to Art. IX excluding the jurisdiction of the ICJ. For example, had a State brought a case against Rwanda during the 1994 genocide, the ICJ would have had no basis for jurisdiction because of a Rwandan reservation to Art. IX.

Secondly, in terms of the effectiveness of prevention, notwithstanding the Court's ever bolder use of interim measures,²² it is hardly conceivable that a government that is committing or condoning a genocide would comply with the interim measures of the ICJ. Ultimately, the question of an effective prevention of genocide cannot be separated from that of the legality of humanitarian intervention, and/or of the availability in these situations of the system of collective peace-enforcement under Chapter VII. Indeed, in the course of a genocide, the use of force—either by an individual State or group of States, or by the Security Council using its Chapter VII powers—is often the only method that can effectively stop or limit the commission of genocidal acts.

Finally, with regard to the effectiveness of the dispute settlement system of the Convention for punishing-rather than preventinggenocide, it must be observed that the determination of the responsibility of States by the Court would not only be belated in most cases, but also inappropriate if the government responsible for the genocide has been replaced by a new one. For example, in the case of the two most horrific genocides of the last two decades, Cambodia and Rwanda, the "genocidal" authorities remained in power respectively for three years and for four months-less than a judgment of the ICJ on the merits would have presumably taken. The case of the Federal Republic of Yugoslavia appears different, as the authorities accused by Bosnia-Herzegovina and by Croatia of committing acts of genocide are still in power. Furthermore, in this case the genocide was allegedly perpetrated in the territory of another State. The determination of the responsibility of the FRY may thus have legal consequences on the plane of State responsibility, regardless of the political vicissitudes in this country.

The issues covered by the ICJ judgments on the merits of these cases may to some extent overlap with issues already addressed by the *ad hoc* Tribunals. But, as far as individual criminal responsibility is concerned, the case-law of the *ad hoc* Tribunals is destined to remain unique at least until the International Criminal Court becomes operative. On questions on which the *res judicata* of the ICJ and of the *ad hoc* Tribunals in part coincides, the risk of legal or factual findings that are in contradiction with each other cannot be completely ruled out; it is a risk typical of an era

^{22.} See, for example, Case Concerning the Vienna Convention on Consular Relations (Germany v. USA) (Order of 3 Mar. 1999), in which the Court adopted interim measures inaudita altera parte.

characterised by the proliferation of international judicial and semijudicial bodies.

III. THE MENTAL ELEMENT

In all likelihood, the decisions on the merits in the ICJ cases brought under the Genocide Convention will involve some consideration of intent, albeit not for the purposes of determining individual criminal responsibility, but in order to ascertain whether a State has breached its obligations under the Convention. In its order of 2 June 1999 on the FRY's request for interim measures, the ICJ gave an indication of how it may proceed on the merits in these cases. The Court made a kind of prima facie factual finding, noting that it did not appear that the NATO "bombings entail an element of intent, towards a group as such".²³ From the point of view of criminal law, it probably makes little sense to determine whether a certain conduct has been characterised by a particular intent without considering whose intent is to be determined. In fact, intent being the subjective element of crime,²⁴ it can only in principle be determined in relation to the mens rea of an individual. However, having to establish, for example, whether genocide was committed in Bosnia by the FRY, the ICJ need to ascertain whether the actions of certain groups were characterised by an intent to destroy, in whole or in part, a particular group, and whether such actions are imputable to the **FRY**.²⁵

The *ad hoc* Tribunals have clarified some of the issues pertaining to intent, in particular the quantum and the proof of intent. In *Akayesu*, the Trial Chamber of the ICTR pointed out that "intent is a mental factor which is difficult, even impossible, to determine", adding that, failing a confession of the accused, intent can only be "inferred from a certain

24. In the words of the ICTY in the *Jelisic* case, intent is the "element moral of l'infraction" (*Prosecutor v. Jelisic, supra* n.4, para.62).

25. In the Legality of the Use of Force cases, since it is the actions not of paramilitary groups but of States that are at stake, the ICJ will mainly have to determine whether the NATO bombings constituted a genocidal act. A problem of imputability could arise only with regard to those NATO countries that did not directly participate in the military campaign, but limited themselves to lending political support to it as members of the alliance.

^{23.} See, for example, Legality of the Use of Force (FRY v. UK), supra n.20, at para. 35, and Legality of the Use of Force (FRY v. France), supra n.20, at para.27. However, in its order in the Bosnia Genocide Application case, the ICJ had not reached a prima facie factual determination in the same terms with respect to the question whether the acts of Yugoslavia (Serbia and Montenegro) in Bosnia were characterised by intent to destroy a particular group. But, the Court acknowledged the existence of a grave risk that acts of genocide had been committed and emphasised that "Yugoslavia and Bosnia-Herzegovina, whether or not any such acts in the past may be legally imputable to them, are under a clear obligation to do all in their power to prevent the commission of any such acts in the future" (Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia [Serbia and Montenegro]) (Order) [1993] I.C.J. Rep. 3, para.45). 24. In the words of the ICTY in the Jelisic case, intent is the "élément moral de

number of presumptions of fact".²⁶ In part relying on the Rule 61 decisions of the ICTY on Karadjic and Mladic,²⁷ the Trial Chamber in *Akayesu* considered as circumstances that can be indicative of a genocidal intent: the scale and the general nature of the atrocities; the fact of deliberately or systematically targeting victims of a group, while excluding the members of other groups; the general political doctrine of the perpetrators of the crime; the repetition of discriminatory and destructive acts; speeches or projects preparing the ground for the massacres.²⁸ Applying these considerations to the facts of the case, the Trial Chamber found that it was possible to infer Akayesu's genocidal intention "*inter alia*, from all acts and utterances of the accused, or from the general context in which other culpable acts were perpetrated systematically against the same group, regardless of whether such other acts were committed by the same perpetrator or even by other perpetrators".²⁹

The context in which the alleged genocidal conduct is said to have taken place is of great significance. In *Akayesu*, the Chamber had already determined "in absolute terms"—that is not in respect of the criminal responsibility of any individual—that "genocide was, indeed, committed in Rwanda in 1994 against the Tutsi as a group",³⁰ as the massacres aimed to destroy this particular group. As far as Akayesu's own intent, to be determined separately from the "collective intent" to destroy the Tutsi group that unequivocally characterised the massacres in Rwanda, the Chamber found that Akayesu had made speeches "calling, more or less explicitly, for the commission of genocide",³¹ and that the systematic rape of women in Taba commune, over which he had presided, had targeted Tutsi women, in most cases resulting in the killing of the victims.³²

In Kayishema and Ruzindana, the ICTR specified that "the mens rea must be formed prior to the commission of genocidal acts", although this does not mean that "the individual acts themselves (...) require premeditation".³³ To the factors indicative of intent identified in Akayesu, the Trial Chamber in Kayishema and Ruzindana added the number of victims from the group, the use of derogatory language towards members of the targeted group, the weapons employed and the extent of the bodily injury that had been inflicted, the methodical way of planning, and the

26. Akayesu, supra n.6, at para.523.

27. Radovan Karadjic (Rule 61 Decision), IT-95-5-R61; Ratko Mladic (Rule 61 Decision), IT-95-18-R61.

28. Akayesu., supra n.6, at paras523-524.

29. Ibid., at para.728.

30. Ibid., at. para.126.

31. *Ibid.*, at para.729. On the basis of this, Akayesu was also convicted of direct and public incitement to commit genocide (*Ibid.*, at paras672–675).

32. See infra Section V Ethnic Cleansing and Sexual Violence as Acts of Genocide.

33. Kayishema and Ruzindana, supra n.7, at para.91.

systematic manner of killing.³⁴ However, it is not necessary for the individual to know the full details of the genocidal plan or policy.³⁵

As far as Clément Kayishema was concerned, two facts were considered particularly indicative of his intent. First, he was a *préfet* during the genocide, a circumstance of great importance since the "national plan to commit genocide was implemented at *prefecture* level".³⁶ The Chamber was also persuaded that Mr Kayishema had executed this plan in the *prefecture* of Kibuye with efficiency and zeal. Secondly, the sheer numbers of "Tutsis killed in the massacres, for which Kayishema is responsible, either individually or as a superior" revealed, in the view of the Court, his genocidal intent.³⁷ Combined with a series of utterances³⁸ and a persistent pattern of conduct, the two elements above persuaded the Chamber beyond any reasonable doubt that Kayishema had intended to destroy the Tutsi as a group.

The other accused in *Kayishema and Ruzindana*, Obed Ruzindana, was a businessman, who, in the view of the Tribunal, "displayed his intent to rid the area of Tutsis by his words and deeds and through his persistent pattern of conduct".³⁹ Ruzindana's actions were particularly ruthless. The Chamber found that, after transporting Hutu extremists to sites where Tutsis had been gathered, Ruzindana "offered payment in exchange for the severed heads of well known Tutsis or identification cards of massacred Tutsis".⁴⁰

In the Jelisic case, the ICTY considered for the first time the criminal responsibility of an individual accused *inter alia* of genocide in the context

37. *Ibid.*, para.531. The Trial Chamber found that around 8,000 people were killed in an area in Kibuye town known as the Complex (the Catholic Church and Home St. Jean Complex); between 8,000 and 27,000 were killed in the Stadium; and 4 to 5,500 were massacred in Mubuga Church. In addition, in the area of Bisesero, in the same *prefecture* of Kibuye, other massacres took place and "evidence suggests that the number of those who perished was well into the tens of thousands" (*Ibid.*, para.531).

38. There were numerous testimonies that reported hearing Kayishema refer to Tutsis as "filth or dirt". In the Complex, the Chamber found out that he used a megaphone in the Complex to read out a message from Kigali encouraging the extermination of the Tutsis (*Ibid.*, para.539).

39. Ibid., para.541.

40. *Ibid.*, para.544. Obed Ruzindana was sentenced to 25 years of imprisonment, a lenient penalty according to the Rwandan government that vehemently protested against it. The reasoning of the Chamber on the sentencing does, indeed, give rise to some doubts, particularly in the light of the horrific acts of which Ruzindana was found guilty. The Chamber found that Kayishema deserved more punishment than Ruzindana (*Ibid.*, para.26), since the former had been found guilty of four counts of genocide while Ruzindana had been convicted of "only" one count. The Chamber stressed Ruzindana's "relative young age and the goal of rehabilitation in his case" (he was 32 in 1994!). In a sense, having been tried together with Kayishema may have helped Ruzindana's case by making his actions look "less horrific" in comparison with those of Kayishema.

^{34.} Ibid., para.93.

^{35.} Ibid., para.94.

^{36.} Ibid., para.528.

of the events in the former Yugoslavia. Jelisic was acquitted of the charge of genocide on the grounds that the Prosecutor had failed to prove Jelisic's genocidal intent beyond any reasonable doubt. Goran Jelisic had pleaded guilty to all counts, except genocide.⁴¹ The Trial Chamber found that Jelisic was "not only perfectly aware of the discriminatory nature of the operation [against the civilian population in Brcko], but that he adhered to it fully".⁴² Before considering whether Jelisic's intention actually surpassed a discriminatory intent and amounted to a genocidal one, the Chamber specified that "genocidal intent can take two forms": on the one hand, the intent to exterminate a very large number of members of the group, and, on the other, the intent to pursue a more selective destruction targeting only certain members of the group "because of the impact their disappearance would have on the survival of the group as such".⁴³

The Chamber's conclusion that the existence of a plan to destroy the Muslim group in Brcko had not been proven by the Prosecutor beyond any reasonable doubt complicated the proof of Jelisic's intent a great deal. Although in principle an individual may be found guilty of genocide even if no genocidal plan existed, this is an extremely unlikely scenario. As stated by the Chamber, "it will be very difficult in practice to prove genocidal intent of an individual if his actions do not have a massive character and if the alleged criminal conduct was not supported by an organisation or system".44 Numerous testimonies relayed accounts of Jelisic's brutalities when, in May 1992, he commanded the camp of Luka.⁴⁵ However, the Chamber did not find that these testimonies unequivocally pointed to his genocidal intent. The picture emerging from the testimonies revealed—in the view of the three Trial judges—"an essentially disturbed personality". In addition, Jelisic chose his victims on the basis of a "casual selection", and, on a couple of occasions, rather inexplicably, Jelisic even conceded a laissez-passer to detainees, including, once, a prominent Muslim leader. The Chamber thus concluded that "Jelisic's actions did not reveal a firm will to pursue the partial or total destruction of a group as such".46

41. The other charged offences were violations of the laws and customs of war (Art. 3, Statute of the ICTY) and crimes against humanity (Art. 5, Statute of the ICTY). Throughout May 1992 Goran Jelisic acted as commander of Luka camp, where Serb forces confined large numbers of Croats and Muslims who had been for the most part expelled from their homes in the town of Brcko.

42. Jesilic, supra n.4, at para.75 (original text of the judgment is in French).

43. Ibid., at para.82.

44. Ibid., at para.101 (and 99-100).

45. In particular, he referred to himself as "Serb Adolf", and reportedly said that he could not drink his coffee in the morning unless he had executed between 20 and 30 detainees. He informed detainees in Luka that the vast majority of them (70% according to one testimony, 90% according to another) would be killed. (*Ibid.*, paras.102–108).

46. Ibid., para.107.

This distinction between different types of "hostile" intents against a group is of great importance. The intent to discriminate against, or even to persecute a group cannot be considered identical to the intentional pursuit of its physical annihilation. In addition, a method for the judicial application of the *dolus specialis* in genocide has been crystallised by the *ad hoc* Tribunals. First, contextual elements are assessed. In particular, the existence of a genocidal plan and the commission of a genocide in a given situation are considered. Secondly, the Tribunals examine the genocidal intent of the individual, which is distinct but yet connected to the "collective" genocidal intent underlying the plan.

IV. DETERMINING THE MEMBERSHIP OF "NATIONAL, ETHNICAL, RACIAL OR RELIGIOUS GROUPS"

The identity of the victims is a fundamental element of the crime of genocide. As mentioned earlier, the systematic extermination of even tens of thousands on political grounds does not amount to genocide under the Genocide Convention,⁴⁷ while the extermination of fewer can amount to genocide if the perpetrators' intent to destroy one of the four groups is proven. In essence, there are two ways of determining who is a member of a group. First, objective criteria can be applied. Second, membership of a group can be decided on the basis of subjective identification, either by the victims themselves or by the perpetrators of the crime. This distinction is far from having only theoretical importance. For example, in the case of the Holocaust, if objective criteria of membership and identity were applied, it would be concluded that a genocide was perpetrated only to the extent that the victims were "really" Jewish. In other words, persons who were killed because they were perceived to be Jewish by the Nazis-and were considered Jewish under the Nuremberg laws-would not be considered victims of a genocide, but, presumably, of a crime against humanity and/or of a war crime.

One problem with objective criteria is that rules on the membership of groups are nearly always disputed. For example, the question of who is a Jew is notoriously controversial. The *halachic* rules on matrilineal descent and on conversions have been contested at least since the 18th century by various streams of Conservative, Reformed or Progressive Judaism. The *halacha* itself accommodates diverse positions. In the view of at least one author, Maimonides, a person killed because of his or her imputed Jewish identity should be entitled to a Jewish burial, and thus become a member of the group, although posthumously, on the basis of the identification by his/her murderer. Ethnicity in Rwanda presents at least a similar degree

^{47.} The argument has been made that the definition of genocide under customary international law is actually broader than the one based on the Genocide Convention. See supra n.16. It is an argument that has not been echoed in the jurisprudence of the *ad hoc* Tribunals.

of complexity, although western observers have often failed to perceive such complexity, or have made the too common mistake of forcing an European reading of identities in the Rwandan context.⁴⁸

The groundbreaking case-law of the Rwanda and Yugoslav Tribunal on these questions shows a progressive shift from the objective position to one which is predominantly based on subjective criteria of membership, i.e. identification by others or self-identification. Initially, the Rwanda Tribunal was reluctant to adhere to the subjective positions, not least because of the existence of precedents⁴⁹ in which both the Permanent Court of International Justice and the International Court of Justice had opted for objective criteria. In addition, reluctance to determine membership of a group on the basis of subjective criteria can also derive from criminal law. In fact, mistakes of fact can often be determinative of the qualification of the crime. For example, in most legal systems, Oedipus' killing of his father, Laios, would be qualified as murder, and not as parricide, since Oedipus did not know that the "old man in the chariot", which had pushed him out of the paved way at a cross-roads, was actually his father.⁵⁰ In the context of the Rwandan genocide, the rape and killing of a woman believed to be a Tutsi on the basis of her physical appearance-while she was in "reality" of mixed origin with a Hutu father and a Tutsi mother⁵¹—would be considered a crime against humanity and not a genocidal act, if this approach is taken.

The *Minorities in Upper Silesia* case illustrates the approach based on objective criteria. Germany sought a declaration from the Permanent Court establishing "the unfettered liberty of an individual to declare according to his own conscience and on his own personal responsibility that he himself does or does not belong to a racial, linguistic or religious

50. Sophocles, *Oedipus Rex* at lines 800–809. Oedipus may have acted in self-defence because Laios apparently attacked him after he had hit the driver of the chariot.

51. Patrilineal descent normally determines identity in Rwanda. But "transitions" from one group to the other were common in pre-colonial Rwanda, especially from the Hutu group to the Tutsi one through the contract of *ubuhake*. Under this contract "a Tutsi patron gave a cow to his Hutu client. Since the Hutu were in theory not allowed to have cattle (...), it was not only an 'economic' gift, but also a form of upward social mobility. For the cow could reproduce, and the future calves would be shared (...). This could be the beginning of an upward social climb where, once endowed with cattle, the Hutu lineage would become 'tutsified'" (Prunier, *supra* n.48 at 13–14). See also Verdirame, "Ethnicity, Conflict and Constitutional Change in Rwanda and Burundi", in Gardner and others (Eds), *Creation and Amendment of Constitutional Norms* (forthcoming in 2000).

There were also cases of Tutsis who became Hutus. Two notable examples are Froudald Karamira and Robert Kajuga, who became leading Hutu extremists, the latter heading the *interahamwe*.

^{48.} The colonial period was a time when Hutu, Tutsi and Twa identities went through a radical process of transformation, visions of Tutsi superiority were instilled and perceptions were racialised (G. Prunier, *The Rwanda Crisis: History of a Genocide 1959–1994* 23–41 (1995)).

^{49.} Rights of Minorities in Upper Silesia (Germany v. Poland), P.C.I.J. Rep. Series A, No. 12; Nottebohm (Liechtenstein v. Guatemala) (Merits) [1955] I.C.J. Rep. 4.

minority".⁵² Under the terms of the German–Polish Convention on Upper Silesia, the protection of minorities in the region had to be secured *inter alia* through the establishment of schools providing instruction in the language of the group. In 1926, the Polish Government decided to investigate the authenticity of the applications for admissions to these schools and declared the admission of over 7,000 children to these schools to be null and void.⁵³ Before the Court, Germany argued, in part relying on a provision of its treaty with Poland, that "the question whether a person does or does not belong to such a minority (...) must be left to the subjective expression of the intention of the persons concerned", while according to Poland this was "a question of fact and not one of intention".⁵⁴

The Court thus held that membership of one of the protected minorities was primarily a question of fact. To a large extent this case hinged on the interpretation of the terms of the German-Polish Convention and should not be regarded as conclusive evidence of the existence of a norm of general international law favouring objective criteria for establishing membership of groups. However, the fact that one provision in the German-Polish Convention supported the German thesis confirms the predilection for objective criteria in international law.⁵⁵ In regard to subjective criteria, the Permanent Court stated that subjective elements could still be taken into account, particularly since "what is to be understood as a person's tongue is not always clear and beyond doubt".⁵⁶ Judge Nyholm, dissenting, appeared aware of the intrinsic difficulties in adopting deceptively objective criteria for what are ultimately social constructs dependent on changing individual and societal perceptions. He warned that there was "very little object in giving a rigid and objective definition of the idea of 'minority' since the linguistic, religious and ethnical divisions cannot be disentangled". Judge Nyholm also observed that "a definition of minorities solely based on the subjective principle must, for example, allow of an individual counting himself as one of a minority from a religious point of view; on the other hand, it should not be

52. Minorities in Upper Silesia, supra n.49 at 5.

53. Ibid., at 10.

54. Ibid., at 32.

55. Indeed, Art. 74 stated that "the question whether a person does or does not belong to a racial, linguistic or religious minority may not be verified or disputed by the authorities". The Court interpreted this provision, almost against its literal meaning, as aimed solely at "the avoidance of the disadvantages ... which would arise from a verification or dispute", and not as requiring "the substitution of a new principle for that which *in the nature of things* and according to the provisions of the Minorities Treaty determines membership" (*lbid.*, at 34) [emphasis added]. According to the Court, such provisions as those formulating the declaration of the person as "Which is the language of the pupil or child?" ("Quelle est la langue d'un élève ou enfant?") revealed that the Convention viewed membership of the minority as a question of fact.

56. Ibid., at 40-41.

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impossible for the same individual to consider himself as belonging to the minority as regards schools but to the majority in other spheres⁵⁷

The ICJ considered similar issues in the *Nottebohm* case. Although this dealt with the question of nationality rather than ethnic, religious or racial identities, its conclusions may be valid for determining individual membership of other groups too. In *Nottebohm*, the ICJ stated that

nationality is a legal bond having as its basis a *social fact* of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties. It may be said to constitute the juridical expression of the fact that the individual upon whom it is conferred, either directly by the law or as a result of an act of the authorities, is in fact more closely connected with the population of the State conferring nationality than with that of any other State [emphasis added].⁵⁸

National identity is thus considered a "social fact", of which the law is a mere expression. The ICJ disregarded two elements that would appear to be of greatest significance as far as national identity is concerned: the self-perception of the individual, and the view of the concerned State. The reason for disregarding these elements was essentially the belief that there is something more "objective" than them: the existence of an authentic and objectively verifiable link between the person and the country of his or her nationality.

It is therefore not surprising that in *Akayesu* the Trial Chamber of the ICTR referred to *Nottebohm* when grappling for the first time with the definition of national group.⁵⁹ In the end, the Chamber settled for that

57. Judge Nyholm's dissenting opinion took careful account of the socio-cultural context. In particular, he observed that in Upper Silesia "the working class ordinarily and in domestic life exclusively speaks" neither German nor Polish but a dialect, which is often "the sole means of expression, to the exclusion of German and Polish, for children up to the time when the latter begin their school studies". Judge Nyholm added that "a request for the entry of a child for a minority school cannot be, generally speaking, considered as having as its aim the denationalisation of a child in reality of Polish nationality. The aim may be different, for example, that the parent, realising that the child will automatically learn Polish, wishes for practical reasons to have him instructed in the German language …" (*Ibid.*, at 63–64 [diss. op. of Judge M. Nyholm]).

58. Nottebohm, supra n.49.

59. The question of belonging has arisen also in the context of cases on minority rights. For example, in a communication to the Human Rights Committee, Sandra Lovelace, born and registered as a Maliseet Indian, complained that the Canadian legislation that deprived her of her status as a Maliseet Indian for "marrying out" violated her rights under the International Covenant on Civil and Political Rights, in particular Arts. 2 and 26 (non-discrimination) and Art. 27 (rights of individuals belonging to minorities). The Committee found that a violation of Art. 27 had occurred, and did not deem it necessary to examine the issues that had been raised under other provisions in the Covenant. The reasoning of the Committee combined subjective and objective criteria. The Committee noted that "persons who are born and brought up on a reserve, who have kept ties with their community and wish to maintain these ties must normally be considered as belonging to that minority within the meaning of the Covenant" (Communication No. 24/1977, Sandra Lovelace v. Canada, at paras. 14 and 17).

definition "as a collection of people who are perceived to share legal bonds based on a common citizenship, coupled with reciprocity of rights and duties".⁶⁰ On the ethnic group the Chamber pointed out that the essential aspect was that its "members share a common language or culture".⁶¹ Akayesu also confirmed the objective approach to membership for the two remaining protected groups. A racial group was thus found to be "based on the hereditary physical traits often identified with a geographical region, irrespective of linguistic, cultural, national or religious factors",⁶² while a religious group was defined as one "whose members share the same religion, denomination or mode of worship".⁶³ In no case was any reference made to subjective identification either in the form of self-identification or identification by others.

However, it was clear to the Trial Chamber in Akayesu that Tutsis did not closely match any of the four definitions. Indeed, although commonly described as an ethnic group, Tutsis do not share a different language or, arguably, a different culture: Kinyarwanda, a tonal Bantu language, is spoken by both Hutus and Tutsis, and there is no difference in the customary practices of the two groups. In order to classify the massacres of 1994 and Akayesu's actions as genocidal, the Chamber thus resorted to an improbable interpretation of the Genocide Convention. It argued that "it is particularly important to respect the intention of the drafters of the Genocide Convention, which according to the travaux preparatoires was patently to ensure the protection of any stable and permanent group".⁶⁴ Constrained by its own restrictive definitions of the four protected groups, the Chamber had no other alternative but to force an interpretation of the Convention that seems remote from the text of Art. II and from the intention of the drafters. In addition, the ideas of permanence and stability may still be ill-suited to the Rwandan context, also characterised by some social mobility.65

Although the *Akayesu* approach has not been openly disowned in subsequent cases, a "quiet" shift towards the subjective approach has taken place. The Tribunals are, in other words, beginning to acknowledge that collective identities, and in particular ethnicity, are by their very nature social constructs, "imagined" identities⁶⁶ entirely dependent on variable and contingent perceptions, and *not* social facts, which are verifiable in the same manner as natural phenomena or physical facts.

- 60. Akayesu, supra n.6, at para.511.
- 61. Ibid., at para.513.
- 62. Ibid., at para.514.
- 63. Ibid., at para.515.
- 64. Ibid., at para.516.
- 65. See supra n.51.
- 66. B. Anderson, Imagined Communities (1983).

The Definition of Genocide

In Kavishema and Ruzindana the ICTR opened up the definition of at least one of the four protected groups-the ethnic one-to a subjective construction, signalling a departure from the line of international law precedents that goes back to the Minorities in Upper Silesia case. An ethnic group was thus defined not only as "one whose members share a common language or culture", but also as "a group which distinguishes itself, as such (self-identification); or, a group identified as such by others, including perpetrators of the crimes (identification by others)".⁶⁷ However, in this case the Trial Chamber did not yet derive the necessary consequences from this statement. Kavishema and Ruzindanda were convicted of genocide, but acquitted of crimes against humanity because the latter were, in the view of the Chamber, subsumed under the counts of genocide.⁶⁸ Since it had been established that not all the victims of Kayishema and Ruzindanda were Tutsis and that Hutus were also killed,⁶⁹ the acquittal of Dr Clement Kavishema and Mr Obed Ruzindanda of crimes against humanity leaves two options: either, the killing of Hutus was implicitly considered to amount to genocide; or, the crimes committed against Hutus were left unpunished.⁷⁰ In Akayesu, the approach had been different: Akayesu had been convicted of genocide and of crimes against humanity, depending inter alia on the ethnicity of the victims, since, as has been seen, the genocidal plan in Rwanda was normally considered to have targeted only Tutsis as a group.⁷¹

In its only judgment on genocide so far, the ICTY, endorsing a departure from the objective approach in the case of all protected groups but the religious one, held that:

Although the objective determination of a religious group still remains possible, to attempt to define a national, ethnical or racial group today using

67. Kayishema and Ruzindana, supra n.7, para.98. See also para.291: "There is ample evidence to find that the overwhelming majority of the victims of this tragedy were Tutsi civilians which leaves this Chamber satisfied that the targets of the massacres were 'members of a group', in this case an ethnic group".

68. Kayishema and Ruzindanda, supra n.7, at para.578: "Considering the above and based on the facts the Trial Chamber finds that it will be improper to convict the accused persons for genocide as well as for crimes against humanity based on murder and extermination because the later two offences are subsumed fully by the counts of genocide as discussed in the Part of the Judgment entitled Cumulative Charges". This decision on cumulative charges runs contrary to precedents both of the ICTR (Akayesu) and of the ICTY (Tadic and Delalic cases, referred to in the dissenting opinion of Judge Khan in Kayishema and Ruzindanda, at paras13 and 15).

69. For example at para.347 in regard to those killed at the Complex (*supra* n.37): "... the Trial Chamber finds that they were unarmed and predominantly Tutsi".

70. Mr Ruzindanda has been sentenced to 25 years of imprisonment. If the second reading of the decision of the Chamber is correct, he could be subjected to another trial for murder of Hutus without violating the double jeopardy principle.

71. This was the case in Akayesu, and in Prosecutor v. Kambanda, ICTR 97-23-S, in part reported at (1998) 37 I.L.M. 1413.

objective and scientifically irreproachable criteria would be a perilous exercise whose result would not necessarily correspond to the perception of the persons concerned by such categorisation. Therefore, it is more appropriate to evaluate the status of a national, ethnical or racial group from the point of view of those persons who wish to single out that group from the rest of the community. The Trial Chamber consequently elects to evaluate membership in a national, ethnical or racial group using a subjective criterion. It is the stigmatisation of a group as a distinct national, ethnical or racial unit by the community which allows it to be determined whether a targeted population constitutes a national, ethnical or racial group in the eyes of the alleged perpetrators.⁷²

The ICTR reinforced its timid *dictum* in *Kayishema and Ruzindanda* in *Rutaganda* stating that:

the concepts of national, ethnical, racial and religious groups have been researched extensively and that, at present, there are no generally and internationally accepted precise definitions thereof. Each of these concepts must be assessed in the light of a particular, political, social and cultural context... for the purposes of applying the Genocide convention, membership of a group is, in essence, a subjective rather than an objective concept.⁷³

From an initial rigid and objective approach to collective identities, the two *ad hoc* Tribunals have thus progressively moved towards a subjective position, quietly setting aside some important precedents. It is a welcome shift that takes into account the mutable and contingent nature of social perceptions, and does not reinforce perilous claims to authenticity in the field of ethnic and racial identities. The perception of the perpetrator of the crime is after all more important for establishing individual criminal responsibility than the putative "authentic" ethnicity of the victim.

V. ETHNIC CLEANSING AND SEXUAL VIOLENCE AS ACTS OF GENOCIDE

The Convention definition enumerates five categories of genocidal acts. "Cultural genocide" does not expressly feature under this definition, as each of the five acts involves some type of physical destruction.⁷⁴ It is only if one of the four protected groups is denied its right to exist in the future

74. There was some support for the inclusion of "cultural genocide" before the adoption of the Convention (see Shaw, "Genocide and International Law", in Y. Dinstein, *International Law at a Time of Perplexity* (1989) at 809).

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^{72.} Jelisic, supra n.4, at para.70.

^{73.} Prosecutor v. Rutaganda, supra n.10, at para 55. In Prosecutor v. Musema, supra n.10, Trial Chamber I of the ICTR reiterated that "membership of a group is, in essence, a subjective rather than an objective concept", but added that "a subjective definition alone is not sufficient to determine victim groups" and that the *travaux preparatoires* of the Convention suggest that "certain groups, such as political and economic groups, have been excluded from the protected groups because they are considered to be 'non stable' or 'mobile' groups which one joins through individual, voluntary commitment" (paras.161–162). The Chamber thus recommended the adoption of a case-by-case approach.

by means of the forcible transfer of children to another group⁷⁵ that some protection is accorded to the cultural identity of the group and to its right to continued cultural existence, under the system of the Genocide Convention.

The hitherto most interesting aspect of the jurisprudence of the *ad hoc* Tribunals on genocidal acts is the recognition that ethnic cleansing and sexual violence can amount to genocide. The Security Council had already emphasised that investigating ethnic cleansing ought to be an important part of the Tribunal's work in its resolution establishing the Tribunal.⁷⁶ The Trial Chamber specified that in the Yugoslav context "the policy of ethnic cleansing took the form of discriminatory acts of extreme seriousness which tend to show its genocidal character".⁷⁷ The same Trial Chamber also noted, in the cases of Radovan Karadzic and Ratko Mladic, that "the uniform methods used in committing the said crimes, their pattern, their pervasiveness throughout all of Bosnian Serb-held territory, the movement of prisoners between various camps, and the tenor of some of the accused's statements are strong indications" of the possible genocidal nature of these crimes.⁷⁸

The above statements on ethnic cleansing feature only in decisions of the ICTY taken under Rule 61 proceedings.⁷⁹ As has been seen, in the only genocide case so far decided by the ICTY, the accused has been acquitted of genocide on grounds of lack of sufficient intent and the Chamber did not need to consider the qualification of the imputed acts as genocidal. In future judgments, it will be interesting to see how the Tribunal will pronounce on the relationship between ethnic cleansing and genocide.

A landmark aspect of the *Akayesu* decision is the recognition that sexual violence and rape can amount to genocide in some circumstances. The Chamber emphasised that rape and sexual violence "constitute genocide in the same way as any other act as long as they were committed with the specific intent" that characterises the crime of genocide.⁸⁰ The genocide definition already encompasses the infliction of serious bodily or mental harm on the victims and the Chamber applied this to the reality of systematic sexual violence, which "resulted in the physical and

78. Prosecutor v. Karadjic (Rule 61), Case IT-95-5-R61; Prosecutor v. Mladic (Rule 61), Case IT 95-18-R61.

79. When an arrest warrant is not executed within a "reasonable time", the judge who confirmed the original indictment invites the Prosecutor to report on any progress made, or lack thereof. Then, if the confirming judge finds that all necessary steps have been taken, s/he will order the Prosecutor to submit the case to a Trial Chamber where a rule 61 hearing will take place. This hearing is not a trial, and does not result in a verdict.

80. Prosecutor v. Akayesu, supra n.6, at para.731.

^{75.} Art. II, (e), Genocide Convention.

^{76.} SC Res. 827 (1993).

^{77.} Prosecutor v. Nikolic (Rule 61), Case IT-94-2-R61.

psychological destruction of Tutsi women, their families and their communities".⁸¹ The ICTR observed that "the victims were systematically and deliberately selected because they belonged to the Tutsi group, with persons belonging to the other group being excluded".⁸² This element, together with the factual finding that a genocide was perpetrated in Rwanda as well as around Taba commune where Akayesu was *bourgmestre*, proved, in the view of the Chamber, that these rapes were characterised by the specific intent to destroy, in whole or in part, the Tutsi group. While rape and sexual violence expressly featured in the Statute of the ICTR as a crime against humanity (Art. 3, g) or a violation of Common Art. 3 and Protocol II of the Geneva Convention (Art. 4, e, "rape, enforced prostitution and other forms of indecent assault"), in *Akayesu*, the ICTR established that certain rapes are genocidal in their nature, the determining factor being the presence of the *dolus specialis* that characterises the crime of genocide.

It is noteworthy that rape had not been included in the original indictment against Akayesu. In June 1997, largely because of the interest of Judge Pillay, the only woman serving as a judge in the Trial Chambers of the ICTR, the indictment was amended to include three counts of sexual violence. The testimony of witness J, whose six year old daughter had been raped, had paved the way to the amendment of the indictment, and to a series of shocking factual findings on the sexual violence perpetrated in the municipal offices of Taba.⁸³ The criminal responsibility of Akayesu was not excluded, in the view of the Court, by the fact that he had not been the material author of the rapes. Indeed, first, as mayor of Taba, Akayesu could have prevented the rapes that were systematically perpetrated in the *bureau communal*. Secondly, Akayesu actively abetted, aided, ordered and encouraged their commission.⁸⁴

82. *Ibid.*, at 730. See also para.731: "The Chamber is satisfied that the acts of rape and sexual violence described above were committed solely against Tutsi women, many of whom were subjected to the worst public humiliation, mutilated, and raped several times, often in public, in the Bureau Communal premises or in other public places, and often by more than one assailant. These rapes resulted in physical and psychological destruction of Tutsi women, their families and communities. Sexual violence was an integral part of the process of destruction, specifically targeting Tutsi women and specifically contributing to their destruction of the Tutsi group as a whole."

83. Ibid., at paras401-448.

84. The ICTR has amended the indictment of the Rwandan Minister for Women and Family Affairs at the time of the genocide, Pauline Nyiaramasuhuko, to include six additional charges, "one of which accuses her of being responsible for rape 'as part of a widespread and systematic attack against a civilian population on political, ethnic and racial grounds' in Butare, central Rwanda" (Press Release of the ICTR, ICTR/INFO 9-2-196, 11 Aug. 1999). Pauline Nyiaramasuhuko was not the material author of the sexual violence, but, according to the accusations, she planned and ordered the systematic sexual violence of Tutsi women, together with her son, Chalome Ntahobali, himself in the custody of the Tribunal.

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^{81.} Ibid., at 731

In *Akayesu*, the Trial Chamber took a sensible approach to the definition of rape. Drawing a parallel with the torture definition, the Chamber opined that

The United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment does not catalogue specific acts in its definition of torture, focusing rather on the conceptual framework of state-sanctioned violence. The Tribunal finds this approach more useful in the context of international law. Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when it is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The Tribunal defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. The Tribunal considers sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.⁸⁵

These legal findings will probably remain as a lasting contribution of the *Akayesu* judgment to the development of international law on sexual violence. The Chamber wisely considered that the brutality of the rapist, not unlike that of the torturer, can find an almost infinite variety of physical acts through which to manifest itself. It thus refused to engage in futile lengthy discussions on the particular physical acts—such as the hackneyed question of whether penetration is an essential requirement of rape or not—and opted for a definition of rape along the lines of the torture definition.

In *Rutaganda*, the Trial Chamber has attempted to systematise some of the findings on genocidal acts contained in the previous case-law of the ICTR. While reiterating that the term "killing" under Art. II, a includes both intentional and unintentional killing, the Chamber stated that "the words 'serious bodily or mental harm' [Art. II, b] include acts of bodily or mental torture, inhumane or degrading treatment, rape, sexual violence, and persecution". As for the deliberate infliction on the group of conditions of life calculated to bring about its destruction in whole or in part (Art. II, c), the Chamber opined that they "are to be construed 'as methods of destruction by which the perpetrator does not necessarily intend to immediately kill the members of the group', but which are, ultimately, aimed at their physical destruction"; as examples of this practice, the subjection of a group to a subsistence diet, the systematic

85. Prosecutor v. Akayesu, supra n.6, at paras687-688.

expulsion from their homes and the deprivation of essential medical supplies below a minimum vital standard were given. "Sexual mutilation, enforced sterilization, forced birth control, forced separation of males and females, and prohibition of marriages" are, on the other hand, examples of measures "intended to prevent births within the group" (Art. II, d). Finally, Art. II, e of the Convention on the forcible transfer of children from one group to another is meant to sanction "not only any direct act of forcible physical transfer, but also any acts of threats or trauma which would lead to the forcible transfer of children from one group.".⁸⁶

VI. CONCLUSION

The contribution of the ad hoc Tribunals to the development of genocide law is remarkable, and, in some respects, groundbreaking. The adoption of a subjective approach to the definition of the four protected groups, far from undermining the Convention, breathes new life into it and ensures a healthy interplay between the norms and the socio-cultural context in which they are applied. Akayesu aside, the Tribunals have resisted the tendency to resolve such a complex and crucial issue by obstinately referring to nothing but the intention of the drafters. The more innovative approach that has been chosen was demanded by the very subject matter, and is consistent with the rules on the interpretation of treaties.⁸⁷ As far as the other aspects of the genocide definition (intent, genocidal acts) is concerned, important clarifications have been made on the quantum and on the proof of intent, while the five genocidal acts enumerated at Art. 2 have been fleshed out, most notably through the recognition of the genocidal nature of sexual violence in some circumstances. On other indirectly related issues, which have been only touched upon in this article, most importantly the question of cumulative charges, conflicting indications have sometimes emerged, although it would appear that the Kayishema and Ruzindana ruling on this point seems destined to remain isolated in the jurisprudence both of the ICTR and of the ICTY.

^{86.} Prosecutor v. Rutaganda, supra n.10, at paras49-53.

^{87.} Art. 31, 3, Vienna Convention on the Law of Treaties 1969, on the basis of which subsequent practice and subsequent agreements between the parties have to be taken into account. In addition, most of the State parties to the Genocide Convention did not participate in the drafting process (see *Territorial Jurisdiction of the International Commission of the River Oder*, PCIJ Rep. Series A, No. 23, in which the Permanent Court of International Justice did not consider the *travaux preparatoires* for interpreting a treaty to which some of the State parties had only acceded). Finally, the Tribunals are technically applying a provision in a resolution of the Security Council and not the Convention directly.

Annex 1033

Askold Krushelnycky, Ukraine: Crimea's Tatars -- Clearing The Way For Islamic Extremism?, RFE/RL (26 August 2004)





UKRAINE

Ukraine: Crimea's Tatars -- Clearing The Way For Islamic Extremism? (Part 4)

August 26, 2004 15:50 GMT

Askold Krushelnycky



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Crimean Tatars traditionally practice a moderate form of Islam. But there are fears that ethnic tensions between Tatars and Russians in Crimea could provide fertile ground for fundamentalism to take root. RFE/RL looks at how the Crimean Tatars have tried to stop that from happening.

Sinferopol, Ukraine; 26 August 2004 (RFE/RL) -- The Crimean Tatars' main mosque on the peninsula is right in the heart of the old part of the Crimean capital, Simferopol.

It is the poorest section of the city. The houses are dilapidated and most of the area does not have a proper sewage system. Cars drive warily through streets riddled with potholes. Above the noise, the call to Friday prayer rings out through loudspeakers on the mosque's minaret.

In centuries past, when the peninsula was ruled by a Crimean Tatar khan loosely allied with the Turkish sultan, there were 21,000 mosques. After the Russian empire invaded and annexed Crimea in the 18th century, the number of mosques began to decline. By 1944 -- the year Stalin ordered the deportation of all Crimean Tatars to Central Asia -- the number of mosques had dropped to just 1,700.

Since then, under the influence of first the Soviet Union and then post-Soviet Ukraine, many of those remaining buildings have also been destroyed, or converted for other purposes, such as storage depots. Adzi Ablaev says only about 160 mosques are now functioning and many of those are in poor condition.

Since Ukrainian independence in 1991, around 260,000 survivors of the deportation and their descendants have returned from exile, mostly in Uzbekistan. The Ukrainian government pledged the returnees land, financial help and the return of cultural sites such as mosques. But local authorities, many of whom are ethnic Russians, have been slow to deliver on the promises.

Many ethnic Russians and their political leaders openly resent the return of the Tatars and accuse them of wanting more than their fair share. They also accuse the Tatars of seeking to eventually form an independent Islamic Crimean state. Brawls between Russian and Tatar youths are frequent. There have been tense standoffs between crowds of Tatar protesters and police. Earlier this year police opened fire above the heads of one such crowd.

Most of the Tatar men are officially unemployed. Among the younger men, there is a smoldering anger that has often been barely controlled by their elders.

Many of the ingredients here seem dangerously similar to the volatile cocktail of frustration and prejudice that turned into violence and civil war in former Yugoslavia or the Middle East.

And Muslim missionaries preaching a stricter form of Islam than the more liberal version traditionally practiced by Crimean Tatars have been visiting Crimea in the hope of winning converts. The missionaries, usually from rich Arab states such as Saudi Arabia, have ragged full beards and their wives and daughters are covered and veiled from head to toe. It is a distinct contrast to the Western look of most Crimean Tatar men and women.

Mustafa Dzhemilev heads the largest Crimean Tatar organization, the Mejlis. He said Crimean Tatar Islam is similar to the moderate brand practiced in Turkey where there is a separation between religion and the secular state. But he said that stricter forms, notably the Wahabbism of Saudi Arabia, is being preached by missionaries from the Middle East who have plenty of money to build mosques and set up religious education establishments.

Dzhemilev said such efforts have had only limited success in convincing Tatars to convert to a stricter form of Islam which, among other things, teaches adherence to Koranic law. "Concerning radical Islamic organizations, there have certainly been people appearing here who we would not call radicals, but who we would say are practicing a form of Islam that is not traditional for Crimean Tatars," he said.

A few years ago, around 30 small Tatar settlements that had received financial aid from Wahabbis accepted clergymen preaching the more radical form of Islam. Dzhemilev said the Mejlis was able to persuade many of the settlements to return to a more moderate form of Islam. But he warns that the longer young Crimean Tatars feel frustrated by their poverty, the more attractive radical Islam -- and possibly extremist violence -- will look.

"Brochures of a provocative nature have appeared which say things like Muslims don't have to obey laws if the head of the state is not a Muslim. So what does that mean? That I should not obey Ukrainian law? That is provocation designed to spark a conflict. Fortunately, we are able to keep such things under control for the moment," Dzhemilev said.

Mufti Emirali Adzi Ablaev, Crimea's senior Muslim clergyman, also said the Wahabbis have failed to make a significant impact in Crimea. He said he is confident that more extremist strains of Islam will not take root on the peninsula. "It [Wahabbism] was artificial. Our nation, our ancestors never had those trends, those sects and they won't have them now," he said. "I'm 100 percent certain that they will not take hold here. And if they do exist here, then we have the state and law-enforcement bodies whose task is to take care of such things. But in our system, among our people, such ideologies and ideas have never been present and never will be. That's why I'm not worried."

He said that the only effect the Wahabbis had was to cause temporary splits among Muslims in Crimea, and he blamed that for causing divisions in the broader Muslim world.

The mufti said Crimean Tatars have opened nine madrasahs, or religious schools, on the peninsula and their curriculum is open to inspection by the authorities to show there is no radical content.

(This is Part 4 of a five-part series. See also:

Crimea's Tatars -- A Return To A Homeland Burdened By Ethnic Divisions (Part 1)

Crimea's Tatars -- For Russian Settlers, Resentment And Anger (Part 2)

Crimea's Tatars -- Mustafa Dzhemilev: Hero, Leader, Statesman (Part 3)

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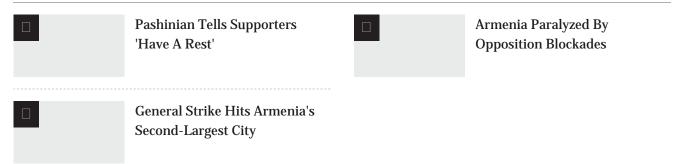
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Annex 1034

RFE/RL, Crimean Tatars Demand Their Rights Be Respected (10 December 2012)



UKRAINE

Crimean Tatars Demand Their Rights Be Respected

December 10, 2012 14:56 GMT RFE/RL's Ukrainian Service

SIMFEROPOL, Ukraine -- Some 2,000 Crimean Tatars have gathered in Simferopol, the capital of Ukraine's Autonomous Republic of Crimea, to demand that their rights be "revived."

In a rally, timed to coincide with international Human Rights Day, participants called on Ukrainian authorities to support the idea of organizing an international forum in 2013 on the "revival of Crimean Tatars' rights" in Ukraine.

The Crimean Tatars' National Congress (Mejlis) proposed the idea in 2010 and it has been supported by member states of the Organization for Security and Cooperation in Europe (OSCE).

Soviet dictator Josef Stalin ordered the mass deportation of 180,000 Crimean Tatars from Crimea to Central Asia and Siberia in 1944.

Crimean Tatars were rehabilitated by the Kremlin in 1957.

The majority of returnees say they still have no proper housing since coming back to Crimea, mainly in the late 1980s and 1990s.

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Annex 1035

RFE/RL, Activists on Wheels: Ukraine's Embattled Automaidan Protesters (24 January 2014)



UKRAINE

Activists On Wheels: Ukraine's Embattled Automaidan

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Protesters

January 24, 2014 15:39 GMT Iryna Stelmakh Claire Bigg



Dmytro Bulatov has been missing since January 22

Share



KYIV -- Friends and relatives of Dmytro Bulatov are increasingly worried.

The Ukrainian antigovernment activist disappeared without a trace on January 23 -- the day after another opposition sympathizer, scientist Yuriy Verbytsky, was found **dead with traces of torture in a forest** near Kyiv.

Bulatov is the spokesman for Automaidan, a group of motorists founded in late November to support Ukraine's European integration and counter police assaults against pro-EU demonstrators in their two-month standoff with authorities.

The popularity of its rallies-on-wheels and the rapid-response network it has set up to rescue demonstrators from police have propelled the group to the forefront of the protests.

Abducted And Left To Die

Its activists routinely meet with opposition leaders, address protesters on Kyiv's Independence Square, and have held talks with U.S. and European envoys.

And the authorities appear to have woken up to the threat posed by Automaidan and its 5,000 activists.

No Large Convoys

A controversial new law that effectively prohibits large rallies now bars motorists from traveling in convoys of more than five vehicles.

And in the night that followed Bulatov's disappearance, riot police launched four separate raids on Automaidan, beating and detaining more than 20 of its activists as they patrolled the streets of Kyiv in their vehicles.

A video recorded by one of the activists' dashboard cameras shows police officers smashing the car's windows with their truncheons. The passengers are then heard screaming and calling on the officers to end the violence.

Olesya Mamchich, the wife of one of the detained activists, told RFE/RL that "they were dragged out of their cars. There were two women who were eventually released. But the men were beaten up. He said the officers kicked their heads and arms."

Mamchich says her husband and his friends were ambushed by police after receiving a fake call for help.

Ukraine's Interior Ministry, in turn, accuses the activists of chasing police officers before smashing their vehicles with baseball bats.

Police spokesman Sergiy Burlakov told RFE/RL: "Some of them, 18 people, were detained in connection with the incident on Krypostny street, where they were blocking Berkut vans and assaulted police officers."

Middle-Class Professionals

Although footage of the incident contradicts these claims, the activists were charged with

hooliganism and resisting arrest. They face up to six years in prison if convicted. Automaidan's founder is Oleksiy Hrytsenko, a local IT company manager who is also the son of opposition politician Anatoliy Hrytsenko.

He told RFE/RL in written comments that authorities are cracking down on Automaidan because it "succeeded in making them nervous."



Hrytsenko has stopped giving telephone interviews, saying his calls are monitored.

He says his group is popular because it represents the backbone of Ukrainian society -- middle-class professionals with a car and a desire to live in what he calls "a normal country."

About one-third of its activists are women, including journalist Tetyana Chornovol, who was pulled out of

her car by unidentified men last month and viciously beaten up.

Automaidan members have reported numerous cases of intimidation, threats, and assaults. Hrytsenko says he is being stalked and has received threatening text messages on his phone. On several occasions, his father received anonymous SMS messages informing him that his son was dead.

Another Automaidan leader, Sergiy Khadzhinov, was abducted while blocking a road to prevent riot police from reaching the Euromaidan protests on Kyiv's Independence Square.

He was seized by a group of men who pulled a bag over his head and pushed him into a car. His abductors turned out to be officers from Ukraine's crime-busting police unit who took him to a police station and questioned him for several hours before releasing him unharmed. His computer, mobile phone, documents, the key to his flat, and 2,000 hryvnia (\$230) were however confiscated and never returned.

Bulatov, too, had received threats.

A father of three, he had been sent toys smeared with zelyonka, the green antiseptic solution widely used to treat child injuries in former Soviet countries.

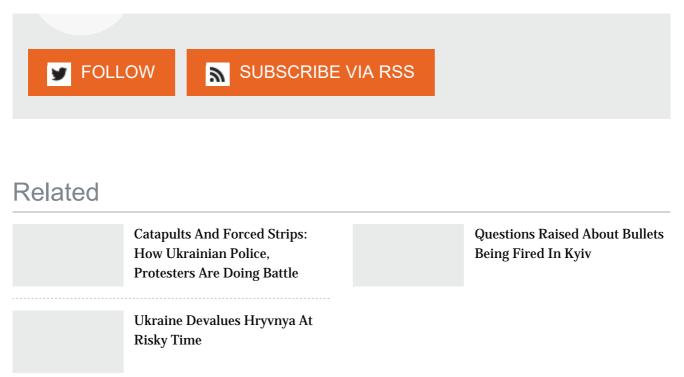
But like his fellow Automaidan activists, he had pledged not to cave in to pressure.

He told "Ukrainska Pravda" in an article published on the day he went missing that "Even if something happens to me, resentment will only grow. And if it helps get us closer to victory, then let it be."

Iryna Stelmakh reported from Kyiv. Claire Bigg reported and wrote from Prague

Claire Bigg

Claire Bigg covers Russia, Ukraine, and the post-Soviet world, with a focus on human rights, civil society, and social issues.



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Annex 1036

Roland Oliphant, Vigilante Units to Defend Crimea City Against 'Fascist' Threat from Kiev, The Telegraph (25 February 2014)

Vigilante units to defend Crimea city against 'fascist' threat from Kiev

telegraph.co.uk/news/worldnews/europe/ukraine/10661617/Vigilante-units-to-defend-Crimea-city-against-fascist-threat-

from-Kiev.html By Roland Oliphant , Sebastopol 9:15PM GMT 25 Feb 2014

February 24, 2014



It is over 70 years since the people of Sebastopol fought the desperate eight-month siege against invading Nazis that is commemorated on memorials around this port city.

But many residents of this town of 340,000 on Ukraine's Crimean peninsular are gearing up to fight them again.

"We don't want what happened in Kiev to happen here. Nazis and bandits have seized power there. And if we have to fight, we'll fight with everything we can get our hands on," said a member of the local chapter of the Night Wolves biker gang.

The bikers - part of a gang with strong ties to Russia and who have ridden with Vladimir Putin in the past - are far from alone.

The newly installed mayor of Sebastopol has announced the formation of vigilante "self defence" units in a bid to protect the ethnic Russian city from the perceived threat of "fascist" revolutionaries in Kiev.

Speaking briefly to a crowd of several hundred gathered outside the Black Sea port town hall on Tuesday evening, Alexei Chaliy said that volunteers would be able to sign up for the new units from 9am on Wednesday at the town hall.

The move will create city hall sponsored vigilante groups to counter those formed by the pro-European protesters who overthrew Viktor Yanukovych on the weekend.

Separatist passions have been running high in Sebastopol, the most fiercely pro-Russian city in the majority-Russian Crimean peninsular, since Mr Yanukovych was evicted in what many here describe as an armed coup by far-right anti-Russian and anti-Semitic groups, including the nationalist Svoboda party, led by Oleh Tyahnybok, and the Pravy Sektor paramilitary group.

People here say their worst fears were confirmed when the post-revolutionary Rada passed a law stripping Russian of its shared official status.

"If we do not act, we will have the Gestapo here. A year ago Tyahnybok talked about the genocide of Russians. We must form civil defence units now," said Dmitry, a 41 year old linguistics professor. "We will fight with everything we get our hands on if we have to."

Mr Chaliy, a local businessman, was installed as mayor on Monday on the back of a wave of popular outrage against the new authorities in Kiev in the past three days.

Previously mayors of this strategic post town, which is also home to a large Russian naval base and 25,000 military personnel, were appointed by the Kiev government. A spokesman on Monday night refused to put journalists with Mr Chaliy, saying he was in hiding after agents from the Ukrainian special services tried to arrest him.

But appearing in public to deliver his first policy announcement, Mr Chaily also said the city would guarantee the wages of officers from the Berkut riot police unit, which the post-revolutionary parliament in Kiev has voted to disband. He would also open an "anti-terrorist centre" to coordinate the world of the new self defence units.

"This is not separatism," said Igor Sovolyov, a programmer who said he had helped organise the recent demonstrations. "We're just saying we don't recognise the current government."

But he added that there should also be a referendum allowing Crimeans to chose whether the peninsular whether it remains Ukrainian, joins Russia, or becomes independent.

"That is unfortunately illegal under Ukrainian law, because Kiev is afraid of the outcome," he said.

But while passions on the streets here are high, no more than 400 people gathered to hear Mr Chaliy speak on Tuesday night.

The head of a delegation of Russian parliamentary deputies, which flew into the Crimean capital of Simferopol to hold talks with local leaders on Tuesday, played down the prospect of offering Russian passports to ethnic Russian Ukrainian citizens.

"This is an extremely delicate question which demands both special study and a special decision by the leadership of the country," Leonid Slutsky, the chairman of the State Duma committee for CIS affairs, said.

Mr Slutsky's party, the ultra-nationalist Liberal Democrats, has submitted a bill to the Russian parliament that would simplify passport applications for Ukrainian citizens.

The 20,000 strong garrison of Russia's Black Sea Fleet, which leases a base in the city, has made no move to intervene in the crisis, although two armoured personnel carriers were seen near buildings used by the fleet on Tuesday.

Annex 1037

Harriet Salem et al., Crimean Parliament Seized by Unknown Pro-Russian Gunmen, The Guardian (27 February 2014)

Crimean parliament seized by unknown pro-Russian gunmen

() theguardian.com/world/2014/feb/27/crimean-parliament-seized-by-unknown-pro-russian-gunmen

Harriet Salem in Simferopol, Shaun Walker in Kiev, and Luke Harding

February 27, 2014

Fears of a major regional conflict in Crimea pitting<u>Russia</u> against the west have intensified after unknown pro-Russian gunmen seized the government and parliament building in a well co-ordinated military operation.

According to witnesses, the men dressed in fatigues stormed Crimea's regional administrative complex in Simferopol at 5am on Thursday. They hoisted a Russian flag above the parliament building. About 120 men were holed up inside, armed with heavy weapons including rocket-propelled grenades and sniper rifles, witnesses said.

They threw a flash grenade in response to a journalist's questions. Calls to region's legislature rang unanswered, and its website was down.

It was unclear if the men were members of a pro-Russian self-defence militia formed in the aftermath of Ukraine's revolution or undercover Russian soldiers.

Speaking in Kiev, the former head of the Crimean parliament, Serhiy Kunitsyn, described the men as "professionally trained". He said he had been on the phone to Crimea "all night". The gunmen were heavily armed, he said, with enough weaponry to defend the complex "for a month".

Either way, the seizure dramatically escalates tensions on the already volatile Crimean peninsula. Ukraine's acting president, <u>Oleksandr Turchynov</u>, who has been in the job since the removal of <u>Viktor Yanukovych</u> last week, explicitly warned Russia not to intervene in the crisis by moving troops. The Kremlin's Black Sea fleet is based near Simferopol in the port of Sevastopol.

Turchynov said: "I am appealing to the military leadership of the Russian Black Sea fleet. Any military movements, the more so if they are with weapons, beyond the boundaries of this territory [the base] will be seen by us as military aggression." Ukraine's foreign ministry also summoned Russia's acting envoy in Kiev for immediate consultations.

EU leaders expressed alarm at the latest developments. Russia's president, Vladimir Putin, has ordered fighter jets to a state of high alert, as well as large-scale military exercises on Ukraine's border. In a tweet, the Nato secretary general, Anders Fogh Rasmussen, urged Russia not to do anything that would "escalate tension or create misunderstanding". Poland's foreign minister, <u>Radoslaw Sikorski</u>, called the seizure of government buildings in the Crimea a "very dangerous game".

He told a news conference: "This is a drastic step, and I'm warning those who did this and those who allowed them to do this, because this is how regional conflicts begin."

Hours after the parliament building was seized, Yanukovych revealed that he was now in <u>Moscow</u> and had "sought protection" from Putin. Yanukovych, who fled Kiev after government troops shot dead more than 80 people, excoriated Ukraine's new leadership unveiled on Wednesday and said he was still the country's legitimate president. He appeared to give approval to secessionist pro-Russian forces in Crimea who have rejected Kiev's authority, and said an "orgy of extremism" had swept the country. "Now it is becoming clear that the people in south-eastern Ukraine and in Crimea do not accept the power vacuum and complete lawlessness in the country," he said.

The gunmen barricaded doors into the parliament building with wooden crates. Police sealed off the area on Wednesday, as a crowd supportive of the seizure gathered outside. Two people died and 35 were injured during clashes outside the building on Wednesday between pro-Russian demonstrators and Muslim Tartars. About half of Crimea's 2 million population are ethnic Russians. The Tartars – the peninsula's original Turkic-speaking Muslim inhabitants – are 300,000 strong and support the authorities in Kiev.

Eyewitnesses described the moment when the armed men turned up. "We were building barricades in the night to protect parliament. Then this young Russian guy came up with a pistol ... we all lay down, some more ran up, there was some shooting and around 50 went in through the window," Leonid Khazanov, an ethnic Russian, told Reuters.

Khazanov added: "They're still there ... Then the police came, they seemed scared. I asked them [the armed men] what they wanted, and they said: 'To make our own decisions, not to have Kiev telling us what to do'."

The former head of the central executive body of Crimean Tatars, Mustafa Jemilev, said the situation was extremely worrying. He suggested the gunmen had arrived from Sevastopol, where the Russian fleet is based. "The people in camouflage and without any distinctive signs came by buses from the Sevastopol side. There are reports of movement of armed vehicles of the Russian fleet in different directions. We also got signs that in many hotels there are Russian soldiers wearing civilian clothes. The Russian general consul office says they have nothing to do with these events. But they would hardly tell the truth."

Jemilev speculated that the gunmen could be Russian soldiers or members of Berkut, the now-disbanded riot police unit deployed against opposition protesters in Kiev. <u>Lifenews.ru</u>, a pro-Kremlin Russian website with links to Russia's spy agencies, however, said they were veterans from the army and police. According to US diplomatic cables leaked in 2010 by Wikileaks, Russia's military intelligence wing – the GRU – is highly active in Crimea.

The secretary to the head of parliament, Oksana Korniychuk, said on Wednesday a referendum would be held on the peninsula to determine its future status. This would almost certainly fuel demands among Crimea's ethnic Russian majority for a union with Russia.

About 100 police had gathered in front of the parliament building on Thursday. A similar number of people carrying Russian flags later marched up to the building chanting "Russia, Russia" and holding a sign calling for a Crimean referendum.

Many wore orange and black striped ribbons that symbolise support for Russia. One of them, Alexei, 30, said: "We have our own constitution, Crimea is autonomous. The government in Kiev are fascists, and what they're doing is illegal ... We need to show our support for the guys inside [parliament]. Power should be ours."

"Yesterday Russian people were attacked and murdered by Tatar extremists. We will not allow this fascism from Kiev to happen here," said 43 year-old construction worker, Spartak. "Crimea wants independence and we want parliament to hold a referendum on this. We have been hijacked."

Policemen informed passersby that Karl Marx Street was closed due to the presence of snipers in the areas. Nearby shops and businesses have closed and pulled down their shutters.

"The actions in Kiev are a provocation to Crimea. People here didn't chose this fascist government. Here we will not have not have memorials to Bandera [a western Ukrainian hero viewed as a fascist by many of those in the east and south of Ukraine]," said Valentina Fedorova, aged 60.

It is unclear how Ukraine's new government in Kiev will respond. The acting interior minister, Arsen Avakov, who said the attackers had automatic weapons and machine guns, urged calm. He said on Facebook: "Provocateurs are on the march. It is the time for cool heads."

Turchynov, speaking to the parliament in Kiev,, described the attackers as "criminals in military fatigues with automatic weapons".

He also called on Moscow not to violate the terms of an agreement that gives the Russian Black Sea fleet basing rights at Sevastopol until 2042.

The regional prime minister said he had spoken to the people inside the building by telephone but they had not made any demands or said why they were inside. They had promised to call him back but had not done so, he said.

Putin has ignored calls by some ethnic Russians in Crimea to reclaim the territory handed to then Soviet <u>Ukraine</u> by Soviet Communist leader Nikita Khrushchev in 1954.

The United States says any Russian military action would be a grave mistake. But Russia's foreign ministry said in a statement that Moscow would defend the rights of its compatriots and react without compromise to any violation of those rights. It expressed concern about "large-scale human rights violations", attacks and vandalism in the former Soviet republic.

Annex 1038

ABC News, Crimean Parliament Votes to Become Part of Russian Federation, Referendum to be Held in 10 Days (6 March 2014)

Crimean parliament votes to become part of Russian Federation, referendum to be held in 10 days

abc.net.au/news/2014-03-07/crimean-parliament-votes-to-become-part-of-russia/5304592

March 6, 2014

Updated 6 Mar 2014, 8:56pm

Photo: Soldiers believed to be Russian stand outside a Ukrainian military post in the Crimean city of Kerch. (Reuters: Thomas Peter)

The parliament in the Ukraine region of Crimea has voted to become part of Russia and will hold a referendum in 10 days to allow voters to decide on the measure.

Meanwhile, Crimean authorities say the parliament's decision is already in force,



and deputy prime minister Rustam Temurgaliyev says Ukrainian forces in the territory should either surrender or leave, or else be treated as occupiers.

"The only legitimate armed units on the territory of Crimea are the armed forces of Russia," he said.

"The armed forces of any third state or any other state will be considered occupiers, with due consequences."

If Moscow agrees to the Crimean parliament's move to join Russia, then the final decision will be made on March 16 when the people of Crimea decide on the matter through the ballot box.

They will be asked a simple question: do they want to join Russia or remain part of Ukraine?

The new, pro-Western government in Kiev has described the move as unconstitutional.

"It is not a referendum, it is a farce, a fake and a crime against the state which is organised by the Russian Federation's military," Ukraine's acting president, Oleksander Turchinov, said in the country's capital Kiev.

Separately, NATO chief Anders Fogh Rasmussen says Russia's actions in Ukraine pose the gravest threat to European security since the Cold War.

Sorry, this video has expired

Video: Matt Brown reports from Crimea (ABC News)

The NATO secretary-general made the comments in Brussels, where European Union leaders were holding an emergency summit on Ukraine.

Mr Rasmussen urged Russia to halt its military escalation in Ukraine.

He says NATO will strengthen its efforts to build <u>the capacity of the Ukrainian military</u>, with more joint-training exercises.

"This is not just about Ukraine," he said.

"This crisis has serious implications for the security and stability of the Euro-Atlantic area as a whole."

In Crimea, Russian militants have barred military observers from the Organisation for Security and Cooperation in Europe from entering the peninsula.

More than 40 unarmed observers from the OSCE, aiming to help defuse the crisis, were barred by unidentified men wearing military fatigues at two roadblocks and forced to turn back.

OSCE spokesman Tim Guldimann described the growth of militias in Crimea as a dangerous development, and said he was surprised bloodshed had so far been avoided in Crimea.

The city council of Crimea's port city of Sevastopol, which houses Russia's Black Sea Fleet, voted on Thursday to join Russia effective immediately and break all links with Ukraine.

The council said in a statement posted on its website that it had taken a decision "to affiliate itself with the Russian Federation as a subject of the Russian Federation".

The city legislature also said it fully backed the Crimean parliament's decision to hold a local referendum.

EU suspends economic talks with Russia

In Brussels, EU leaders denounced the Russian military incursion into Ukraine territory.

After six hours of talks, the bloc's 28 leaders agreed to suspend visa and economic discussions with Russia.

Infographic: Russia-Ukraine military imbalance

As they face off over Crimea, see how the Russian and Ukrainian militaries compare in size and capability.

They also warned of a broad range of economic sanctions should Moscow further escalate its military action in Ukraine.

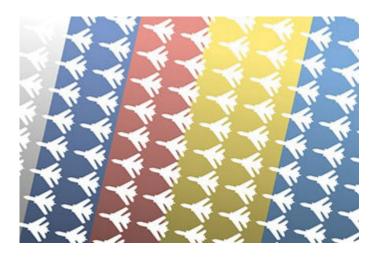
European Council president Herman Van Rompuy says Russia must find a peaceful solution

to the crisis.

"As the European Union we have a special responsibility for peace, stability on our continent, and we are ready to take that responsibility," he said.

"Acts of aggression cannot be without consequences."

US president Barack Obama, meantime, has ordered his state department to issue visa restrictions



and travel bans against a number of Ukrainian and Russian officials.

The White House says the president signed the executive order to punish those "responsible for, or complicit in, threatening the sovereignty and territorial integrity of Ukraine".

The US has been a fierce critic of Russia's incursion into Crimea, and had warned Moscow it was considering implementing sanctions.

During an hour-long phone call Mr Obama urged Russian president Vladimir Putin to accept the terms of a potential diplomatic solution to the Ukraine crisis.

In their second phone conversation in the past six days, Mr Obama outlined the terms of a diplomatic "off-ramp" that US officials are promoting.

Under terms of the deal, Russia would pull back troops to bases in Crimea, allow international monitors in to ensure the rights of ethnic Russians are respected and consent to direct talks with Ukraine officials.

"President Obama indicated that there is a way to resolve the situation diplomatically," the White House said in a statement.

US secretary of state John Kerry insisted on Thursday that "Crimea is Ukraine", and suggested that any referendum would need to involve all Ukrainians.

"We support the territorial integrity of Ukraine, and the government of Ukraine needs to be involved in any decision" on whether the peninsula would split off, he told journalists in Rome.

"It's my understanding that the constitution of Ukraine requires an all-Ukraine referendum.

"Every part of Ukraine, all Ukrainians, would have to be part of a referendum."

Mr Obama said the proposed referendum would "violate the Crimean constitution and violate international law".

"Any discussion about the future of Ukraine must include the legitimate government of Ukraine," he said.

Julie Bishop to discuss Ukraine on London visit

Foreign Minister Julie Bishop is heading to the UK tonight to meet her counterpart William Hague.

She told ABC's Lateline program she intends on discussing the Ukraine crisis during her visit.

"I wouldn't want to speculate on President Putin's ultimate motives, but what I can say is I see no justification at all for the increased Russian military presence in Ukraine or in Crimea," she said.

"And I join with the international community in urging Russia to withdraw its troops, to deescalate the situation and to respect Ukraine's sovereignty."

Ms Bishop says there is a lot for the international community to consider regarding the proposed referendum.

"Yes, it's in 10 days' time, but it will depend how the Ukraine responds, it will depend how Russia responds, and as far as the legal aspects of it, I haven't looked at that deeply enough," she said.

"Whether or not the people of Crimea are able to go to a referendum that has a binding result remains to be seen."

Prime Minister Tony Abbott says Australia is monitoring the situation.

"We're talking to our friends and allies to check this blatant aggression by Russia against a neighbour that's done it no harm," he said.

"So we're talking to our friends and allies and we'll have more to say in the days ahead."

Yanukovych assets frozen

Meanwhile, the EU has frozen the assets of ousted Ukrainian president Viktor Yanukovych, ex-premier Mykola Azarov and 16 former ministers, businessmen and security chiefs, all on grounds of fraud.

All 18 listed in the EU's Official Journal were targeted as people "subject to criminal proceedings in Ukraine to investigate crimes in connection with the embezzlement of Ukrainian state funds and their illegal transfer outside Ukraine".

Among them were two of Mr Yanukovych's sons, businessman Oleksandr - a dentist

who used his father's power to build a fortune estimated at \$500 million - and parliamentarian Viktor junior, as well as Mr Azarov's son Oleksii.

Former ministers of internal affairs, education and health were also on the list along with onetime justice minister Olena Lukash.

The sanctions, which will apply for an initial 12 months, aim to enable Ukraine's new authorities to recover the frozen funds.

Ukraine's new leadership says Mr Yanukovych embezzled as much as \$37 billion during his three years in office.

Global police agency Interpol says it has received a request from Ukraine's new government to issue an arrest warrant for Mr Yanukovych.

Interpol says it is reviewing the request for it to issue a so-called "red notice".



Pro-Russian Ukrainian protesters demonstrate outside the air base in Belbek, near Sevastopol in Ukraine, on March 6, 2014. (AFP: Filippo Monteforte)

Image 1 of 9

•



Maidan self-defence group members carry the coffin of fellow soldier Andryi Poznyak, 25, who was killed near Maidan Square in central Kiev on March 6, 2014. (AFP: Dimitar Dilkoff)

Image 2 of 9





<u>A Ukrainian serviceman talks on the phone at a military base in the village of</u> <u>Perevalnoye, outside Simferopol, in southern Ukraine, on March 6, 2014. (Reuters:</u> <u>Vasily Fedosenko)</u>

Image 3 of 9





Policemen stand guard in front of the regional state administration in Odessa, in Ukraine, on March 6, 2014. (AFP: Alexey Kravtsov)

Image 4 of 9

•



Local women watch armed men, believed to be Russian soldiers, assemble near a Ukrainian military base in Perevalnoe March 5, 2014. (Reuters: Thomas Peter)

Image 5 of 9



<u>A Ukrainian military officer approaches uniformed men, believed to be Russian troops,</u> <u>near a military base in the village of Perevalnoye, outside Simferopol, in southern</u> <u>Ukraine, on March 6, 2014. (Reuters: Vasily Fedosenko)</u>

Image 6 of 9



<u>A woman sings Ukraine's national anthem while holding the national flag during a protest</u> <u>against Russia's intervention in Ukraine across from the White House in Washington on</u> <u>March 6, 2014. (Reuters: Gary Cameron)</u>

Image 7 of 9



Soldiers, believed to be Russian, stand outside a Ukrainian military post as Ukrainian servicemen look on from behind a gate in the Crimean city of Kerch, on March 4, 2014. (Reuters: Thomas Peter)

Image 8 of 9



<u>A Ukrainian serviceman (R) stands guard at a Ukrainian military base as a uniformed</u> <u>man, believed to be a Russian serviceman, walks nearby in the village of Perevalnoye</u> <u>outside Simferopol, March 6, 2014. (REUTERS/Vasily Fedosenko)</u>

Annex 1039

Natalia Antelava, Who Will Protect the Crimean Tatars, The New Yorker (6 March 2014)



WHO WILL PROTECT THE CRIMEAN TATARS?

By Natalia Antelava March 6, 2014

At first, Rustem Kadyrov could barely make out the mark outside his house, in the Crimean town of Bakhchysarai, but it filled him with terror. It was an X, cut deep into the gray metal of the gate, and its significance cut even deeper, evoking a memory Kadyrov shares with all Crimean Tatars. Kadyrov, who is thirty-one, grew up hearing stories about marks on doors. In May of 1944, Stalin ordered his police to tag the houses of Crimean Tatars, the native Muslim residents of the peninsula. Within a matter of days, all of them—almost two hundred thousand people—were evicted from their homes, loaded onto trains, and sent to Central Asia, on the pretext that the community had collaborated with the Nazi occupation of Crimea.

Kadyrov's grandmother, Sedeka Memetova, who was eight at the time, was among those deported. "The soldiers gave us five minutes to pack up," she told me, when I visited the family on Thursday. "We left everything behind." Memetova still has vivid memories of her journey into exile: the stench of the overcrowded train carriage, the wailing of a pregnant woman who sat next to her, and the solemn faces of the men who had to lower the bodies of their children off of the moving train—the only way, she said, to dispose of the dead. Four of her siblings were among the thousands of Crimean Tatars who never even made it to their final destination, Uzbekistan.

Starting in the nineteen-sixties, the Soviet Union began to allow survivors of the deportation to return. Memetova and her family came back to Crimea almost three decades ago, in 1987. This weekend, at around 3 P.M. on

Saturday, Memetova's forty-four-year-old daughter, Ava, looked out the window and saw four young men, strangers to the neighborhood, walking down the street, armed with batons. The men were also carrying pieces of paper, Ava told me—which she believes were lists of homes belonging to Crimean Tatars. Seventy years after Memetova's deportation, her house had been marked once again. "Just as we thought we finally had a future," she said. "How could anyone do this in the twenty-first century?"

When I walked up Chiisty Istochniki Street from the Memetovas' house, I saw similar marks on four other houses, all of them residences of Crimean Tatars, Kadyrov said. The houses of their Russian neighbors, however, had not been touched. Similar markings have been reported in other parts of Bakhchysarai, and in some areas of the regional capital, Simferopol. Kadyrov told me that he called the police, who came out see his gate, but they refused to register a case. He was not surprised. "The police will not help us," he said. "They told me Crimean Tatars are not a priority for them. Of course not—they are punishing us because we do not want Putin here."

Kadyrov's Russian neighbors have noticed the markings but dismissed his worries. "Whoever did it was just joking," one woman, who did not wish to be named, told me. "We get along with our neighbors fine," she continued. "But it would be helpful if Crimean Tatars stopped supporting Kiev."

Vladimir Putin, the Russian President, claims that his country has an obligation to protect the Crimean peninsula's Russians, a majority of its population, from what he called an "orgy of nationalists, and extremists, and anti-Semites" rampaging through the streets of Kiev. "What does that mean for us?" Kadyrov asked. "Who will protect us?"

Crimea is now firmly under the control of a new, pro-Moscow government, which does not recognize the authority of the new administration in Kiev. On Thursday, as the United States and European Union ramped up pressure on the Kremlin—announcing sanctions and visa restrictions against involved individuals—the regional parliament in Crimea voted unanimously to declare the peninsula part of Russia. A previously scheduled referendum on more autonomy for Crimea within Ukraine was moved up from March 30th to March 16th, and changed to a question about merging Crimea with Russia.

There are about three hundred thousand Crimean Tatars on the peninsula, and although they constitute only fifteen per cent of its population they have great political significance. If they do not back the upcoming referendum, it will be far more difficult for the pro-Moscow government in Crimea to legitimize what is in effect a Russian annexation of the peninsula. This, Crimean Tatars told me, is precisely why pressure is growing for them to turn their back on Kiev.

Over the past week, Moscow has sent a series of delegations to meet with the leaders of the Crimean Tatar community. On Wednesday, the President of Tatarstan, an autonomous Muslim republic in Russia, met with members of the representative body of Crimean Tatars, known as the Mejlis. Another member of his delegation, Ilshat Aminov—the head of Tatarstan's state broadcaster—paid a visit on the same day to the journalists at a Crimean Tatar television channel, ATR, which has been openly supportive of the new government in Kiev.

I happened to be at ATR when Aminov arrived. His laughter echoed through the newsroom as he walked around, praising the station's modern equipment and avoiding any discussion of the news. When I asked Aminov about the reason for his visit, he said, simply, "I am here to support my brothers in a time of trouble." Linur Yunusov, a senior journalist at ATR, told me that while no Russian official had ever bothered to visit Crimean Tatars before, Moscow was now sending one delegation after another. "This sudden brotherly love is overwhelming," he joked.

At one point, a journalist inside the newsroom called Aminov's attention to a television screen, which showed masked Russian soldiers blocking the

entrance to a military base outside Simferopol. "This is our live position," the journalist said, provocatively. "A perfect view of the Russian occupation." Aminov didn't take the bait. "Which editing software do you use?" he replied.

The delegates visiting from Russia have made many promises to the Crimean Tatars to solicit their political support: seats in the new government, financial assistance, official language rights, and rural-development programs. These offers resonate, particularly as the community feels that its plight has been largely ignored by the government in Kiev for the past quarter century. Many Crimean Tatars remain bitterly disappointed that Kiev has not delivered on its many promises to pass laws that would recognize victims of Stalin's deportation or establish Crimean Tatar-language schools.

"We are on a verge of losing our culture, our language, our identity," Yunusov, the senior journalist, told me. And yet, like most of the Crimean Tatars I have interviewed, he believes that the community will be safer if the peninsula remains part of Ukraine. "For us, a European Ukraine is the only way of making sure that we survive as people," he said. "We need European laws to protect our identity. After what happened in 1944, we can never trust the Russians."

Eskandar Baiibov, a deputy in the Crimean Tatar Mejlis, told me firmly that his community is unanimous in its backing for the government in Kiev, and that Crimean Tatars would boycott any referendum on joining Russia. But he is also terrified, he admitted, of the price that they might have to pay for refusing to give the Kremlin the support it wants.

"We are already seeing signs that they are trying to intimidate us, to split us, to stir trouble," Baiibov said. "Ukrainians are also vulnerable, but at least they have Ukraine to go to. Where will we go? Crimea is our only home." After the regional parliament voted to merge Crimea into Russia on Thursday, the chairman of the Mejlis, Refat Chubarov, released a statement to the press, calling for the United Nations to "immediately consider" sending a contingent of international peacekeepers into Crimea, "in order to deëscalate the military conflict ... which can lead to mass casualties among the entire civilian population of the peninsula."

But the prospect of U.N. peacekeepers landing on the peninsula anytime soon is less than slim. And so, as Crimea prepares for a referendum on its future, its native people are preparing for the worst. In Bakhchysarai, Ava's husband has cut up metal rods and placed them throughout the house so the family can use them to fight off any possible intruders. The men of Chiisty Istochniki Street now take turns patrolling the neighborhood at night, and Rustem Kadyrov has applied for travel documents for his children.

"Many of us want to get wives and children out of here, to somewhere safe," Kadyrov told me. The men, he said, will stay.

Above: Crimean Tatars hold a rally near the parliament building in Simferopol. Photograph by Baz Ratner/Reuters.

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Annex 1040

BBC News, Pro-Ukraine activists beaten up in Crimea (9 March 2014) archived at https://www.bbc.com/news/av/world-europe-26504449/pro-ukraine-activists-beaten-up-in-crimea

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Violence erupts at Ukraine rally

'We want to live in a peaceful country'





Russia warned over Crimea tension

Shots a observe



Pro-Ukraine activists beaten up in Crimea

Violence has erupted at a pro-Ukrainian rally in the Crimean city of Sevastopol.

About 100 pro-Russians with clubs attacked people who were guarding the rally being held to commemorate the 200th anniversary of poet Taras Shevchenko, attended by some 200 people.

Ben Brown reports from Sevastopol.

09 Mar 2014

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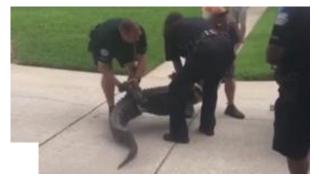
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Annex 1041

Simon Shuster, Putin's Man in Crimea Is Ukraine's Worst Nightmare, Time (10 March 2014)

TIME Putin's Man in Crimea Is Ukraine's Worst Nightmare



Crimean Prime Minister Sergei Aksyonov attends a public ceremony in Simferopol, Crimea on March 8, 2014. Daniel van Moll $-\Box$ NurPhoto/SIPA USA

By SIMON SHUSTER March 10, 2014

A month ago, when Ukraine's old regime was just starting to crack under the pressure of a revolution, few people in the country had ever heard of Sergei Aksyonov. He was then a marginal figure even in the local politics of the region of Crimea. His Russian Unity party had only three seats in the regional legislature and no representation anywhere else. But that has not stopped him from taking charge. In late January, as the protesters in Kiev began seizing government buildings, Aksyonov started to form an army on the Crimean peninsula. Now he is the de facto leader of the entire region, a post that has

thrust him into the center of the most dire political crisis Europe has confronted in years.

From the beginning, the stated aim of his paramilitary force was to defend against the revolutionary wave that was sweeping across Ukraine and, ultimately, to break away from the country entirely. Its first battalion of 700 men came from the youth group of Aksyonov's political party, and as he continued calling in the proceeding weeks for a "full scale mobilization," hundreds of others joined his Crimean self-defense brigades. By Feb. 21, the day the Kiev uprising toppled the Ukrainian government, Aksyonov was in command of several thousand troops. "All of them," he says, "answer to me."

His rise to power has made him a valuable ally to Moscow and a serious threat to Ukraine and its Western partners. His written appeal to Russian President Vladimir Putin is what opened the door for the Russian occupation of Crimea at the beginning of this month, and on March 4, Putin recognized Aksyonov as the legitimate leader of Crimea, apparently without ever having met the man. Since then the Crimean government has asked Russia to annex the peninsula, a move that is likely to redraw the map of Ukraine and cause a historic rift between Russia and the West. The 41-year-old Aksyonov, a lumbering former cigarette trader with Russian separatism in his genes, now finds himself at the center of the world's attention.

So far, the most revealing aspect of his time in power has been the way he came to possess it. Before dawn on Feb. 27, at least two dozen heavily armed men stormed the Crimean parliament building and the nearby headquarters of the regional government, bringing with them a cache of assault rifles and rocket propelled grenades. A few hours later, Aksyonov walked into the parliament and, after a brief round of talks with the gunmen, began to gather a quorum of the chamber's lawmakers.

It is not clear whether the parliament was seized that day on his orders. On the one hand, the masked gunmen identified themselves as members of Crimea's "self-defense forces," all of which are, according to Aksyonov, directly under his control. On the other, he claims the seizure of the buildings was done "spontaneously" by a mysterious group of fighters. "We only knew that these were Russian nationalist forces," he tells TIME in an interview Sunday. "These were people who share our Russian ideology. So if they wanted to kill someone, they would have killed the nightwatchmen who were inside."

Instead, they let the guards go, sealed the doors and only allowed the lawmakers whom Aksyonov invited to enter the building. Various media accounts have disputed whether he was able to gather a quorum of 50 of his peers before the session convened that day, and some Crimean legislators who were registered as present have said they did not come near the building. In any case, those who did arrive could hardly have voted their conscience while pro-Russian gunmen stood in the wings with rocket launchers. Both of the votes held that day were unanimous. The first appointed Aksyonov, a rookie statesman with less than four years experience as a local parliamentarian, as the new Prime Minister of Crimea. The second vote called for a referendum on the peninsula's secession from Ukraine.

Since then, Aksyonov has been holding court on the second floor of the Crimean government headquarters, whose entrance is flanked by two masked commandos with bullet proof vests, fatigues and Kalashnikovs. On the day of the interview, their commander wore a purple shirt with no tie, his suit hanging loosely over his tall and bulky frame, which resembles that of a linebacker. His manner, he admits, does not fit the mold of a politician. "I was chosen as a crisis manager," he says. "Everybody else ran away. Nobody wanted to take one iota of responsibility on themselves. So I was forced to take it on myself."

What urged him to start gathering an army in January was the threat he sees from the revolution. Its leaders, he says, are part of a fascist force intent on disenfranchising the ethnic Russian majority in Crimea, and without the armed intervention of his "self-defense forces," they would have sent their troops to bring the peninsula to heel. When questioned about his methods, he always gave a version of the same response – if the Kiev revolutionaries did it, why can't he? If the revolution used force to seize government buildings in Kiev, why can't his supporters do the same in Crimea? If the revolution sought support from their allies in the West, why shouldn't he ask Russia to come to his defense?

Given the fact that he has never actually lived in Russia, Aksyonov's affection for the country is remarkable. It has a lot to do with the line of Red Army officers in his family. His grandfather was stationed in the Germany city of Potsdam after the Soviet victory in World War II. But Aksyonov's take on Russian patriotism seems to derive mostly from his father, whose political struggle for the rights of ethnic Russians closely parallels that of his son.

In the late 1980s, as the Soviet Union began to fall apart, nationalist movements for independence began to spring up in nearly all of its satellite states, from the Baltics to Central Asia. Aksyonov's father, an officer in the Red Army, was then stationed in the Eastern European state of Moldova, where a new generation of leaders was demanding their rights to form an independent state.

That left the ethnic minorities in that country, including the Aksyonov family and other Russians, in a precarious position – they suddenly had to fend for themselves on the fraying edges of the Soviet empire. As that empire was pushed out of Eastern Europe, Aksyonov's father, Valery, became the leader of a group called the Russian Community of Northern Moldova, which campaigned for the rights of ethnic Russians in a country ruled by the Moldovan majority. In 1990, the ethnic tensions in that country erupted into war, and the Russian army came to the rescue of paramilitary groups fighting the forces of the Moldovan government. Two years later, the conflict ended with the de facto secession of a breakaway state called Transnistria, a sliver of land that runs along the Dniestr River.

Today, Transnistria is still a frozen conflict zone on the map of Europe – and a state that Aksyonov reveres. Its independence is not recognized by any member of the United Nations, including Russia. It is the only part of Europe that still uses the insignia of the Soviet Union, and its economy imposes Soviet-style subsistence living on the masses while the politically-connected elite benefit from its unique black market. As an unrecognized state unbound by

Putin's Man in Crimea Sergei Aksyonov Is Ukraine's Worst Nightmare | Time

international law, its customs points are a clearinghouse for contraband, including tobacco, guns and counterfeit liquor. But Aksyonov sees it as a place to be emulated. "Transnistria is a bastion of Russian culture inside Moldova," he says. "They wanted to preserve their identity. And I fully support them, because I know what kind of pressures they faced."

In 1989, just before the war in Moldova broke out, those pressures convinced the 17-year-old Aksyonov to move from his homeland to Crimea, where he enrolled in a college for Soviet military engineers. But before he could graduate from the academy to become a Red Army officer like his father and grandfather, the Soviet Union collapsed. "All of us, my entire class, we were all told, 'That's it, you have no country left to serve. Now pledge an oath to independent Ukraine,'" he recalls. "It's just like what's happening now."

Then, as now, Aksyonov refused to serve Ukraine, which he considers an unjustly severed appendage of Russia. So he decided instead to go into business. At the time, the Crimean economy was much like the one in Transnistria – dominated by black marketeers and smugglers. Its geographic position in the Black Sea, right between Turkey, Russia and southeastern Europe, made it a perfect hub for traffickers of every sort. Anatoly Los, who is now 70, was one of the most prominent Crimean businessmen at the time. "I had so much money I couldn't even fit my hand in my pocket," he says. When he met with TIME on Saturday for an interview on the central square in the Crimean city of Yalta, he came dressed in a blue trench coat and a black fedora, which he used to shoo away the admirers who came over to shake his hand.

He remembers Aksyonov in the 1990s as a member of a criminal syndicate called Salem, which was named for the brand of contraband cigarettes they imported and dealt in bulk. (Other accounts claim the group was named for the cafe where they hung out.) "Aksyonov was a capo for them, an enforcer," says Los. "He had a group of ten guys that would go around collecting money." Aksyonov's nickname in the local underworld, says Los, was the Goblin. "Every gangster had a nickname. I was called Horns because of my surname." (Translated from Russian, the word *los* means moose or elk.) Asked about these allegations, Aksyonov leans back in his chair with a smile and says that Los "is insane, with real psychological problems." He admits that they have known each other since the 1990s, but all claims of his links to the mafia, Aksyonov says, are part of a slander campaign initiated by his political opponents when he first became active in the pro-Russian movement in 2008. "All of a sudden these stories about me began appearing online," he says.

He insists he never had any links to the Salem gang or other criminal groups in Crimea, but he admits that his business in the 1990s did involve the import of tobacco products. For the most part, however, he says he started out selling umbrellas from Moldova. "The market was chaotic, so we survived however we could," says Aksyonov. "In my father's factory they were making automatic umbrellas. So we were the first to set up imports to Crimea. We had 18 spots selling them around the bazaars."

With the help of bank loans, Aksyonov went on to participate in the privatization of state assets in Crimea, primarily real estate deals. He now owns large stakes in two local factories, including one producing automotive parts in the Crimean capital of Simferopol. "That's registered under my wife and my mother-in-law," he says. "We bought those factories out with plans to fix them, but then the crisis hit."

In 2008, as the global financial crisis squeezed businesses across Ukraine and made profits harder to come by, Aksyonov got involved in a political activist group called the Russian Community of Crimea, which has long campaigned for the peninsula to split from Ukraine and become a part of Russia. (In the early 1990s, Los was one of the founders of that group.) Its relations with the local government were fraught, and it often faced investigation for training separatist militias, which is illegal in Ukraine. No charges were ever filed against its leaders, not even after the party's activists, under the direction of Aksyonov, pelted the mayor of Simferopol with eggs. "Those guys were involved in tons of corrupt schemes," he says of the peninsula's former leaders. "So we took a lot of drastic actions."

Putin's Man in Crimea Sergei Aksyonov Is Ukraine's Worst Nightmare | Time

In 2010, Aksyonov formed the Russian Unity party and went on to win 4% of the vote in that year's Crimean parliamentary elections, securing three out of the chamber's 100 seats, one for himself. When the revolution broke out in Ukraine late last year, his party was one of the main organizers of pro-Russian rallies in Crimea, hyping the threat from the Ukrainian nationalist parties that were helping overthrow the government. But even then, he never imagined the political vistas their revolt would open up for him.

On Monday, he accepted the oath of loyalty from the first batch of Crimean military officers, for whom he is now the commander-in-chief. In the past two weeks, he has sent emissaries for talks with officials in Moscow and has received senior Russian lawmakers in his breakaway capital. Based on their assessments of his character, Aksyonov says, Putin decided to recognize him as the leader of the peninsula last week. "Of course he is legitimate," Putin noted on March 4, although according to Aksyonov the two have never spoken. "We had no contact at all," he insists. "Though I'm sure we will be in touch as the process moves forward."

This weekend, Crimea will hold a referendum on its secession from Ukraine, a ballot that Kiev has condemned as an illegal act of separatism. But Aksyonov is certain the vote will pass, and after that, the peninsula will either become a part of Russia or an quasi-independent state under Moscow's protection, sort of like Transnistria has been for most of the last quarter century. The fact that the West is unlikely to recognize his region's independence doesn't seem to bother Aksyonov at all. "On what grounds should America tell us what to do?" he demands. "Independence is what we want. It is what Crimeans want." And whatever the legality of his methods, Aksyonov is now the man steering them toward Russia's embrace.

Annex 1042

Harper blasts Crimea referendum, protesters express solidarity with Ukraine, CBC (16 March 2014)

Harper blasts Crimea referendum, protesters express solidarity with Ukraine

cbc.ca/news/canada/toronto/harper-blasts-crimea-referendum-protesters-express-solidarity-with-ukraine-1.2575128

The Canadian Press · Posted: Mar 16, 2014 6:22 PM ET | Last Updated: March 16, 2014

March 16, 2014



A protester takes part in a mock referendum to draw attention to the Crimean referendum Sunday March 16 outside the Russian Embassy in Ottawa. (Fred Chartrand/Canadian Press) Canada has denounced the controversial referendum in Ukraine's Crimean Peninsula on Sunday that showed overwhelming support to split off and join Russia, saying it would lead to further isolation of Russia's Vladimir Putin.

"The so-called referendum held today was conducted with Crimea under illegal military occupation. Its results are a reflection of nothing more than Russian military control," Prime Minister Stephen Harper said in a statement.

- Crimea election chief reports 95% vote to secede
- Crimea secession vote: how, why and what's next?

"This 'referendum' is illegitimate, it has no legal effect, and we do not recognize its outcome," the prime minister said, adding Canada is working with other countries on the possibility of further sanctions.

"Any solution to this crisis must respect the territorial integrity, sovereignty and independence of Ukraine as well as the constitution of Ukraine. Mr. Putin's reckless and unilateral actions will lead only to Russia's further economic and political isolation from the international community."



A protester disguised in military colours a takes part in a mock referendum to draw attention to the Crimean referendum Sunday, March 16 outside the Russian Embassy in Ottawa. (Fred Chartrand/Canadian Press)

Earlier Sunday, protesters in at least two Canadian cities joined the international condemnation against the ballot.

Some protesters applauded Harper's decision to travel to Ukraine this Friday to show support for the temporary government in the face of Russian aggression in the strategic Black Sea region.

This is an already an important symbolic visit showing support to the Ukrainians. - *Lada Roslycky, uman rights campaigner*

"This is an already an important symbolic visit showing support to the Ukrainians," said Lada Roslycky, a human rights campaigner who organized an Ottawa protest across the street from the Russian embassy.

About 100 protesters staged a mock referendum outside the heavily-guarded embassy. They brandished signs that denounced Russian President Vladimir Putin as organizers passed out fake cash, and urged mock voters to vote as often as they liked for either of two options to cede from Russia — yes and yes — as demonstrators in military garb stood over a fake ballot box.

Mock referendum

They were joined by hundreds in downtown Toronto who braved frigid temperatures to march against what they called an illegitimate ballot.

Standing across the street from the Russian embassy, Yaroslav Baran, a former senior Conservative aide, denounced the Crimea ballot as "an old style Soviet election."

"It's really frightening," said Baran, who is of Ukrainian descent and has relatives living close to the Crimean Peninsula.

"This is classic Putin playbook. We've seen it in Georgia, we've seen it in Azerbaijan — doing this in the name of protecting minorities ... and it turns into a permanent military occupation."

Andrew Tsylke, a Kyiv native living in Ottawa, was visibly struggling with his emotions as he contemplated the situation in his homeland.

It's a very dangerous situation. It's close to real war. - Andrew Tsylke, a Kyiv native

"It's a very dangerous situation. It's close to real war," he said.

Roslycky suggested Canada and its allies could impose travel restrictions on the wives of Russian oligarchs, "the ladies who are associated with the men who are running the Crimea because they have a tendency to go and shop in very expensive places, spend a lot of money in Europe and in the U.S."

In Toronto, marcher Olena Wachna said Sunday's referendum was bogus and slanted against Crimea remaining in the country.

"I don't think the questions asked in the referendum represent democracy. I think that the choices they've given to people — to separate or to become part of Russia — are just there to support Putin's bad reasoning to invade Ukraine," she said, adding she's worried about her family in Ukraine.

Olha Sorokivska, who came to Toronto from Ukraine two years ago, said she's concerned about what will happen to those who oppose the referendum, which she called pro-Russian.

"I'm really worried for people who are against that, because they can be prosecuted and their rights can be not protected there," she said.

Sunday's controversial ballot comes two weeks after Russian-back forces took control of Crimea, which has as large Russian population.

Many of its residents have said they fear the new Ukrainian government that is now in place after their Russian-backed President Viktor Yanukovych fled to Russia.

Annex 1043

Paul Roderick Gregory, Putin's Destabilization of Ukraine Overshadows Today's Crimean Vote, Forbes (16 March 2014)

Putin's Destabilization of Ukraine Overshadows Today's Crimean Vote

forbes.com/sites/paulroderickgregory/2014/03/16/putins-destabilization-of-ukraine-overshadows-todays-crimean-vote

March 15, 2014

Mar 16, 2014 @ 12:34 PM 20,518

<u>Paul Roderick Gregory</u>, Contributor I cover domestic and world economics from a free-market perspective. Opinions expressed by Forbes Contributors are their own. Russia's invasion of Crimea and today's rigged Anschluss referendum are sideshows to the main event – Putin's ongoing destabilization of Ukraine. <u>International</u> diplomacy can deal with armed interventions and the violation of



international treaties, but it is helpless in the face of the coordinated covert disinformatsia, maskirovania, and destabilatsia at which Putin's KGB (now called the FSB) excels. Putin can respond to charges of economic and political sabotage against Ukraine with an expression of innocence and surprise: "Who me? These are internal matters for the Ukrainian people. We Russians can only watch with concern as our neighbors disintegrate into chaos before our eyes. Let's hope we don't have to rescue them again, as we did in Crimea."



Crimea and the destabilization of Ukraine are two separate, but linked, actions. The Crimean invasion gave Putin a small victory against the "arrogant" West, with which to beat the Russian nationalist drum, stir up Russian national pride, and stick his finger in the eyes of <u>Barack</u> <u>Obama</u> and <u>Angela Merkel</u>. Insofar as the Crimean invasion clearly violated international treaties and norms of behavior, international diplomacy will impose a price on Russia in terms of sanctions and economic woes. His inner circle may pay a personal price as their bank accounts are frozen and their travel visas denied. (If they object to the freezing of their foreign accounts, they should answer how they, as Russian officials with modest incomes, have billions hidden in the West? P.S. Should not Putin himself be on this list?)

As soon as Putin's rubber-stamp parliament approves the Crimean vote to join the Russian Federation, diplomatic options disappear, for all practical purposes. Political maneuvering turns to ex post punishment and then a war of sanctions and counter sanctions. All parties know the Crimean annexation is a fait accomplis. Putin will not reverse Crimea's Anschluss. It is only a matter of the price that Russia will pay. Putin is counting on a bargain-basement sanction.



Crimea represented for Putin low hanging fruit. Its special status – in the 50s part of the Russian Republic, overwhelming Russian population, home of Russian naval bases, etc. – gave him a fig leaf for asserting Russia's claim to Crimea. But Crimea was not and has never been Putin's objective. His primary concern is the loss of control over Ukraine itself as evidenced by Ukraine's intent to join the European Union. Putin will use a covert attack on Ukraine's political, ethnic and economic institutions to keep it dependent on him.

Most Popular

Voice: The Rewards Of Inclusive Innovation

The Kiev demonstrators clearly understood they were fighting for a European Ukraine to replace the corrupt and dysfunctional Post-Soviet Ukraine. The demonstrations began when Yanukovich reneged on his promise to sign the EU association agreement, and Ukrainian demonstrators spilled their blood on what they call "Euro Maidan" Square. Putin, the Euro Maidan demonstrators, and the new Ukrainian government understand that the fight is about <u>Europe</u>, not neo Nazis, language laws, or endangered Russian speakers.

Prior to Euro Maidan, Putin knew he could control Ukraine either through the gas spigot, a pro-Russian government, or through internal squabbling of the post-Soviet Ukrainian political class. The prospect of a European democratic, rule of law, and prospering Ukraine on his border was more than Putin could tolerate. It would spill over to spell the end of his dictatorship.

Putin launched his covert war against Ukraine itself concurrently with his invasion of Crimea (<u>Russia's Special Ops Invasion of Ukraine Has Begun</u>). Its outline is already clear:

Provocateurs organize and lead pro-Russian crowds. Russian flags and posters mysteriously appear in cities and towns. Ukrainian TV and radio are shut down. The provocateurs spread rumors – Western Ukrainians are coming to exact revenge and confiscate houses and apartments in the East. Young men face five years in prison if they do not join the Ukrainian army. Camera crews record clashes of pro and anti-Russian forces. Pro-Russian protesters are carried off, bloodied on stretchers as local Ukrainian police and authorities stand by helplessly.

Putin can count on the Western media to deliver the message of chaos and disorder. Clashing mobs, demonstrations and counter demonstrations, and harsh words and gestures make for good television. German public television already refers to demonstrations in Donetsk and Kharkiv as clashes between pro-Russian and "radical Ukrainian nationalists." Western TV has fallen into Putin's trap by calling those defending Ukrainian sovereignty "radicals."

The stage has been set: East Ukraine can be described as having spun out of control. Soon all of Ukraine will be a caldron of unrest and chaos. Russian speakers are in mortal danger. They must be saved like their brothers and sisters in Crimea!

At this point, Putin can either move in his troops to be welcomed by jubilant crowds, or he can sit back and enjoy the view of half of Ukraine collapsing under the weight of his destabilization campaign, as the new government in Kiev desperately seeks to cope.

Putin's destabilization campaign also is attacking the fragile Ukrainian economy. Russian orders for East Ukraine's Donbas heavy industry complex have been cancelled. Russian banks have pulled out. Workers and miners have either lost their jobs or work for the meager salaries their employers can scrape together. With his newly established control of Crimea, Putin can strangle the grain exports that constitute the lifeblood of the Ukrainian economy. Ukraine's mangled finances raise the specter of default as the <u>IMF</u> dawdles to extend credits.

Western diplomacy cannot deal with the deliberate covert destabilization that Putin is mounting against Ukraine. If charged, Russia will claim that its agents, provocateurs, and paid thugs are acting on their own, as patriots. They are not under Putin's control. The economic sabotage will be written off as reluctant business decisions. Despite their brotherly love for Ukraine, Russian companies cannot do business with a basket-case economy, Putin's apologists will assert.

Western diplomats can do nothing except watch the carnage. There are no illegal troop movements. There are no broken treaties. Western diplomats are left with no choices. They can't bring charges to the United Nations that Russian companies are systematically sabotaging the Ukrainian economy. They cannot charge "civilian" provocateurs with deliberate destabilization.

This dreary scenario does not mean that the West cannot help Ukraine. First, the West must give the Ukrainians the means to defend themselves against Russia's political and economic sabotage. Ukraine needs to be given, as it has requested, substantial direct military aid -- equipment, munitions, and supplies -- as soon as possible. The fear of "offending Russia," which has apparently frozen the US administration, is at this point absurd. It merely plays into

Putin's strategy of destroying Ukraine as an independent entity. Second, Ukraine's admission to the European Union must be accelerated so Ukraine has a long term objective to work towards. Third, the West must provide super-generous financial assistance. It must realize that Ukraine is a "war economy" and must be treated as deserving a Marshall Plan of sorts. Third, the West should supply Ukraine with the arms and munitions it needs to defend itself. This assistance must include uniformed training personnel located on Ukrainian soil. Fourth, the Western media needs to grow up and understand the Russian special ops war. If they continue to report literally demonstrations, clashes, fights, banners, and shows of pro-Russian support organized and paid for by KGB infiltrators, they will sorely handicap Ukraine's chances of defending itself from Putin's disinformatsia specialists. The international press fell for Stalin's show trials and for Goebbels' speeches. They should not be suckered again. Fifth, Ukraine should flood East Ukraine with U.N. and OSCE observers to verify Russian claims of oppression and civil rights abuses of ethnic Russians. Although U.N. and OCSE observers were not allowed in Crimea, Ukraine has every right to invite them in, the more the merrier.

For its part, Ukraine must continue to show its "Euro Maidan" resolve to move forward with the economic, political, and anti-corruption reforms that will serve as its salvation. This is asking a lot of a fledgling regime operating in crisis mode.

Merkel: Crimea grab 'against international law', The Local (18 March 2014)

Merkel: Crimea grab 'against international law'

() thelocal.de/20140318/merkel-crimea-grab-against-international-law

March 18, 2014



Chancellor Angela Merkel said on Tuesday that Russia's absorption of Ukraine's Crimea region after a secession referendum and declaration of independence there violated international law.

"The so-called referendum breached international law, the declaration of independence which the Russian president accepted yesterday was against international law, and the absorption into the Russian Federation is, in our firm opinion, also against international law," she said.

Merkel stressed that international organisations including the United Nations, the European Union and the Organisation for Security and Cooperation in Europe shared that view.

President Vladimir Putin earlier on Tuesday signed a treaty making Crimea part of Russia, in a historic redrawing of Russia's borders, while shrugging off strong international objections.

The German chancellor stressed that amid the East-West standoff "we will... continue to bank on dialogue, on talks."

"We want a good development especially in Ukraine, including proper preparations for the elections," she said. "But the differences of opinion concerning the Crimea will remain."

SEE ALSO: 'Germany should threaten a Russian gas ban'

U.S., NATO Allies Condemn Russian 'Land Grab' In Ukraine, RFE/RL (18 March 2014)



RUSSIA

U.S., NATO Allies Condemn Russian 'Land Grab' In Ukraine

March 18, 2014 15:17 GMT RFE/RL

The United States and European Union have condemned Russia's formal annexation of Ukraine's Crimea as illegal and vowed they will not recognize it.

Ukrainian Prime Minister Arseniy Yatsenyuk has meanwhile said the conflict is moving into a "military stage" and that Russian soldiers have opened fire on Ukrainian servicemen.

His statement came as reports from Crimea said a Ukrainian soldier had been shot dead in an attack. Details on what occurred were not immediately clear.

Ukrainian acting President Oleksandr Turchynov released a statement later on March 18 saying Ukrainian servicemen, including those in Crimea, had been authorized to use weapons to defend themselves.

The statement accused Russia of responsiblity for "the blood of Ukrainian soldiers."

ALSO READ Live Blog: Ukraine Crisis

The soldier's death was the first reported in Crimea since thousands of Russian troops deployed in the territory shortly after former Ukrainian President Viktor Yanukovych was ousted from power in late February.

In Washington, White House spokesman Jay Carney called the "attempted annexation" of Crimea, signed by Russian President Vladimir Putin in Moscow, a "threat to international peace and security."

He said Washington would impose more sanctions in reaction to the move. https://www.rferl.org/a/nato-russia-crimea-ukraine-biden-international-law/25301448.html "Those actions have incurred costs already," Carney said. "They have done damage to Russia's economy, to its currency, and to its standing in the world. Further actions, further provocations will lead to higher costs."

On March 17, the European Union and the United States unveiled sanctions targeting some 30 Russians, Ukrainians, and Crimeans.

Carney added that the Russian economy was likely to suffer.

"Russia is taking action that reverses some of the work that that nation had done to establish itself as a responsible leader on the international stage," Carney said. "It isolates Russia, it undermines faith in Russia's commitment to rule of law and therefore undermines the incentive that global investors might have in investing in Russia. That effect has a negative impact on Russia's economy and on the Russian people."

U.S. President Barack Obama and German Chancellor Angela Merkel spoke about the crisis by telephone.

Merkel's spokesman, Steffen Seibert, said the leaders agreed Ukraine's territorial integrity had suffered "unacceptable blows."

Merkel and Obama also agreed that the March 16 referendum on secession held in Crimea violated Ukraine's constitution and international law and that targeted measures against Russia were a "logical" response.

A statement from the EU's leadership said "the European Union does not and will not recognize" the annexation of Crimea and Sevastopol.

Russian Foreign Minister Sergei Lavrov called Western sanctions "absolutely unacceptable" and said such measures would have consequences.

The Russian Foreign Ministry said Lavrov delivered the message in a telephone call on March 18 with U.S. Secretary of State John Kerry.

The statement did not give details about any retaliatory measures the Kremlin might take against the United States and European Union.

Speaking to students in Washington later the same day, Kerry chided Russian officials for

their interpretation of events.

"I was really struck and somewhat surprised and even disappointed by the interpretations and the facts as they were articulated by [Russian] President [Vladimir Putin]," Kerry said. "With all due respect, they really just didn't jibe with reality or with what's happening on the ground. The president may have his version of history, but I believe that he and Russia for what they have done are on the wrong side of history."

Thousands of Russian forces have been occupying Crimea since late last month.

The Russian State Duma is expected to overwhelmingly back the treaty **as soon as March 19**.

In his speech to Russian lawmakers earlier in the day, Putin said Crimea's secessionist referendum was democratic and Russia's annexation was in full accordance with international law.

He also dismissed Western criticism as unfair to Russians and Crimeans. Putin cited Kosovo's 2008 unilateral declaration of independence from Serbia, which has been recognized by Western nations but not by Russia.

With reporting by RFE/RL's Ukrainian Service, Reuters, and AFP

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Oleksandra Nezvanna, The "Diva" of Crimean Education Statistics, Holos Krymu, Voice of Crimea (25 September 2015)

«Wonders» of Crimean education statistics

By Oleksandra Nezvanna - 25 September 2015



At the end of August, the majority of mass media spread the news that there are no classes with the Ukrainian language of instruction being offered in the temporarily occupied Crimea: "Minister: Crimea does not offer Ukrainian classes because of reduced demand ", "There are no Ukrainian classes left in Crimea - Minister", "Crimean authorities canceled the lower Ukrainian classes in schools, because nobody wants them", "There are no people willing to study in the Ukrainian language in Crimea" (a similar situation was observed in the past year: "In Crimea, there were no requests to study in Ukrainian during first-grade enrollment", "There will be no primary classes in Crimea with Ukrainian language of instruction".) This news wave emerged after the press conference of the Minister of Education of the annexed Crimea, Natalia Goncharova, said: "We have a network consisting of 17 classes with the Ukrainian language of instruction, including those at the Academic Gymnasium of Simferopol. During admission to the 1st grade there have been no applications for studying in the Ukrainian language", repeating her statement from last year: "In the territory of the Crimean Federal District of Russia there will not be no primary classes with instruction in the Ukrainian language. Those have simply been no such requests." The words of the occupation Minister of Education had mixed reactions: some reacted with a frenzied smile, and even with joy, some people reacted indifferently to such news, and others were "hurt" and outraged.

Suddenly, on September 8, 2015, on the website of the occupation Ministry of Education, Science and Youth of Crimea, there was information: "Crimean-Tatar and Ukrainian languages are taught in Crimea to little

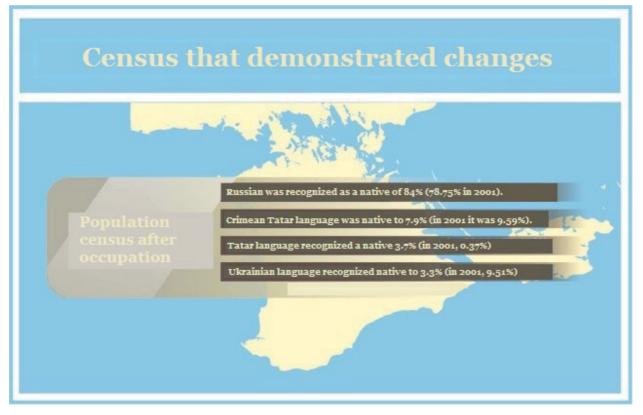
more than 3% of children", which provides somewhat different information: "In the current academic year, 2 first grade classes with Ukrainian language instruction were opened. In the two schools, there are classes in grades 1 through 9 with the Ukrainian language of instruction (Alushta, Feodosia). "What happened remains beyond belief - whether the minister was provided with "bad" information, whether the officers-invaders "did not get it" (but it's hard to believe, since the programming is not planned at the last moment, and in order "not to see" two classes you need to really want not to see them), or it was common for the policy of occupation to be one of silence or disinformation. Another media wave rises again: "The Crimean authorities assert that there is no desire to learn Ukrainian language on the peninsula", "Less than a thousand children in Crimea study in the Ukrainian language", "About 3% of schoolchildren study in the Crimean Tatar language, less than 1% in Ukrainian" and practically nobody paid attention to the material that was ten days later. However, the informational message of the occupying authority MONMRC provides an opportunity to once again focus on the linguistic issue in the education of the occupied Crimea.

On the eve of Russia's aggression in Crimea, the following graphic was made according to the language of instruction:



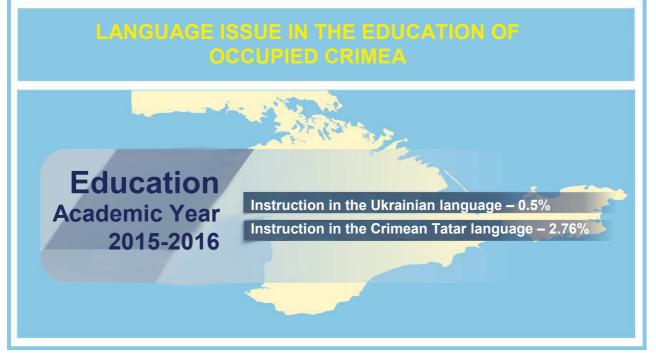
For a better understanding, it is about 13 thousand students who studied in Ukrainian and more than 20 thousand students who studied in the Crimean Tatar language. 5,551 students (3.1% of the total) studied in the Crimean Tatar language, 12,707 students studied Crimean Tatar as a subject, 28 - in-depth, 6906 - as an elective.

The annexation of the peninsula by the Russian Federation has substantially changed the situation in the language sphere. Six months after the capture of Crimea, the occupiers carried out a population census, which showed some changes:



It is clear that the state of affairs and education changed in the 2014-2015 academic year. The number of students studying in the Ukrainian language dropped significantly from 12,867 to 1,990 students. There were also changes with the study of the Crimean Tatar language - the number of students decreased from 5,406 to 4,740 students.

And the new 2015 - 2016 academic year has continued this trend of reducing education in the Ukrainian language, and those who want to study in the Crimean Tatar language have increased:



http://voicecrimea.com.ua/main/articles/diva-krimsko%d1%97-osvitno%d1%97-statistiki.html

And again there was a "miracle" of Crimean educational statistics. Compared to August of this year, in ten days, the number of first grades increased from 32 to 37!

As a result, it should be noted that despite the alleged opportunities for the inhabitants of the temporarily occupied Crimea, there is a strong pressure on parents and children who want to study in the Ukrainian or Crimean Tatar language. However, Crimea remains Ukrainian!

Oleg Okhredko,

expert in education matters of CGP

«Almenda»,

for NA "The Voice of Crimea"

RFE/RL, The Editors of the Crimean Tatar Newspaper Are Summoned for Interrogations on Suspicion of Extremism (3 June 2014)



NEWS

The editors of the Crimean Tatar newspaper are summoned for interrogations on suspicion of extremism

03 June 2014, 10:27 Crimea. Realities

Shevket Kaibullaev, editor-in-chief of the Crimean Tatar newspaper Avdet, was summoned to the "prosecutor's office" of the city of Simferopol.

As stated in the text of the agenda, which received the editorship, the "prosecutor's office" of Simferopol conducts an audit of the violation of the requirements of the law of the Russian Federation "On Countering Extremist Activity" by the management of the printed publication.

According to Shevket Kaibullaev, there were no other comments from representatives of the "prosecutor's office".

"Today at 15 o'clock I was invited to a conversation in the building of the city prosecutor's office of Simferopol. It is difficult to assume the content of the conversation, but judging by the article that is on the agenda, we will be accused of allegedly extremism, "the editor-in-chief told the correspondent of the Crimean.Realiya website .

The newspaper "Avdet" is a printed organ of the Mejlis of the Crimean Tatar people. Published since July 15, 1990.

On May 15, officers of the Federal Security Service of the Russian Federation conducted searches in the homes of Ali Khamzin, member of the Mejlis of the Crimean Tatar people. The FSB officers searched for explosives, weapons related to terrorist activities.

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Interfax, Head of Crimean Acknowledges Disappearance of Crimean Tatars on Peninsula (16 October 2014)

5/15/2018 Head of Crimea Acknowledges Disappearance of Crimean Tatars on Peninsula

Interfax IN RUSSIA -> ANNEXATION OF CRIMEA 12:08, October 16, 2014

Head of Crimea Acknowledges Disappearance of Crimean Tatars on Peninsula

According to Sergey Aksenov, four representatives of the Crimean Tatar people have gone missing in the republic



Sergey Aksenov

Photo: TASS, Mikhail Mettsel

Moscow. October 16. INTERFAX.RU: Head of Crimea Sergey Aksenov acknowledged that there are four cases of disappearance of Crimean Tatars in the republic, but stated that they are not mass disappearances.

"I visited the parents of the young men who went missing. I can say that this is not a mass phenomenon. There are cases where people of Slavic appearance also go missing. Four Crimean Tatars are listed as missing," Aksenov told journalists on Thursday.

According to him, the law enforcement authorities are determining how the people disappeared. "In some cases there are doubts as to whether there were instances of kidnapping. In some cases there were people who fought in Syria. The investigative authorities are doing all of the work necessary to determine the causes of what has happened," Aksenov said.

He said that the Crimean authorities are closely cooperating with Muslim leaders and the leadership of the Crimean Tatar community. "We cooperate with all Crimean Tatar organizations and we have a very constructive relationship with the mufti," he said.

The head of Crimea noted at the same time that he does not intend to communicate with the Crimean Tatar people's Medzhlis until the organization is officially registered.

"The Medzhlis does not exist for me now. This organization is not registered with the Ministry of Justice. Until the organization becomes legal, I don't see it and do not intend to communicate with it in that sense," he said.

5/15/2018 Head of Crimea Acknowledges Disappearance of Crimean Tatars on Peninsula

Last Tuesday the issue of the kidnappings of Crimean Tatars was raised at a meeting of the representatives of the president's Council on Human Rights with the head of state Vladimir Putin. Member of the Human Rights Council Nikolay Svanidze said that he had information about instances of "disappearances and direct kidnappings" of Crimean Tatars "by people without identifying marks."

In response, Putin expressed bewilderment over the information about oppression of Crimean Tatar representatives and stated that he would pay attention to it. "Of course some phenomena need to be looked at closely. I'm grateful to you that you have drawn my attention to this. I'm hearing for the first time from you that there are some disappearances of people there. It isn't clear who is doing it or why. I don't understand it all," said the head of state.

Related news

[...]

Material printed from the Interfax site URL: http://www.interfax.ru/russia/402161

Anna Andriyevska, Volunteers of the Crimea Battalion, Center for Journalistic Investigations (11 December 2014)

Volunteers of the Crimea Battalion 12/11/2014

Anna Andrievskaya for the Center

Since the start of the antiterrorist operation in eastern Ukraine information has appeared that volunteers from the occupied peninsula are forming a Crimea battalion. However, the Center has been able to determine that it is not the only one, and the Crimean volunteers belong to several divisions.

More precisely, three. These are the separate Crimea "hundred" within the Dniepr-1 battalion of Ukraine's National Guard and the Crimea battalion within the 44th battalion of territorial defense of the MO [municipality]. There is also a separate special division called the Crimea battalion which has become known thanks to its battalion commander Isa Akaev, who in the "Xopoбpi cepдuя" [Brave Hearts] program addressed the occupants of Crimea one on one, promising to "come for each of them."

[Photo]

It also turned out that the fighters of Isa Akaev's battalion already have special distinguished service: just nine of them heroically defended the well-known Savur-Mohyla [strategic height] in Donbass. At the same time today the battalion, just as the other volunteer divisions participating in the antiterrorist operation, needs the help of volunteers and citizens. You can read more about the divisions of Crimea volunteers in a separate article; today we are writing about who is helping them defend the Homeland.

Helpers of the homefront

According to the Crimea battalion fighters, it is the volunteer organizations "People's Homefront" and "AutoMaidan-Vinnitsa" that give them the most assistance. Although the volunteers themselves say they don't divide the battalions: they supply everyone on equal terms as per requests and the availability of what is needed at the assistance collection centers.

"We do not make such a gradation, a division by battalion or by sector. We have collected several million hryvnia in total. We don't count the food at all. Because a vehicle arrives, it is immediately unloaded and leaves. In the overwhelming majority of cases we don't even look at the contents of the boxes," says Georgiy Tuka, coordinator of the "People's Homefront" volunteer movement. For the same reason the volunteer organization cannot say

how many donations were collected specifically for the Crimea battalion, including by Crimeans. However, according to Georgiy Tuka, he and his like-minded associates started to help Crimean soldiers even before the events in eastern Ukraine, during the Russian occupation of the peninsula.

[Photo]

"There were guys we knew who were serving in the Ukrainian units. And when they started to be blocked, they started to request assistance to buy them cards for mobile telephones, because they couldn't leave their units. Then we started to help with food, then to provide relocation assistance. We had just managed to relocate them when Donbass started," Tuka said.

"People's Homeland" has provided the fighters of the Crimea battalion with all the necessities for several months already: from uniforms and food to weapons. The volunteers struck up their cooperation with the Crimeans as soon as the battalion was created. In other words, even before the division became famous after the heroic defense of Savur-Mohyla, thanks to which the Ukrainian side controls a large section of its border with Russia. It is difficult to believe, but that strategic height was held by just nine fighters.

Vinnitsa is with Crimea

The fighters of the Crimea battalion are under the wing of another volunteer organization, "AutoMaidan-Vinnitsa." Its activist Taisiya Gayda says that not only were many displaced persons from Crimea given shelter in Vinnitsa, they now help Crimean volunteers who have gone to the front line.

[Photo]

"We have a long friendship with the Crimeans. We took in some of the Crimeans. Vinnitsa is quite concerned for the fate of Crimea; we really want it to stay in Ukraine. So our local AutoMaidan undertook to provide assistance to displaced persons and fighters of the antiterrorist operation. We collect all of the necessary things for them and send them ourselves. Because they are our heroes. Our fate and the fate of our country depend on them. Many Crimeans hope that Crimea will return. And the Crimea battalion gives them hope of this," she said.

According to her, the number of people willing to support the Crimea battalion is constantly growing.

"We haven't counted precisely how much money we have spent on assisting the Crimea battalion, but there are many people who want to help that battalion specifically. And the number of those people is constantly on the rise. Recently two automobiles were purchased for the battalion. Those are the big purchases. I'm not counting the clothing, food, rations and other things," said Taisiya Gayda.

What does the battalion need?

Volunteers of the Crimea Battalion - Center for Investigative Reporting

Of course the Crimea battalion, in contrast to other volunteer formations, has a special objective: to not only win the war in Donbass, but also to return Crimea to Ukrainian control.

Just as all volunteer battalions and also regular units of the Ukrainian Army and the Interior Ministry, the Crimea battalion can act effectively only thanks to the support of citizens: support which volunteers collect and deliver. Today the battalion really needs thermal imaging sights, scopes, binoculars and range scopes that make it possible to shoot accurately, including at night.

At the same time, notes Georgiy Tuka, recently the number of donations collected by volunteers of "People's Homefront" has gone down considerably.

"The flow of investments and donations has gone down. Both financial and food amounts have gone down. The first reason is the common information space in the country that mostly promotes peace, cease-fire and calm. But nevertheless, guys are dying every day and we receive dozens of wounded every day. That's the kind of "cease-fire" we are dealing with" says Georgiy Tuka.

Volunteers of the Crimea Battalion - Center for Investigative Reporting

[Photo]

What is meant are the declarations heard in early December from both sides of the front about another cease-fire, including in the hottest spot of the antiterrorist operation, Donetsk Airport. Despite the fact that shooting was to stop on the evening of December 2, the ATO press center continues to inform of attacks from the terrorists on a daily basis.

Those who are hoping for peace soon should be reminded how the Minsk agreement reached back on September 5 is being complied with in practice.

Volunteers of the Crimea Battalion - Center for Investigative Reporting

More than 1,000 thousand [sic] soldiers and volunteers died during the imaginary cease-fire, as well as several hundred civilians.

This means that the Ukrainian fighters' needs will not decrease in the near future. Just as the need for assistance from all those whose peaceful sleep they are now securing. For example, Crimeans could more actively provide support to the Crimea battalion. Considering that the fighters called the return of the occupied peninsula to Ukrainian control their chief objective. It should be understood that this is desired also by business representatives, many of whom also relocated from Crimea after it was annexed by Russia. Hasn't the time come to start returning it?

Annex 1050

Kommersant, The Crimean Tatar Ego (3 March 2015)

[...]

Aleksandr Formanchuk, advisor to the head of the Republic of Crimea, political analyst

Crimean Tatars are experiencing rather painful changes in Crimea—integration into the Ukrainian space in the past, as well as the referendum of 2014 and integration into Russia. The Crimean Tatar issue is a fundamental problematic point in the question of Crimea's integration into the political and legal space of Russia today.

Crimean Tatars fear integration because they are always striving for separateness. Their main goal is national territorial autonomy. On the one hand, they declared the need to participate in government bodies when still in Ukraine; on the other, they wanted autonomy.

The idea of Crimean Tatar statehood is a conflict-ridden idea.

Under the Russian Federation, Crimean Tatars have more opportunities to exercise their rights than in Ukraine. In Russia, there are laws on national cultural autonomy, and, within their framework, Tatars can, in fact, legitimize the *Mejlis* as a body of ethnic self-government for the Crimean Tatars. But only under one condition: they must adhere to a concept of cooperation, rather than opposition.

[...]

Annex 1051

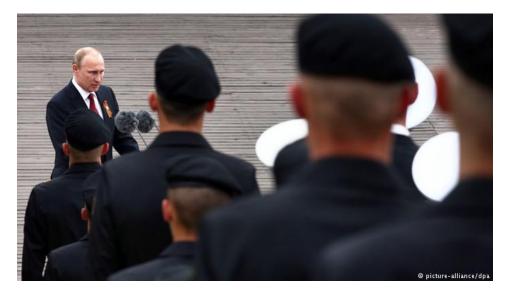
DW, Putin Reveals Details of Decision to Annex Crimea, (9 March 2015)



NEWS

Putin reveals details of decision to annex Crimea

Russian President Vladimir Putin has described the moment he claims to have ordered the incorporation of Crimea into the Russian Federation. Details of the overnight meeting came to light in a forthcoming documentary.



Putin said he decided to begin the annexation of Crimea when he met security officials to discuss rescue plans for ousted Ukrainian President Viktor Yanukovych.

In a trailer for the documentary titled "Homeward Bound," Putin said it had been decided upon in an overnight meeting from February 22 to 23. At the end, he told defense ministry officials and special forces commanders to start work on the annexation.

"We ended at about seven in the morning," Putin said in the trailer. "When we were saying goodbye, I said to all my colleagues: we must start working on returning Crimea to Russia."

By late February, Yanukovych had already arrived in Russia, and unmarked Russian forces were preparing to establish a presence in Crimea. Soldiers took over the Crimean local parliament and voted in a new government, with the region being incorporated two days after a March 16 referendum in favor of joining Russia.

Changing story of occupation

The military operation was initially kept secret with the Kremlin insisting that only locals were involved in the uprising against Kyiv. Putin later conceded Russian troops were involved, particularly in the build-up to the cessation vote. Russian officials had previously said the annexation decision, to which Kyiv has strongly objected, was taken only after the referendum.

Russian soldiers have been given medals "For returning Crimea" that cite the beginning of the operation as February 20, before the overnight meeting even took place.



Home to Russia's Black Sea fleet, Crimea was given by Russia to Ukraine when both were part of the USSR Putin also said the Russian military had been preparing to fight its way into the eastern city of Donetsk to rescue Yanukovych, with Putin claiming the toppled pro-Russian leader would have otherwise been killed.

"We got ready to get him out of Donetsk by land, by sea and by air," said Putin.

The minute-long trailer, aired late on Sunday by state television channel Rossiya-1, featured dramatic music and shots of the Crimean coast. The channel did not specify when the full film would be shown, only that it would be broadcast "soon."

Crimea has an ethnic Russian majority and is the base of Moscow's Black Sea fleet. Having been part of the Russian empire, it was transferred by Kremlin leader Nikita

Khrushchev as a "gift" to Ukraine from Russia in 1954 when both countries were part of the Soviet Union.

Fighting in the eastern Ukraine regions of Donetsk and Luhansk, which has killed more than 6,000 people, flared up in April in the wake of Crimea's annexation by Russia.

rc/jr (AP, AFP, dpa, Reuters)

DW RECOMMENDS

UN: More than 6,000 killed in Ukraine war

More than 6,000 people have been killed since eastern Ukraine's separatist insurgency erupted last April, the UN says. The Geneva-based body warned the situation had "dramatically deteriorated" in recent months. (02.03.2015)

Ukraine's new president rejects annexation of Crimea

Ukraine's new president, Petro Poroshenko, has vowed to maintain the territorial integrity of his country, including Crimea. In his inauguration speech, he also vowed to pursue closer ties with the European Union. (07.06.2014)

Crimea headed for rocky transition

The majority of Crimea's inhabitants have chosen to split from Ukraine and join Russia. Their decision, however, will bring far-reaching changes and a host of international legal problems. (18.03.2014)

Date 09.03.2015

Related Subjects Ukraine, Crimea, Russia, Donetsk, Dmitry Medvedev, Vladimir Putin

Keywords Crimea, Putin, Russia, Ukraine, annexation, referendum, Yanukovych, Donetsk, USSR

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Annex 1052

RFE/RL, Russia Celebrates Crimea Annexation Anniversary (16 March 2015)



RUSSIA

Russia Celebrates Crimea Annexation Anniversary

March 16, 2015 11:07 GMT RFE/RL

Russia has kicked off weeklong celebrations marking the anniversary of Russia's annexation of Crimea, while the United States and the European Union reaffirmed their support for Ukraine's sovereignty and territorial integrity.

In a ceremony at the Moscow-backed legislature in Crimea on March 16, a choir sang the Russian national anthem.

The ceremony was shown live on Russian state television.

Russian President Vladimir Putin's envoy to Crimea, Oleg Belaventsev, congratulated State Council deputies on the first anniversary of Crimea's "return to Russia."

He handed certificates of honor to members of Crimea's Russian leadership and lawmakers for their "contribution to Crimea's reunification with Russia."

Belaventsev repeated Russia's claim that it moved to take control over Crimea because it feared for the people there following the ouster of Moscow-backed President Viktor Yanukovych in February 2014 after protests the Kremlin has cast as a U.S.-backed coup.

Russia annexed Crimea from Ukraine after sending troops there and staging a secession referendum on March 16, 2014, that was condemned by dozens of countries and declared illegal in an overwhelming vote in the UN General Assembly.

And Ukrainian government forces have been battling pro-Russian separatists in the country's east in a conflict that has killed more than 6,000 people since April.

Fighting has decreased since a cease-fire deal reached in Minsk on February 12, with both sides accusing each other of violations.

The United States and its European allies have imposed sanctions on Russia over its interference in Ukraine and support for the rebels.

The United States reiterated on March 16 that it won't recognize Russia's "attempted annexation."

In a statement, State Department spokeswoman Jen Psaki said that "sanctions related to Crimea will remain in place as long as the occupation continues."

"Over the last year, the human rights situation in Crimea has deteriorated dramatically, with mounting repression of minority communities and faiths, in particular Crimean Tatars, and systematic denial of fundamental freedoms," she added.

And in a meeting with Ukrainian Finance Minister Natalia Jaresko in Washington, Treasury Secretary Jack Lew said the United States would be ready to "increase the costs" to Russia if it failed to comply with the terms of the cease-fire agreement.

On March 16, the European Union reiterated that it will stick to its policy of not recognizing Russia's annexation of Crimea.

EU foreign-policy chief Federica Mogherini said in a statement that the 28-member bloc "does not recognize and continues to condemn this act of violation of international law."

She added that the EU "will remain committed to fully implement its nonrecognition policy, including through restrictive measures."

Mogherini also expressed concern over "the continuous military buildup and deterioration of the human rights situation in the Crimean Peninsula, including the denial of free speech and the persecution of persons belonging to minorities."

Germany also reiterated that it wouldn't recognize Russia's annexation of Crimea and accused Moscow of threatening peace in Europe.

Government spokesman Steffen Seibert told reporters on March 16 that Germany supports Ukraine "within its internationally recognized border" and he accused Moscow of threatening peace in Europe.

Seibert said Germany was also concerned about the worsening human rights situation in Crimea, where non-Russian minorities have been targeted.

He spoke before German Chancellor Angela Merkel met with Ukrainian President Petro Poroshenko in Berlin.

Following the talks, Poroshenko called on European leaders to make clear at a summit this week that they would impose further sanctions against Russia if Moscow did not implement the Minsk agreement.

"If the commitments are not fulfilled, and I really hope that on [March] 19 at the summit, that it will be said just as clearly, then the sanctions will continue to be imposed and will be stepped up," Poroshenko said.

Merkel said the sanctions against Russia must remain in place as long as the Minsk accord was not properly implemented.

She accused the separatists in eastern Ukraine of not fully complying with the agreement, saying, "There are considerable shortcomings in the separatists' compliance with the withdrawal of heavy weapons."

In Brussels, British Foreign Secretary Philip Hammond told reporters he hoped the EU "will have a clear political commitment to maintaining sanctions until Minsk has been delivered in its entirety."

"It is important to send a signal to the Russians that we are united, and that we are determined, and that they have to deliver on their commitments before they get sanctions relief," he added.

In an interview with several newspapers published on March 16, European Council President Donald Tusk called on EU leaders to maintain pressure on Russia with sanctions until the cease-fire deal is fully in place.

Russia Celebrates Crimea Annexation Anniversary

"I'm skeptical about the goodwill of the Russians and I'm convinced that what's needed is to maintain pressure," he was quoted as saying by Italian daily La Stampa.

With reporting by Reuters and dpa

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Annex 1053

Tom Parfitt, Crimea, One Year On: The Night Wolves Howl for Putin, The Telegraph (17 March 2015)

Crimea, one year on: the Night Wolves howl for Putin

telegraph.co.uk/news/worldnews/europe/ukraine/11478456/Crimea-one-year-on-the-Night-Wolves-howl-for-Putin.html

By Tom Parfitt

March 16, 2015



With a roar and a rumble, the **<u>Night Wolves</u>** swept through Sevastopol and parked their motorcycles in a crescent on the edge of Nakhimov Square.

Behind them came a column of cars flying the banners of Sevastopol Without Fascism (SWF), a group which organised the rally in this storied port on the southwest coast of Crimea.

"Look how happy people are," said Alexander Zaldostanov, 52, the Wolves' leader, as he dismounted and a crowd of well-wishers gathered around him. "By the will of God and through the hands of President Putin, the years of humiliation under Ukrainian rule are over."

On Wednesday, Russia **marks the first anniversary of its annexation of Crimea**, and festivities have been taking place since the weekend.

Condemned in the West as a flagrant breach of international law, the seizure of this Russophone peninsula from Ukraine is seen by many here as a triumph of justice and a riposte to Western hypocrisy.

Jubilee events are taking place across the region as dissent against Moscow's rule is smothered and militiamen confiscate businesses in an opaque nationalisation programme.

Mr Zaldostanov, also known as The Surgeon, is close to Vladimir Putin. With his scuffed leathers and jagged neck tattoo, he is a national celebrity in Russia and the most exotic of a new vanguard of ultra-patriots helping shore up the president's rule.

This week, Mr Putin told a television documentary that <u>he had planned the takeover of</u> <u>Crimea</u> weeks in advance and was ready to put Russia's nuclear weapons on alert if the conflict escalated.

In Sevastopol Mr Zaldostanov was greeted as a hero on Monday at the "Roads of the Russian Spring" rally. A year ago, the Night Wolves helped patrol streets in the port as self-defence groups surrounded Ukrainian military bases and government offices, and Russian special forces began to infiltrate Crimea. That preceded a disputed referendum which approved joining Russia on March 16, followed by the official annexation two days later.

On the square, locals rushed forward to ask for Mr Zaldostanov's autograph or to take a picture with him. A grey-haired lady in a fluffy pink hat nestled under his arm.

"After Crimea, the life of all of Russia changed," the biker said, to murmurs of approval from the crowd. "Even in the world there were tectonic shifts. For the first time we showed resistance to the global Satanism, the growing savagery of Western Europe, the rush to consumerism that denies all spirituality, the destruction of traditional values, all this homosexual talk, this American democracy.

"And it is this town that did it most of all, that stood up to that and changed so much - a Stalingrad of the 21st century."

Sevastopol has <u>long occupied a treasured place in the Russian mind</u> Tsarist troops including Count Lev Tolstoy struggled against British, French and Turkish forces in its "first defence" during the Crimean War in the 19th century. In the second, Soviet soldiers fought off Nazi attacks during the Second World War.

Nikita Khrushchev, the Communist leader, moved Crimea from Russian to Ukrainian control inside the Soviet Union in 1954. When the union collapsed decades later, the region stayed part of the new state of Ukraine, although Moscow struck a deal to keep its Black Sea Fleet in Sevastopol.

Now a "third defence" of the city has entered local lore. In February last year, pro-Western demonstrators took over Kiev, Ukraine's capital, and Viktor Yanukovych, the Kremlin-leaning president, fled to Russia.

Meanwhile, in the towns of Crimea, men had began to gather in groups.

"We wanted to be ready to repel any kind of Ukrainian attack or provocation," explained Mikhail Nichik, a member of SWF. "We started thinking how we would defend ourselves with baseball bats and iron bars. We figured out who'd done military service, who could give a knife-fighting course." Within days, self-defence units like SWF were blockading Ukrainian military bases and government offices. Women also took part. Natalya Malyarchuk, 52, headed out with her dog Esger, a Central Asian wolfhound, to serve at a checkpoint on the edge of the city. "I was prepared to stand to the death," she recalled this week.

The volunteers say they were frightened and angered by Ukrainian nationalists who promised to subdue Crimea.

While eastern Ukraine, or Donbas, spiralled into war, there was no fighting in Crimea. Yet in Sevastopol the "third defence" is seen through a prism of centuries of martial glory. Its veterans wear fatigues and a medal awarded by the Russian ministry of defence.

The volunteers were not long alone. By the beginning of March "little green men" had appeared over their shoulders - armed soldiers in unmarked uniforms sent by Mr Putin. Soon Crimea was "returned to the motherland", to the fury of Kiev and its Western allies.

"My father was an admiral in the Black Sea fleet," said Mr Nichik. "He died in November 2013 just as the coup was starting in Kiev. Six months later I went to his grave and told him - Papa, now, at long last, you are on Russian soil."

Across Crimea, the euphoria is not universal. With Russia's writ comes not just the primary colours of patriotism, but the full spectrum of authoritarian rule. Since Moscow's takeover, police and security forces have moved to intimidate independent reporters and pro-Ukrainian activists.

Last week, three young men, Leonid Kuzmin, Alexander Kravchenko and Veldar Shukhurdzhiyev, were sentenced to 40 hours of manual labour for holding a small gathering in a park in Simferopol, the Crimean capital, on the anniversary of the birth of Taras Shevchenko, the father of Ukrainian literature. During it they held up a Ukrainian flag. About 20 people attended and some read poetry.

Two days later, Mr Kuzmin was sacked from his job as a history teacher.

"The director of the school called me into his office and told me I was an agent of the US State Department," he said.

On Saturday, two militiamen detained Mr Kuzmin, 24, and Mr Kravchenko, 25, as they met a correspondent from a Polish television station. They were handed to police and taken for three hours of questioning by officers at Centre E, a department tasked with fighting "extremist activity and terrorism".

"One of them took me aside and said: 'You can either behave yourself or there are two options: deportation or prison'," said Mr Kravchenko, who wears an embroidered Ukrainian shirt as a sign of defiance.

Journalists are also facing coercion. Earlier this month, prosecutors opened a criminal case against an investigative reporting group with members in Simferopol for "open calls to violate the territorial integrity" of Russia. In the offending article, the author had described Crimea as

occupied territory.

"They're searching our homes, listening to our phones," said one reporter who in the region who asked not to be identified. "A lot of journalists have already fled and others write under pseudonyms. There are few real ones left who are brave enough to speak out."

Crimea's native Tatar community, many of whom opposed the annexation and boycotted the referendum on joining Russia, complains of repression. In the last year, five Tatars have been found dead after going missing in mysterious circumstances and four more disappeared, according to Ilmi Umerov, a former deputy speaker of Crimea's parliament. Two of the community's leaders are banned from entering the peninsula.

In Simferopol, the self-defence forces that sprang up a year ago now appear a doubtful inheritance. After the annexation, they were formalised as a "people's militia", allowing them to carry batons, wear uniform and take on a quasi-policing role. "The problem is that their powers are unclear and they do what they're told, with impunity," said Andrey Krisko, a rights activist.

The forces answer to Sergei Aksenov, Crimea's leader, who was reportedly known in mafia circles as The Goblin in the 1990s.

Such militiamen have become increasingly visible as the footmen in a series of dubious property seizures. A nationalisation programme began last year by focusing on the assets of Ukrainian businessmen. It soon moved on to fill government coffers by swallowing private enterprises worth tens of millions of pounds.

"About 35 men in black uniforms and masks and carrying truncheons barged into our head office last month," said Margarita Levashkina, one of 260 stakeholders in a cooperative that runs markets, shops and food warehouses, and employs 100 people in Bakhchysaray district. "They occupied our rooms, changed the locks and pushed us out. Then they falsified documents and held a fake meeting to appoint a new chairman whom we'd never heard of. It was naked banditry."

All appeals to local police, courts and government fell on deaf ears, as did a request for help to Mr Putin in Moscow. "I get the impression that the laws of Russia do not apply in Crimea," said another stakeholder. "We were robbed, plain and simple."

In Sevastopol, a mood of elation persists.

"Yes, there may be problems ahead, but we did not do this in order to weep and whine," said Olga Makhonina, 38, who runs a souvenir business with her husband. "We have made our choice to be with Russia. There's no going back to Ukraine."

Some admit a sadness. "I was ready to stay in Ukraine if they respected our language, respected our history and let us choose our own local government," said Yevgeny Repenkov, 59, who rode at the front of the motor rally on his Yamaha DragStar.

"Instead, we saw this rabid nationalism and months of Molotov cocktails and an elected president forced from power. I don't regret our decision for a minute but there is a certain feeling of something lost."

Mr Zaldostanov, The Surgeon, was less reflective. "The only way out of the war in Donbas, in order for Ukraine to avoid default and chaos, is for the whole country to integrate with Russia," he said, before clarifying: "At least the parts that want to."

Timeline of events in Crimea by Tom Parfitt

The events that led up to the annexation of Crimea as Russia marks the first anniversary of the takeover

December 1, 2013



Supporters of EU integration hold a rally in the Maidan Nezalezhnosti or Independence Square in central Kiev (Reuters)

Ukrainian police break up a protest camp in Kiev's Independence Square over President Viktor Yanukovich's failure to sign a trade deal with the EU.

February 20, 2014

More than 100 people reportedly die in 48 hours as protesters and police clash in Kiev and government snipers open fire.

February 22, 2014



Viktor Yanukovych speaks in Kharkiv, Ukraine (AP) Viktor Yanukovych flees Kiev for Russia. February 23, 2014



Ethnic Russians protest in Sevastopol, the main base of Mr Putin's Black Sea Fleet Thousands of people gather in the port of Sevastopol in Crimea to protest against the new Ukrainian authorities. "Self-defence" units are formed to resist an expected attack by forces controlled by Kiev.

February 24, 2014

A rally in Sevastopol chooses Alexei Chaly, a Russian citizen, as "mayor" of the city, a newly created role.

February 27, 2014

Pro-Russian gunmen seize government buildings in Simferopol, the capital of Crimea. While under their control, the regional parliament votes in emergency session to terminate the

Crimean government and appoints Sergey Aksenov as the region's new leader.

February 28, 2014

Pro-Russian gunmen take over Simferopol airport.

Late February, early March 2014

Self-defence units surround military bases and government offices across Crimea. "Little green men" - Russian troops in unmarked uniforms - begin to appear alongside them.

March 6, 2014

Crimean authorities announce a referendum on rejoining Russia will take place on March 16. March 16, 2014

Crimeans vote 97 per cent in favour of rejoining Russia, according to local and Russian authorities. The referendum is condemned as illegal in Kiev and the West.

March 18, 2014

At a ceremony in the Kremlin, Vladimir Putin, Russia's president, announces the formal annexation of Crimea.

March 27, 2014

The UN General Assembly approves a resolution describing the Moscow-backed referendum that led to the annexation as illegal.

April 22, 2014

Mustafa Dzhemilev, leader of the indigenous Crimean Tatars, is banned from entering Russia (and therefore Crimea). Many of the Tatars boycotted the referendum.

August, 2014

Crimea's State Council approves confiscations of property in a controversial nationalisation programme. Former "self defence" units, now legalised with quasi-police powers as a "people's militia", facilitate the seizures.

March 16-18, 2015

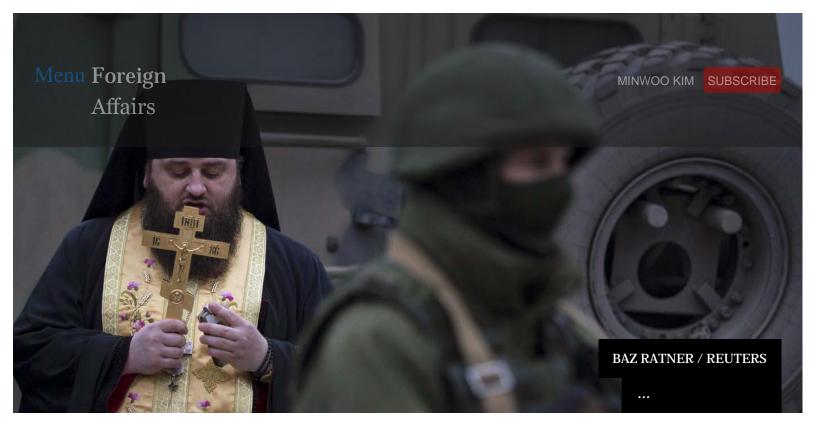


The leader of the "Night Wolves" Alexander Zaldostanov takes part in a motor rally in Sevastopol, Crimea

Russia celebrates the annexation of Crimea with concerts, motor rallies and parades.

Annex 1054

Thomas J. Reese & Daniel I. Mark, Losing Their Religion in Crimea, Foreign Affairs (15 April 2015)



SNAPSHOT April 15, 2015

Losing Their Religion in Crimea

Russia's Restrictive Religion Laws Take Their Toll

By Thomas J. Reese and Daniel I. Mark

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"Our people survived [deportation by] Stalin," commented a manager of ATR, which, until April 1, was the only Crimean Tatar television station left. "Will they not survive these current problems?" Russian authorities had just shut it down—along with other media outlets—by refusing to register it under Moscow's complex religion laws.

Shutting down the station was only the latest affront. A year after Russian President Vladimir Putin annexed Crimea, much has changed and not for the better—for the peninsula's three million people, particularly its 300,000 Muslim Crimean Tatars who are among its original inhabitants. Reports of human rights abuses in Crimea, including violations of freedom of religion or belief, abound. The U.S. Commission on International Religious Freedom (USCIRF), on which we serve, is observing in Crimea what it has long seen in Russia: The abuse of religious communities, including those the Kremlin views as threatening the pre-eminence of the Russian Orthodox Church's Moscow Patriarchate.

Once Russia took military control, it ordered all of Crimea's 1,500 religious groups to register with Moscow in order to gain Russian legal operating status. Russian officials are permitted to make lengthy requests for comprehensive information, so the registration process can be onerous and costly. And the stakes for registration are high: Unregistered groups lack the status to open bank accounts, own property, issue invitations to foreign guests, and publish literature.

Moscow is applying all of its restrictive laws in Crimea, including its anti-extremism law, which defines extremism as merely asserting the superiority of one's religious beliefs and does not require the threat or use of violence for prosecution. This law, which USCIRF, the Council of Europe's Venice Commission, and other organizations have repeatedly called on Moscow to reform, remains a major threat to religious freedom in Russia. And now it has come to Crimea, and Kremlin-installed local

authorities are using it to persecute religious minorities.



For example, there have been numerous raids on Muslim homes, mosques, and schools, and on Kingdom Halls of the Jehovah's Witnesses, which Moscow views as a "nontraditional" religious group outside of Russian culture. Crimean authorities have imposed fines for possessing Islamic and Jehovah's Witness texts. Authorities have also accused the Mejlis, the Crimean Tatar representative body, of extremism, and have harassed its members and sealed its office.

In addition, they have ordered nearly all Turkish Muslim imams and religious teachers to leave Crimea and have barred two Crimean Tatar Muslim leaders from entry. And after they shut down ATR, Ravil Gainutdin, the head of the Council of Muftis of Russia, wrote an open letter of protest to Russia's communications minister and to the head of the Russian occupation in Crimea. Losing Their Religion in Crimea | Foreign Affairs

Crimea's Jewish community is also feeling the heat. In March of last year, Reform Rabbi Mikhail Kapustin of Simferopol was forced to leave Crimea after denouncing Russian actions. His synagogue had been defaced by a swastika and, a month later, vandals defaced Sevastopol's monument to 4,200 Jews killed by the Nazis in July 1942.

And even Christian churches and leaders who are not affiliated with the Moscow Patriarchate have come under increasing pressure, facing abuse and violence. Last June, the leader of the Salvation Army in Crimea, left the peninsula after reporting repeated harassment by security agents. By late 2014, clergy without Russian citizenship, particularly Greek and Roman Catholics and those belonging to the Kiev Patriarchate, were compelled to leave Crimea, and the home of the Kiev Patriarchate's Bishop of Simferopol and Crimea, Klyment Kushch, was burned down.



What is happening in Crimea today bodes ill for eastern Ukraine. In the Donbas region, which Russian-backed separatists already control, a 4,000-man group known as the Russian Orthodox Army, which was headed by a former Russian military intelligence officer, reportedly has been attacking Protestant and Kiev Patriarchate communities and confiscating their property.

There is no question that Russia bears the responsibility. It instituted discriminatory laws at home, and those spread to Crimea. The question is what can be done about the problem. Certainly the international

community should continue to demand that Russia withdraw from Ukraine. It also must renew its calls on Moscow to reform its antiextremism law, and to stop using it to harass religious minorities and the Moscow Patriarchate's Orthodox rivals. And supporters of the Moscow Patriarchate must ask themselves whether their church ultimately benefits when it is seen as a tool of Russian repression. And with the shutdown of most media outlets in Crimea, including nearly all Crimean Tatar media, the United States and other nations should step up broadcasting into Crimea and especially to Crimean Tatars.

The world must remember Crimea's religious communities and defend the religious freedom of their members. 🌑

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RFE/RL, Crimean City Cuts Off Ukrainian TV Channels (18 April 2015)

Crimean city cuts off Ukrainian TV channels

refworld.org/docid/5565ba0f32.html

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April 18, 2015

By RFE/RL

A file photo of a television studio in Simferopol

The main cable-television provider in the city of Yevpatoria, in the Ukrainian region of Crimea that was annexed by Russia in March 2014, has stopped distributing five Ukrainian television channels.



According to a press release by the Elas cable

operator on April 17, the 2+2, First National, STB, Ukraine, and Enter-Film channels were cut off because they do not have registration from the Russian government.

Ukraine's Inter + is now the only Ukrianian television channel available in Yevpatoria.

Earlier this month, the de facto Russian authorities in Crimea closed down the Crimean Tatarlanguage television channel ATR in Simferpol after it was unable to secure registration despite applying for it repeatedly.

Amnesty International called the closure of ATR and other Crimean Tatar media "a blatant attack on freedom of expression, dressed up as an administrative procedure" and "a crude attempt to stifle independent media."

Link to original story on RFE/RL website

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Novosti Kryma, In Crimea, First-Graders No Longer Study in Ukrainian (24 August 2015)

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You are here: News of Crimea (/) / Society (/obshestvo.html) / First grade students in Crimea are no longer studying in Ukrainian



(/media/k2/items/cache/295fdc87d658f559ef2cffb7fe8f65ee_XL.jpg)

First Grade Students in Crimea Are No Longer Studying in Ukrainian

24 August sno comment. (/obshestvo/item/4035-v-krymu-pervoklassniki-bolshe-ne-uchatsja-na-ukrainskom-jazyke.html#itemCommentsAnchor) 2015

No parents desiring to send their children to Ukrainian classes could be found among the parents of first-grade students on the Crimean peninsula. This was announced by Natalia Goncharova, the education minister of Crimea, at a press conference, which summarized the preparations for the upcoming school year.

As the minister said, there are no more Ukrainian schools in Crimea. There are only seventeen classes left, including the Simferopol Gymnasium, where instruction takes place in Ukrainian. (For comparison: last year the number of students studying all school subjects in Ukrainian was one thousand nine hundred and ninety, with 25 students to a class pursuant to Russian law).

The number of schools in which instruction is conducted in the Crimean Tatar language has not changed and amounts to fifteen, as in previous years. The number of Crimean Tatar classes increased by three (meaning first grade classes).

The Minister also said that there were no applications for the "Ukrainian Philology" major in the current academic year. This major had been offered until now at the Faculty of Philology of Simferopol University (former Tavrichesky, now Federal). But students in the senior year are still graduating from the general philology program, Natalia Goncharova emphasized. So it's not hard to anticipate that Ukrainian philology will disappear from universities in the coming years. That is not surprising given the current reality in Crimea and the attitude of this government to everything Ukrainian.

As reported, holding events in honor of the twenty-fourth anniversary of Ukraine's independence was recently banned in Crimea. Also recently, unknown individuals took apart a Ukrainian floral memorial near the monument to Taras Shevchenko.

The Economist, Back Into Exile (18 June 2015)

The Crimean Tatars Back into exile

The life of Mustafa Dzhemilev is a parable of the Crimean Tatars' struggles

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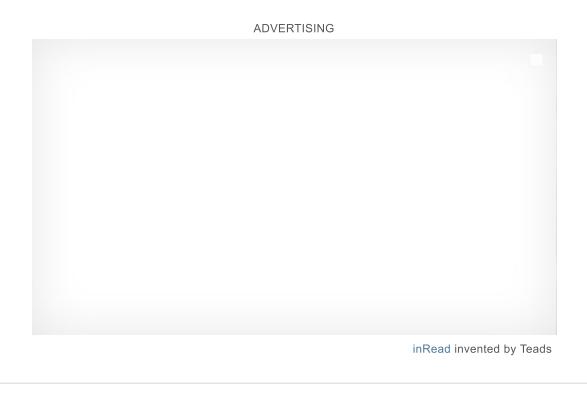
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CRIMEA had not yet been seized by Russia when Mustafa Dzhemilev, leader of the Crimean Tatars, smelled a rat. On February 13th 2014 a Russian representative passed on a message: Vladimir Putin would like to talk to the 70-year-old former Soviet dissident. "What about?" he asked. "The future of Crimea," said the emissary.

Mr Dzhemilev tensed. Why might Mr Putin want to discuss this part of Ukraine with him? It was a bad omen for his people, a Turkic group that moved to Crimea in the 13th century and see it as their native land.



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part of the Russian empire only in the late 18th century under Catherine the Great. Many Crimean Tatars moved to modernday Turkey, but those who stayed were a welcome ornament of her realm.

The Soviet empire under Stalin was less accommodating. In 1944 the entire Crimean Tatar population was accused of collaborating with Hitler and deported to Central Asia. Most were women, children or elderly. The young men, including Mr Dzhemilev's father, were at the front, unaware that their relatives had been expelled, herded in cattle carriages and moved to Uzbekistan where nearly half perished. He and his family lived in a village, banned from venturing farther than 4km. When Stalin died, they rejoiced. But even as other deported communities, including Chechens, returned, they were not allowed to. Crimea and the Black Sea coast were a zone of state dachas and sanatoria where the Communist nomenclature holidayed. They did not wish to be disturbed by the Crimean Tatars' territorial claims.

Mr Dzhemilev joined a movement of Crimean Tatars, was kicked out of university, and, in 1966, arrested for refusing to serve in the army. "They deprived me of my home but wanted me to fight for them," he says. "I told them that I did not have enemies outside the Soviet Union." Freed a year and a half later, he became part of a broader dissident movement that gave his people fresh prominence.

He protested against the Soviet invasion of Czechoslovakia and signed letters in defence of prisoners of conscience. In total, he spent 15 years behind bars. He gained the support of people such as Andrei Sakharov, a Soviet physicist and dissident who in 1976 tried to attend his trial for anti-Soviet activity in Omsk, Siberia.



He went on a hunger strike for 303 days (he was force-fed). Rumours of his death sparked protests

Dzhemilev shut out

among Crimean Tatars in Turkey and an outcry around the world. Then a note from Sakharov was shown to Mr Dzhemilev by his brother through a visiting-room

Back into exile - The Crimean Tatars

screen: "Your death will only benefit our enemies. I ask you to stop." Nearly 40 years later Mr Dzhemilev repeated those words to Nadezhda Savchenko, a Ukrainian pilot captured last year by Russia, who also went on hunger strike.

The last time he was sent to jail was in 1983 for trying to execute the will of his father and bury his body in Crimea. He was finally released at Sakharov's demand in 1986. A year later some thousand Crimean Tatars demonstrated on Red Square, demanding to return home. Permission came a few years later in the form of the Soviet Union's collapse; they began to move back, mostly unaided by the government of newly independent Ukraine. All the same, they were the loudest opponents of last year's sly Russian invasion.

Four days before the bogus referendum on Crimea's future, and wishing to avoid bloodshed, Mr Putin enticed Mr Dzhemilev to Moscow; he was put up in the Stalinera Hotel Ukraine. They did not meet in person but, on the phone, Mr Putin promised to grant Mr Dzhemilev's wishes if his people backed the Kremlin. This exchange between a former KGB officer and a former dissident did not get very far. Mr Dzhemilev wished only for Russian troops to leave Crimea. Mr Putin could just have read his closing statement at his trial in 1983: "Fourteen years ago I vowed that nobody ever under any circumstances would make me renounce my duty...Today I can repeat these vows and hope that I would have enough spiritual strength not to change this principle to the end of my days."

As Russia formally annexed Crimea, Mr Dzhemilev, with other leaders of the Crimean *mejlis*, or ruling council, was barred from entering the peninsula. Since then Crimean Tatar activists have been hounded; the community's only television channel has been closed. And, 70 years after the deportation, Mr Dzhemilev has again been deprived of his homeland.

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Andrii Ianitski, Crimean Tatar TV Back on Air, Open Democracy (30 June 2015)

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Crimean Tatar TV back on air

ANDRII IANITSKYI 30 June 2015

After a two-month hiatus, the world's only Crimean Tatar TV station is back on air. Only now it's in Kyiv, not Simferopol. на русском языке



On 17 June, just before the beginning of Ramadan, ATR, the only Crimean Tatar television station in the world, resumed broadcasting after two months off air. The station is now based in Kyiv, however, not Simferopol.

Prior to the annexation of Crimea, ATR was an increasingly influential source of news and comment on the peninsula. As one blogger from Simferopol, the administrative capital of Crimea, says: 'Over the past few years, many people not only Crimean Tatars - got so used to the channel that it's hard think about the information space without it.' Indeed, ATR became - and remains - a symbol of the Crimean Tatars' return to their ancestral home.

Popularity has its price

6/1/2018

ATR started broadcasting from the Crimean peninsula in 2006. The station initially made only short programmes, broadcasting up to two-and-a-half hours a day. But in 2011, the television channel began a new phase in its development following the involvement of Lenur Islyamov, a Russian businessman.

Initially, Islyamov helped ATR via donations, later purchasing a 25% stake in the company. After that, he raised his stake to 97%. Refat Chubarov, a leader of the Crimean Tatar community, remains a minority

ATR became – and remains – a symbol of the Crimean Tatars' return to their ancestral home.

shareholder, as does Isa Khaibullayev, a local businessman. Today, ATR has an authorised capital of 40m hryvnias (£1.2m).

This influx of capital allowed ATR to start broadcasting 24 hours a day. Professional newscasters and journalists joined the team, and the channel had correspondents in Kyiv, Moscow, and Istanbul. Original content was provided in three languages: Russian, Ukrainian, and Crimean Tatar.

Over time, the TV station developed into a sizeable media holding, including a children's channel, a Crimean Tatar-language radio station, a Russian-language station, and a news site. In 2014, out of 57 channels operating on the peninsula, ATR was the fifth most popular TV channel, and was first among local stations.



ATR's last broadcast from Crimea, April 2015 - 'Our nation survived Stalin. Surely we will be able to overcome today's problems'

Popularity, though, has its price. Islyamov was spending \$300,000 (£190,000) a month on the media company, which by 2014 had more than 200 employees. But having made his money in the car trade, Islyamov, the owner of a bank and transport company in Crimea, could permit himself the expense.

ATR reached peak popularity at the beginning of 2014, when Russian soldiers in unmarked uniforms appeared in Crimea and began seizing the peninsula's infrastructure. Lenur Islyamov states that, at the time, the channel's daily audience rose to 4.5m viewers in Ukraine, and 1.5m (out of a population of roughly 2.3m people) in Crimea. 'Only we had live video from the scene,' Islyamov boasts. 'The whole world was watching.'

A difficult situation

Following Russia's formal annexation of Crimea, ATR found itself in a difficult situation. 'Only we had live video from the scene,' Islyamov boasts. 'The whole world was watching.'

Whereas ATR had previously come out against the transfer of the peninsula to Russian control, airing such views was now illegal. The channel would either have to change its rhetoric, or close down.

Following annexation, many of Crimea's press outlets closed down or simply left, including Chernomorskaya and the Center for Investigative Journalism in Simferopol, Evpatoriya's Morion station, Sevastopol's TV and radio stations Briz, Ukrainian Fleet, and the Civil Defence website, as well as BlackSeaNews (based in Yalta), and others. In their place, new, pro-Russia media outlets and channels started operating in Crimea.



Since going off air in April, ATR has found a new studio in Kyiv.

Just as ATR decided to change its line and remain in Crimea, so did Crimean Tatars attempt to integrate themselves into the peninsula's new institutions. The informal parliament of the Crimean Tatars – the Qurultai – allowed Islyamov to enter Crimea's local government (now under the aegis of the Russian Federation.) But this experiment failed: Islyamov held the post of deputy chairman of the Crimean government for all of two months.

Yet there are still several Crimean Tatars currently working in Russia-backed institutions. However, they took those positions on their own initiative, without the permission of the Tatar's two representative bodies, the Mejlis or Qurultai. These institutions have influence over a large portion of Crimean Tatars: for instance, prior to 2014, Mejlis support guaranteed a 10% bump to any party in Crimea (Crimean Tatars make up around 13% of the population).

At the same time, the new Crimean authorities began their persecution of dissenting voices. Under various pretexts, searches were carried out in Tatar mosques, madrassas and homes.

Crimean Tatar leaders, such as Mustafa Jemiliev, Refat Chubarov and Ismet Yuksel were banned from Crimea. Several Crimean Tatars were detained by Russian police on suspicion of organising mass protests on 26 February 2014 – the day the Supreme Court of Crimea examined Crimea's status – when the peninsula was still under Ukrainian rule.



ATR'S current studio in Kyiv.

ATR reported on all of these issues, provoking the ire of the Crimean authorities. In September 2014, the Russian Ministry of Internal Affairs' Centre for Combatting Extremism accused the television channel of promoting extremism.

Several months later, in January 2015, police searched the station and confiscated its servers. Then, in March 2015, Sergei Aksyonov, the self-proclaimed head of Crimea, told RIA Novosti that 'the work of channels like ATR on Crimean territory cannot be allowed during war time.'

Despite their attempts, ATR did not receive a Russian broadcast licence for its Crimean operation and stopped broadcasting on 1 April 2015. Islyamov's other media companies also failed to receive licences.

'I think they would allow the station to operate only if it became progovernment and propagandistic.'

As Islyamov puts it: 'I think they would allow the station to operate only if it became pro-government and propagandistic, just like all the other stations in Crimea.'

Goodbye, Crimea

Right up until the last moment, the station's viewers and journalists didn't believe the station would really go off air after nine years of broadcasting. But just before midnight on 31 March 2015, the editorial staff said goodbye – with tears in their eyes – to their viewers.

The Crimean authorities didn't leave Islyamov much choice. In Kyiv, however, discussions were already being held on the possibility of helping the channel with a move to the mainland. Indeed, Ukraine's National Committee on Television and Radio Broadcasting asked other broadcasters whether they could re-broadcast ATR on their own frequencies. And in April 2015, President Petro Poroshenko reported that he had given an order to 'do everything possible to restore ATR to the air across Ukraine, including Crimea'.

As Islyamov explains, the decision to move the main team to Kyiv came soon after: 'I realised once and for all – they wouldn't let us broadcast in Crimea.' After all, the more time they took to re-launch the channel, the more money it would cost.



ATR forms part of a larger media holding, including Lale, a children's TV channel, and the 15 minutes news site.

'It [ATR] is like a blast furnace. If it doesn't work, if it isn't used, then it falls apart. And if you want to get it up and running again later, then you'll spend more money and more time than you did the first time,' explains Islyamov.

Although ATR cannot operate from Crimea, the channel's Ukrainian broadcast licence is valid until 2022. Ukraine's Ministry of Information Policy helped the channel to find a suitable television studio to lease in Kyiv; and the Crimean Tatar community in Ukraine's capital also assisted the channel.

The move may have come too late for some viewers though. As one former schoolteacher based in Simferopol said, 'It's difficult to say what the Crimean Tatars think of this, but the majority of Ukrainians in Crimea don't even know that the ATR has moved to Kyiv. There's no information about this in the local media. But Ukrainians on the peninsula who use alternative sources of information are aware of this, of course, and are pleased by this fact.'

Some Ukrainians are less enthusiastic about the move. 'I can't say I watched ATR regularly, but I do have an opinion on the move from Crimea to mainland Ukraine. It seems to me that, as with Chernomorskaya, now it's not a Crimean channel anymore, but a capital city channel for Crimeans. This isn't a bad thing, but the function isn't the same. I think that it will soon turn into a channel that just paints life in Crimea in dark tones, like Radio Liberty's project about life in Crimea,' said one woman in Simferopol.

While the state has offered no financial support to ATR, Islyamov is nevertheless grateful: 'Ukraine gave us freedom of speech – that's the most important thing.'

'Ukraine gave us freedom of speech – that's the most important thing.'

'The only people who are going to think about us is ourselves.'

Lenur Islyamov remains the main owner of ATR. And although from 1 April, expenditure has been reduced from \$300,000 per month to \$100,000, Islyamov hopes to cut costs even further.

In August 2014, Islyamov announced that he would make the ATR Group (including ATR, Meydan radio station and the news site 15 Minutes) a jointstock company. The plan? To sell ATR's viewers 150,000 shares for 1,000 roubles (£11), but with Islyamov retaining a controlling stake. ATR has started showing promotional clips about itself: any viewer is welcome to come to the TV station and declare an interest.

However, without a Russian broadcast licence, Islyamov has had to put this project on hold. He plans to return to it in Kyiv – though details are yet to be revealed.

6/1/2018

International grants are another possible source of financing. Speaking to journalists, Refat Chubarov, co-owner of ATR, Rada deputy and Mejlis chief, explained that they were counting on donors for ATR's continued existence. And to ensure its independence, ATR will not accept financial support from the Ukrainian government.

The issue of ATR journalists working in Crimea continues to develop – only part of the team has made the move to Kyiv. Currently, the station's journalists present themselves as employees of the ATR branch which is registered to Kvinmedia, a Russian company. But though the TV station is registered as a media organisation in Russia, it has no broadcast licence.

Journalists registered with ATR have been refused accreditation by Kryminform, the Crimean authorities' press centre. Indeed, it seems that ATR journalists will continue to encounter problems operating in Crimea.

The fate of Islyamov's business in Crimea and Russia remains unclear: he hopes to defend his business in the Russian courts. 'A wise man in Turkey told me I have business in my head, and Crimea – in my heart. It's a hard choice,' he admits.

Can people in Crimea still watch ATR? Given that the Russian authorities haven't figured out how to jam satellite signals (and that satellite dishes are still legal), ATR still has an audience in Crimea.

'A wise man in Turkey told me I have business in my head, and Crimea – in my heart. It's a hard choice.'

These signals can also be 'shared' from a single dish to multiple apartments. Moreover, the steppe areas of Crimea are well-equipped with satellite dishes – it's hard to receive an analogue signal here. And, of course, you can still watch the channel online.

Islyamov laughs when I ask him about distributing free satellite dishes to Crimeans: after all, a free satellite dish doesn't necessarily mean a loyal viewer.

'They'll watch ATR because they miss their native language, the feeling that you and the station are on the same wave-length. After all, the only people who are going to think about us is ourselves.'

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Intentionally Omitted

Intentionally Omitted

Mejlis of Crimean Tatars Were Not Allowed to Take Action in Simferopol to Human Rights Day (11 December 2015)



NEWS

Mejlis of Crimean Tatars were not allowed to take action in Simferopol to Human Rights Day

11 December 2015, 08:29

The Mejlis of the Crimean Tatar people informs that they received another refusal from the authorities of Simferopol in carrying out the action timed to the International Human Rights Day on December 10.

This was reported by the press service of the Mejlis.

As noted in the press service, the Mejlis this year traditionally planned a December 10 rally dedicated to Human Rights Day, but in connection with the declared emergency situation due to the energy blockade, the administration of Simferopol made a decision in the period from November 22, 2015 to a special order temporarily to suspend activities for holding mass, public, cultural, entertainment and other events. Therefore, the meeting had to be abandoned.

But, as noted in the Mejlis, on November 27 in the central square of Simferopol, pro-government public activists held an anti-Turkish rally at which participants burned the "effigy" of the Turkish president.

"Under the circumstances, the Mejlis of the Crimean Tatar people found it possible to file an application for a picket on December 10 near the building of the Crimean Prosecutor's Office on the street. Sevastopol in Simferopol with Mejlis of Crimean Tatars were not allowed to take action in Simferopol to Human Rights Day

demands to release political prisoners, as well as to stop political persecution, "the Mejlis reported.

However, the picket was refused on the basis of the aforementioned ban on holding mass events.

"Similar double standards in the possibilities of realizing human rights exist today in the Crimea everywhere," the Mejlis noted.

On December 10, a rally was held near the Russian Embassy in Kiev. Several dozens of people took part in the event, among them members of the Mejlis of the Crimean Tatar people, human rights activists, settlers from the Crimea and Donbass. Activists accused the Russian authorities of the Crimea of mass violations of human rights, in particular the persecution of Crimean Tatars. On the same day, a similar action was held in Turkey.

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Interview with Sergey Meniaylo, the Governor of Sevastopol Published on Meduza.ru (18 March 2016)

Meduza

STORIES

"There are shortcomings, but I don't agree with the complaints"

Interview with Sevastopol Governor Sergey Meniaylo Meduza 12:22, March 18, 2016

[...]

[Page 20]

- It looks like pressure.

- Criminals have no ethnicity. Someone wants to play the card with "a person of Chechen ethnicity," "a person of Tatar ethnicity." Have you ever once heard that a criminal was detained and it was said that he was "a person of Russian ethnicity"? Someone benefits from this.

At one time Ukraine sent the Crimean Tatars here to counterbalance the Russian-speaking population as a tool to make this territory Ukrainian, and then itself had problems from them.

[...]

[Page 21]

– However, they want to live on this territory.

– Less attention simply needs to be paid to this, and sometimes talk more toughly. In 2014 I did allow them to hold their mourning [on the anniversary of the May 18 deportation]. I asked them a question: "Dear friends, why does my granddaughter, standing in school, have to be at that mourning lesson? What, haven't we had enough trouble from other ethnicities? And what, will we do this for them each time?" They complain that they are forgetting their language. Excuse me, friends, speak your own language in your family. I, for example, speak Ossetian just as I speak Russian. If I wanted my children to speak it, then I would speak Ossetian with my family, you can agree.

CHATS

RFE/RL, Punitive Medicine? Crimean Tatars Shaken By Leader's Confinement to Mental Asylum (25 August 2016)



UKRAINE

Punitive Medicine? Crimean Tatars Shaken By Leader's Confinement To Mental Asylum

August 24, 2016 12:26 GMT Charles Recknagel Merhat Sharipzhan

When a court in Russian-annexed Crimea ordered activist Ilmi Umerov to a psychiatric clinic for a month of assessment tests, the decision sent shock waves through the peninsula's indigenous ethnic Tatar minority.

For two and a half decades, authorities in Crimea have refrained from the routine Sovietera practice of declaring dissidents mentally ill, condemning them to life in an insane asylum. But now, Umerov's sentencing and subsequent confinement to a psychiatric clinic in Simferopol suggests a return to the practice.

Crimean prosecutors first charged Umerov, the former deputy chairman of the Crimean Tatars' self-governing body -- the Mejlis -- with separatism in May after he made public statements opposing Moscow's seizure of the peninsula from Ukraine. Then, on August 11, while he was under home detention during his trial, a court ordered Umerov to undergo psychiatric testing. A week later, he was forcibly committed to Simferopol's Psychiatric Hospital No. 1 for a 28-day period.

The forced admission to the clinic stunned Umerov's colleagues and supporters, who say the 59-year-old community leader is anything but mentally unbalanced.

"I have known him for 30 years, I know him well," Abdureshit Dzhepparov, coordinator of the Crimean Contact Group on Human Rights, **told RFE/RL** on August 22. "I may not be an expert psychiatrist, but on the eve of his removal to the psychiatric clinic, I know that he was without a doubt in full mental health." Umerov's sudden dispatch to a mental institution, where for the first several days he was denied visitors or the use of a telephone, reminded many of the dark days when dissidents in the Soviet Union simply disappeared into asylums, never to be seen or heard from again.

"This is the first case in [post-Soviet] Crimea where they have placed a normal person in a psychiatric hospital," said Dzhepparov. "If you do not fight against it now, and try to change it, there could be second, third, and fourth cases...until it becomes a conveyor belt."

Echoes Of The Past

Umerov's daughter, Aishe, **told RFE/RL** on August 21 that she believes the court's intention is to break her father's spirit even before his trial is completed.

"Their major goal is to break the man to make him betray his principles," she said. "In other words, all in the 'best' tradition of the Soviet punitive medicine. But he holds on."

Fears that Russia could be reviving the practice of committing dissidents to asylums are fueled by other, similar cases. In one prominent example, Russian activist Mikhail Kosenko, one of the defendants in the "Bolotnaya Square Case," was **sentenced to compulsory psychiatric treatment** in October 2013. His crime was participating in a protest that turned violent in Moscow's central Bolotnaya Square on May 6, 2012, over Russian President Vladimir Putin's inauguration for a third term. Kosenko remained in a closed psychiatric institution for eight months.

Umerov's sudden confinement comes despite the fact he suffers serious illnesses that require regular medical attention -- care that reportedly he is not receiving in the asylum. He has been diagnosed with Parkinson's disease, high blood pressure, and diabetes.

Relatives say that, in the clinic, Umerov is allowed to have medication only once a day, despite his need for more frequent doses. When his daughter visited him recently, she found him suffering from high blood pressure, dizziness, and fainting spells. She said the food provided by the clinic is not suitable for her father's illnesses and he is only able to eat what relatives bring, despite the fact that their visits can be up to 17 hours apart, depending on the clinic's admission schedule.

'Politically Motivated'

Human rights groups have protested against Umerov's detention in the asylum.

The Moscow-based Memorial human rights center called the case against Umerov "illegal and politically motivated" as he was sentenced to the psychological tests earlier this month.

The Kharkiv Rights Protection Group, based in the Ukrainian city of the same name, **argued on August 22** that "there are no grounds at all for the criminal charges Russia has brought against him, nor for the supposed 'psychiatric assessment.'"

Moscow claims that Umerov fomented separatism in an interview he gave to the Crimean Tatar television station ATR on March 19 in Kyiv. In the interview, he said Ukraine must not change its view on Crimea and that "Russia must be forced to leave Crimea and Donbas," a reference to the Donetsk and Luhansk regions of eastern Ukraine.

Supporters said that Umerov has **never called for armed resistance** within Crimea to Russia's occupation. They also noted that his views are in line with those of most Crimean Tatars, the majority of whom opposed the peninsula's occupation and annexation by Moscow in March 2014.

More than 1,000 Crimean Tatars attended a prayer service for Umerov at his home in Bakhchysarai in southern Crimea on August 22. His family reported that those in attendance came from all corners of the peninsula.

Based on reporting by RFE/RL's Ukrainian Service

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RFE/RL, Russia Detains 11 Crimean Tatars (22 February 2017)



UKRAINE

Russia Detains 11 Crimean Tatars

February 22, 2017 10:34 GMT RFE/RL's Ukrainian Service

The Russian authorities in the annexed Ukrainian region of Crimea have sentenced 10 Crimean Tatars to five days of administrative arrest after convicting them of holding an illegal public gathering.

The decision came late on February 21 after the defendants were arrested earlier the same day while taking photographs and videos of a search conducted by Russian police in the home of Crimean Tatar activist and lawyer Marlen Mustafayev.

Mustafayev was sentenced to 11 days of administrative arrest on the same charges as the 10 other detainees. Mustafayev's wife told RFE/RL that police confiscated her husband's computer and some books. No explanations were given, she says.

The Kharkiv Human Rights Protection Group **reported** that the defendants were not afforded legal representation.

Russia has been sharply criticized by international rights groups and Western governments for its treatment of Crimea's indigenous Turkic-speaking, mainly Muslim Crimean Tatar population since Moscow illegally annexed the Ukrainian region in March 2014.

Arrests, disappearances, and killings of Crimean Tatars have been reported, and Crimean Tatar self-government organizations have been declared illegal.

Russia Detains 11 Crimean Tatars

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Tanya Cooper & Yulia Gorbunova, Russia is Violating Crimeans' Rights, Kyiv Post (3 May 2017)

RUSSIA'S WAR AGAINST UKRAINE

Tanya Cooper and Yulia Gorbunova: Russia is violating Crimeans' rights By Tanya Cooper, Yulia Gorbunova. Published May 3, 2017. Updated May 3 2017 at 12:21 pm



□ A protester with his moustache in the colours of the Ukrainian flag sings during a demonstration in front of the Russian embassy in Kyiv on February 26, 2017, marking the third anniversary of Russian annexation of Crimea.Russia seized Crimea in March 2014 amid the turmoil that followed the ouster of Kremlin-backed president Viktor Yanukovych after months of pro-EU protests. Photo by AFP

"This used to be our home but it's not anymore."

A Simferopol resident, who asked not to be identified for safety reasons, told us this when we spoke with her in Crimea, the Ukrainian peninsula that Russia has occupied since February 2014. After three years, she no longer feels at home in the place where she grew up.

Since occupying Crimea in February 2014, the Russian authorities have been ruthlessly suppressing dissent and creating an environment of deep fear and hostility. Those who criticized Russia's occupation have been subjected to enforced disappearances, murdered, slammed with trumped-up criminal charges or banned. Three years later, most independent media and rights activists have had to leave Crimea. The few who remain are under increasing pressure from the authorities.

This human rights crisis is palpable for most of the dozen people we interviewed in Crimea in mid-April. But the outside world rarely hears about it, because Russian authorities have made comprehensive human rights monitoring almost impossible there. The cumbersome bureaucracy involved in getting the Ukrainian government's permit to travel to Crimea doesn't help matters either.

In Crimea we saw and felt the menacing atmosphere after so many independent and critical voices have been silenced.

Since 2014 we've documented the harassment of pro-Ukraine activists and the Crimean Tatar community —a predominantly Muslim ethnic minority that is indigenous to the Crimean Peninsula and that has actively and peacefully opposed Russia's occupation. The harassment continues but people outside Crimea don't hear about it. We also found evidence that the few residents of Crimea who did not take Russian citizenship face continued discrimination in employment, education and health services, something the UN has also reported.

Discrimination against residents who do not have Russian passports

6/7/2018

After Russia occupied Crimea, it quickly started the process of bestowing Russian citizenship on Crimean residents. The process was not as simple as allowing everyone who wanted citizenship to apply. Russia required any permanent resident of Crimea with Ukrainian citizenship either to apply for Russian citizenship or to declare the intent to maintain Ukrainian citizenship. Three years later, the majority of Crimean residents have obtained Russian passports.

To be sure, many Crimean residents took Russian citizenship because they genuinely wanted it. But many people we spoke to ended up accepting Russian citizenship – or obtaining a Russian permanent residence permit – out of necessity to be able to afford health care or to keep or seek a job.

Access to health insurance in Crimea is contingent upon having a Russian passport or a permanent residence permit. The Russian government says it didn't force anyone to take Russian citizenship, but the reality is that residents were never given a free and fair choice. Despite the coercion, some people refused to apply for Russian citizenship or – like several members of Crimean Tatar community we interviewed – maintained a principled position of taking no action with regard to their citizenship.

A few of the people we interviewed who chose not to or were unable to get Russian citizenship said that they can't afford private health care and have to either travel to mainland Ukraine or ask friends and acquaintances who are medical professionals to help them get care or buy medications.

A few people without Russian passports told us they were denied medical treatment because they did not have health insurance. A doctor in Simferopol told us that his 25-year-old daughter who did not have a Russian passport, fell ill a year ago. She did not get timely medical care because she did not have health insurance. Within two weeks, her condition deteriorated rapidly. When she was finally hospitalized, she died after several hours. A Ukrainian passport holder said that when he developed pneumonia in 2016, he was unable to get medical treatment because he had no insurance or enough money to get private medical care. He finally sought medical advice from a friend of his who is a doctor.

Employers are reluctant to hire workers who do not have Russian passports – which can partially be explained by a painful bureaucratic procedure involved in hiring a foreigner. In some cases, employers have pressured workers to obtain Russian passports by threatening to fire them if they didn't. Several people told us that they had been fired or demoted for being too vocal in expressing their "anti-Russia" views. Leonid, whose last name is not being used for his protection, a teacher in Simferopol, said that in March 2015 the school where he had taught history for several years learned that he had participated in a pro-Ukraine rally. The school administrators told him to resign. He refused, and was fired the next day. Despite his efforts, Leonid was unable to find another teaching position in Crimea. The daughter of a Crimean Tatar activist who is currently under criminal investigation told us that her employer demoted her after learning that her father was critical of Russia's actions in Crimea. Education in Ukrainian language

In three years, the number of students in Crimea in classes with Ukrainian as the language of instruction plummeted from 13,589 in 2013 to 371 in 2016, according to a report by the Crimean Human Rights Group, an independent organization, citing the data from Crimea's Education Ministry.

We spoke to parents of children who said that officials of the schools their children attend pressured them not to enroll their children in classes with Ukrainian as the language of instruction, and then cut those classes from the curriculum because there allegedly were not enough pupils. One man told us his two children had to stop their education in the Ukrainian language in Simferopol. His son was about to start 9th grade in a Ukrainian language class, the man said, when in September 2014, his class was divided into two smaller Russian-language classes. He sent his son to a school in Lviv, in western Ukraine, so he could finish his education in Ukrainian. His daughter finished two years in a class taught in Ukrainian. But in September 2014, several Russian-speaking children from eastern Ukraine were added to the class and the school administration made it a Russian-language class. These days, the man's daughter is receiving her education in Russian.

The issue of school instruction in Ukrainian language in Crimea reached the International Court of Justice, the highest justice arm of the United Nations. On April 19, the court issued an injunction on a case Ukraine filed against Russia, alleging that Russia was conducting a "cultural erasure" campaign in Crimea, including by restricting Ukrainian language schools. The court noted that such restrictions could "lead to irreparable prejudice to the rights of ethnic Ukrainians in Crimea," and ordered Russia – unanimously – to "ensure the availability of education in the Ukrainian language. A final ruling on the merits is pending.

Ukrainian language education is one of the many issues of concern for the Ukrainian Cultural Center, an informal group of Simferopol residents. We met with some of its members, who gather regularly in a tiny room with a few chairs to hold discussions in the Ukrainian language about Ukrainian culture and history. They said that local law enforcement closely watch and issue warnings to the center's founders and members to intimidate them into stopping their peaceful cultural and political public actions. One of the founders had to flee to mainland Ukraine in 2016 because of a criminal case against him in Crimea. His family's apartment was searched.

As an occupying power, Russia has obligations under international law to ensure public order and safety in Crimea while respecting, unless absolutely prevented from doing so, Ukraine's laws in force prior to March 2014. Russia is also obligated to uphold international human rights law in Crimea. But instead, Russia is violating its obligations as an occupying power. It is isolating Crimea from international scrutiny, carrying out abuses, and causing unnecessary suffering for many Crimean residents, affecting their liberty, health, access to employment and education, among other rights. Russian authorities should take urgent steps to protect people who live in the territory under their control and allow access for international organizations and human rights monitors to Crimea.

Tanya Cooper is a Ukraine researcher and Yulia Gorbunova is a Russia researcher at Human Rights Watch.

RFE/RL, Crimean Tatar Leader Umerov Goes On Trial On Separatism Charge (7 June 2017)



RUSSIA

Crimean Tatar Leader Umerov Goes On Trial On Separatism Charge

June 07, 2017 12:06 GMT Crimea Desk, RFE/RL's Ukrainian Service

SIMFEROPOL -- A Crimean Tatar leader who has criticized Russia's seizure of the Black Sea peninsula from Ukraine has gone on trial on June 7.

Russian authorities who control Crimea have charged Ilmi Umerov -- deputy chairman of the Crimean Tatars' self-governing body, the Mejlis, which was banned by Moscow -- with separatism.

Umerov was charged in May 2016, after he made public statements opposing Russia's armed takeover of Crimea in March 2014. He denies the charges, saying he has the right to express his opinions freely.

The 59-year-old is one of several critics of the takeover who have faced what rights activists say are politically motivated criminal charges at the hands of the Russian state.

Dozens of relatives and supporters came to the courthouse in the Crimean capital, Simferopol, in hopes of attending the trial.

Authorities allowed only about 15 spectators into the courtroom, citing space concerns.

Aleksandr Podrabinek, a well-known Soviet-era dissident and journalist, came from Moscow to help defend Umerov.

Umerov's lawyer, Mark Feigin, told RFE/RL on June 7 that it was likely to be a lengthy trial. He said that, despite health problems, his client wanted an open trial so that he can speak publicly about the problems faced by Crimean Tatars under Moscow's rule.

In August 2016, Umerov was forcibly sent to a psychiatric clinic for a month of assessment tests.

The Moscow-based Memorial Human Rights Center has called the case against Umerov "illegal and politically motivated."

Mejlis Chairman Refat Chubarov has called the case against Umerov part of a campaign of persecution by the Russia-installed authorities against Crimean Tatars.

Russia took control of Crimea after sending in troops and staging a referendum considered by most countries worldwide as illegitimate.

After the takeover, Russia adopted a law making it a criminal offense to question Russia's territorial integrity within what the government considers its borders.

The majority of Crimean Tatars opposed the annexation, and human rights organizations say members of the Muslim minority group have faced a campaign of abuse and oppression under Russian rule.

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RFE/RL, Crimean Tatar Leader Umerov's Trial Resumes in Simferopol (21 June 2017)

Crimean Tatar Leader Umerov's Trial Resumes In Simferopol

rferl.org/a/crimea-umerov-trial-resumes-russia-ukraine/28571611.html



SIMFEROPOL -- The trial of a Crimean Tatar leader who has criticized Russia's seizure of the Black Sea peninsula from Ukraine resumed on June 21.

Russian authorities who control Crimea have filed separatism charges against Ilmi Umerov -deputy chairman of the Crimean Tatars' self-governing body, the Mejlis, which is now banned by Moscow.

Umerov was charged in May 2016 after publicly opposing Russia's March 2014 armed takeover of Crimea. He denies the charges, saying he has the right to express his opinions.

His trial began on June 7.

The 59-year-old Umerov is one of several critics of the takeover who have faced what rights activists say are politically motivated criminal charges at the hands of Crimea's Russia-installed authorities.

Umerov's lawyer, Mark Feigin, told RFE/RL before the trial resumed on June 21 that the judge at the hearing, Andriy Kuleshov, is a Ukrainian citizen who is under criminal investigation by authorities in Kyiv.

According to Feigin, neither Russian law nor international law allows judges who are under investigation in any country to preside at trials.

'Politically Motivated'

Umerov also told RFE/RL that a linguist from Russia's Federal Security Service (FSB) who concluded that Umerov's statements called for separatism had not actually used the texts in the original Crimean Tatar language but, rather, used inaccurate Russian translations.

"My statements, upon which this case has been based, were translated with mistakes into Russian, distorting the meaning of what I said," Umerov said. "Since the FSB linguist based her conclusion on the Russian translation of what I said, the charges against me are invalid."

In August 2016, Umerov was forcibly sent to a psychiatric clinic for a month of what authorities described as assessment tests.

The Moscow-based Memorial Human Rights Center has called the case against Umerov "illegal and politically motivated."

Mejlis Chairman Refat Chubarov, who was barred from entering Crimea by a Russian court and is currently residing in Kyiv, says the case against Umerov is part of a campaign of persecution against Crimean Tatars by the Russia-installed authorities.

Chubarov told RFE/RL on June 21 that he is ready to testify at Umerov's trial if Russian authorities allow him to travel to Crimea.

Russia seized control of Crimea after sending in troops and staging a referendum that is considered illegitimate by more than 100 countries that are members of the United Nations.

After the takeover, Russia adopted a law making it a criminal offense in Crimea to question Russia's territorial integrity within what Moscow now says are the borders of Russia.

The majority of Crimean Tatars opposed Russia's seizure and annexation.

Human rights organizations say members of Crimea's Muslim minority have faced a campaign of abuse and oppression under Russian rule.



Crimea Desk, RFE/RL's Ukrainian Service

The quality and independence of Ukraine's media as a whole are still limited, and RFE/RL's Radio Svoboda is the country's most popular and trusted international broadcaster. Radio Svoboda celebrated its 60th anniversary in 2014.

webteam@rferl.org

RFE/RL, Crimea: Political Activists Who Were Killed, Kidnapped, or Went Missing (30 August 2017)



PHOTO GALLERIES Crimea: Political Activists Who Were Killed, Kidnapped, Or Went Missing

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August 30, 2017 15:18 GMT

After Russia's illegal annexation of the Ukrainian region of Crimea in March 2014, kidnappings and suspicious disappearances have become common. The abductions of Reshat Akhmetov and Ervin Ibragimov were even recorded on video but still not fully investigated.

Various human rights groups have given different numbers for Crimean residents who have gone missing or who have died in a suspicious manner. According to the CrimeaSOS website and the Crimean Human Rights Group, eight to 17 residents of Crimea disappeared over the last three years. At least six of them were later found dead. Some activists say the true number is higher.

In marking the United Nations' International Day of the Victims of Enforced Disappearances on August 30, below is a list of some of those who have gone missing in Crimea or who were found dead under unclear circumstances in the years since annexation. (Stylized images provided by Crimean Tatar Resource Center)



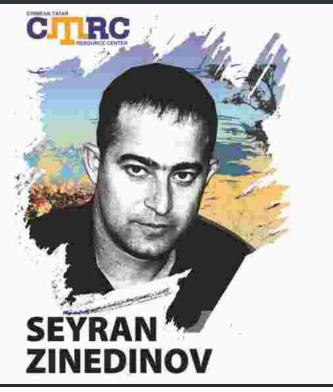
Reshat Ametov, Crimean Tatar activist

On March 3, 2014, he was kidnapped by people in camouflage in front of the Crimean Council of Ministers building in the center of Simferopol as he stood in a one-man protest against Russia's annexation of Crimea. His body, with signs of torture, was later recovered near the village of Zemlyanichne in the Bilohirsk Region. He was 39 at the time of his disappearance.



2 Timur Shaimardanov, Crimean Tatar activist of the Ukrainian National House public initiative

In March 2014, he provided humanitarian help for the Ukrainian military in Crimea. On May 26, 2014, he left his house in Simferopol and hasn't been seen since. Relatives and witnesses have said that he was kidnapped by militants of the "Crimean self-defense forces." He was 33 at the time of his disappearance.



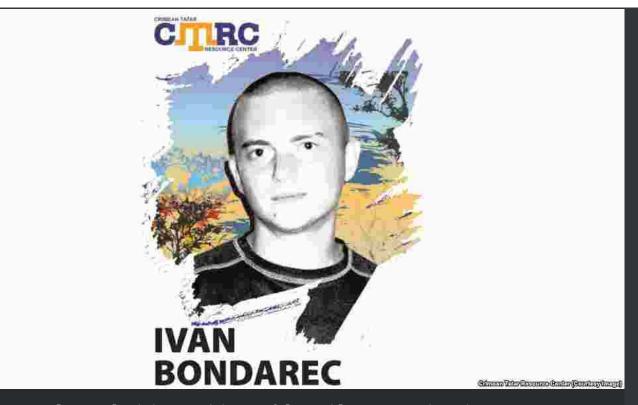
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3 Seyran Zinedinov, Crimean Tatar, activist of the Ukrainian National House public initiative He was involved in searching for his fellow activist Timur Shaimardanov. In the evening of May 30, 2014, he met Shaimardanov's wife and never returned home. His mobile phone signal was later recorded at a guest house near Yevpatoria. Relatives said there is CCTV footage of him being forced into a car. Witnesses said he was kidnapped by militants of the "Crimean self-defense forces." He was 32 at the time of his disappearance.



Vasily Chernysh, Ukrainian activist of the AvtoMaidan movement

He was involved is the search of activists kidnapped in Crimea. Before, he worked at the Ukraine Security Service in Sevastopol. He contacted his relatives for the last time on March 15, 2014. Nothing is known for sure about what happened to him. Fellow activist Oleksiy Hrytsenko said that police came to Chernysh's apartment in Sevastopol and took him to an unknown location. He was 36 at the time of his disappearance.



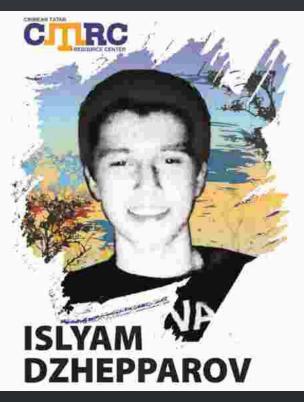
5 Ivan Bondarec, Ukrainian participant of the Maidan protests in Kyiv

Together with his fellow activist Valery Vashchuk, Bondarec arrived in Simferopol from Kyiv and phoned his relatives, saying they had been detained by the police. He then said they were released and were going to meet with fellow activists. Later both of them disappeared. Ivan Bondarec was 23 at the time of his disappearance.



Valery Vashchuk, Ukrainian participant of the Maidan protests in Kyiv

Together with fellow activist Ivan Bondarec, Vashchuk arrived in Simferopol from Kyiv and phoned his relatives, saying they had been detained by the police. He then said that they were released and were going to meet with fellow activists. Later, both of them disappeared. Valery Vashchuk was 28 at the time of his disappearance.



Islyam Dzhepparov, Crimean Tatar

He is the son of Crimean Tatar activist Abdurashid Dzhepparov. In September 2014, witnesses said two masked men in black uniforms, probably of the "Crimean self-defense forces," frisked Islyam Dzhepparov and his fellow activist Dzhavdet Islyamov, forced them into a minibus, and drove them toward the city of Feodosia. Islyam Dzhepparov was 18 at the time of his disappearance.

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Ozhavdet Islyamov, Crimean Tatar

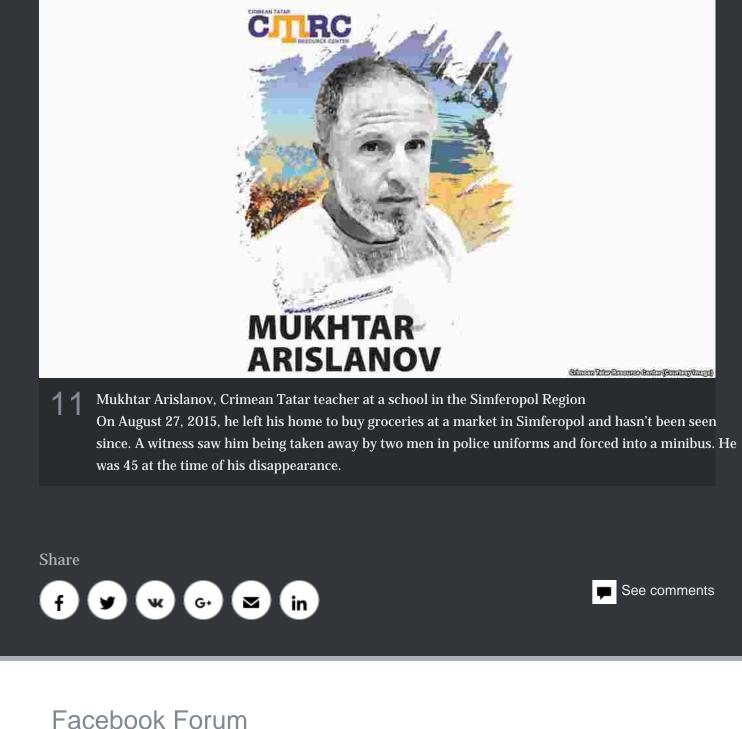
He was kidnapped in September 2014 together with Islyam Dzhepparov, the son of Crimean Tatar activist Abdurashid Dzhepparov. Dzhavdet Islyamov was 22 at the time of his disappearance. (See above.)



9 Ervin Ibragimov, Crimean Tatar member of Bakhchysarai Municipal Council, senior specialist for interethnic relations at the Bakhchysarai City Administration In May 2016, witnesses said unidentified people wearing Russian road police uniforms stopped Ibragimov's car near his house in Bakhchysarai. He was forced into another car and taken to an unknown location. On June 1, his passport and employment record book were found near the Arpat bar in Bakhchysarai. He was 30 at the time of his disappearance.

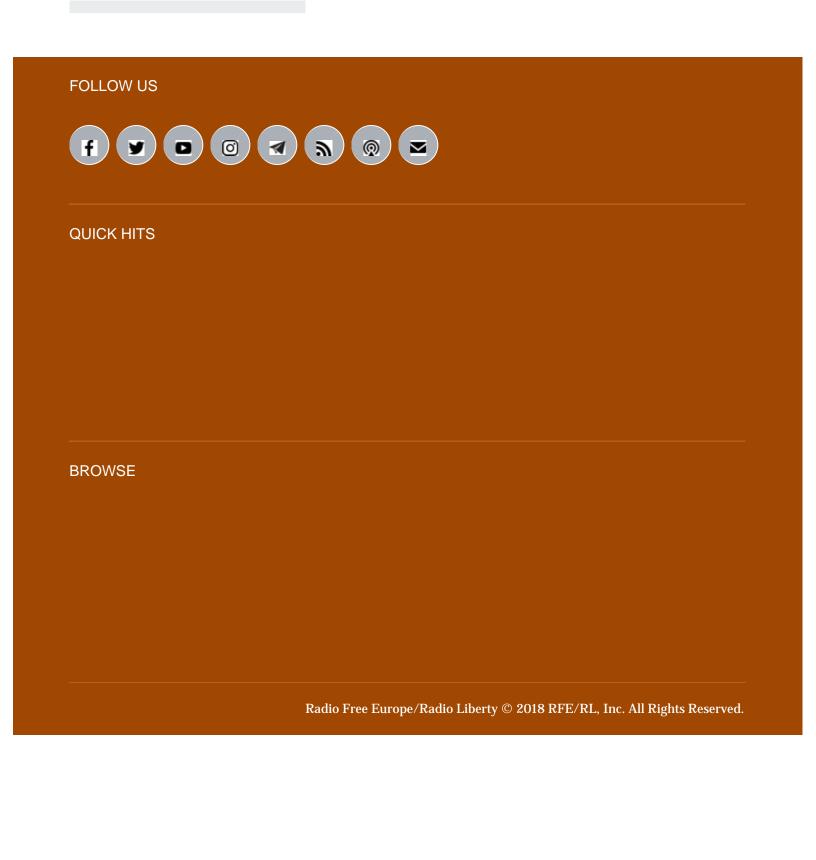


10 Edem Asanov, Crimean Tatar working as a lifeguard at a health resort in Yevpatoria He disappeared on September 29, 2014, last being seen in the town of Saky. His sister said he had left home to take a bus to work at a health resort. His body was later found hanged in a deserted building in Yevpatoria. His relatives said his death had no connection to Crimean politics. However, it became known that Edem's name was mentioned as a possible "terrorist" as part of the investigation into the arrest of Ukrainian filmmaker Oleh Sentsov. Asanov was 25 at the time of his disappearance.



Recommended

Reporter's Notebook: After A 'Death' And 'Resurrection' In Kyiv, Confusion And A Desire For Answers



RFE/RL, Russian Court Convicts Crimean Tatar Leader Umerov of 'Separatism' (27 September 2017)



UKRAINE

Russian Court Convicts Crimean Tatar Leader Umerov Of 'Separatism'

Last Updated: September 28, 2017 08:41 GMT Crimea Desk, RFE/RL's Ukrainian Service

SIMFEROPOL, Ukraine -- A court in Russian-occupied Crimea has convicted prominent Crimean Tatar leader Ilmi Umerov of separatism after a trial Human Rights Watch called "ruthless retaliation" for his opposition to Moscow's takeover of the peninsula.

The Russian-appointed judges in Simferopol, the Crimean capital, found Umerov guilty on September 27 and sentenced him to two years in a colony settlement, a penitentiary in which convicts usually live near a factory or farm where they are forced to work.

"The case against Umerov was nothing but a sham from the start and today's guilty verdict is a ruthless retaliation for publicly saying that his home should be free," Tanya Cooper, Ukraine researcher at Human Rights Watch, said in remarks to RFE/RL after the court decision.

The judges began reading out the ruling before Umerov's defense team was inside the courtroom.

Speaking to reporters earlier, defense lawyer Mark Feygin expressed hope for a less severe sentence, given a recent UN report that contained scathing criticism of the human rights situation in Crimea under Russian rule.

But the court imposed a sentence that was harsher than that sought by prosecutors, who had recommended a three-year suspended sentence with a ban on all public activities for three years. With a suspended sentence, Umerov would not have been confined to a penitentiary.

Umerov said he would appeal the ruling all the way to the European Court of Human Rights.

"This sentence will not force me to change my convictions," he said.

"I will remain a person who considers that Crimea is the territory of Ukraine that has been occupied by Russia," he added.

Umerov's lawyer, Feygin, said he hoped Western countries would put pressure on Russia to try to quash the verdict. "His dispatch to a prison colony would mean his death," he said of his client.

The European Union called Umerov's sentencing "a serious violation of his human rights, another example of persecution of the Crimean Tatar community."

A statement issued by Maja Kocijancic, a spokeswoman for EU foreign policy chief Federica Mogherini, said the move was "a further and clear illustration of the severe deterioration of human rights on the Crimean Peninsula, as most recently documented by the United Nations High Commissioner for Human Rights in his report published earlier this week."

A UN human rights report issued on September 25 said that Russia's occupation of Crimea had been **marked by disappearances and torture**, infringements of the Geneva Convention, and violations of international law.

The human rights situation in Crimea "has significantly deteriorated under Russian occupation," the UN Human Rights Office said in the report.

Ukrainian President Petro Poroshenko **condemned the sentence as "disgraceful"** on Facebook, calling Umerov "a hero of his people against whom Moscow used the worst methods of Soviet-era repression."

Ukraine's Foreign Ministry called the verdict an "illegal and politically motivated sentence" that it said violated Umerov's human rights.

"Russia continues its shameful policy of pressure on the independent leaders of occupied Crimea," the ministry said in a statement.

Umerov, a deputy chairman of the Mejlis, the Crimean Tatars' elected representative body, has been an outspoken critic of Russia's seizure of the Black Sea peninsula from Ukraine in March 2014 and its subsequent crackdown on Crimean Tatars.

Russia's Federal Security Service (FSB) detained Umerov, who suffers from diabetes and Parkinson's disease, in May 2016 in Crimea and charged him with separatism.

He was confined in a psychiatric hospital in August 2016 by the Russian-imposed authorities in Crimea, a decision condemned by Human Rights Watch as "an egregious violation of his rights."

"They tried to scare Umerov with criminal prosecution, forced him to undergo a humiliating psychiatric examination, refused him medical care he required for his health condition, yet he did not abandon his peaceful, principled opposition to Kremlin's abuses in Crimea," Cooper said.

Speaking at the trial on September 20, the 60-year-old Umerov said that the charges against him had a single goal, "which is to punish those who oppose the annexation."

"I call the annexation an annexation and the authorities established [by Russia] occupation authorities," he told the court.

Umerov said he considered himself "only a citizen of Ukraine."

The Moscow-based human rights group Memorial has called the case against Umerov "illegal and politically motivated."

The charges stem from a March 2016 live interview with the Crimean Tatar TV channel ATR, which was later posted on YouTube. Russian authorities shut down the station in April 2015 and it relocated to Kyiv.

Umerov said the translation of the interview into Russian from Tatar was poorly done and distorted his remarks.

Cracking Down On Crimean Tatars

The Russian authorities have outlawed the Mejlis after deeming it extremist, part of what rights groups and Western governments say is a persistent campaign of oppression targeting Crimean Tatars and other citizens who opposed Moscow's takeover.

Another Mejlis deputy chairman, Akhtem Chiygoz, was convicted of organizing an illegal demonstration and sentenced to eight years in prison on September 11 after what Amnesty International called a "**sham trial**."

Umerov's conviction follows a **similar ruling** in Crimea on September 22 against RFE/RL contributor Mykola Semena.

The U.S. State Department on September 25 expressed concern over the conviction of Semena, who was handed a 2 1/2-year suspended sentence, saying it was "based on the fact that Mr. Semena had criticized Russia's occupation and attempted annexation of Crimea in his writing."

Following the ouster of a Moscow-friendly Ukrainian president in February 2014, Russia seized control of Crimea by sending in troops and staging a referendum deemed illegitimate by at least 100 countries in the United Nations.

With reporting by Reuters

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RFE/RL, Crimean Tatar Leaders 'Freed,' Fly To Turkey (26 October 2017)



UZBEKISTAN

Crimean Tatar Leaders 'Freed,' Fly To Turkey

Last Updated: October 26, 2017 03:37 GMT Crimea Desk, RFE/RL's Ukrainian Service

Crimean Tatar leaders Akhtem Chiygoz and Ilmi Umerov, who were sentenced to prison by Russian courts on the occupied peninsula in September, have been released from custody and traveled to Turkey, Ukrainian officials, legislators, and lawyers said.

Umerov and Chiygoz were released on October 25, Ukrainian First Deputy Information Policy Minister Emine Dzheppar told RFE/RL.

Mustafa Dzhemilev, the veteran Crimean Tatar leader who is now a Ukrainian lawmaker, also told RFE/RL that Chiygoz and Umerov had been freed from Russian custody in Crimea and were on their way to Turkey.

A spokesman for Ukrainian President Petro Poroshenko, Svyatoslav Tseholko, later **said on Facebook** that they had arrived in Ankara.

"Two more hostages – - two political prisoners – - have obtained freedom," Nikolai Polozov, a lawyer for Chiygoz, said on Facebook.

The European Union called the development "good news" and demanded the immediate release of "all illegally detained Ukrainian citizens on the Crimean Peninsula and in Russia."

Dzhemilev told AFP he helped arrange the release by asking Turkish President Recep Tayyip Erdogan to call for the activists' release in talks with Russian President Vladimir Putin. Erdogan has pledged to support Crimea's Tatar minority even as he has cultivated closer ties with Moscow recently.

While the Crimean Tatar leaders themselves refused to ask Putin for a pardon, Dzhemilev told AFP, eventually an order came down from the Kremlin saying the two would be "freed on humanitarian grounds."

Rights groups and Western governments have condemned the convictions, calling their trials part of a campaign of pressure and abuse conducted by Russia since it occupied and seized control of Crimea from Ukraine in 2014.

Kremlin critics say that Russia has targeted Crimean Tatars and others who opposed Moscow's takeover of the Black Sea peninsula, which followed the ouster of Moscow-friendly Ukrainian President Viktor Yanukovych by throngs of protesters in Kyiv.

Chiygoz was convicted of organizing an illegal demonstration and sentenced to eight years in prison on September 11 after **what Amnesty International called** a "sham trial."

Umerov was convicted of separatism on September 27 after a trial that Human Rights Watch called "ruthless retaliation" for his opposition to Moscow's takeover of the peninsula. He was sentenced to two years in a type of penitentiary called a colony settlement.

Polozov told RFE/RL that all charges against Chiygoz and Umerov have been dropped.

"Their release became possible thanks to the support of those who are not indifferent to political prisoners, who are not indifferent to Crimean Tatars," Polozov said. He said the releases were the result of "huge judicial, diplomatic, and political work" by Dzhemilev, Erdogan, and others.

"Neither Akhtem Chiygoz nor Ilmi Umerov asked for clemency or amnesty," Polozov said. "They are heroes of the Crimean Tatar people – – Ukrainian political prisoners for whom moral principles and conscience are more important than their own liberty. They are not people one can force to go on bended knee and ask for mercy from the Russian state." In a Facebook post, **Poroshenko thanked Erdogan** for his role in the release of Chiygoz and Umerov, which came within weeks after Erdogan met with Putin in Ankara in late September and with Poroshenko in Kyiv on October 9.

"I thank...Erdogan for his efforts to release our heroes as we agreed in New York and Kyiv," Poroshenko said.

At a joint news conference with Poroshenko during his visit to Kyiv, Erdogan stressed that Turkey considers Crimea part of Ukraine and will continue to pay close attention to the plight of the Crimean Tatars, a Turkic-speaking, mostly Muslim minority whose members were largely opposed to the Russian takeover.

Russia seized Crimea in March 2014, sending in troops and staging a referendum denounced as illegal by dozens of countries.

Both Umerov and Chiygoz are deputy chairmen of the Mejlis, the Crimean Tatar selfgoverning body, which Russian authorities deemed extremist and outlawed in what rights groups and Western governments said was part of a persistent campaign of oppression targeting Crimean Tatars and other citizens who opposed Moscow's takeover.

Umerov, who suffers from diabetes and Parkinson's disease, was confined to a psychiatric hospital in August 2016, a decision condemned by Human Rights Watch as "an egregious violation of his rights."

The United States, the European Union, and others **have condemned the trials** of both men and called for their release.

A spokesperson for EU foreign policy chief Federica Mogherini on October 25 said that while the men's release is "good news," Russia should also release other illegally detained Ukrainians, reverse its decision to ban the activities of the Mejlis, and respect the political rights of Crimean Tatars.

The spokesperson said the EU "appreciates the efforts of all those who also worked for this outcome."

In March, the European Parliament called on Russia to free more than 30 Ukrainian citizens it said were in prison or other conditions of restricted freedom in Russia, Crimea, and parts of eastern Ukraine that are controlled by Russia-backed separatists. Most of them remain in custody.

In his Facebook post, Poroshenko said he would seek the release of all Ukrainians held by Russia.

"This issue will remain as one of the urgent ones in my talks with the world's leaders," he said, vowing to continue what he called "the joint fight for liberation of all Ukrainian citizens and their return home."

With reporting by Merhat Sharipzhan and AFP

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RFE/RL, Veteran Crimean Tatar Activist Dies As Associates Detained By Russia (23 November 2017)



UKRAINE

Veteran Crimean Tatar Activist Dies As Associates Detained By Russia

Last Updated: November 23, 2017 16:41 GMT Crimea Desk, RFE/RL's Ukrainian Service

A prominent elderly Crimean Tatar activist has died after being caught up in an incident in which Russian security officers in Crimea detained several of her associates.

Vedzhie Kashka, 82, became unwell and was taken away by ambulance in the Crimean city of Simferopol on November 23 after several fellow activists were detained by Russian officers on suspicion of extortion.

Kashka subsequently died, according to sources in a local hospital and fellow Crimean Tatar activists.

Speaking in Brussels after a meeting with European Council President Donald Tusk, Ukrainian President Petro Poroshenko said he had informed Tusk "about the terrible events that took place in Crimea today" and lauded Kashka's "very important history of defending the interests of the Crimean Tatar people."

Ukrainian Foreign Minister Pavlo Klimkin **posted on Twitter** that Kashka was a "heroic and courageous woman" and that her death was "another tragedy of despicable repressions Russia exerts in Crimea."

Crimean Tatar activists Bekir Degermendzhi, Asan Chapukh, and Kyazim Ametov were detained in the incident, which took place in a cafe in the Crimean capital.

Russian state media quoted the Federal Security Service (FSB) branch in Crimea as saying that several members of the Mejlis, the Crimean Tatar self-governing body that has been

outlawed by Russian authorities, were detained in Simferopol on suspicion of extorting \$7,000 from a Turkish citizen.

However, Mejlis member Gayana Yuksel told journalists that the detainees were not members of the body.

Russia's state-run RIA Novosti news agency, citing an unidentified law enforcement source, said that Kashka died due to "stress" and accused the suspects of "cynically" using her as a pawn in the alleged extortion plot.

'They've Come For Our Elders'

But Crimean Tatar activist Nariman Dzhelalov told RFE/RL that the Turkish citizen had duped Kashka out of a large amount of money, and that the detained men were trying to convince him to return the sum.

The Turkish man "tried to get out of it, and the security services used the situation to apply pressure on this group of activists," Dzhelalov said.

Kashka had been a prominent Crimean Tatar activist since the 1950s and was a colleague of Crimean Tatar leader Mustafa Dzhemilev and Soviet dissident Andrei Sakharov.

Her death triggered an outpouring of outrage and grief among fellow Crimean Tatars.

"They've come for our elders," journalist Aidar Muzhdabayev **wrote on Facebook**, adding that it was "impossible to hold back tears."

Muzhdabayev and others said Russian security officers had planned to detain the veteran activist as well before she fell ill. That could not be immediately confirmed, and Russian authorities did not immediately release an official statement on the matter.

Rights groups and Western governments have denounced what they call a persistent campaign of oppression targeting members of the indigenous Turkic-speaking Crimean Tatar minority and other citizens who opposed Russia's annexation of the Black Sea peninsula from Ukraine in March 2014. Veteran Crimean Tatar Activist Dies As Associates Detained By Russia

Human Rights Watch said in a **report** released November 14 that de facto Russian authorities in the region have "intensified persecution" of Crimean Tatars due to their opposition to the Russian takeover of their historic homeland.

With reporting by Rossiskaya Gazeta, TASS, and RIA Novosti

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Ellen Nakashima, Inside a Russian Disinformation Campaign in Ukraine in 2014, Washington Post (25 December 2017)

Inside a Russian disinformation campaign in Ukraine in 2014

washingtonpost.com/world/national-security/inside-a-russian-disinformation-campaign-in-ukraine-in-2014/2017/12/25/f55b0408-e71d-11e7-ab50-621fe0588340_story.html

by Ellen Nakashima December 25, 2017 Email the author

By the morning of Feb. 22, 2014, it was clear that the government of Viktor Yanukovych, the beleaguered pro-Russian president of Ukraine, had fallen, amid protests sparked by his decision not to move toward a closer relationship with the European Union.

Yanukovych's Russian allies denounced <u>his political collapse</u> as a "coup," and the crisis became a flash point in relations between the Kremlin and the West.

Into the tumult leapt Russia's military spy agency, the GRU, which launched a covert influence operation — one that presaged <u>what Moscow would do in the United States</u> two years later. The campaign was part of an all-out propaganda offensive against the new government in Kiev and pro-Western demonstrators.

Its goal was to influence key decision-makers and the wider public to pave the way for the Russian military action that was launched Feb. 27 with <u>the seizure of the Crimean parliament</u> <u>building</u> by armed men, according to a classified GRU report obtained by The Washington Post. Crimea was ultimately annexed by Russia.

The report provides a unique window into one GRU team's effort across six days in 2014. Starting the day after Yanukovych's fall, the military spies created a slew of fake personas on the social media platforms of Facebook and its Russian equivalent VKontakte, or VK for short. The personas were meant to represent ordinary people from across Ukraine who were disillusioned with opposition protests at Kiev's central square, called the Maidan.

On Saturday evening, Feb. 22, 2014, a man calling himself Ivan Galitsin posted a comment on an article in a British newspaper. The story was about the Ukraine opposition leader and former prime minister, <u>Yulia Tymoshenko</u>, who had been released from prison that day. "There was a coup in Ukraine," wrote Galitsin in English. "I live in Kiev. I was on the Maidan, but peaceful protest ended two months ago, when we were displaced by armed nationalists. It's a nightmare. Fascists came to us again 70 years after the Second World War. I do not want this future for Ukraine."

Galitsin was the creation of a GRU psychological operations officer, according to the documents. The profile was created on Feb. 22, and he used as his profile photo a picture of Konstantin Yaroshenko, a convicted Russian drug smuggler serving time in a U.S. prison. Galitsin's comments also appeared in other English-language outlets.

Overall, the GRU team targeted more than 30 Ukrainian groups and social media platforms, as well as 25 "leading, English-language" publications, according to the report.

Pretending to be ordinary Ukrainians, GRU operatives also tapped out comments aimed at riling up pro-Russian citizens against the protesters, whom they called "zapadentsy" — or "westerners." One comment read: "Brigades of zapadentsy are now on their way to rob and kill us. It is very clear that these people hold nothing sacred."

Another read: "The rise of the opposition here will be catastrophic. These people are completely different. They have a totally different vision of Ukraine's future."

Demonstrators on the Maidan were called "Nazis" and "fascists."

The military spies posted physical threats on social media against Yanukovych allies in southeastern Ukraine to bolster Moscow's claim that radical Ukrainians were inciting violence against Russians in the region. In one case, a fake persona named Vova Kravets issued threats on Facebook against 14 politicians.

On Feb. 27, when the Crimean parliament building was seized, the GRU created four groups on Facebook and VK to encourage Crimeans to support secession from Ukraine. "Using our accounts on Facebook, we circulated commentaries informing the population of the Crimean peninsula of a threat from Nazi organizations," the GRU reported.

The GRU created a Facebook primer for its psyops personnel, although the instructions were fairly basic. One tip said that operatives need not use their own photo. "You can search for a photo on Facebook itself. Find someone who has very few friends and is not an active user."

The GRU also used paid ads on Facebook to increase the groups' popularity, according to the report. Together, the groups received nearly 200,000 views on Facebook on Feb. 27 alone, the report said. The content was republished on other groups on Facebook, on VK and on LiveJournal, another Russian social networking site.

It is difficult to gauge the true impact of the GRU's information operation in Ukraine. But the military spies, no doubt to put their efforts in the best possible light for their superiors, gave this assessment: "[T]he overwhelming majority of social media users agreed with the posted arguments and supported the authors' positions."

Tony Wesolowsky, Facelift Or Farce? 'Restoration' Of Palace Shocks Crimean Tatars (18 February 2018), accessed at https://www.rferl.org/a/crimea-khan-s-palace-restorationbakhchisary-shock-tatars-persecution-unesco/29046866.html.



UKRAINE

Facelift Or Farce? 'Restoration' Of Palace Shocks Crimean Tatars

February 18, 2018 17:37 GMT Tony Wesolowsky

Centuries-old oak beams ripped out and concrete poured in their place. Priceless tiles removed. Murals nearly erased by high-pressure streams of water.

These are reports from the restoration of a 16th-century Turkic palace near the southern tip of Russia-occupied Crimea.

For the Moscow-installed local authorities, a firm with apparently no experience in restoring historic buildings seemed to be the perfect choice to renovate the Khan's Palace in Bakhchisaray, some 50 kilometers southwest of the Black Sea port city of Sevastopol.

Critics are shocked, warning that irreparable harm is being done at the site, which in 2013 was listed by UNESCO as a potential addition to its World Heritage List.

"The palace is threatened with losing its historic value. The workers have already chopped up old beams, used concrete on parts of the structure. They are vandals. That's not how restoration is done," says Edem Dudakov, the former head of the Crimean Committee on Interethnic Relations and Deported Peoples.

The outrage is so deep that Kyiv has **called on UNESCO** to demand that Moscow abide by international norms and avert further steps that could cause even more irreparable damage at the site, media have reported.

UNESCO (the UN Education, Scientific, and Cultural Organization), has been tightlipped on the matter.

"At this stage, we cannot comment on the very latest developments," UNESCO spokeswoman Laetitia Kaci **told RFE/RL**. "However, we can tell you that the site won't be nominated for inclusion in the World Heritage List this year."

The Khan's Palace in Bakhchisaray was built in the 16th century and served as a residence for a succession of Crimean Khans. The Crimean Khanate was a Turkic vassal state of the Ottoman Empire from 1478 to 1774 -- the longest-lived of the Turkic khanates that succeeded the empire of the Golden Horde.

The walled enclosure contains a mosque, a harem, a cemetery, living quarters, and gardens.

Crimea was annexed by Russia in March 2014, a month after masked Russian troops without any identifying markings seized control of the Ukrainian Peninsula.

'Relentless' Persecution

For Crimean Tatars, many of whom vocally protested, the Russian takeover has proved especially cruel. What had been longstanding ethnic discrimination targeting the Crimean Tatars has turned into "institutionalized persecution" under de facto Russian rule, the Unrepresented Nations and Peoples Organization said.

And that persecution, Human Rights Watch said in November 2017, **has intensified** "under various pretexts and with the apparent goal of completely silencing dissent on the peninsula."

"Russian authorities in Crimea have relentlessly persecuted Crimean Tatars for their vocal opposition to Russia's occupation since it began in 2014," said Hugh Williamson, Europe and Central Asia director at Human Rights Watch.

And it's through that prism that many Crimean Tatars now view what is transpiring at Khan's Palace.

Crimean Tatar rights lawyer Emil Kurbedinov has **called the work** at the site "an unjustified attack on the historical heritage of the Crimean Tatars, a site of cultural heritage."

Murky Selection Process

Many were outraged that a firm with apparently little, if any, experience with historical preservation was picked to restore the palace.

Moscow-based Atta Group Architectural and Planning Holding is the general contractor, with a local firm, Kiramet, subcontracted out to do the actual work.

How these companies were selected is anyone's guess, as the decision is shrouded in secrecy. A visit to Atta Group's **website** suggests the company is more familiar with building skyscrapers, airport terminals, and sports stadiums.

The secrecy seems to have spilled over to the construction site with most of the work seemingly being done clandestinely, with photos taken furtively and smuggled out offering some of the only evidence of what's going on at Khan's Palace.

In November, the Ukrainian Culture Ministry detailed some of the damage that had reportedly been done.

"The Culture Ministry is extremely indignant at carrying out large-scale illegal works on the monument of national importance, Khan's Palace," it said.

When removing all the tiles and old oak beams from the Great Khan Mosque (Biyuk Khan Jami), the 18th-century murals were damaged.

In addition, the facade of the building was cracked and plaster fell down due to the use of washing equipment that uses a high-pressure jet of water to clean it. The same technique used to wash the Fontana Tears (Oleksandrovskyy Fountain)...which is why these monuments were also damaged," the ministry said in a **statement** reported on November 6, 2017.

Raising Awareness

Elmira Ablyalimova, the former head of the Bakhchysarai Historical, Cultural, and Archaeological Museum **expressed shock** to the Crimea Desk of RFE/RL's Ukrainian Service at the photos of the apparent destruction.

She notes, for example, how parts of 16th-century walls under the roof of a mosque have been broken off while authentic stones are left lying around as if they're rubbish. She calls what is taking place a crime.

Dudakov believes Kyiv needs to raise awareness within the international community about the fate of Khan's Palace in order to get Moscow to budge.

"What we've lost, we've lost, but we need to preserve the old tiles. They been removed and shipped somewhere, and the guards don't let anyone onto the site. If the tiles aren't returned, then the Khan's Palace will, in fact, no longer be a UNESCO site. I think Ukraine really needs to raise this from a local to a national issue. Only then will the international community perhaps pay more attention to the problem," explains Dudakov.

UNESCO spokeswoman Kaci confirmed that the director-general of the agency had received a letter from the Ukrainian Foreign Ministry and was preparing a reply.

Kurbedinov said in a Facebook post on January 7 that he and a team of lawyers and legal experts were planning to take legal action to protect Khan's Palace.

He said they would first seek answers from the Russian Federation before turning to international bodies, including UNESCO.

Written by Tony Wesolowsky based on material from the Crimea Desk (Krym.Realli) of RFE/RL's Ukrainian Service

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Interfax, FSB Detains Activist of Ukrainian Cultural Center in Crimea (12 January 2017)

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14:42 FSB detains activist of Ukrainian Cultural Center in Cultural Ce	rimea Russia will never return Crimea to Ukraine - Putin
1 min read	Prosecutor's Office of Autonomous Republic of Crimea starts about 140 criminal proceedings on illegal detentions, searches of activists on peninsula
The Federal Security Service (FSB) of the Russi Federation has detained an activist of the Ukrai	
Cultural Center (ECC) Andriy Vynohradov in th occupied Crimea, founder of the ECC Leonid Ku	uzmin has Bridge in 2019 – Iryna Lutsenko
said.	MFA demands Moscow release more than 60 political prisoners held in Russia, occupied Crimea
"This morning, the FSB has detained the ECC a Andriy Vynohradov," he wrote on his Facbook page on Thursday.	Poroshenko expects speedy approval of developments on constitutional amendments on Crimea status
In his comments to the post Kuzmin said that he did not know the grounds for activist's detention.	r the Invaders changing demographic situation in occupied Crimea, displacing Crimean Tatars, ethnic Ukrainians "Нельз движен
As reported, on February 29, 2016 coordinator of the Crimean Human Rights	
Skrypnyk reported on the arrest of three activists from the ECC, which operate by the FSB officers on the administrative border of the annexed Crimea.	homeland - Parubiy to Crimea inhabitants рухнул месяц
The ECC was founded in Crimea on May 2015.	Rada calls on OSCE to assess Crimea voting during Russia's presidential elections - 228 affirmative votes
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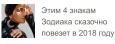
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6/7/2018



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Откровенное заявление Юли Михалковой про Путина и Россию





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The Guardian, Crimea Children's Theatre Forced to Shut for 'Promoting Western Propaganda (6 January 2016)

The Guardian



Crimea children's theatre forced to shut for 'promoting western propaganda'

Popular drama school complains of harassment from local officials who accused them of championing Ukrainian nationalism.

Andrei Kolokoltsev for RFE/RL, part of the New East network Wed 6 Jan 2016 02.00 EST

A popular children's drama school that staged Ukrainian-language plays in Crimea is shutting down after what its founders describe as a campaign of harassment from local officials.

Svitanok (Sunrise) taught children for more than 20 years and was a well-established institution in the capital Simferopol, but has come under fire since Russia annexed the region from Ukraine in 2014.

The school's latest performance, staged in mid December, attracted criticism from local authorities who allegedly accused the school of promoting both Ukrainian nationalism and western symbols.

Co-founder Oleksandr Polchenko says the play drew the ire of the state-run Palace of Child and Youth Art, where the school is based.

The play, Songs of the Amazon, performed to mark St Nicholas Day, is based on a work by Crimean author Viktor Stus.

It tells the story of Amazons - the female warriors of Greek myth - battling evil and fighting for freedom and the independence of their native land.

Polchenko said officials interpreted political undertones throughout the performance, taking particular offence at the costume of a young girl wearing a golden crown and impersonating the sun, which he says they saw as a reference to New York's Statue of Liberty.

"The next day, the management ordered us to hand over all the texts and scripts for the show, as well as a recording," he said.

"They were indignant, they asked what kind of propaganda of western values we had staged for the holiday," he said. "They also described the embroidered clothing and the Ukrainian-language scenario as brazen Ukrainian nationalism."



Crimean residents celebrate the region's accession to Russia, in March 2014. Photograph: Yuri Kochetkov/EPA

Polchenko believes it was only a matter of time before Svitanok closed shop, following months of pressure on the head of the drama school, his wife, Alla Petrova.

"They tried to force Alla Petrova to leave in summer, and again in fall," he said. "They conducted various inspections, they used every opportunity to find faults with her work, they insulted her, threatened her, and tried to lower her salary."

Polchenko describes the campaign against Svitanok as part of efforts by Crimea's new Russianbacked authorities - installed after Moscow's annexation of the peninsula - to "eliminate anything associated with Ukrainian."

He said Petrova had chosen to resign and announced her decision to parents on 28 December.

"Of course parents as well as their children are trying to stop this destruction of all things Ukrainian on the peninsula, but they don't understand how these Soviet-era KGB old-timers operate," he said.

6/7/2018

Veldar Shukurdzhiev, an activist with the Crimea-based Ukrainian Cultural Centre, shares Polchenko's alarm.

The attack on Svitanok, he says, is "another round of repression and persecution of anything that even remotely evokes the past and is connected with Ukraine."

The head of the department for culture and drama at the Palace of Child and Youth Art, Svitlana Alekseyeva, declined to comment, saying media requests should be addressed to the institution's director, Valeria Kochetova.

Attempts to reach Kochetova's office were unsuccessful.

Crimea's Culture Ministry, which oversees the Palace of Child and Youth Art, said it had no information regarding the situation around Svitanok. Spokesperson Anton Garkavets, however, cast doubt on allegations that its woes are tied to language issues.

"Crimea has three official languages: Russian, Ukrainian, and Crimean Tatar," he said. "We don't have any persecutions on this matter."

A version of this article first appeared on RFE/RL

Topics

- Crimea
- New East network
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Annex 1076

Hromadske International, The True Cost of Remaining Ukrainian in Crimea (2 April 2018), accessed at https://en.hromadske.ua/posts/exclusive-the-true-cost-of-remaining-ukrainian-in-crimea.

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CRIMEA

EXCLUSIVE: The True Cost Of Remaining Ukrainian in Crimea

2 April, 2018	2618		
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Over the last few years, Hromadske has systematically shed light on political repression in Crimea – in particular, the religious persecution of Crimean Tatars. By 2017, the number of children with parents in jail for political reasons had doubled, from 50 to 100. Last time we traveled to Crimea, among other things, we looked at the economic conditions the residents of Crimea have to live with. This material is primarily focused on the people who are trying to preserve Ukrainian language and culture, and what the price for rejecting Russian citizenship is. For safety reasons, some of the names of some of our interlocutors have been omitted.

"This summer I sold fruit at the market," says a Crimean woman, who refused a Russian passport. *"Near the same stall where I used to buy fruit for my own clients."*

Before the annexation, her family owned a successful business, which mainly dealt with foreigners visiting the peninsula. Now she decided to refuse the lifetime job she dedicated 25 years to. And, despite the fact that EU citizens are allowed into Crimea with a Russian visa and (if they enter via a Ukrainian checkpoint) they don't break any laws; this family deems earning money in such way under occupation unethical.



Lenin Square in Simferopol. The building on the right is the so-called "Council of Ministers of Crimea." March 5, 2018. Photo credt: Nataliya Gumenyuk / HROMADSKE

Apart from personal reasons, such as age and housing, many people remain in Crimea out of principle: they don't want their native land handed over to another state.

"If we leave, there will be even fewer people who disagree with annexation," she explains.

Having visited Yalta or Simferopol every year, we notice how fast the region is being russified, how many people move here from Russia. It's mostly security service officers, state employees and ordinary Russian citizens who want to live closer to the south coast.



Simferopol railway station. March 5, 2018. Photo credit: Oleksandr Nazarov / HROMADSKE

No rights, no money

The family who prior to annexation had higher-than-average income now has to count every penny. Even ordinary household items have become a luxury, let alone holidays. Another family member who used to be a teacher now makes a living as a laborer on a construction site.

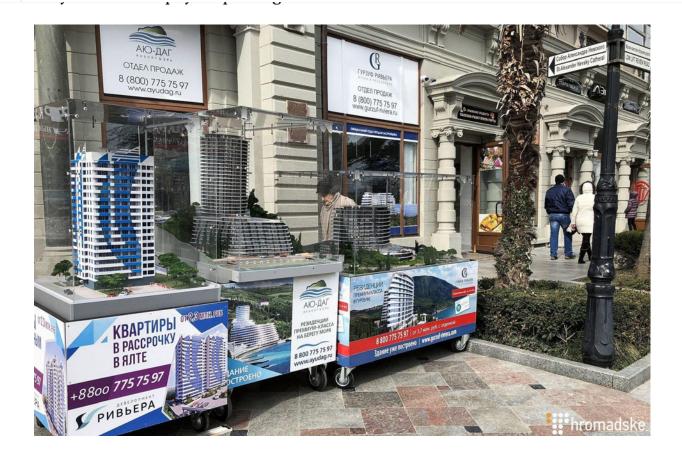
Those who have kept their Ukrainian passports and received permits to live in the Russian Federation have to annually confirm that they earn no less than 111 thousand rubles (just under \$2,000) per year. Part of it has to be earned on Crimean territory. And if you have a child, this amount doubles. By local standards, it's a significant amount of money for a family with two children. To pass these checks, many resort to borrowing money from friends and relatives. This money is then deposited into their bank accounts until the Migration Service of the Russian Federation looks at them. In some cases, the Migration Service allows people to declare their income for half of the year by proving they have half the amount. citizenship, and, therefore, cannot be employed by the civil services or statefunded organizations. Although officially there is no express prohibition on employing Crimeans with Ukrainian documents, employers have become more cautious in this fearful environment. This is also the case for jobs which involve communication, such as in the tourism and in the service sector.



A small food market in Alushta, Crimea. March 6, 2018. Photo credit: Nataliya Gumenyuk / HROMADSKE

Even pensioners who have refused Russian citizenship have to declare their income. But they do not receive Russian pensions and receiving money from Ukraine is only possible once they leave Crimea for good and register as internally displaced people. Receiving bank transfers from Ukraine or elsewhere is also impossible because of the sanctions. Only some Russian banks make these operations possible.

Although the road to the checkpoint is not that long, pensioners are not always able to make the journey. And if one has a car and wants to keep using it in Crimea, that person needs to get a new Russian number plate. If the car owner chooses to leave their vehicle on the mainland, for example in the Kherson



Real estate offers in Crimea on Yalta's seaside., Crimea. March 6, 2018. Photo credit: Nataliya Gumenyuk / HROMADSKE

It's also impossible for Crimeans with Ukrainian citizenship to obtain deeds for land and property if this was not completed properly when Crimea was under Ukrainian control. And many plots of land fall into this category. So for these people to leave Crimea would mean to literally gift their land to the occupying authorities.

There are also medical payments, additional taxes and various fines for those whose children who have lived in Crimea for two years without documents, as passports are issued in Russia from age 14, and, before 2016, they were only issued to Ukrainians from age 16. This is yet another daily inconvenience that people have to get used to if they have decided to retain Ukrainian citizenship.



Numerous new buildings in Gurzuf, Crimea. March 6, 2018. Photo credit: Oleksandr Nazarov / HROMADSKE

READ MORE: Who's Breaking Western Sanctions in Crimea

Refusing Russian citizenship was only made possible during one month in spring 2014. Russian statistics claim that there were only around 3,000 people who did so. But not all Crimeans believe this information. Just in Sevastopol – widely considered the most pro-Russian city in Crimea – there were around 1,000 people who refused to receive Russian passports. Apart from Sevastopol, this option was also available in Simferopol, Yevpatoria, and Yalta. For those who did not do this in time, there was a choice: become a citizen of the Russian Federation, or, live without any documents at all (which also means you won't be able to travel to the Ukrainian mainland).

It's impossible to say how many Crimeans have refused Russian citizenship, or have simply not received Russian passports, and are now de-facto living without documents. But there are a lot of them. "They issued residency permits in 2014 for five years. We'll see in a year's time whether they will let us stay on, or if they will label us 'unreliable' – a term used by teachers in schools where children with Ukrainian citizenship study," our interlocutor says with hesitance.

No church

In this cathedral, people gather every Sunday to pray in Ukrainian and sing Ukrainian songs. While a service is taking place, during which they mention Patriarch Filaret of the Ukrainian Orthodox of the Kyivan Patriarchate, a trolleybus passes by the window, emblazoned with campaign posters for the upcoming Russian presidential elections. The Ukrainian Orthodox Equal-tothe-Apostles Volodymyr and Olha Church in Simferopol is a small center of Ukrainianess. We've been told that Crimean Tatars – who are mostly Muslim – also come here to show their support. *"It's a tinderbox for us here,"* says the Simferopol and Crimean Archbishop Klyment, the head of the Kherson diocese of the Ukrainian Orthodox Church of the Kyivan Patriarchate. Most of the priests and their families left for Ukraine in the first year of occupation. The priests come for the big holidays, on average about once a month. We try not to film the faces of the churchgoers. Many of them are elderly and have just come here to pray. They do not feel safe.



A view from the Orthodox Church of the Kyiv Patriarchate in Simferopol, Crimea. The advert on the bus says " Choosing a president is choosing your future." March 4, 2018. Photo credit: Nataliya Gumenyuk / HROMADSKE

In the summer of 2014, the Orthodox Church of the Kyiv Patriarchate came into conflict with the church in Perevalne, and then with the church in Sevastopol. They burnt their property in the village of Mramorne.

"Every service – whether I want it or not – I subconsciously think of as my last. There is no open persecution, there's no open pressure, there is conflict with the estate fund. Politically, no one is going to close it, nobody needs a political scandal so that the Kyiv Patriarchate church ceased existing, but everything has been done so that the church itself ceases to exist. The estate fund requires me It has only become more difficult since then. According to the bishop, the plot of land that was previously allocated for building a Ukrainian Orthodox Church of the Kyiv Patriarchate cathedral has already been claimed by another religious organization. At the same time, the Ukrainian Ministry of Culture has still not come to an agreement on the procedure for registering the church on the occupied territories, and this uncertainty and the delay in the transfer of the cathedral building could lead to the loss of the Ukrainian church in Crimea altogether.



READ MORE: Is Ukrainian Religious Society Diverse Or Divide?

Churchgoers at one of the services at the Orthodox Church of the Kyiv Patriarchate in Simferopol, Crimea. March 4, 2018. Photo credit: Nataliya Gumenyuk / HROMADSKE

Klyment explains that he has appealed to Ukraine's Ministry of Culture's department of religious affairs numerous times, demanding that they put together some kind of document that would regulate the Ukrainian Orthodox Church of the Kyivan Patriarchate's existence in Crimea. However, these in occupied Crimea, then they will be "taken off" the registers in Ukraine.

Upon Hromadske's request, the Ministry replied: "The Ministry of Culture has prepared all the documents, ready for consideration at the level of the Cabinet of Ministers of Ukraine, regarding the legal status and balance transfer of the diocese's management of the estate, in which the centre of the Crimean diocese of the Ukrainian Orthodox Church of the Kyivan Patriarchate is located in the city of Simferopol."

"The Ukrainian church is the only Ukrainian thing that's left in Crimea," Klyment says with a noticeable fatigue and irritation. It becomes clear this is not the first year he has to repeat these obvious statements.

"Where are you from?" asks an elderly churchgoer, who smiles at us welcomingly. When she realizes that we are from mainland Ukraine, she asks: *"Isn't it scary there in Kyiv?"*

No language

Finding a place to talk to journalists, especially in Ukrainian, is problematic. Many people worry that the hotels are unreliable (you could be overheard at any point). In the cafes, there are too many onlookers while speaking Ukrainian on a bus, taxi or cafe could attract unwanted attention; it would be an indicator of dissent, a political stance. The occupation government and those who support it have nothing to say in response to the fact that Crimean Tatars are the indigenous population. While the refusal to assimilate by some Ukrainians in Crimea is seen as a deliberate choice. *"By specialization, I am a Russianist. But this word now has a new meaning,"* says activist from the Ukrainian Cultural Centre in Crimea Olena Popova. *"It says on my diploma that I am a teacher of Russian language and literature. And literature is also part of our spiritual life. I have always loved and continue to love Russian literature. The same way I love Ukrainian literature."*

The center is now home to the only Ukrainian-language publication in Crimea – "Krymsky Teren." It prints around 500 copies and features stories about Ukrainian culture, such as that about the memorial evening for Ukrainian poet Lesya Ukrainka.

"People who love the Ukrainian language, people who need the Ukrainian word in Crimea, can read our publication. I don't want to say that we are a propaganda outlet, like I was asked. What kind of propaganda outlet are we anyway? We're a bunch of amateurs. I'll tell you right now that we don't have any professional journalists, the publication is unregistered, we don't have any editorials. Our colleagues in Kyiv even called us a 'semi-newspaper.' Well, let us be a semi-newspaper then."

The situation annoys Popova to some degree. She says that what they do does not need heroizing. If the motives of these people, who simply want to preserve the Ukrainian language, are exaggerated, then this draws attention to and politicizes the publication, which could put them in danger.



Yalta's coast, Crimea. March 6, 2018. Photo credit: Oleksandr Nazarov / HROMADSKE

"I think we relaxed too much. When we spoke to journalists while publishing previous issues, we said that nobody was touching us, that people treat us decently and, when we hand out newspapers in the streets, there are never any incidents," Popova reflects. "Now it all turned against us. Some people think: Why are we not reacting to this? We need to react."

"That's why I don't want to talk about this in much detail [anymore]."

Popova says that she doesn't know what tomorrow will be like for them: if the newspaper will still exist and the editorial team's course of action. But at the moment, their work is still possible.

"This is our food for the soul, we do it first and foremost for ourselves. There is no mission – I will not use inflammatory words like that. But we think it is necessary because there have already been responses from people who say that it's great."

Popova explains how the newspaper has stopped advertising embroidery courses (a traditional Ukrainian craft). Those who want to embroider, do it

The main theme of the previous issue was the collapse of another Ukrainian center: the Lesya Ukrainka museum in Yalta. Ukrainka was one of Ukraine's most prominent late 19th - early 20th century writers. She was also an advocate for political activism and feminism. The museum was closed down for refurbishment two years ago, in spring 2016, when the roof caved in. Most of the exhibitions have been deposited.

Having traveled to Yalta, we saw the museum for ourselves. What once took up the second floor of the beautiful building, now takes up only a small corner – pictures spread across two tables in the premises of Yalta historic-literary museum.

Ukrainka spent at least three years of her life in Crimea. A museum employee mentions the poet in passing, only when asked specifically. The museum's old management left after the annexation of the peninsula. The new employees are very careful in their responses. They say that the museum should be receiving some finances soon, arguing that there was a shortage of funds back when Ukraine controlled Crimea.

No beach

Igor Baryshnikov, who is in his 50s, plays up his Soviet upbringing. He was born in the Soviet Union and studied in Russia. Love for Russia and its literature were a predetermined part of his life growing up. *"Crimea moved under Russian jurisdiction,"* he says while talking about the annexation. The event wasn't a tragedy, quite the opposite, he says: life got better, in particular, healthcare and government services. But despite welcoming the annexation, he accuses the new local authorities of corruption and neglecting the interests of the ordinary Crimeans like himself.



Photo credit: Nataliya Gumenyuk / HROMADSKE

We met Baryshnikov in front of the Alushta City Court building where he came to support two activists accused of blackmailing local authorities in a case that many believe to be fabricated. Pavel Stepanchenko, a city council member, and Alexey Nazimov, an editor at an Alushta newspaper, supported the annexation but openly criticized the local politicians who came from Ukraine's pro-Russian Party of Regions and then joined Russia's ruling United Russia party. For that, they were arrested in October 2016 and are still awaiting their trial.

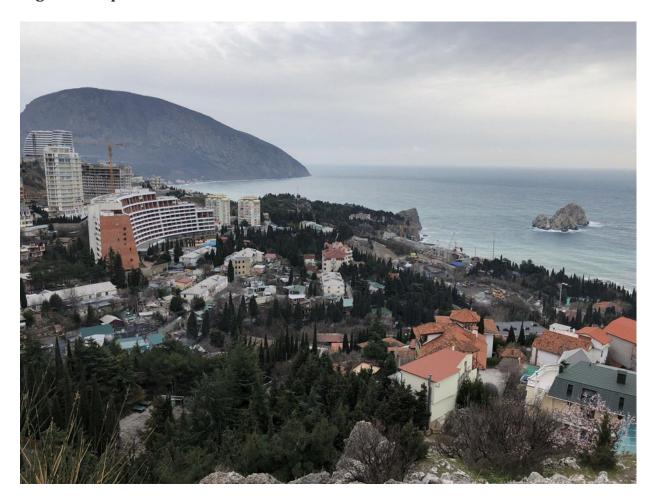


Photo credit: Nataliya Gumenyuk / HROMADSKE

Baryshnikov is an activist himself. He comes from the coastal town of Gurzuf – one of Crimea's most picturesque places where the iconic Soviet-era camp Artek was founded in 1925. To attend Artek was a sign of privilege: children flocked to the camp not just from Soviet states but from various communist countries all over the world too. But after the annexation, the now Kremlin-controlled management of the children's center adopted an aggressive policy towards locals. They took over a big chunk of Gurzuf land surrounding it with a 3 metertall and 14 kilometer-long brick wall. The construction of the wall started in 2015. Since then, the aberration blocked many people's sea view, as well as restricted access to a popular beach, which the Artek management decided to privatize.

READ MORE: Crimea Legendary Youth Camp May Be Turning Into Oligarch Estate

Hoping to resolve this issue, Baryshnikov started a campaign and took the case to the court. His point is that the land is municipal and does not belong to Artek. They had a second cassation but received no positive news. Now



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Photo credit: Nataliya Gumenyuk / HROMADSKE
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We follow Baryshnikov to a top of the mountain, from which the big-scale construction works and many new buildings are seen. He says that some were built before the annexation but most surfaced after the new authorities took over. The activist argues that this area of Gurzuf is a natural resort and carrying out construction works here is illegal. These processes are damaging to ancient historic sights prevalent in the area and lead to an increase in the town's population, for which there are no right infrastructure and emergency water treatment facilities.

After the annexation, the remains of Gurzuf's autonomy were all gone. Political power has been centralized and smaller towns are now part of the Yalta municipality, which made communication between the residents and the authorities a difficult task.



We ask Baryshnikov whether he's afraid to speak out. He says he's got nothing to hide but cautiously adds how much the arrest of the Alushta activists shocked him. It showed to him that people can be detained without any evidence.

He doesn't draw parallels between the recent issues and the annexation. He says he never had issues with Ukraine and hopes that the *"friendship between the two nations rekindles."* He genuinely believes the official Russian rhetoric about Ukrainian nationalists from the Right Sector threatening Crimea in 2014.

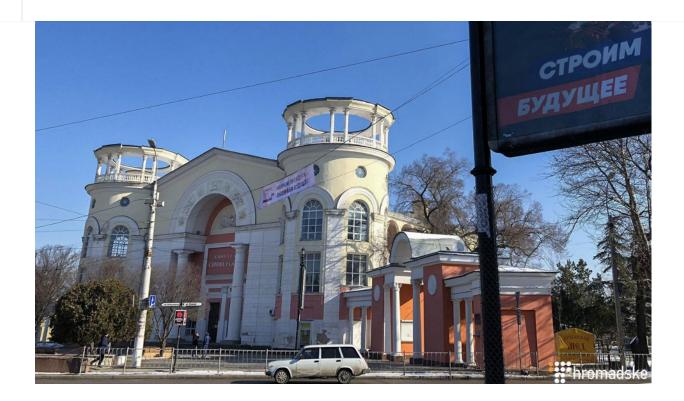
No choice

The Kremlin scheduled this year's Russian presidential election for March 18, which symbolically coincided with the fourth anniversary of the annexation of Crimea. On this day in 2014, the Russian Federation brought the occupied territory under its control. President of Russia Vladimir Putin flew to Sevastopol a few days before the elections for a rally, which was announced as the culmination of his fairly weak presidential campaign. His speech lasted just over three minutes.



Photo credit: Nataliya Gumenyuk / HROMADSKE

No matter where we went in Crimea – the Ukrainian churches, the Lesya Ukrainka museum, visiting the families of Crimean political prisoners – envelopes, letters, and posters with the Russian flag and the slogan "Choose the Future" were never far from view. And there was a lot of pre-election campaigning. We only noticed images of the main presidential candidate – Vladimir Putin – in a few places. "Vote for the future" – the call to come to the polling stations and the official slogan of the election campaign. It's clear what is meant by "future." The billboards along the roads and streets, which at one point promoted the "Crimean Spring," now promote ideas such as, *"We are building a bridge. We are building the future," "We are building Crimea. We are building the future."*



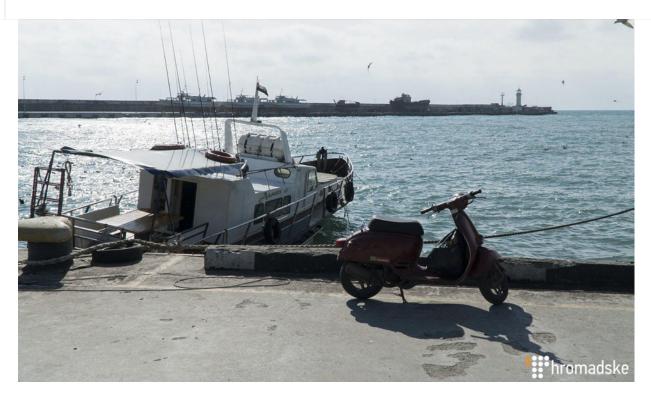
Campaign advertising in Simferopol, Crimea. The photo below shows the Simferopol cinema. March 5, 2018. Photo credit: Nataliya Gumenyuk / HROMADSKE

The biggest question surrounding the election was only turnout, therefore, the main task was to make sure the turnout was high. This would prove that Crimeans came out to vote and therefore support Russia's annexation of the peninsula.

One of our interlocutors recalls a conversation she had with her friend at the sauna:

— Girls, the elections are coming up, let's talk about who we are going to vote for.

- What is there to talk about, it's clear who we're voting for.



Yalta's seaside, Crimea. March 6, 2018. Photo credit: Oleksandr Nazarov / HROMADSKE

There could be no opposition here because those who do not recognize the occupying government and have other opinions on the matter, do not recognize the elections themselves. Voting in the Crimean peninsula brings into question the legitimacy of the Russian president, voted in by illegal elections. However, despite the criticisms from human rights activists, the international community has recognized the previous parliamentary elections in Russia, mainly ignoring the issue of Crimea.

Those who didn't go to the polling stations, mostly remained silent. But complaints about administrative resources– government employees forcing people to vote – appeared on private groups on social media.



Campaign advertising in Yalta, Crimea. March 6, 2018. Photo credit: Oleksandr Nazarov / HROMADSKE

On March 1, employees from the Ministry of Internal Affairs and the Russian Security Service (FSB) carried out searches on the Sevastopol anarchists. Three days prior to this, one of them Oleksiy Shostakovich posted in the "Anarchists of Sevastopol" group on the Vkontakte social networking site, announcing plans to hold a protest on March 10, under the slogan *"The presidential post is a monarchist throwback,"* and reminding citizens of their *"constitutional right to not take part in the elections."* Force was used against Shostakovich and his colleague when they were arrested and accused of proliferating extremist material. They were sentenced to 10 and 11 days administrative detention because their group *"planned a provocation at the time of the Russian Federation's presidential election."*

We find Siberian tea in Simferopol shops and strawberry jam made of "Siberian berries" in Yalta. Very fast every corner of Crimea becomes filled with Russian names.



Jam made of "Siberian berries" on the shelves of a Yalta supermarket in Crimea. March 5, 2018. Photo credit: Nataliya Gumenyuk / HROMADSKE

TRENDING



Who Ordered the Murder of Russian Journalist Arkady Babchenko?



Life Through Barbed Wire: The Georgia–South Ossetia Demarcation Line

EDITORS' CHOICE







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Annex 1077

Back Into Exile, The Economist (18 June 2015)

The Crimean Tatars Back into exile

The life of Mustafa Dzhemilev is a parable of the Crimean Tatars' struggles

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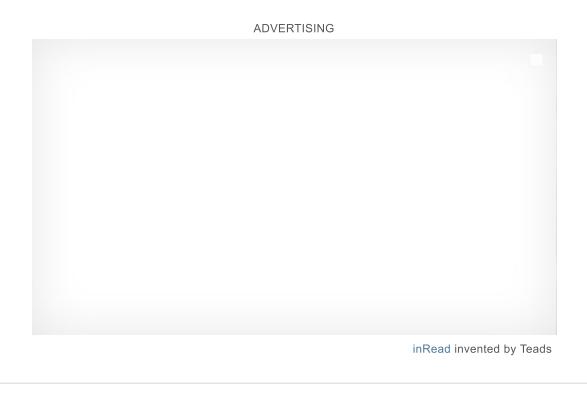
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CRIMEA had not yet been seized by Russia when Mustafa Dzhemilev, leader of the Crimean Tatars, smelled a rat. On February 13th 2014 a Russian representative passed on a message: Vladimir Putin would like to talk to the 70-year-old former Soviet dissident. "What about?" he asked. "The future of Crimea," said the emissary.

Mr Dzhemilev tensed. Why might Mr Putin want to discuss this part of Ukraine with him? It was a bad omen for his people, a Turkic group that moved to Crimea in the 13th century and see it as their native land.



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part of the Russian empire only in the late 18th century under Catherine the Great. Many Crimean Tatars moved to modernday Turkey, but those who stayed were a welcome ornament of her realm.

The Soviet empire under Stalin was less accommodating. In 1944 the entire Crimean Tatar population was accused of collaborating with Hitler and deported to Central Asia. Most were women, children or elderly. The young men, including Mr Dzhemilev's father, were at the front, unaware that their relatives had been expelled, herded in cattle carriages and moved to Uzbekistan where nearly half perished. He and his family lived in a village, banned from venturing farther than 4km. When Stalin died, they rejoiced. But even as other deported communities, including Chechens, returned, they were not allowed to. Crimea and the Black Sea coast were a zone of state dachas and sanatoria where the Communist nomenclature holidayed. They did not wish to be disturbed by the Crimean Tatars' territorial claims.

Mr Dzhemilev joined a movement of Crimean Tatars, was kicked out of university, and, in 1966, arrested for refusing to serve in the army. "They deprived me of my home but wanted me to fight for them," he says. "I told them that I did not have enemies outside the Soviet Union." Freed a year and a half later, he became part of a broader dissident movement that gave his people fresh prominence.

He protested against the Soviet invasion of Czechoslovakia and signed letters in defence of prisoners of conscience. In total, he spent 15 years behind bars. He gained the support of people such as Andrei Sakharov, a Soviet physicist and dissident who in 1976 tried to attend his trial for anti-Soviet activity in Omsk, Siberia.



He went on a hunger strike for 303 days (he was force-fed). Rumours of his death sparked protests

Dzhemilev shut out

among Crimean Tatars in Turkey and an outcry around the world. Then a note from Sakharov was shown to Mr Dzhemilev by his brother through a visiting-room

Back into exile - The Crimean Tatars

screen: "Your death will only benefit our enemies. I ask you to stop." Nearly 40 years later Mr Dzhemilev repeated those words to Nadezhda Savchenko, a Ukrainian pilot captured last year by Russia, who also went on hunger strike.

The last time he was sent to jail was in 1983 for trying to execute the will of his father and bury his body in Crimea. He was finally released at Sakharov's demand in 1986. A year later some thousand Crimean Tatars demonstrated on Red Square, demanding to return home. Permission came a few years later in the form of the Soviet Union's collapse; they began to move back, mostly unaided by the government of newly independent Ukraine. All the same, they were the loudest opponents of last year's sly Russian invasion.

Four days before the bogus referendum on Crimea's future, and wishing to avoid bloodshed, Mr Putin enticed Mr Dzhemilev to Moscow; he was put up in the Stalinera Hotel Ukraine. They did not meet in person but, on the phone, Mr Putin promised to grant Mr Dzhemilev's wishes if his people backed the Kremlin. This exchange between a former KGB officer and a former dissident did not get very far. Mr Dzhemilev wished only for Russian troops to leave Crimea. Mr Putin could just have read his closing statement at his trial in 1983: "Fourteen years ago I vowed that nobody ever under any circumstances would make me renounce my duty...Today I can repeat these vows and hope that I would have enough spiritual strength not to change this principle to the end of my days."

As Russia formally annexed Crimea, Mr Dzhemilev, with other leaders of the Crimean *mejlis*, or ruling council, was barred from entering the peninsula. Since then Crimean Tatar activists have been hounded; the community's only television channel has been closed. And, 70 years after the deportation, Mr Dzhemilev has again been deprived of his homeland.

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Lilya Palveleva, Ukrainian Filmmaker Remains Behind Bars Despite Growing Support, RFE/RL (26 June 2014)



UKRAINE

Ukrainian Filmmaker Remains Behind Bars Despite Growing Support

June 26, 2014 15:10 GMT Lilya Palveleva

MOSCOW -- The 2011 low-budget film "Gaamer" has met with global recognition for its sensitive depiction of a teenage videogame champion losing touch with real life.

But the film, which debuted at the Rotterdam International Film Festival in 2012, has rarely been seen in Moscow – – particularly since its director, Oleg Sentsov, was arrested last month in Crimea on suspicion of plotting terrorist acts.

Sentsov, 38, is one of four Ukrainian citizens being held by Russia after the Federal Security Service, or FSB, accused them of seeking to carry out a string of attacks on bridges, power lines, and public monuments in the key Crimean cities of Simferopol, Yalta, and Sevastopol.

The FSB claims came less than two months after a controversial referendum in which residents of the Black Sea peninsula of Crimea voted to leave Ukraine in favor of joining Russia. The vote was seen by many as a militarized land grab by Moscow and part of ongoing Kremlin efforts to destabilize Ukraine.

Sentsov is currently being detained in Moscow's Lefortovo prison, where he awaits formal charges and up to 20 years in prison. On June 25, the Memorial human rights organization hosted a screening in Moscow of "Gaamer" in a show of support for the filmmaker.

WATCH: The trailer for "Gaamer"

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Film critic Andrei Plakhov, who first saw the film in Rotterdam and helped bring it to a film festival in the Russian city of Khanty–Mansiysk, described Sentsov as an "intelligent" and "promising" and praised his realistic depiction of Ukraine's bleak economic landscape under now–ousted leader Viktor Yanukovych.

"He's a man with ideas, but absolutely nothing outlandish, by no means extremist. To the contrary, his ideas are very normal and productive," said Plakhov before the screening. "This is an absolutely creative person, a person whose primary aim is to create. That's why what's happening is especially bitter. We understand that the film world may lose a talented person. We don't have many of those."

'Political Prisoner'

Sentsov, a Russian-speaking native of Simferopol, openly opposed the Russian annexation of Crimea. He was also active in Automaidan, the automotive wing of Ukraine's pro-Western Euromaidan protests, and helped deliver food and supplies to Ukrainian servicemen blocked at Crimean bases in the early days of the Russian standoff.

His arrest has caused a **groundswell of anger** among the European filmmaking community, with directors like Agnieszka Holland, Ken Loach, Mike Leigh, and Pedro Almodovar co-signing a letter for Russian President Vladimir Putin calling for his release.

A **separate petition drive** calling on U.S. Secretary of State John Kerry to intervene in the case has collected nearly 36,000 signatures.

Even Russia's own presidential council for human rights has appealed to Deputy Prosecutor General Viktor Grin to review the circumstances surrounding the arrests of Sentsov and a fellow Ukrainian activist, ecologist Oleksandr Kolchenko. A reply, **posted on June 26** on the council's website, says prosecutors found "no grounds" for altering the detention of either suspect.

Russia has sought to bolster its case against Sentsov by accusing him of membership in Ukraine's nationalist paramilitary group, Right Sector – – a claim that **both Sentsov and Right Sector deny**. Prosecutors also say that Sentsov has confessed to the terrorist plots. But the filmmaker and his lawyer, Dmitry Dinze – – who defended Pussy Riot members Nadezhda Tolokonnikova and Maria Alyokhina – – say Sentsov was beaten and threatened with rape to force him to confess.

Amnesty International this week **called on Russian authorities** to investigate Sentsov's allegations of ill-treatment and to return the Ukrainian detainees to Crimea.

Memorial head Aleksandr Cherkasov calls Sentsov a "political prisoner."

"Yes, he's a Maidan activist and he did a lot in Crimea -- for example, he helped Ukrainian soldiers get out of there safely," Cherkasov said. "But the circumstances surrounding the accusations against him suggest they might be fabricated.

"That's one more reason, aside from the quality of the film, that Memorial needed to show 'Gaamer.' In the end, it's a normal expression of solidarity by filmmakers, journalists, and social activists for a colleague who, in a return to the old Russian-Soviet tradition, is now located in Lefortovo."

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Masha Gessen, Opinion, Oleg Sentsov and the Kremlin's Thin Skin, N.Y. Times (28 August 2015)

The New York Times

Oleg Sentsov and the Kremlin's Thin Skin



By Masha Gessen

Aug. 28, 2015

On Tuesday, a military court in the southern Russian city of Rostov-on-Don sentenced a Ukrainian film director to 20 years in a maximum-security prison after convicting him of terrorism. In the hours after the verdict, small groups of people came out to protest in front of Russian consulates and embassies in several countries. In Tel Aviv, two young people held up signs marked with three words: two obscenities and a Russian word for "idiots." They probably best expressed the sense of gaping-mouth and helpless rage felt by all the people who had been following the Sentsov case.

Oleg Sentsov, 39, was arrested in May of last year in Crimea, which had been annexed by Russia less than two months earlier. He was accused of organizing, together with at least three other people, arson attacks on two pro-Kremlin organizations in Crimea and of planning to bomb a Soviet-era monument. Two of Mr. Sentsov's alleged accomplices pleaded guilty in exchange for leniency — they were sentenced to seven years each — and testified against him, but one of them recanted during the trial. The third alleged accomplice, 26-year-old Aleksandr Kolchenko, was sentenced to a 10-year prison term.

Mr. Sentsov denied any connection to the arson attacks or to any plans to destroy monuments. He rejected the prosecution's claim that he is affiliated with right-wing political groups. He also testified that he had been tortured while in police custody.

Two factors make Mr. Sentsov's sentence, which is harsh even by Russian standards, particularly significant. First, Mr. Sentsov is a citizen of another country, and he was arrested in what most of the world considers to be Ukrainian, not Russian, territory. Second, what made him a terrorist in the eyes of the Russian court apparently was the symbolism of his alleged crimes: He was accused of targeting a monument to Lenin, effectively a stand-in for the Russian state.

Mr. Sentsov was tried as a Russian citizen, a status that was forced upon him: The court claimed he had automatically acquired Russian citizenship when Russia annexed Crimea. Mr. Sentsov disagreed pointedly. After the judge finished reading the decision on Tuesday, Mr. Sentsov and Mr. Kolchenko, standing in a Plexiglas enclosure in the courtroom, began singing the Ukrainian national anthem.

It's not the first time Russia has abducted foreign citizens on foreign soil and dragged them into its own courts. Almost two years ago, Russia seized 30 Greenpeace activists in international waters in the Arctic and threw them into Russian jails. All but four were foreign citizens. All 30 were originally charged with piracy; then the charges were lowered to "hooliganism"; then the activists were amnestied and allowed to go home on the eve of the Sochi Olympics.



Oleg Sentsov during a court hearing on Tuesday, in Rostov-on-Don, Russia. Russia/Reuters

Just this week the International Tribunal on the Law of the Sea held that Russia had had no right to seize the Greenpeace ship and the people on it, and ordered Russia to pay them compensation. The decision has hardly attracted any attention. In fact, the 30 activists' cases had not attracted much international attention before that either — leaving Russia with the clear impression that it could kidnap foreign citizens abroad with near-impunity.

In one sense, Mr. Sentsov's case harkens back to the 1930s, when the Soviet regime accused people of being terrorists if it imagined that they opposed the state. The prosecution in Rostov-on-Don repeatedly asserted that Mr. Sentsov belonged to the Right Sector, a right-wing Ukrainian organization. (Mr. Sentsov denies this.) But unlike the people sentenced by Stalin's courts, Mr. Sentsov was not accused of plotting to overthrow the government or of spying for some faraway enemy.

A Russian court would normally deem the arson attacks — on an informal office of Russia's ruling United Russia party and another pro-Kremlin organization — to be crimes against property, not terrorism, and subject to five years' imprisonment at most. But Mr. Sentsov was also accused of plotting the bombing of a monument to Lenin, and such statues have become a symbol of Russia's continued domination over Ukraine. Whereas in Ukraine more than 100 Lenin monuments have been demolished by activists and local authorities since the revolution of 2014, in Russian-occupied Crimea, such monuments are fiercely protected. Russian pro-government media have portrayed the demolition of Lenin monuments as insults to the Russian state. In this respect, Mr. Sentsov's trial is in line with the 2012 trial of members of the protest art group Pussy Riot, which was essentially prosecuted for blasphemy.

But even Maria Alyokhina, a member of Pussy Riot who served nearly two years in prison, was shocked by the Sentsov verdict. "Our two years are [dismissive obscenity] compared to this," she wrote on her Facebook page. "Just imagine this: He will spend not two autumns behind a prison fence but twenty. Followed by as many winters."

Two decades in jail for alleged crimes committed against inanimate objects. All that may be left to do is silently shout profanities at the indifferent facades of Russian consulates.

Masha Gessen is the author, most recently, of "The Brothers: The Road to an American Tragedy."

RFE/RL, Ukrainian Filmmaker Sentsov Reportedly To Be Transferred To Russian Far North Prison(30 September 2017)



UKRAINE

Ukrainian Filmmaker Sentsov Reportedly To Be Transferred To Russian Far North Prison

September 30, 2017 17:51 GMT RFE/RL's Russian Service

Ukrainian filmmaker Oleh Sentsov, who is serving a 20-year prison term in Russia, has said he believes he will be transferred to Russia's northernmost prison camp near the village of Kharp in the Yamalo-Nenetsk Autonomous Region.

Sentsov made the claim in a letter to Russian journalist Zoya Svetova that was received on September 29 and **made public** on September 30.

The letter was dated on September 17 and mailed on September 21 from a remand prison in Tyumen.

Sentsov's whereabouts have been a mystery since early this month. Members of a public oversight commission in the Far Eastern city of Irkutsk reported on September 9 that Sentsov had been transferred from that city to the Urals city of Chelyabinsk. However, defense lawyers have had no idea of his location since then.

"Physically, no one touches me," Sentsov wrote. But you know well that this system can in perverse ways punish and torment a person without the use of brute force."

A Russian court convicted Sentsov and co-defendant Oleksandr Kolchenko in 2015 of planning to commit terrorist acts in the Ukrainian region of Crimea, which Russia illegally annexed in 2014. The two men deny the accusations. Sentsov was sentenced to 20 years, while Kolchenko received a 10-year term.

In the run-up to the annexation, Sentsov was a local leader of the Euromaidan movement that forced Ukrainian President Viktor Yanukovych out of power. During the Crimea crisis of February and March 2014, he helped to deliver food and other supplies to Ukrainian troops who were trapped on their bases in Crimea by Russian forces. He publicly stated that he did not recognize Russia's presence in Crimea.

Western governments and leading rights organizations have called for Sentsov and Kolchenko to be released. The Russian human rights center Memorial considers both men political prisoners.

Russia has refused two requests from Kyiv to hand over Sentsov and Kolchenko. In December 2016, Russian President Vladimir Putin said that "conditions [for their release] must be ripe."

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RFE/RL, Ukrainian Jailed in Crimea over Euromaidan 'Murder' Charge (10 June 2016)

6/7/2018

Radio Free Europe/Radio Liberty: Ukrainian jailed in Crimea over EuroMaidan 'murder' charge - Jun. 10, 2016 | KyivPost

Radio Free Europe/Radio Liberty: Ukrainian jailed in Crimea over EuroMaidan 'murder' charge By Radio Free Europe/Radio Liberty. Published June 10, 2016 at 5:28 pm



An anti-government opposition activist guards as Berkut special police examine a barricade of the opposition in Kyiv on Feb. 2, 2014.
 Photo by AFP
 Read the story here.

Max Seddon, Moscow Cracks Down on Embattled Crimea Tatar Dissidents: Russian Tactics Echo KGB Practice of Forced Psychiatric Confinement, Financial Times (11 October 2016)

Crimea

Moscow cracks down on embattled Crimea Tatar dissidents

"Loss fairs Tain?" in 12¹¹ in 12¹



Ukrainian activists hold a portrait of Tatar opposition leader Ilmi Umerov during a rally in support of Crimeans jailed by Russia © EPA Max Seddon in Bakhchisaray OCTOBER 11, 2016

Since it seized Crimea from Ukraine in 2014, sparking international condemnation, <u>Russia</u> has considered its rule of the peninsula a fait accompli — so much so that it attempted to have someone declared insane for questioning it.

For three weeks this summer Crimean Tatar opposition leader llmi Umerov was held in a mental hospital under orders from Russian security services. Conditions were so foul that he refused to use the bathroom for five days. He shared a ward with 100 other people and, rather than use the shower, washed with wet towels his relatives brought him. Doctors ultimately decided he had no mental problems and discharged him.

"The secret services organised massive torture against me," Mr Umerov said last month at his home in Bakhchisaray, the home of Crimean Tatar khans until Catherine the Great conquered the peninsula for Russia in 1783.

"The most important thing in Russia is that people are loyal. They don't want you to love them — they want you to shut up."

The 59-year-old's confinement in Crimea's Psychiatric Hospital No. 1 echoed the old KGB practice of enforced psychiatric confinement of Soviet dissidents. It is also a stark example of what Ukraine and its western allies say is a pattern of repression against the indigenous Crimean Tatar minority, which makes up just over a tenth of the peninsula's population of more than 2m.

Deported to Central Asia in 1944 by Joseph Stalin, the Tatars were only allowed to return in 1989 when Mikhail Gorbachev's government recognised their forced exile as a crime.



Ilmi Umerov: 'The most important thing in Russia is that people are loyal. They don't want you to love them – they want you to shut up' © AFP The sleepy town of Bakhchisaray remains the minority's unofficial capital even though Russians now outnumber them there. Nestled in the foothills along Crimea's main highway, today it attracts mostly Russian tourists who come to see the khans' Ottoman-style palace. It is also home to the Mejlis, the Tatars' semi-official governing body, which vocally opposed the annexation by Russia, which Crimea's Russian majority largely welcomed.

Since then, the Mejlis has been banned, several Crimean Tatars have faced criminal prosecutions and there have been many forced disappearances. Human Rights Watch blames Russia for a "pervasive atmosphere of fear and repression" against Crimean Tatars and others who oppose Moscow's rule.

Comment

Since his discharge from hospital, Mr Umerov has not been allowed to leave Bakhchisaray. If he is found guilty of sedition under a new law used to prosecute

several Crimean Tatar dissidents, he faces up to three years in prison for comments he made on a Crimean Tatar TV channel about US and EU sanctions on Russia.

Mr Umerov says the accusations are based on a mistranslation. He says he simply repeated western leaders' statement that the sanctions will be lifted in full only when Russia ends the military conflict in eastern Ukraine and withdraws from Crimea.

A transcript provided by the FSB, the KGB's successor agency, however, claims Mr Umerov said: "It's important to make Russia leave Crimean . . . if it was only possible to restore Ukraine's former borders." Prosecutors say that Mr Umerov was "using the internet to call for actions that would violate the territorial integrity of the Russian Federation". Other Tatar leaders have been targeted as well. The Mejlis's leader, Refat Chubarov, and its longtime figurehead, Mustafa Dzhemilev, a well-known former Soviet dissident, have been denied entry to Crimea. Several other Crimean Tatars have been arrested or murdered. In response, Crimean Tatar leaders successfully pushed for Ukraine to instigate a trade embargo against the peninsula last year.



In an effort to show it is sensitive to the plight of the Crimean Tatars, Moscow appointed Zaur Smirnov, a former deputy head of the Mejlis, as an official race relations ombudsman. Unlike his former colleagues, Mr Smirnov welcomed the annexation and applauded the Russian supreme court's decision last week to uphold its bans on the Mejlis.

"Crimean Tatars will no longer be associated with a criminal organisation that single-handedly took for itself the right to speak on behalf of the whole people," he said.

Mr Umerov counters most Crimean Tatars support him. He points to what he says was a boycott of <u>Russian parliamentary elections</u> last month — even though Mr Smirnov says 80 per cent of the Crimean Tatars took part in the vote.

Despite all his problems, Mr Umerov, who also suffers from Parkinson's disease, diabetes and heart problems, takes the long view.

Like most older Crimean Tatars, he was born in Central Asia and did not visit his ancestral homeland until he was an adult. The current state of affairs, Mr Umerov says, is just temporary. "Yesterday they were Ukrainian, today they're Russian, and tomorrow they'll be someone else," he says of his fellow Tatars. "But we didn't come back here [to Crimea] to leave again." Copyright The Financial Times Limited 2018. All rights reserved.

Christina Paschyn, Russia Is Trying to Wipe Out Crimea's Tatars, N. Y.Times (19 May 2016)

The New York Times

OP-ED CONTRIBUTOR

Russia Is Trying to Wipe Out Crimea's Tatars

By Christina M. Paschyn

May 19, 2016

Russia suffered an unexpected defeat in the Eurovision Song Contest on Saturday when its singer came in third, while Ukraine, of all countries, took first place.

To add insult to injury, Ukraine's contestant, Jamala, is of Crimean Tatar descent. And she didn't sing just any song, but a song about her people's ruthless deportation by Soviet authorities in 1944, when more than 230,000 Crimean Tatars, an overwhelming majority of the population, were exiled from the Crimean Peninsula. Nearly half died as a result of this ethnic cleansing.

Russian officials criticized Ukraine's victory as yet another example of the West's "propaganda and information war" against their country. Meanwhile, Europe is no doubt feeling good about itself for delivering a karmic blow to President Vladimir V. Putin of Russia, whose annexation of Crimea in 2014 and continuing war in Ukraine still sting.

But the Eurovision victory took place in the world of entertainment. In the real world, Russia is escalating its crackdown on the Crimean Tatars, who now make up 12 percent of Crimea's population after the Soviet Union allowed the deportation survivors and their descendants to return in 1989.

On April 26, Russia banned the Crimean Tatars' legislature, the Mejlis, calling it an extremist organization. On May 12, the authorities arrested several Tatars, including Ilmi Umerov, deputy chairman of the Mejlis. Activists say that more searches and arrests are likely soon. This would be a particularly tone-deaf move on Russia's part, considering that the anniversary of the 1944 deportation is this week.

But if past treatment of the Crimean Tatars is anything to go by, Russia probably isn't bothered by that.

The Crimean Tatars have always been easy scapegoats for Russia. Joseph Stalin's justification for deporting them was that they had sided with Germany in World War II. It's true that some did, historians say, either because they were forced to by the invading army or because they believed

the Germans would liberate them from the Soviet Union. But records show that just as many Crimean Tatars, if not more, did not defect during the war. Many fought valiantly for the Red Army.

Brian Glyn Williams, a historian at the University of Massachusetts at Dartmouth, posits that Stalin's true motivation wasn't revenge but instead plans to launch a war against Turkey to retake land that Russia had lost during World War I. Stalin wanted to neutralize potential collaborators; the Crimean Tatars, a Muslim Turkic people, were prime suspects.

The Crimean Tatars' suffering goes as far back as 1783, when Russia first conquered and annexed the peninsula and began forcing them out. For hundreds of years before Russia took control, the Crimean Tatars had their own state, the Crimean Khanate.

Crimean Tatars still refuse to submit to Russian occupation. Most opposed the 2014 annexation, and their leadership continues to demand Crimea's reunification with Ukraine.

Russia has not taken kindly to this dissent. Russian authorities have shut down Crimean Tatar media. Russian forces have raided homes and mosques, and harassed and imprisoned Crimean Tatar activists, some of whom have disappeared or been killed. Russia has tried to block the Crimean Tatars from publicly commemorating the deportation and has even re-exiled Mustafa Dzhemilev, the Crimean Tatars' political leader.

According to Ukraine's Foreign Ministry, about 20,000 Crimean Tatars have fled the peninsula since the annexation. This is devastating for a people who spent 45 years banished from their homeland. Many thought they were done with Russia once and for all when the Soviet Union disintegrated and Crimea belonged to Ukraine. Few predicted that their nightmare would begin anew in 2014.

If the Crimean Tatars are to survive, Western governments must do more to help.

The first step is to formally recognize the Crimean Tatars as the indigenous people of Crimea. Ukraine finally did so two years ago, and the European Parliament later followed. Likewise, the 1944 deportation should be recognized as an act of genocide. Ukraine officially declared it so in 2015 and is now calling on other governments and organizations, including the United Nations, to do the same.

The State Department has issued the occasional news release denouncing Russia's treatment of the Tatars, but this is not enough. After Russia's invasion of Crimea, President Obama signed executive orders outlining the sanctions the United States would apply and the justifications for them. These should be updated to cite Russia's human rights violations against the Tatars. The United States should also push for European Union officials to renew sanctions against Russia when they expire at the end of July. Not doing so would signal to Mr. Putin that he can get away with trampling on Ukraine's sovereignty.

Opinion | Russia Is Trying to Wipe Out Crimea's Tatars - The New York Times

In addition, American elected officials should support the Stand for Ukraine bill, introduced in Congress in April. The law would affirm the United States' refusal to recognize Russia's annexation of Crimea. More significantly, it would prevent the president from lifting the sanctions listed in the executive orders until Crimea's status has been resolved with Ukraine's approval.

The Crimean Tatars are doing all they can to resist the destruction of their culture. Last year activists prevented food and power coming from Ukraine from entering the peninsula. The blockade caused blackouts but demonstrated how dependent Crimea was on the Ukrainian mainland. Mr. Dzhemilev and other Crimean Tatar leaders in Ukraine frequently meet with foreign leaders and appear in the news media. Crimean Tatar representatives are trying to make their case to the United Nations.

Is anyone listening? The world does not have a good track record when it comes to protecting indigenous peoples; it is often too eager to sacrifice them for political expediency.

There are those who say that Crimea is a lost cause — that Mr. Putin will never allow it to be returned to Ukraine because Russian ties to the peninsula run too deep. They forget that Crimea belonged to the Crimean Tatars first, long before the Russian Empire, the Soviet Union and Mr. Putin.

Christina M. Paschyn, an instructor of journalism at Northwestern University in Qatar, is the director of the documentary film "A Struggle for Home: The Crimean Tatars."

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RFE/RL, Russian Court Convicts Crimean Tatar Leader Umerov of 'Separatism' (28 September 2017)



Russian Court Convicts Crimean Tatar Leader Umerov Of 'Separatism'

Last Updated: September 28, 2017 08:41 GMT Crimea Desk, RFE/RL's Ukrainian Service

SIMFEROPOL, Ukraine -- A court in Russian-occupied Crimea has convicted prominent Crimean Tatar leader Ilmi Umerov of separatism after a trial Human Rights Watch called "ruthless retaliation" for his opposition to Moscow's takeover of the peninsula.

The Russian-appointed judges in Simferopol, the Crimean capital, found Umerov guilty on September 27 and sentenced him to two years in a colony settlement, a penitentiary in which convicts usually live near a factory or farm where they are forced to work.

"The case against Umerov was nothing but a sham from the start and today's guilty verdict is a ruthless retaliation for publicly saying that his home should be free," Tanya Cooper, Ukraine researcher at Human Rights Watch, said in remarks to RFE/RL after the court decision.

The judges began reading out the ruling before Umerov's defense team was inside the courtroom.

Speaking to reporters earlier, defense lawyer Mark Feygin expressed hope for a less severe sentence, given a recent UN report that contained scathing criticism of the human rights situation in Crimea under Russian rule.

But the court imposed a sentence that was harsher than that sought by prosecutors, who had recommended a three-year suspended sentence with a ban on all public activities for three years. With a suspended sentence, Umerov would not have been confined to a penitentiary.

Umerov said he would appeal the ruling all the way to the European Court of Human Rights.

"This sentence will not force me to change my convictions," he said.

"I will remain a person who considers that Crimea is the territory of Ukraine that has been occupied by Russia," he added.

Umerov's lawyer, Feygin, said he hoped Western countries would put pressure on Russia to try to quash the verdict. "His dispatch to a prison colony would mean his death," he said of his client.

The European Union called Umerov's sentencing "a serious violation of his human rights, another example of persecution of the Crimean Tatar community."

A statement issued by Maja Kocijancic, a spokeswoman for EU foreign policy chief Federica Mogherini, said the move was "a further and clear illustration of the severe deterioration of human rights on the Crimean Peninsula, as most recently documented by the United Nations High Commissioner for Human Rights in his report published earlier this week."

A UN human rights report issued on September 25 said that Russia's occupation of Crimea had been **marked by disappearances and torture**, infringements of the Geneva Convention, and violations of international law.

The human rights situation in Crimea "has significantly deteriorated under Russian occupation," the UN Human Rights Office said in the report.

Ukrainian President Petro Poroshenko **condemned the sentence as "disgraceful"** on Facebook, calling Umerov "a hero of his people against whom Moscow used the worst methods of Soviet-era repression."

Ukraine's Foreign Ministry called the verdict an "illegal and politically motivated sentence" that it said violated Umerov's human rights.

"Russia continues its shameful policy of pressure on the independent leaders of occupied Crimea," the ministry said in a statement.

Umerov, a deputy chairman of the Mejlis, the Crimean Tatars' elected representative body, has been an outspoken critic of Russia's seizure of the Black Sea peninsula from Ukraine in March 2014 and its subsequent crackdown on Crimean Tatars.

Russia's Federal Security Service (FSB) detained Umerov, who suffers from diabetes and Parkinson's disease, in May 2016 in Crimea and charged him with separatism.

He was confined in a psychiatric hospital in August 2016 by the Russian-imposed authorities in Crimea, a decision condemned by Human Rights Watch as "an egregious violation of his rights."

"They tried to scare Umerov with criminal prosecution, forced him to undergo a humiliating psychiatric examination, refused him medical care he required for his health condition, yet he did not abandon his peaceful, principled opposition to Kremlin's abuses in Crimea," Cooper said.

Speaking at the trial on September 20, the 60-year-old Umerov said that the charges against him had a single goal, "which is to punish those who oppose the annexation."

"I call the annexation an annexation and the authorities established [by Russia] occupation authorities," he told the court.

Umerov said he considered himself "only a citizen of Ukraine."

The Moscow-based human rights group Memorial has called the case against Umerov "illegal and politically motivated."

The charges stem from a March 2016 live interview with the Crimean Tatar TV channel ATR, which was later posted on YouTube. Russian authorities shut down the station in April 2015 and it relocated to Kyiv.

Umerov said the translation of the interview into Russian from Tatar was poorly done and distorted his remarks.

Cracking Down On Crimean Tatars

The Russian authorities have outlawed the Mejlis after deeming it extremist, part of what rights groups and Western governments say is a persistent campaign of oppression targeting Crimean Tatars and other citizens who opposed Moscow's takeover.

Another Mejlis deputy chairman, Akhtem Chiygoz, was convicted of organizing an illegal demonstration and sentenced to eight years in prison on September 11 after what Amnesty International called a "**sham trial**."

Umerov's conviction follows a **similar ruling** in Crimea on September 22 against RFE/RL contributor Mykola Semena.

The U.S. State Department on September 25 expressed concern over the conviction of Semena, who was handed a 2 1/2-year suspended sentence, saying it was "based on the fact that Mr. Semena had criticized Russia's occupation and attempted annexation of Crimea in his writing."

Following the ouster of a Moscow-friendly Ukrainian president in February 2014, Russia seized control of Crimea by sending in troops and staging a referendum deemed illegitimate by at least 100 countries in the United Nations.

With reporting by Reuters

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Annex 1085

Ukrainian Parliament Commissioner for Human Rights, Officially: Mr. Oleg Sentsov Is the Citizen of Ukraine (8 April 2015)

Укр Рус

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Ukrainian Parliament Commissioner for Human Rights

Pet	itioner	Secretariat of the Commissioner	National Preventive Mechanism	Social, economic and humanitarian law	Personal Data Protection	Rights of the Child	Preventing and Combating Discrimination	Rights for information
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Home / Secretariat of the Commissioner / Press service / News / Officially: Mr. Oleg Sentsov is the citizen of Ukr...

History

Ombudsman

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Interaction with the Constitutional Court of Ukraine

Right to judicial relief

International cooperation

Communication policy and public relations

Press service

Competition to fill the vacancies

Activities of the Secretariat

Monitoring of the Commissioner's activities

Public disclosure of declarations concerning property, income, expenses and financial obligations of public officials

Officially: Mr. Oleg Sentsov is the citizen of Ukraine

08/04/2015 15:03



In response to the letter of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights concerning citizenship of Ukraine of Mr. Oleg Sentsov the State Migration Service of Ukraine officially informed that according to article 3 of the Law of Ukraine "On citizenship" Mr. Sentsov O. G. is a citizen of Ukraine.

"According to the registration in the State Information System Mr. Sentsov Oleg Gennadiyevich, the native of Autonomous Republic of Crimea, is documented by the passport of the citizen of Ukraine and foreign passport of the citizen of Ukraine", – it is said in the reply of the State Migration Service of Ukraine.

We will remind, Ms. Valeriya Lutkovska repeatedly in her speeches noted that one of the most cynical human rights violations in the Crimea is automatic acquisition by citizens of Ukraine of the Russian citizenship.

"The compulsory obtaining of citizenship of the Russian Federation reminds a situation with the serf when people together with the land automatically passed to nationality of other country. At the same time, as for people, who refused the Russian nationality for one reason or another, the Ukrainian nationality is not admitted, they are deprived of a number of the rights assigned for them as for citizens of Ukraine", – Ms.Valeriya Lutkovska emphasized.

OUR PARTNERS

Annex 1086

Media Relations Department of Sevastopol City Council, Results of the Crimea-wide Referendum of March 16, 2014 Ratified at the Session of the City Council (17 March 2014)

Results of the Crimea-wide referendum of March 16, 2014 ratified at the session of the City Council Publication date 03/17/2014 11:45

On March 17 at an extraordinary plenary session the deputies of Sevastopol City Council ratified the minutes of the Sevastopol City Commission for holding the Crimea-wide referendum on the voting results within the city of Sevastopol.

The chairman of the Sevastopol City Commission for preparing for and holding the Crimea-wide referendum, Valeriy Medvedev, read out the minutes according to which 306,258 people were on the voting lists and 274,101 people participated in the voting.

2,810 ballots were declared invalid, 9,250 votes of participants in the Crimea-wide referendum were cast in support of issue No. 2 of the Crimea-wide referendum (Do you support restoration of the 1992 Constitution of the Republic of Crimea and Crimea's status as a part of Ukraine?) of the Crimea-wide referendum.



The number of votes of participants in the Crimea-wide referendum cast in support of issue No. 1 of the Crimeawide referendum (Do you support rejoining Crimea with Russia as a subject of the Russian Federation?) was 262,041 people, which is 95.6 percent of the number of voters.

62 deputies voted unanimously "for" ratifying results of the referendum.

The deputies also unanimously supported the proposal to rename Sevastopol City Council as the Legislative Assembly.

The City Council empowered the chairman of the coordinating council for organizing the Sevastopol City Administration to support the vital activities of Sevastopol,

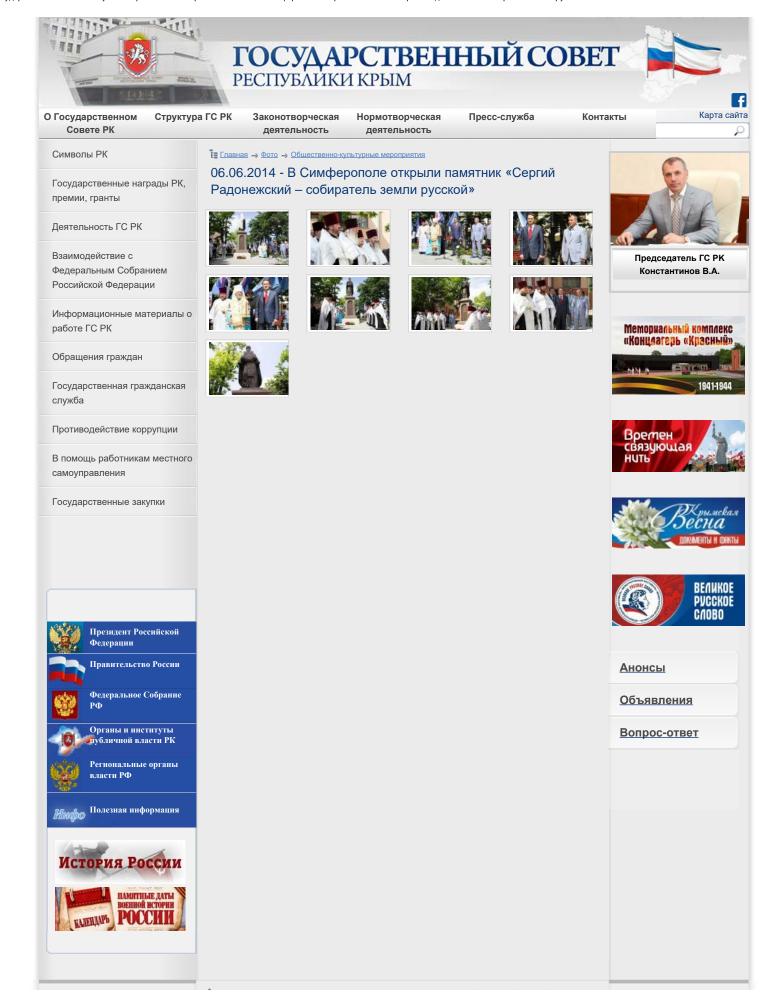
Aleksey Chaly, to sign the interstate treaty on acceptance of the hero city with special status of Sevastopol as part of the Russian Federation.

Media relations department

Annex 1087

A Monument "Sergius of Radonezh - the Collector of Russian Land" Was Opened in Simferopol (6 June 2014), archived at http://crimea.gov.ru/foto/society/0606142

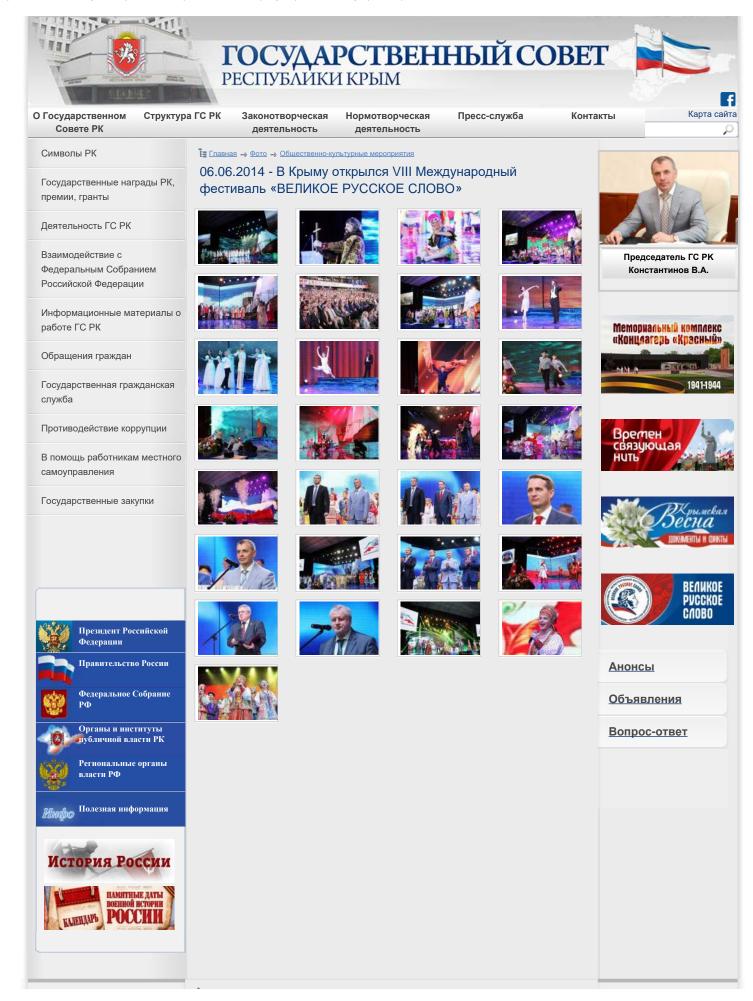
Государственный Совет Республики Крым - Фотогалерея - 06.06.2014 - В Симферополе открыли памятник «Сергий Радонежский – собиратель земли русской»



Annex 1088

Solemn Meeting of Residents and Guests of Simferopol, Dedicated to the 215th birthday of Alexander Sergeevich Pushkin (6 June 2014), archived at http://crimea.gov.ru/foto/society/060614

Государственный Совет Республики Крым - Фотогалерея - 06.06.2014 - В Крыму открылся VIII Международный фестиваль «ВЕЛИКОЕ РУССКОЕ СЛОВО»



Annex 1089

U.S. Department of State, 2015 Human Rights Reports: Ukraine (Crimea) (13 April 2016)

UKRAINE 2015 HUMAN RIGHTS REPORT

Note: Except where otherwise noted, references in this report do not include separatist-controlled areas in the Donbas region of eastern Ukraine or Russiaoccupied Crimea. At the end of this report is a section listing human rights abuses in Russian-occupied Crimea.

EXECUTIVE SUMMARY

Ukraine is a republic with a semi-presidential political system composed of three branches of government: a unicameral legislature (the Verkhovna Rada), an executive led by a directly elected president and a prime minister chosen through a legislative majority, and a judiciary. The country last held presidential and legislative elections in May 2014 and October 2014, respectively; international and domestic observers considered both free and fair. Civilian authorities generally maintained effective control over security forces. Authorities did not have control over security forces in the eastern part of the country controlled by Russian-backed separatists and in Russian-occupied Crimea.

The most significant human rights developments in the country during the year were:

First, separatists, supported by Russian military and civil officials, continued to control parts of Donetsk and Luhansk regions by force of arms, as self-proclaimed "people's republics." The United Nations reported that, as of November 15, more than 9,000 persons had died and approximately 18,000 had been wounded as a result of Russian aggression in these regions, including civilians, members of the Ukrainian armed forces, and Russian-backed separatists, since fighting began in 2014. More than two million persons have fled the region. Separatists systematically engaged in abductions, torture, and unlawful detention. To a lesser extent, there were also reports of these practices by government forces. Separatists also employed child soldiers and restricted humanitarian aid. Additionally, the government imposed restrictions on freedom of movement. Internally displaced persons (IDPs) faced difficulties obtaining legal documents, education, pensions, and access to financial institutions and health care.

Second, in Crimea, Russian occupation authorities committed numerous human rights abuses, targeting ethnic and religious communities, particularly Crimean Tatars, as well as independent journalists and anyone perceived as opposing the

Russian occupation regime. Russia's occupation of Crimea displaced more than 20,000 Crimeans.

Third, the country suffered from corruption and deficiencies in the administration of justice. Human rights groups and the UN noted there were few investigations into human rights abuses committed by security forces. In particular, the Security Service of Ukraine (SBU) and Ministry of Internal Affairs operated with impunity. Corruption in the Prosecutor General's Office and the judiciary was of particular concern.

Other problems reported during the year included abuse of persons in custody, in particular beatings and alleged torture of detainees and prisoners; harsh conditions in prisons and detention facilities; societal violence against women and abuse of children; societal discrimination against and harassment of ethnic and religious minorities; trafficking in persons; discrimination and harassment against lesbian, gay, bisexual, transsexual, and intersex (LGBTI) persons; and discrimination against persons with HIV/AIDS. There also were limitations on workers' right to strike; forced labor; and failure to enforce effectively labor laws and occupational safety and health standards for the workplace.

The government generally failed to take adequate steps to prosecute or punish most officials who committed abuses, resulting in a climate of impunity. Investigations into the 2014 Euromaidan shootings in Kyiv and riots in Odesa remained incomplete more than a year later. Investigations into human rights abuses related to the Russian occupation of Crimea and the conflict in the Donbas region were also incomplete. Although the country is not a signatory to the Rome Statute, in September the government granted jurisdiction to the International Criminal Court (ICC) under Article 12(3), which allows nonmembers states to grant authority to the ICC to investigate crimes against humanity committed on their territory.

Neither Russia nor Russian-backed separatists conducted investigations of the above-mentioned human rights abuses in Crimea or separatist-controlled areas.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that the government or its agents committed arbitrary or unlawful killings. In the Donbas region, there were numerous reports of killings in

parts of Luhansk and Donetsk oblasts in territory controlled by Russia-backed separatists related to Russian aggression (see section 1.g.).

According to media reports and local authorities, on May 8, three military personnel summarily executed a civilian with pro-Russian political views in the village of Talakivka, near Mariupol, after holding an impromptu, unlawful "court" proceeding. Authorities arrested the men, and they faced trial, but the status of the case was unknown at year's end.

According to the UN Human Rights Monitoring Mission in Ukraine (HRMMU), on January 28, Ministry of Internal Affairs troops allegedly abducted Volodymyr Kulmatytskiy, the former deputy mayor of Slovyansk, and his driver. Authorities found them shot and killed on January 31. Security forces killed one alleged perpetrator while being apprehended. Authorities convicted three others on weapons charges and released them.

There were several reports during the year of politically motivated killings by nongovernment actors.

On February 22, a bomb killed four persons and wounded 10 at a march in Kharkiv promoting national unity. Authorities arrested four individuals who they claimed were armed and trained in Russia. The investigation continued through year's end.

On August 31, demonstrators protesting outside the Verkhovna Rada against passage of a constitutional amendment on decentralization beat law enforcement officers and sprayed tear gas. One protester threw a grenade at National Guard forces, killing four persons and wounding 141. Law enforcement authorities detained 30 persons, including the suspected attacker. An investigation into the incident continued through year's end.

Human rights organizations and media reported deaths in prisons or detention centers due to torture or negligence by police or prison officers (see Prison and Detention Center Conditions).

Law enforcement agencies continued their investigation of crimes committed during the Euromaidan protests in Kyiv from November 2013 to February 2014. On February 24, authorities arrested Oleksandr Marynchenko and Serhiy Tamtura, two former Berkut riot police officers, and accused them of involvement in the death of 39 Euromaidan activists. Additionally, authorities arrested Oleksandr Shcheholev, the former head of the Kyiv branch of the SBU. On December 2,

authorities found Ramil Islamli and Aziz Tahirov guilty and sentenced them to four years of imprisonment for kidnapping and assaulting Euromaidan activists. As of year's end, authorities had charged nine individuals with crimes related to the Euromaidan protests. Human rights groups remained critical of the perceived slow pace of the investigations.

Law enforcement agencies also continued their investigation into the events in May 2014 in Odesa in which 48 persons died, including six supporters of the Ukrainian government and 42 persons who supported more autonomy for regions. Those who supported autonomy died in a fire at the Trade Union Building; authorities largely failed to investigate these deaths, focusing on alleged crimes committed by individuals seeking more autonomy. A Council of Europe (COE) report from November 4 found that the government's investigation lacked independence and that the Prosecutor General's Office and the Ministry of Internal Affairs failed to conduct a thorough, coordinated investigation. The COE also expressed concern that authorities released some suspects.

b. Disappearance

There were multiple reports of politically motivated disappearances. In the Donbas region, there were numerous reports of disappearances and abductions related to the conflict between the Ukrainian government and Russian-backed separatists (see section 1.g.).

Media and human rights experts from both domestic and international organizations recorded cases of progovernment paramilitary or volunteer military units kidnapping individuals on government-controlled territory. For example, on June 17, authorities arrested a commander and seven members of the Tornado volunteer battalion, charging them with the kidnapping, unlawful detention, rape, and torture of local residents of government-controlled territory in the Luhansk Oblast. An investigation into the case continued at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution and law prohibit torture and other cruel punishment, there were reports that law enforcement authorities engaged in such abuse. While courts cannot legally use as evidence in court proceedings confessions and statements made to police by persons in custody under duress, there were reports that police and other law enforcement officials abused and at times tortured

persons in custody to obtain confessions. Amnesty International (AI) and other human rights organizations reported violation of rights of detained persons.

In the Donbas region, there were reports that government forces and progovernment battalions engaged in military operations at times committed human rights abuses, including torture. Separatist forces in the self-proclaimed "people's republics" of Donetsk and Luhansk systematically committed numerous abuses, allegedly including torture, to maintain control. According to international organizations and nongovernmental organizations (NGOs), abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence (see section 1.g.).

According to the HRMMU, in March a resident of Slovyansk, Donetsk Oblast turned to the Office of the Ombudsperson in connection with the abduction of her husband in February and filed a complaint with police. On March 26, she received a response from the SBU that her husband had been detained by the Dnipropetrovsk SBU office. The detainee informed the Ombudsperson's Office that after his abduction, authorities took him to a bomb shelter for 26 days, where he was held incommunicado and systematically tortured to confess to illegal activities in support of separatists in Donetsk Oblast. The man remained in pretrial detention at year's end.

Abuse of prisoners and detainees by police and prison authorities remained a widespread problem. For example, according to media and NGO reports, in late October, authorities beat Andriy Danylyuk to death in a Khmelnytsky pretrial detention center. Although authorities initially informed his wife that he died of a heart attack, observers later established that authorities had handcuffed Danylyuk and beaten him to death with a hammer--as evidenced by severe trauma to his body and head. Danylyuk's wife alleged he was killed because of his intention to expose the involvement of prison leadership in drug trafficking and corruption. The Khmelnytsky prosecutor's office launched criminal proceedings against two officers of the penitentiary service. The investigation continued at year's end.

On April 10, the Kharkiv military prosecutor informed the HRMMU of allegations that a secret detention facility existed on the premises of the Kharkiv SBU. According to the HRMMU, a number of persons claimed to have been held and abused in this facility, and described how, prior to the visit of the military prosecutor, they had been removed by SBU officers from their cells and placed in the basement or other places within the building. In November the HRMMU

received reports that authorities detained 27 persons at the facility, where authorities allegedly subjected them to torture and mistreatment.

There were also multiple reports by the HRMMU, the Organization for Security and Co-operation in Europe (OSCE), and human rights groups of a detention facility at the Mariupol Airport operated by the SBU, where security officials allegedly hold prisoners incommunicado and subjected them to abuse without accountability. Authorities denied the UN special rapporteur on summary executions access to the airport in September.

During the first eight months of the year, the Prosecutor General's Office opened criminal investigations into alleged torture or degrading treatment by police. Of that number authorities forwarded cases 24 cases specifically alleging torture or degrading treatment involving law enforcement officers.

According to the Ministry of Internal Affairs, during the first nine months of the year, authorities launched 153 criminal cases against police officers for crimes including torture, illegal arrests and searches, and illegal confiscation of property. Of these instances of abuse, seven cases were for alleged torture. Authorities imposed disciplinary actions against an additional 84 officers and fired 26 from the law enforcing bodies.

Prison and Detention Center Conditions

Prison and detention center conditions remained poor, did not meet international standards, and at times posed a serious threat to the life and health of prisoners. Physical abuse, lack of proper medical care and nutrition, poor sanitation, and the lack of adequate light were persistent problems.

The Ukrainian Helsinki Human Rights Union (UHHRU) reported correctional officers conducted a mass beating of convicts who arrived at Penal Colony 77 in Berdyansk, Zaporizhzhia Oblast, on February 27. A UHHRU investigation determined that a mass beating occurred, and authorities subjected inmates to inhuman treatment, failed to provide sufficient medical care, and attempted to conceal their actions.

<u>Physical Conditions</u>: Authorities generally held men, women, and juveniles in separate facilities, although there were reports that in some pretrial detention facilities, there was no separation of juveniles and adults.

Conditions in police temporary detention facilities and State Penitentiary Service pretrial detention facilities were harsher than in low- and medium-security prisons. Overcrowding decreased, as there was a reduction in the number of inmates, however, overcrowding remained a problem in pretrial detention facilities. Temporary detention facilities often lacked adequate sanitation and medical facilities.

As of October 1, 375 individuals had reportedly died in the facilities of the State Penitentiary Service. Of this number 35 committed suicide and 321 died of diseases. On January 25, a 21-year-old convict died in Lukyanivska remand facility in Kyiv. Prison authorities stated he died of an electrical injury. Inmates claimed authorities ignored requests for medical help and refused to enter the prisoner's cell. The penitentiary service conducted an investigation of the incident.

On April 29, the Council of Europe's Committee for the Prevention of Torture (CPT) released a report based on visits to penal colonies 25 and 100 in Kharkiv Oblast in September 2014. The committee found an "atmosphere of fear" in the penal colonies and noted the reluctance of prisoners to talk to the committee. The committee heard allegations that authorities used severe physical mistreatment or torture to maintain internal order, including by senior prison staff members, and that prisoners who cooperated with the committee could expect to be punished.

According to the Association of Independent Monitors and the Ombudsman's Office, authorities failed to protect adequately the lives and human rights of prisoners in areas close to the zone of operation against separatists in eastern Ukraine and also failed to evacuate staff and inmates in a timely fashion. According to the OSCE, approximately 340 prisoners escaped Penal Colony 23 in Chornukhyne on or about February 10 to flee heavy fighting at Debaltseve. According to the OSCE, only 30 inmates remained in the facility, while 83 returned in the following days; another 23 turned themselves in to Ukrainian military units. The whereabouts of the remainder was unknown.

The condition of prison facilities in separatist held areas was poor, and there were reports of lack of food, water, heat, sanitation, and proper medical care.

<u>Administration</u>: Authorities kept records of prisoners in detention, but they were occasionally incomplete. Authorities lacked central record keeping, leading to difficulties for prisoners held in separatist areas. Human rights groups reported instances in which authorities confiscated prisoners' passports and failed to return them upon their release. Prisoners released by separatists often had no

identification or passports. Alternative sentencing, such as fines or community service, was available for some nonviolent offenders. There was no prison ombudsman. Prisoners could file complaints with the Office of the Parliamentary Ombudsman for Human Rights, which conducted prison monitoring. As of December 1, the ombudsman's office received 1,695 complaints from prisoners.

The most common complaints regarded cruel, inhuman, and degrading treatment; public humiliation; limited communication with family members and relatives; denial of the right to legal consultation; and denial of the right to submit a complaint on actions of the administration. Prisoners also complained about inadequate medical treatment and precautions. For example, authorities did not isolate prisoners with contagious tuberculosis from other patients. Prisoners also complained about the lack of appropriate living space and poor sanitary conditions.

Although prisoners and detainees may file complaints about conditions in custody with the parliamentary ombudsman for human rights, human rights organizations noted prison officials continued to censor or discourage complaints and penalized and abused inmates who filed them. Rights groups reported legal norms did not always provide for confidentiality of complaints.

Officials generally allowed prisoners to receive visitors, with the exception of those in disciplinary cells. Prisoner rights groups noted some families had to pay bribes to obtain permission for prison visits to which they are entitled by law.

<u>Independent Monitoring</u>: The government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups, including the CPT. During the year the ombudsperson's office together with representative of civil society made monitoring visits to 17 penitentiary facilities located in nine oblasts.

<u>Improvements</u>: The government responded to concerns raised by the CPT in letters dated February 11 and 23. Authorities reported that the government had dismissed the directors of Colonies 25 and 100, initiated criminal proceedings regarding allegations at Colony 100, and the minister of justice had issued detailed instructions to all prison directors to prevent mistreatment of prisoners.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but serious problems remained.

The HRMMU and other international groups reported numerous unauthorized detentions in areas of the Donbas controlled by separatists (see section 1.g.).

Role of the Police and Security Apparatus

The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The SBU is responsible for all state security, nonmilitary intelligence, and counterintelligence. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The State Fiscal Service exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers. The State Migration Service implements state policy regarding border security, migration, citizenship, refugee registration and other registering other migrants; the Ministry of Internal Affairs oversees it.

Civilian authorities generally had control over law enforcement agencies but rarely took action to investigate and punish abuses committed by security forces.

Impunity for abuses by law enforcement remained a significant problem. During a September visit to the country, the UN special rapporteur on extrajudicial, summary or arbitrary executions recommended that the government establish a system of independent overview of the conduct of law enforcement, with a particular focus on allegations of mistreatment by the SBU.

Human rights groups expressed concern that authorities have not properly investigated crimes committed by Ukrainian forces and have not punished them. In particular human rights groups noted that alleged crimes committed by the Aidar Battalion remained unsolved, including the killing of two persons in Shchastya in February.

While authorities sometimes brought charges against members of the security services, cases often remained under investigation without being brought to trial, while authorities allowed alleged perpetrators to continue their work. The HRMMU noted the case of Oleksandr Agafonov, allegedly beaten to death by SBU officers after officers stopped him at a government checkpoint in Kharkiv in November 2014. It took investigators more than a year to identify the alleged perpetrators; authorities released both on bail.

Additionally, human rights groups criticized the lack of progress in investigations of alleged separatist crimes in areas retaken by Ukrainian forces. In particular investigations of alleged crimes committed by separatists in Slovyansk and Kramatorstk in 2014 appeared stalled. Human rights groups believed that many of the local law enforcement personnel in both cities collaborated with separatists when they controlled these cities.

Under the law members of Verkhovna Rada have authority to conduct investigations and public hearings into law enforcement problems. The parliamentary ombudsman for human rights may also initiate investigations into abuses by security forces.

Security forces generally prevented or responded to societal violence. At times, however, they used excessive force to disperse protests and, in some cases, failed to protect victims from harassment or violence. For example, on June 11, approximately 30 persons attacked a group of international students in Kharkiv. Human rights groups claimed that police failed to protect the students; the attackers wounded nine, and six were hospitalized (see section 6, National/Ethnic/Racial Minorities).

Arrest Procedures and Treatment of Detainees

By law authorities may detain a suspect for three days without a warrant, after which time a judge must issue a warrant authorizing continued detention. Authorities, however, in some cases detained persons without a warrant.

Prosecutors must bring detainees before a judge within 72 hours, and pretrial detention should not exceed six months for minor crimes and 12 months for serious crimes. Persons have the right to consult a lawyer upon their detention. According to the law, prosecutors may detain suspects accused of terrorist activities for as long as 30 days without charges or a bench warrant. Under the law citizens have the right to be informed of the crimes brought against them and to challenge an arrest in court or by appeal to a prosecutor. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures. Police at times failed to keep records or register detained suspects, and courts often extended detention to allow police more time to obtain confessions. Authorities kept suspects under house arrest and occasionally held incommunicado, in some occasions for several weeks.

In April and May, the HRMMU interviewed detainees in an Odesa pretrial facility arrested on suspicion of terrorism. According to the HRMMU police carried out searches without warrants and used excessive force; authorities did not inform detainees of their rights; and officials delayed access to legal aid. Detainees claimed authorities subjected them to mistreatment and torture, including beatings, administration of electric shocks, and deprivation of food and water.

Under the law the government must provide attorneys for indigent defendants. Compliance was inconsistent because of a shortage of defense attorneys or because attorneys, citing low government compensation, refused to defend indigent clients. According to the Ministry of Justice, free legal aid centers throughout the country assigned 65,983 retainers to lawyers to provide free legal aid during the first 10 months of the year. There are 100 local centers to provide free legal aid in all the regions of the country, except for Russian-occupied Crimea and the territories controlled by Russia-backed separatists. The ombudsman's office estimated that 70 percent of the population did not understand their right to free legal aid.

The law provides for bail, but many defendants could not pay the required amounts. Courts sometimes imposed travel restrictions as an alternative to pretrial confinement. Under the criminal procedure code, prosecutors need a court order to impose travel restrictions on persons awaiting trial. Prosecutors must prove the restrictions are the minimum possible to ensure suspects will appear at hearings and will not interfere with criminal proceedings.

<u>Arbitrary Arrest</u>: A September HRMMU report stated that there was a "persistent pattern" of arbitrary detention by authorities, in particular by the SBU.

The HRMMU reported that there was a persistent pattern of arbitrary detention by authorities, in particular by the SBU. It its 10th report the HRMMU discussed a case where a woman reported her husband missing in Slovyansk on February 28. On March 26, the SBU informed her that authorities held her husband in Dnipropetrovsk where they allegedly tortured him.

Additionally, human rights groups reported that members of the Ukrainian armed forces arbitrarily detained and held incommunicado individuals. A report by the International Partnership for Human Rights in conjunction with Ukrainian human rights groups reported instances of arbitrary detention, including a case where authorities seized an individual on a bus and held him incommunicado for a month. A separate report by the International Federation for Human Rights, in conjunction with the Center for Civil Liberties, discussed an instance where troops from the Ministry of the Interior arbitrarily detained a man in Dzerzhynsk on May 6 and held him incommunicado for five days.

There were reports from human rights NGOs that authorities subjected Romani individuals to arbitrary arrest. For example, on October 29, police officers raided a Romani settlement in Zolotonosha, Cherkasy Oblast. According to human rights groups, police entered homes and arrested Roma without just cause, beating and humiliating them in the process. An OSCE ODIHR mission visited the settlement in November, and the case remained under investigation by authorities at the end of the year.

In an October 22 monitoring report on the effects of the civil blockade of Crimea, the Crimean Human Rights Group (CHRG) noted that progovernment battalion members had arbitrarily arrested Crimean residents with Russian passports attempting to cross the administrative boundary from mainland Ukraine to Crimea. For example, on October 5, Azov Battalion members reportedly arrested and beat Rostislav Stetsenko, a Crimean resident with a Russian passport, and posted a recording of the incident on social media. Stetsenko reported to the CHRG that battalion members had beaten him and threatened sexual violence during the arrest.

<u>Pretrial Detention</u>: As of September law enforcement bodies registered 515,648 charges against suspected criminals. According to the Ministry of Internal Affairs, approximately 12,000were in pretrial detention facilities, compared with 10,000 in 2014 and 18,000 in 2013.

<u>Protracted Detention of Rejected Asylum Seekers or Stateless Persons</u>: Authorities frequently detained asylum seekers for extended periods without court approval. They also regularly detained asylum seekers prior to their deportation (see section 2.d.).

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, courts remained vulnerable to political pressure and corruption and were inefficient. Confidence in the judiciary remained low.

On February 12, the Verkhovna Rada adopted the Law on Ensuring the Right to Fair Trial, which provides for a competitive selection in hiring judges, review of rulings, and background checks of all judges. Under the new law, any person can

videotape courts hearings without special permission, and all court rulings are to be made public in a unified state register. The law came into effect on March 28.

The law also provides for an interim commission to investigate complaints about judges. As of December the Prosecutor General's Office was conducting investigations of 20 criminal proceedings against 19 judges, and16 criminal cases with indictment against judges had been brought to court.

Judges continued to complain about deterioration of the separation of powers between the executive and judicial branches of government. Some judges claimed high-ranking politicians pressured them to decide cases in their favor, regardless of the merits. Other factors also impeded the right to a fair trial, such as lengthy court proceedings, particularly in administrative courts, inadequate funding, and the inability of courts to enforce rulings. According to the human rights ombudsman, authorities fully executed only 40 percent of court rulings.

Trial Procedures

There is no jury system. A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying a maximum sentence of life imprisonment. The law provides for crossexamination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

The law presumes defendants are innocent, and they cannot be compelled to testify or confess, although high conviction rates called into question the legal presumption of innocence. Defendants have the right to be informed promptly and in detail, with interpretation as needed of charges against them, the right to a public trial without undue delay, to communicate privately with an attorney of their choice (or one provided at public expense), and to have adequate time and facilities to prepare a defense. The law also allows defendants also access to governmentheld evidence, to confront witnesses against them, present witnesses and evidence, and the right to appeal. Defendants have the right not to be compelled to testify or confess guilt. Appeals courts cannot dismiss convictions or order new trials based on missing documents, nor may they coerce defendants to sign copies of missing documents. The law applies to the rights of all defendants regardless of ethnicity, gender, or age.

Trials are open to the public, but some judges prohibited the media from observing proceedings. While trials must start no later than three weeks after filing of

charges, prosecutors seldom met this legal requirement. Human rights groups reported that officials occasionally monitored meetings between attorneys and their clients.

Political Prisoners and Detainees

Human rights groups called arrested blogger Ruslan Kotsaba a political prisoner. On February 7, authorities charged Kotsaba, a blogger from Ivano-Frankivsk, with state treason and obstructing the lawful activities of the armed forces and other military formations, based on a video in which he opposed military mobilization in the country. The investigation continued at year's end. AI called him the first Ukrainian "prisoner of conscience" in five years. Authorities gave him the same protections as other prisoners, and they permitted him access to human rights organizations.

Civil Judicial Procedures and Remedies

The constitution and laws provide for the right to seek redress for any decisions, actions, or omissions of national and local government officials that violate citizens' human rights. An inefficient and corrupt judicial system limited the right of redress. Individuals may also file a collective legal challenge to legislation they believe may violate basic rights and freedoms. Individuals may appeal to the parliamentary ombudsman for human rights at any time and to the European Court of Human Rights after exhausting domestic remedies.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, but there were reports authorities generally did not respect the prohibitions.

By law the SBU may not conduct surveillance or searches without a court-issued warrant. In practice, however, searches are sometimes committed without a proper warrant. In an emergency authorities may initiate a search without prior court approval, but they must seek court approval immediately after the investigation begins. Citizens have the right to examine any dossier in the possession of the SBU that concerned them and the right to recover losses resulting from an investigation. Because there was no implementing legislation, authorities generally did not respect these rights, and many citizens were not aware of their rights or that authorities had violated their privacy.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Combined Russian-separatist forces, armed, trained, and supplied by the Russian Federation, continued a violent, armed conflict against the Ukrainian government, despite two ceasefires signed in Minsk by Russian and Ukrainian officials in September 2014 and on February 12. Military activity was the most intense in the first two months of the year, as combined Russian-separatist forces launched offensives near Mariupol, the Donetsk Airport, and Debaltseve. Combined Russian-separatist forces continued attacks on Ukrainian positions using heavy weaponry throughout the year despite the declaration of two subsequent ceasefires.

International organizations and NGOs, including AI, Human Rights Watch (HRW), and the UN high commissioner for human rights issued periodic reports of human rights abuses committed in the Donbas region by separatist and government forces. As of November 1, the OSCE fielded 937 persons supporting a special monitoring mission, which issued daily reports on the situation and conditions in most major cities.

According to the UN's HRRMU, fighting and violence in the Donbas region deprived more than five million residents of the ability to access education, health care, and housing, and the opportunity to earn a living. As of November 15, the HRMMU reported that fighting had killed at least 9,078 persons, including civilians, Ukrainian armed forces, and armed groups. This figure included the 298 passengers and crew on board Malaysian Airlines flight MH17, shot down in July 2014 over Donbas. Additionally, more than 2.5 million residents left separatist-controlled areas of Donetsk and Luhansk Oblasts since the start of the conflict. As of November 15, the Ukrainian Ministry of Social Policy had registered 1,578,925 IDPs, although civil society groups believed the actual number of IDPs was much higher. According to UNHCR there were approximately 1.1 million Ukrainian refugees in other countries, including approximately 912,000 in the Russian Federation.

Media and human rights groups continued to report widespread human rights abuses in separatist held area. In a report issued in May, the HRMMU stated there was a "collapse of law and order" in separatist-held areas and that "serious human rights abuses" occurred, including killings, torture, looting, and extortion.

<u>Killings</u>: International monitors and the media reported arbitrary and unlawful killings in the Donbas region. International and human rights organizations noted

the government took steps to investigate abuses by its forces but claimed it was hampered by a lack of resources and access to crime sites.

The HRMMU, OSCE Special Monitoring Mission (SMM), and human rights groups did not cite any instances of extrajudicial killings committed by Ukrainian or progovernment forces during the year in connection with the conflict in the Donbas region. Several cases from 2014 remained under investigation, however, including the discovery of the bodies of two separatists that had been bound and shot in the head in autumn 2014.

During the first two months of the year, combined Russian-separatist forces launched sustained attacks against Ukrainian positions, in particular at the Donetsk Airport, in the area near Mariupol, and at Debaltseve. As a result both sides shelled civilian areas. On February 10, a rocket attack launched from separatist held areas near Kramatorsk killed seven civilians and injured at least 16 in government-controlled Kramatorsk. Following the withdrawal of Ukrainian forces at Debaltseve on February 20, shelling subsided somewhat. Civilians continued to be killed and injured by mines and unexploded ordinance.

Separatists and Ukrainian authorities accused each other of indiscriminate shelling of civilians, in particular killing 13 civilians and injuring 12 in a mortar attack on a bus stop in the southwestern part of the city of Donetsk on January 22. An artillery attack killed eight civilians and injured 19 in Horlivka on January 29. Combined Russian-separatist forces targeted civilian populations while launching artillery attacks from civilian areas. For example, on January 13, combined Russian-separatist forces launched a rocket attack on a Ukrainian checkpoint at Volnovakha, hitting a bus, killing 13 civilians and injuring 18.

Between January 16 and February 20, separatists launched a protracted assault on the city of Debaltseve during which separatists and elements of the Russian military continuously and indiscriminately shelled the city. According to the UN, the shelling killed more than 500 civilians. Of a preconflict population of approximately 25,000, only 7,000 persons remained in the city after the assault. On January 24, combined Russian-separatist forces attacked residential neighborhoods in Mariupol using Grad and Urgan rockets, killing 30 civilians and injuring 108. The high representative of the EU for foreign affairs and security policy, Federica Mogherini, condemned the attack.

In a May report, AI documented summary executions of captured Ukrainian soldiers by separatists. For example, according to AI, separatist commander

Arseny Pavlov, also known as "Motorola," executed Ukrainian soldier Ihor Branovytsky after a battle at the Donetsk Airport on January 21. Witnesses reported Branovytsky was alive after the battle and heard Pavlov admit to shooting Branovytsky. A Ukrainian death certificate stated that Branovytsky died of two gunshot wounds to the head. In an April interview with the *Kyiv Post*, Pavlov bragged that he had executed 15 Ukrainian soldiers.

There were no reports by the HRMMU or human rights organizations of extrajudicial killings of civilians by separatists during the year. Observers, however, identified previously unreported cases of extrajudicial killings from 2014 that authorities have not yet investigated. For example, the HRMMU reported that in August 2014, separatists in Peremozhne, Luhansk Oblast, kidnapped and executed a man and woman accused of aiding Ukrainian soldiers. Authorities discovered their bodies in January and performed an autopsy in June. Combatants reportedly summarily executed an additional four persons in the same town also in August 2014. Russian-backed separatists have not conducted investigations into any of these killings.

According to a September report by the Justice for Peace in Donbas Coalition of Human Rights, a coalition of human rights NGOs, 33 percent of military personnel and 16 percent of civilians interviewed told human rights monitors they had witnessed extrajudicial killings and deaths resulting from torture at the hands of separatists.

<u>Abductions</u>: Separatists, government forces, and criminal elements engaged in abductions. Human rights groups reported that separatists routinely kidnapped persons to settle vendettas or for ransom.

The HRMMU noted a persistent pattern of arbitrary and incommunicado detention by Ukrainian law enforcement (mainly by the SBU) and by military and paramilitary units (first and foremost by the former volunteer battalions now formally incorporated into the security services). A May report by AI documented several abductions of civilians by progovernment battalions that took place in 2014, including a case in which three building contractors were detained by militia members and transferred to an SBU detention facility, where they were allegedly beaten, suffocated, and subjected to mock burial and other abuses.

A September HRMMU report cited an interview with a woman abducted twice by separatist groups, once from July to October 2014 and again from February to July.

During her periods of captivity, she reported severe beatings, threats against her relatives, and an attempted gang rape.

Separatists also abducted journalists attempting to cover the conflict. On January 9, separatists detained Maria Varfolomeyeva, a pro-Ukrainian journalist from Luhansk. According to Reporters without Borders, her captors subjected her to series of carefully staged and videoed confessions.

On January 5, separatists released journalist Serhiy Sakadinsky, seized in August 2014. Sakadinsky was the editor of *Politika 2.0*. His wife reported that his captors beat him and broke his hand during his captivity.

The politically motivated trial of military pilot and member of the Verkhovna Rada Nadezda Savchenko, abducted from eastern Ukraine in 2014, continued in Russia as of year's end (see section 1.e., Political Prisoners and Detainees, of the *Country Reports on Human Rights* for Russia).

<u>Physical Abuse, Punishment, and Torture</u>: Government and separatist forces reportedly abused and tortured civilians and soldiers in detention facilities. Reported abuses included beatings, physical and psychological torture, mock executions, sexual violence, deprivation of food and water, refusal of medical care, and forced labor.

The HRMMU reported a "persistent pattern" of physical abuse and torture by government forces. Throughout the year the HRMMU and AI interviewed individuals who claimed to have been tortured, beaten, and subjected to mock executions during the course of the "antiterrorist operation." A December HRMMU report documented "recurrent allegations" of mistreatment during arrest and interrogations by the SBU, including interviews with several individuals detained on suspicion of taking part in terrorist acts. SBU authorities beat them heavily, restrained them in painful poses for long periods, and subjected them to suffocation while in custody.

According to data presented in a September report by Justice for Peace in Donbas, a coalition of human rights NGOs, captors abused 86 percent of military men and 50 percent of civilians captured by the separatists, while captors subjected 50 percent of women, including pregnant and elderly, detained by pro-Russian rebels to physical abuse or torture. Their report stated that detainees lacked any safeguards against abuse and detention centers lacked clean water, adequate sanitation, heat, and bomb shelters to protect from an attack.

Separatists repeatedly beat Lieutenant-Colonel Serhiy Kuzminykh and eight Ukrainian soldiers captured on January 20 following fighting at the Donetsk Airport. One video from January 21 showed Ukrainian soldiers being thrown from a tank and beaten by Mikhail Tolstykh, also known as "Givi." In the video Tolstykh forced the soldiers to eat the epaulettes he cut from their uniforms.

The Russian-backed separatists particularly targeted certain religious groups for abuse. According to the HRMMU, in February a Ukrainian Orthodox priest who was delivering food to soldiers and civilians in the government-controlled town of Artemivsk (Donetsk region), mistakenly drove to a checkpoint controlled by separatists. The separatists forced him to lie on the ground, and several fighters started jumping on his body. They also shot at the asphalt near his head. They then transferred him to a nearby village for interrogation, which lasted several hours and during which his captors beat him. Separatists detained him for 50 days in various places, along with approximately 70 other detainees.

On May 17, separatists reportedly detained four members of Jehovah's Witnesses, blindfolded them, and took them at gunpoint to the local military headquarters, where separatists severely beat them and subjected them to mock executions. They demanded that the youngest member join combined Russian-separatist forces and that all of the members confess the Orthodox faith as the only true religion. The separatists released the four detainees the following day.

Women reported attempted rape and sexual abuse at the hands of separatists. Women IDPs who left separatist control reported they fled principally because they feared they or their children would be sexually abused.

Both sides employed land mines without measures to prevent civilian casualties. The UNHRMM report from December 10 noted an increased numbers of deaths from exploding ordinance, including land mines. More than half of the civilian deaths recorded between August 16 and November 15 were due to mines. Due to an order by separatist forces for humanitarian aid groups to cease social programing, mine education programs have been sharply limited there.

<u>Child Soldiers</u>: There were no media reports of child soldiers serving with Ukrainian forces, and the UN Children's Fund (UNICEF) could not confirm the presence of child soldiers in the country. There were, however, media reports that children as young as 12 served as soldiers with separatists. On May 28, OSCE SMM observers noted a child between the ages of 12 and 14 wearing camouflage

and holding a rifle at a separatist checkpoint at Makiivka, Donetsk Oblast. On June 17, a spokesman for the OSCE SMM stated that monitors had seen child soldiers in separatist-controlled areas near Shyrokyne. There were multiple instances where child soldiers in separatist-controlled territory posted pictures online of themselves on patrol or supporting combat operations, as well as reports in separatist-controlled and Russian media outlets documenting use of child soldier. On November 10, the German television station ZDF broadcast interviews of two 16-year-olds who had fought on the side of separatists.

<u>Other Conflict Related Abuses</u>: On October 13, the Dutch Safety Board concluded its investigation into the crash of Malaysia Airlines Flight MH17 from Amsterdam to Kuala Lumpur in July 2014 in separatist-controlled Donetsk Oblast. All 298 passengers and crew died. According to the report, a Russian-built 9M38-series surface-to-air missile with a 9N314M warhead shot down the plane. According to the report, the missile was fired from a 125-square-mile area within separatistcontrolled territory. At the time of the crash, separatists and Russian media reported that it had shot down a Ukrainian AN-26 but quickly retracted and deleted these reports once it became clear that a civilian airliner had been shot down. Russian authorities and separatists continued to deny that a missile launched from inside separatist territory with a Russian missile system had shot down the plane.

In June, Ukrainian authorities began expediting the delivery of humanitarian aid to separatist held areas through so-called "green corridors." Beginning on June 29, however, separatists in the Donetsk Oblast ordered humanitarian organizations, including the UN and the International Committee of the Red Cross (ICRC), to "register" with "authorities." Starting on July 21, separatists in Donetsk Oblast began restricting the delivery of humanitarian aid to areas they controlled. On September 25, separatists in Luhansk Oblast ordered all humanitarian aid organizations except for the ICRC to cease operations. Separatists displayed increasing hostility towards humanitarian aid groups. According to the UN Office for the Coordination of Humanitarian Affairs, due to the disruption of humanitarian aid, approximately 150,000 persons were not receiving food aid and 1.3 million lacked access to clean water.

On March 4, a shell struck a hospital in the city of Donetsk, killing four persons and injuring 25. During the year the UNHRMM reported that fighters had attacked hospitals in Adiivka, Luhansk, Donetsk, and Horlivka and that it was concerned medical facilities were hit by shelling. On September 25 and October 12, separatists prohibited the international medical aid group Doctors without Borders from operating in the separatist-controlled areas of Luhansk and Donetsk Oblasts.

This prohibition led to a sharp restriction in medical assistance to persons suffering from diabetes, kidney failure, and tuberculosis. In a report released on December 10, the UNHRMM noted that separatists intimidated and harassed employees of hospitals and medical facilities.

Separatists continued to allow convoys of Russian "humanitarian aid," which Ukrainian government officials believed contained weapons and supplies for separatists. In September the government opened "service centers" close to separatist-held territory where civilians could access banking services and purchase food and medicine.

Residents of Luhansk and Donetsk Oblasts under separatist control were unable participate in the October 25 local elections held country-wide, since elections could not be held under Ukrainian law and in accordance with international standards.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provides for freedom of speech and press, but authorities did not always respect these protections. Although the government took some positive steps to improve freedom of expression, it also introduced measures that banned or blocked information, media outlets, or individual journalists deemed a threat to national security or who expressed positions that authorities believed undermined the country's sovereignty and territorial integrity. Other problematic practices continued to effect media freedom, including self-censorship, so-called "jeansa" payments to journalists for favorable news reports disguised as objective journalism, and slanted news coverage by media whose owners had close ties to the government or who supported opposition political parties.

In the Donbas region, separatists suppressed freedom of speech and the press through harassment, intimidation, abductions, and assaults on journalists and media outlets. Separatists prevented the transmission of Ukrainian and independent television and radio programming in areas under their control. Domestic human rights NGOs and media watchdogs, such as Telekritika and the Institute of Mass Information, documented cases of abuses against journalists and media outlets in separatist-controlled areas of Luhansk and Donetsk (see section 1.g., Abductions). <u>Freedom of Speech and Expression</u>: With some exceptions, individuals in areas not under Russian occupation or Russian-backed separatist control could generally criticize the government publicly and privately and discuss matters of public interest without fear of reprisal.

On May 15, the country adopted a law prohibiting the display of communist and National Socialist (Nazi) symbols. The law prohibits an exhaustive list of communist and Nazi symbols and criminalizes their use and dissemination when used to justify or deny the "criminal nature" of the Soviet and Nazi regimes, with penalties running to five to 10 years in prison. Human rights defenders, historians, and the wider expert community criticized the law for legal and factual shortcomings as well as the lack of a genuine public discussion before its passage. There have been no prosecutions under the statute; however, on December 16, a Kyiv court banned the Communist Party for continuing to display such symbols.

<u>Press and Media Freedoms</u>: Independent media and internet news sites were active and expressed a wide range of views. Privately owned media, the most successful of which wealthy and influential "oligarchs" generally owned, often presented viewers a "biased pluralism," representing the views of their owners. Both independent and state-owned media periodically engaged in self-censorship when reporting stories that might expose political allies to criticism. According to the NGO Freedom House, the press in the country was "partly free."

On April 2, the Verkhovna Rada passed a law prohibiting the broadcasting of content produced in an "aggressor state" after January 2014 as well as any content produced between August 1991 and January 2014 that promotes state agencies of an "aggressor state" or that promote aggression against the country. As of November authorities declared only Russia an "aggressor state" for purposes of implementing the law. While authorities adopted the law to combat Russian propaganda, human rights groups criticized it as overly broad because of its blanket restrictions regardless of the nature of the content.

The government continued the practice of banning specific works by pro-Russian actors, film directors, and singers. On August 8, authorities banned the works of 13 actors and singers from television and radio broadcasts, including the films of French actor and Russian citizen Gerard Depardieu. On August 11, the government announced that, in the previous year, it had banned 376 films and television episodes for an array of national security-related reasons.

On September 16, President Poroshenko signed a decree sanctioning 388 individuals and 105 organizations deemed to be a threat to national security. The list included 41 foreign journalists, banned from travelling to the country for a year. The OSCE representative on freedom of the media, Dunja Mijatovic, protested the decision, stating that, "introducing overly broad restrictions that curb free movement of journalists is not the way to ensure security." Authorities removed six journalists, including three journalists working for the BBC, from the list the day after it was announced.

The government continued to block 14 Russian television channels from broadcasting in the country, citing the perceived dangerous effects of Russian propaganda. On March 3, a court in Melitopol fined a local television provider 2,000 hryvnias (\$83) for broadcasting Russian channels.

Authorities took steps to search and prosecute several local media outlets suspected of supporting separatism. For example, on May 14 in Odesa, authorities searched the homes of journalists and administrators of the newspaper "*Timer*" related to charges of "undermining the country's territorial integrity." According to the editor in chief, the investigation continued at the end of the year, although there had been no further contact with authorities.

The practice of jeansa continued, especially during local elections in October. According to the Institute for Mass Information, the October elections produced "the largest pre-election jeansa campaign" it had witnessed. Freedom House reported the problems were worst in Dnipropetrovsk, Zaporizhzhia, and Mykolaev oblasts.

According to the Institute for Mass Information, authorities investigated and brought charges in only 4 percent of recorded infringements of the rights of journalists during the year, a number that, nonetheless, represented a significant increase over the 2014 figure of 1 percent.

<u>Violence and Harassment</u>: On May 14, the Verkhovna Rada passed a law strengthening criminal penalties against individuals who threaten or use violence against journalists. Authorities have not prosecuted any cases under the new law, and government officials occasionally harassed journalists.

There were reports that separatists abducted journalists in separatist-controlled areas of eastern Ukraine (see section 1.g., Abductions).

According to the Institute of Mass Information, during the year there were 58 assaults on journalists and two killings. This represented a significant decrease in attacks from previous years (286 attacks in 2014 and 97 in 2013) and, unlike in prior years, private citizens, not law enforcement and officials, committed the majority of the attacks on journalists.

On April 16, assailants shot and killed journalist Oles Buzina in Kyiv. Buzina had espoused pro-Russian views in the press. Authorities detained two suspects; in December authorities released Denys Polishchuk from pretrial detention under house arrest. Authorities ordered Andriy Medvedko to remain in custody until January 31, 2016. Both were allegedly members of right-wing political groups. The investigation into the case continued at year's end.

There were multiple reported attacks on journalists investigating corruption. For example, on April 29, in the village of Lesniki in Kyiv Oblast, unknown men attacked a crew from ZIK TV who were filming an expose about lavish property allegedly owned by Deputy Minister of Internal Affairs Serhiy Chebotar. The attackers beat the men and damaged their equipment. The prosecutor's office investigation of the incident continued at year's end.

<u>Censorship or Content Restrictions</u>: Authorities took measures to regulate and occasionally censored information deemed a national security threat. The Institute for Mass Information recorded 12 incidents of censorship, down from 138 incidents in 2014.

On January 17, authorities detained blogger Ruslan Kotsaba after he published a video opposing mobilization (see section 1.e., Political Prisoners and Detainees).

Privately held media sometimes practiced self-censorship. Notably, an episode of the television program "Shuster Live" was removed from Channel 1+1 shortly before its scheduled broadcast. Journalist Savik Shuster and others alleged that the government removed the show because the government opposed certain guests appearing on the episode. According to the station, it canceled the show because of the "intense" and "politicized" nature of the evening's guests.

In May the Committee to Protect Journalists (CPJ) released a statement expressing concern that the signal for the television channel Inter had been intermittently jammed nationwide since August 2014, specifically during news broadcasts and political shows. According to the CPJ, despite the channel making multiple requests for an investigation, law enforcement authorities claimed they had not

identified the source of the jamming. In March, Vitaliy Naida, head of the security service's cybercrime department, told reporters that the department was investigating, but it was hard to identify the source because "the [jamming] equipment is mobile and not set in a single spot." Inter's content included programming that was critical of the government. The investigation continued at the end of the year.

<u>Libel/Slander Laws</u>: Libel is a civil offense. While the law limits the amount of damages a plaintiff can claim in a lawsuit, local media observers continued to express concern over high monetary damages awarded for alleged libel. Government entities, and public figures in particular, used the threat of civil suits, sometimes based on alleged damage to a person's "honor and integrity" to influence or intimidate the press and investigative journalists.

<u>National Security</u>: Authorities took measures to regulate and occasionally censored information deemed a national security threat. On February 26, authorities arrested two Russian journalists, Elena Makarova from Channel One and Andrei Grigoriev from NTV, in Kyiv, deported them, and banned both from the country for five years. A spokesperson for the SBU stated that the deportation and ban was in response to "the anti-Ukrainian propaganda" carried out by journalists.

<u>Nongovernmental Impact</u>: Separatists in eastern Ukraine harassed, arbitrarily detained, and in some cases continued to hold journalists (see section 1.g., Abductions).

In Crimea the Russian occupation authorities significantly restricted freedom of speech and press (see the section on occupied Crimea at the end of this report).

Actions to Expand Press Freedom: The government took several steps to increase press freedom. On March 19, President Poroshenko signed a law creating an independent, national public television network. The measure combines 32 state-owned broadcasters into a single institution that offers viewers an alternative to commercial television, which often reflected the viewpoint of the station's owners. OSCE representative on freedom of the media Dunja Mijatovic described the measure as an "assertive and important step made by the authorities," adding that "independent public broadcasting has great potential to deter hostile propaganda by setting the standards of truth, pluralism, and openness."

On May 15, President Poroshenko signed a law opening pre-1991 state archives to the public, including those of the SBU. The law makes KGB files in the country available to journalists and researchers.

On October 1, President Poroshenko signed a law to provide for transparency of media ownership that requires outlets to file detailed information about ownership structure with authorities.

Internet Freedom

Authorities did not restrict or disrupt access to the internet or censor online content. Law enforcement bodies monitored the internet, at times without appropriate legal authority. Authorities did not restrict content or censor websites or other communications and internet services.

Human rights groups that were critical of Russian involvement in the Donbas and Crimea reported that opponents subjected their websites to cyberattacks, such as coordinated denial-of-service incidents and unauthorized attempts to obtain information from computers.

Users of social media, particularly Facebook and VKontakte, sometimes had their access temporarily blocked for innocuous or straightforwardly political posts that other users (assumed by many internet users in the country to be agents of the Russian government) mischaracterized as "hate speech" and flagged as terms of service violations. In one case a post in support of a blocked user that simply read, "we're with you," led to a block of that Facebook user. Popular outrage at what many internet users perceived as a bias toward Russia among Russian-language Facebook administrators led some users to call for Facebook to open a branch office in the country. Some Facebook users whose primary online language was Russian began writing their posts in Ukrainian to avoid being blocked.

Academic Freedom and Cultural Events

There were several reports of government restrictions on academic freedom or cultural events. For example, in August an Odesa nightclub cancelled a concert by Russian rap artist Timati, after Odesa Governor Mikheil Saakashvili called on the border police to prohibit his entry into the country because of disparaging remarks he had made about Ukraine.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides citizens with the right to freedom of assembly, and the government generally respected this right. There are no laws, however, regulating the process of organizing and conducting events to provide for freedom of peaceful assembly. Authorities have wide discretion under a Soviet-era directive to grant or refuse permission for assemblies on grounds of protecting public order and safety. Organizers are required to inform authorities in advance of plans for protests or demonstrations.

During the year citizens generally exercised the right to peaceful assembly without restriction in areas of the country under government control. Most of the assemblies that took place were peaceful and at times accompanied by a very large police presence to maintain order.

In some instances peaceful rallies ended in violence. For example, on August 31, a member of the right-wing Freedom party threw a grenade at police during a protest outside the Verkhovna Rada. The attack killed four police officers and injured several others. An investigation of the incident continued at year's end.

Despite protection by security services, right-wing activists violently disrupted peaceful events supporting LGBTI rights. On June 6, persons claiming to belong to Right Sector attacked an LGBTI equality march in Kyiv, injuring nine police officers (one seriously) and 10 marchers. Authorities charged the alleged attackers with hooliganism, placed five attackers under house arrest, and released two on bail. The investigation continued at the end of the year.

On August 13, an Odesa court prohibited an LGBTI march at the request of the city council, citing a potential for "real danger and threat to public order in the city, as well as to the health and lives of participants and other citizens." On August 15, in Odesa persons claiming to belong to the Freedom Party attacked the LGBTI meeting held in lieu of the march with firecrackers. Authorities charged the attackers with hooliganism.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <u>www.state.gov/religiousfreedomreport/</u>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide citizens with freedom of internal movement, foreign travel, emigration, and repatriation. The government, however, restricted these rights, particularly in the eastern part of the country. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. International and domestic organizations reported the system for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively.

<u>In-country Movement</u>: The government strictly controlled the freedom of movement between government- and separatist-controlled territories in the Donbas. On January 11, the SBU introduced a temporary order controlling movement, which went into effect on January 21. The order imposed significant hardships on persons crossing into government-controlled territory, in particular those who sought to receive pensions and government benefits, which had ceased in separatist territory in November 2014. Those who wished to enter needed to apply in person at a checkpoint, and then return several days later to obtain a pass. By April individuals needed to wait up to a month to obtain a pass. Those who lacked a pass reportedly paid bribes of up to 1,000 hryvnias (\$42) to cross.

On June 16, the government amended its procedures, introducing electronic passes that applicants could apply for online. Authorities first offered the passes on July 7. The amended procedures simplified crossing for those who had lost documents or were fleeing an emergency and allowed children to cross into government-controlled territory with notarized statements from parents. These actions reduced the time to obtain a pass and opportunities for corruption, but the government prohibited commercial bus service to separatist-controlled areas, requiring persons to pay for a taxi ride or walk several miles. Additionally, OSCE monitors reported waits at checkpoints of up to 24 hours, potentially exposing civilians to shelling. To avoid lines persons attempted to cross via unauthorized (and sometimes mined)

routes. On March 25, four persons died after a mine blew up a bus trying to circumvent a checkpoint near Artemivsk.

Authorities subjected individuals crossing from Russian-occupied Crimea to the mainland to strict passport controls at the administrative border between the Kherson oblast and Crimea. Authorities prohibited rail and commercial bus service across the administrative boundary, requiring persons either to cross on foot or by private vehicle. On June 4, the Cabinet of Ministers adopted a resolution regulating entry and exit from Crimea, imposing travel restrictions on individuals crossing between the Kherson Oblast and Crimea. Children under the age of 16 required the permission of both parents to cross. Authorities did not announce the decision in advance, and children on summer holidays in Russian-occupied Crimea, whose parents were in government-controlled territory, were unable to return as scheduled. The government did not permit foreigners to cross the administrative boundary without permission. After complaints from civil society, authorities amended these rules in September.

On September 29, Crimean Tatar activists along with volunteers from paramilitary groups began a blockade of commercial goods entering Crimea from governmentcontrolled territory at the administrative border between Kherson oblast and the Autonomous Republic of Crimea. Human rights groups and the UNHRMM reported instances of members of paramilitary groups illegally detaining individuals, performing illegal searches, and destroying and confiscating property.

Internally Displaced Persons

According to the Ministry of Social Policy, as of August 15, there were more than 1.4 million internally displaced persons (IDPs) due to the conflict in the Donbas and occupation of Crimea. NGOs believed the actual number may exceed two million, as many IDPs have not registered. The largest number resided in areas immediately surrounding the conflict zones, in government-controlled areas of Donetsk and Luhansk Oblasts, as well as in the Kharkiv, Dnipropetrovsk, and Zaporizhzhia Oblasts. Many resided in areas close to separatist control in hope that they would be able to return home.

By law IDPs are provided 880 hryvnias (\$37) per month for children and persons with disabilities and 440 hryvnias (\$18) per month for those able to work. Families may receive no more than 2,400 hryvnias (\$100) per month. According to the law, the government should provide IDPs with housing, but the government has not taken effective steps to do so. During the year the country improved the

IDP registration process and distribution of assistance. Humanitarian aid groups have good access to areas under government control.

Local civil society organizations and international humanitarian organizations provided the bulk of assistance for IDPs on a temporary basis. NGOs reported that their ability to support IDPs was limited and nearing exhaustion. UN agencies reported that the influx of IDPs led to tension in the form of competition for resources. Critics accused internally displaced men who moved to western Ukraine of evading military service, while competition rose for housing, employment, and educational opportunities in Kyiv and Lviv.

NGOs reported employment discrimination against IDPs. Some IDPs, particularly those in government-controlled Donetsk and Luhansk Oblasts, lacked sufficient sanitation, shelter, and access to potable water. IDPs continued to have difficulty obtaining education, medical care, and necessary documents. Romani activists expressed concern that some Roma in eastern Ukraine could not afford to flee the conflict areas, while others had no choice but to leave their homes.

On September 1, the Kyiv Administrative Court of Appeal overturned a National Bank decision that Crimean IDPs were nonresidents. The bank decision had restricted access to banking and financial services by Crimeans who had fled the Russian occupation. Nonetheless, media reports indicated that banks continued to restrict banking services for Crimean IDPs even after the court decision.

Protection of Refugees

The country is a transit and destination country for refugees, principally from Afghanistan, Somalia, and Syria. Refugees were especially vulnerable due to the ongoing conflict in the Donbas. In September, UNHCR advised concern regarding returning asylum seekers to Ukraine due to the security situation.

<u>Access to Asylum</u>: The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. Protection for refugees and asylum seekers was insufficient, due to gaps in the law and the system of implementation.

Human rights groups noted that the refugee law falls short of international standards due to its restrictive definition of who is a refugee. The law permits authorities to reject many asylum applications without a thorough case assessment. In other instances government officials declined to accept initial asylum

applications without a legal basis, leaving asylum seekers without documentation and vulnerable to frequent police stops, fines, detention, and exploitation. Asylum seekers in detention centers were sometimes unable to apply for refugee status within the prescribed time limits and had limited access to legal and other assistance. Asylum seekers have five days to appeal an order of detention or deportation.

A lack of access to qualified interpreters also hampered the full range of asylum procedures. International observers noted the government did not provide resources for interpreters, which created opportunities for corruption and undermined the fairness of asylum application procedures.

During the first nine months of the year, the State Migration Service reported a slight increase in applications for asylum compared with the same period in 2014. A total of 1,115 persons applied for asylum during the first nine months of the year. Of these authorities rejected 462 applicants and granted refugee status to 24. They granted complementary protection to 84. The International Organization for Migration noted a steady although not critical increase in transit migration flow through Ukraine during the year.

<u>Refoulement</u>: The government did not provide for protection against the expulsion or return of asylum seekers to a country where there was reason to believe their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. UNHCR described refoulement at the border as a "largely hidden phenomenon," as persons seeking asylum may not receive legal aid or interpretation at border crossing points or temporary holding facilities and were therefore unable to apply for asylum before being deported.

Human rights groups noted the law offers legal protection against forcible return.

<u>Refugee Abuse</u>: Authorities frequently detained asylum seekers for extended periods without court approval.

<u>Employment</u>: Authorities did not provide employment assistance, and most asylum seekers were unable to obtain a work permit as required by law. Authorities only provided language instruction for asylum seekers in Kyiv, Kharkiv, and Odesa. During a six-month period, only three asylum seekers obtained official status as an unemployed person and only one secured

employment. Some attempted to work illegally, increasing their risk of exploitation.

<u>Access to Basic Services</u>: Although during the year the government adopted a national plan on the integration of refugees, it did not allocate resources for its implementation. Human rights groups reported that authorities did not provide social and economic support to asylum seekers or assist them. Authorities did not provide language courses or social assistance. A UNHCR report indicated all newly recognized refugees received a one-time grant of approximately 30 hryvnias (less than two dollars).

Two temporary accommodation centers had a reception capacity of 320 persons and could accommodate approximately 20 percent of asylum applicants. Asylum seekers living outside a center often experienced difficulties obtaining residence registration, and authorities regularly fined them more than 500 hryvnias (\$21) because they lacked this registration. According to the State Migration Service, refugees and those seeking complementary protection could receive residence registration at homeless shelters for a period of up to six months.

UNHCR noted an improvement in the quantity and quality of food provided in the migrant custody centers as well as a lack of educational programs and vocational activities for those in detention for extended periods. According to UNHCR gaps in housing and social support for unaccompanied children left many without access to state-run accommodation centers or children's shelters. As of September 1, there were 221 unaccompanied migrant children. Authorities registered 53 during the year, of whom 12 expressed a desire to apply for refugee status. Many children had to rely on informal networks for food, shelter, and other needs and remained vulnerable to abuse, trafficking, and other forms of exploitation.

Stateless Persons

According to law a person may acquire citizenship by birth, territorial origin, naturalization, restored citizenship, and adoption.

According to the State Migration Service, at the end of the year there were 69,890 foreigners and stateless persons residing in the country. During the first nine months of the year, the government naturalized 9,308 stateless persons, 61 of them through a simplified process.

The law requires establishing identity through a court procedure, which demanded more time and money than some applicants had. UNHCR reported Roma were at particular risk for statelessness, since many did not have birth certificates or any other types of documentation to verify their identity.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage, and citizens exercised that ability. During the year local elections were held on October 25.

Elections and Political Participation

<u>Recent Elections</u>: In May 2014 citizens elected Petro Poroshenko president in an election considered free and fair by international and domestic observers. In October 2014 the country held early legislative elections that observers also considered free and fair.

Observers largely considered the first round of local elections held on October 25 in areas of the country under government control free and fair, although authorities delayed voting until November 29 in Mariupol and Krasnoarmeysk due to a dispute about alleged irregularities. Authorities held the second round of elections on November 15. According to the OSCE observer mission, the elections were well organized and democratic, but influenced by economic interests. According to OPORA, a human rights NGO that monitors elections in the country, some parties started campaigning prematurely, leading to unfair advantages for certain candidates and parties. OPORA recorded numerous technical errors by candidates and local election boards, leading to registration delays. Observers from the OPORA network and the Committee of Voters of Ukraine repeatedly recorded conflicts between candidates and local election commissions over registration. In most cases the courts ruled in favor of candidates, and election commissions registered them. In several instances the Central Election Commission dismissed local election commissions that refused to comply with these obligations.

Authorities delayed elections in Mariupol and Krasnoarmeysk due to concerns that ballots were printed improperly. The Verkhovna Rada set November 29 as an alternate date for elections. According to the OPORA, the elections were free and fair with only minor electoral irregularities.

At year's end the mayoral election in Kriviy Rih remained disputed as Opposition Bloc candidate Yuriy Vilkul won by several hundred votes in the second round of a closely contested race. Samopomich candidate Yuriy Myloboh claimed Vilkul's election was fraudulent and appealed to the Central Election Commission, which found in Vilkul's favor. The Verkhovna Rada passed legislation to hold an additional by-election in March 2016.

IDPs were unable to vote in the local elections.

<u>Political Parties and Political Participation</u>: On July 24, the Ministry of Justice blocked three communist parties from running in the October local elections: the Communist Party of Ukraine, the Communist Party of Ukraine's Workers and Peasants, and the Reformed Communist Party of Ukraine. On December 16, authorities banned the Communist Party of Ukraine for continuing to employ symbols of the Soviet Union and communism in violation of the law.

Several parties, most notably Opposition Bloc, encountered difficulties registering in Kharkiv Oblast, allegedly due to deficiencies in paperwork and because registration was late, although some observers suspected political motives for the refusal. This delay interfered with Opposition Bloc's ability to wage an effective election campaign. On August 3, approximately 50 persons throwing stones, smashing windows, and damaging a bus attacked offices of the Opposition Bloc in Kharkiv

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption, although authorities did not effectively implement the law, and some officials engaged in corrupt practices with impunity. While the number of reports of government corruption was low, it remained pervasive at all levels in the executive, legislative, and judicial branches of government and in society. During the year the country made some progress on establishing anticorruption institutions mandated in 2014 legislation and appointed a special anticorruption prosecutor, but these newly established institutions had yet to become fully functioning by year's end, sparking widespread public criticism.

<u>Corruption</u>: While the government publicized several attempts to combat corruption, it remained a serious problem for citizens and businesses alike. While authorities tried a large number of corruption cases, they were almost exclusively minor violations. Despite reports of cases initiated against high-level officials, authorities did not bring any such cases to trial or formally lay charges. For

example, on January 29, the State Financial Monitoring Service blocked \$1.5 billion (36 billion hryvnias) in accounts linked to officials in former president Yanukovych's regime; however, prosecutions of these officials remained delayed. The government has received significant criticism for its lack of progress in bringing these cases to court, or in some cases allowing the alleged perpetrators to travel to Russia.

Members of the Verkhovna Rada are immune from prosecution. Judges may not be arrested or detained before courts convict them, unless the Verkhovna Rada rescinds their immunity.

On January 25, a 2014 anticorruption law took effect that provides for the formation of two new governmental bodies, the National Agency for Prevention of Corruption and the National Anticorruption Bureau. The National Agency for Prevention of Corruption (the National Agency) is responsible for implementing the development of national anticorruption policies, monitoring national compliance with anticorruption legislation, and verification of asset declarations of high officials. The 2016 budget, however, contained provisions that delayed the requirement for public officials to declare assets until the start of 2017.

The selection process for the National Agency or the Prevention of Corruption continued at the end of the year. The law designates the National Anticorruption Bureau as the lead investigator of allegations of corruption by senior government officials at all levels, including the president, members of the Cabinet of Ministers, members of the Verkhovna Rada, and local governors. Many observers criticized the government for the lengthy process of constituting the bureau. On December 1, authorities appointed Nazar Kolodnitskiy as lead anticorruption prosecutor, which observers called a step towards establishing the bureau's capacity to prosecute high-level corruption.

On December 9, the president signed the law on National Agency of Ukraine for Detection and Management of Assets Obtained through Corruption and Other Crimes, regulating asset confiscation and recovery procedures. The law intends to create a single-source for the detection, investigation, and management of assets derived from corruption and other crimes. The government tasked the agency to search for illegally gained assets and to manage the assets after their seizure. The law envisions the agency maintaining its operations from the proceeds of asset management. The public council and the commission for external control would supervise the agency in a manner similar to the National Anticorruption Bureau of

Ukraine. The law requires these entities to publish an annual report on the work of the agency's work.

On April 26, a law came into effect requiring companies to have internal compliance programs. The law applies to almost all companies that participate in public tenders and to state-owned enterprises that are above a specified size. The law requires companies to appoint a compliance officer who reports to shareholders and also has responsibility for implementing company compliance programs. The law also encourages companies to: define the responsibilities of shareholders and employees with respect to anticorruption compliance, establish procedures for reporting misconduct and protecting whistleblowers, develop programs to raise employee awareness of anticorruption efforts, establish mechanisms for holding employees liable for violations, and include compliance provisions in contracts with third parties.

Implementation of a 2014 law on lustration resulted in dismissal of large numbers of state officials in some institutions during the year, in particular 42 percent of the employees of the State Fiscal Service (SFS) central office and 15 percent of regional SFS offices in October.

<u>Financial Disclosure</u>: The law mandates the filing of income and expenditure declarations by public officials and a special review process, allows for public access to declarations, and sets penalties for either not filing or for filing a false declaration. Previously, regulations required public servants to file income declarations, but there was no mechanism for review or penalties for filing false declarations.

By law the National Agency on Corruption Prevention is responsible for reviewing financial declarations and monitoring the income and expenditures of high-level officials, but the process of declaration verification has not started and will only begin after the National Agency of Corruption Prevention is operational.

The country made several steps to enable asset declaration verification by the public. In particular, during the year the government opened the Real Estate Registry, the Land Cadaster, and the Registry of Vehicle owners for public access, enabling public verification of property declarations of government officials.

<u>Public Access to Information</u>: The constitution and law require authorities to provide government information upon request, unless it pertains to national security. By law officials must respond to regular requests within five days and

within 20 days to requests for large amounts of data. Requesters can appeal denials within agencies and ultimately to the court system. Instructions for filing information requests are now a common and conspicuous component of government websites. The implementation and training of officials on the regulations on public access to information requirements remained inadequate.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The government invited human rights groups to participate in monitoring, drafting legislation, and adopting administrative rules. The government cooperated with international organizations such as the OSCE, the COE, and the HRMMU as well as the investigation into the downing of flight MH 17.

International and domestic human rights groups collaborated with the government to draft the National Human Rights Strategy, which came into force with a presidential proclamation on August 25. More than 250 organizations participated in drafting the plan, including the UN Development Program, the UN Office of the High Commissioner for Human Rights, and the Ukrainian Helsinki Human Rights Union. Some human rights groups expressed concerns about a lack of transparency, that the text of the document was unknown, and there was no information about next steps.

<u>The United Nations or Other International Bodies</u>: On September 8, the country accepted the jurisdiction of the International Criminal Court over crimes against humanity and war crimes committed on its territory since February 2014.

<u>Government Human Rights Bodies</u>: The constitution provides for a human rights ombudsman, officially designated as the parliamentary commissioner on human rights. The ombudsman's office frequently collaborated with NGOs through civic advisory councils on various projects for monitoring human rights practices in prisons and other government institutions (see sections 1.c. and 1.d.).

Valeriya Lutkovska served as the parliamentary ombudsman for human rights during the year, and observers considered her office an effective promoter of human rights. The Ombudsman's Office was a partner with leading domestic human rights groups and an advocate on behalf of IDPs, Roma, persons with

disabilities, LGBTI, and prisoners. Her office was involved in the transfer of inmates in prisons in separatist-controlled territory with the help of the ICRC.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

While the constitution and law prohibit discrimination based on race, sex, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, HIV-positive status, or other communicable diseases, the government lacked effective legal instruments to enforce the prohibitions, and both governmental and societal discrimination persisted. The law covers discrimination, although experts raised concerns the definition of discrimination was too narrow and the law lacked meaningful enforcement mechanisms.

Women

<u>Rape and Domestic Violence</u>: The law prohibits rape but does not explicitly address spousal rape. The courts may use a law against "forced sex with a materially dependent person" as grounds to prosecute spousal rape. Under the law authorities can detain a person for up to five days for offenses related to domestic violence and spousal abuse.

Sexual assault and rape continued to be significant problems. According to the Prosecutor General's Office, through September there were 526 registered reports of rape or attempted rape of which authorities brought 113 to court.

Domestic violence against women remained a serious problem. Spousal abuse was common. Advocacy groups asserted the percentage of women subjected to physical violence or psychological abuse at home remained high. Human rights groups noted the ability of agencies to detect and report cases of domestic violence was limited, and preventive services remained underfunded and underdeveloped. Additionally, human rights groups stated that law enforcement authorities did not consider domestic violence to be a serious crime but rather a private matter to be settled between spouses.

According to the Kyiv-based international women's rights center La Strada, Russian aggression in the Donbas led to a dramatic surge in violence against women across the country. Human rights groups attributed the increase in violence to post-traumatic stress experienced by IDPs fleeing the conflict and by soldiers returning from combat. IDPs reported instances of rape and sexual abuse; many

claimed to have fled because they feared sexual abuse. There were no special social services available to women IDPs. According to the Ministry for Social Policy, police issued almost 41,000 domestic violence warnings and protection orders during a six-month period. According to the ministry, approximately 68,000 persons were under police monitoring in connection with domestic violence. Punishment included fines, administrative arrest, and community service.

La Strada operated a national hotline for victims of violence and sexual harassment. Through September, 683 individuals called the hotline for assistance related to domestic or sexual violence, accounting for 42 percent of all calls. According to La Strada, 48 percent of calls related to psychological violence. The NGO reported that expanded public awareness campaigns increased the number of requests for assistance it received each year.

Although the law requires the government to operate a shelter in every major city, it did not do so, in part due to lack of municipal funding. During the year officials reported 18 centers for social and psychological help and nine centers for psychological and legal help for women who suffered from domestic violence. There were concerns that government austerity measures implemented during the year could lead to the elimination of some services provided by these centers.

According to the Ministry of Social Policy, as of July 1, government centers provided domestic violence-related services, in the form of social-psychological assistance, to 285 families with children and 3,868 individuals. Social services centers monitored 4,000 families in matters related to domestic violence and child abuse. NGOs operated additional centers for victims of domestic violence in several regions, but women's rights groups noted many nongovernment shelters closed due to lack of funding.

According to women's advocacy groups, municipal and privately funded shelters were not always accessible. Shelters were frequently full, and resources were limited. Some shelters did not function throughout the year, and administrative restrictions prevented women and families from accessing services. For example, some shelters would only accept children of certain ages, while others did not admit women not registered as local residents. Government centers offered only limited legal, psychological, and economic assistance to survivors of domestic violence. On average each center could accommodate approximately 30 women and children, which was often inadequate.

<u>Sexual Harassment</u>: The law puts sexual harassment in the same category as discrimination, but women's rights groups asserted there was no effective mechanism to protect against sexual harassment. They reported continuing and widespread sexual harassment, including coerced sex, in the workplace. Women rarely sought legal recourse because courts declined to hear their cases and rarely convicted perpetrators. Women's groups also cited a persistent culture of sexism and harassment.

While the law prohibits coercing a "materially dependent person" to have sexual intercourse, legal experts stated that safeguards against harassment were inadequate.

<u>Reproductive Rights</u>: The government recognized the right of couples and individuals to decide the number, spacing, and timing of their children, manage their reproductive health, and have the information and means to do so, free from discrimination, coercion, and violence.

<u>Discrimination</u>: Under the law women enjoy the same rights as men, including under family, labor, property, nationality, and inheritance laws, and entitled to receive equal pay for equal work. Women received lower salaries than men (see section 7.d.).

Children

The Office of the Parliamentary Ombudsman for Human Rights includes a representative for children's rights, nondiscrimination, and gender equality. As of September 30, the office received 715 complaints regarding children's rights.

<u>Birth Registration</u>: Birthplace or parentage determines citizenship. A child born in the country to stateless parents residing permanently in the country is a citizen. The law requires that parents register a child within a month of birth.

Registration of children born in Crimea or born in areas under separatist control remained difficult. Authorities required hospital paperwork to register births. Russian or separatist "authorities" routinely keep such paperwork if parents registered children in territories under their control, making it difficult for the child to obtain a Ukrainian birth certificate. Additionally, authorities do not recognize documents issued by Russian-occupied Crimean or separatist entities and sometimes refuse to issue birth certificates to children born in those areas.

<u>Child Abuse</u>: As of September 30, the Ministry of Internal Affairs reported crimes victimizing 4,482 children. Human rights groups noted that authorities lacked the capability to detect violence against children and refer victims for assistance. Preventive services remained underfunded and underdeveloped. There were also instances of forced labor involving children (see section 7.c.).

Authorities did not take effective measures at the national level to protect children from abuse and violence and to prevent such problems. The Parliamentary Ombudsman for Human Rights noted the imperfection of mechanisms to protect children who survived violence or witnessed violence, in particular violence committed by their parents. According to the law, parents were legal representatives of children, even if they perpetrated violence against them. There is no procedure for appointing a temporary legal representative of a child during the investigation of a case of parental violence.

A major consequence of the violence in Donbas was its effect on children. In October the World Health Organization reported that fighting had killed at least 70 children and wounded 194 since the conflict started in March 2014. According to UNICEF the conflict has affected 1.7 million children. Children living in separatist-controlled territory did not receive nutritional and shelter assistance. Human rights groups reported that children who experienced the war or fled from separatist territory suffered psychological trauma.

Early and Forced Marriage: The minimum age for marriage is 18. If it finds marriage to be in the child's interest, a court may grant a child as young as 16 years old permission to marry. According to a report funded by UNICEF, in 2013 approximately 11 percent of women reported being married or in a union before they were 18 (10 percent of urban and 14.5 percent of rural residents). Romani rights groups reported early marriages involving girls under 18 were common in the Romani community.

<u>Sexual Exploitation of Children</u>: The minimum prison sentence for child rape is 10 years. Molesting children under the age of 16 is punishable by imprisonment for up to five years. The same offense committed against a child under 14 is punishable by imprisonment for five to eight years. The age of consent is 16.

The Ministry of Internal Affairs recorded 253 sexual crimes against children during the year. Sexual exploitation of children, however, remained significantly underreported. Commercial sexual exploitation of children remained a serious problem.

Domestic and foreign law enforcement officials reported a significant amount of child pornography on the internet continued to originate in the country. The International Organization for Migration reported that children from socially disadvantaged families and those in state custody continued to be at high risk of trafficking and exploitation for commercial sexual exploitation and the production of pornography. Courts may limit access to websites that disseminate child pornography and impose financial penalties and prison sentences on those operating the websites.

<u>Child Soldiers</u>: There were reports of child soldiers in the conflict in eastern Ukraine (see section 1.g.).

<u>Displaced Children</u>: According to the Ministry of Social Policy, authorities registered more than 190,000 children as IDPs. Human rights groups believed this number was low, as children who fled without their parents cannot register as IDPs unless another relative officially files for custody, which can be a lengthy process. The majority of IDP children were from Donetsk and Luhansk Oblasts.

<u>Institutionalized Children</u>: The child welfare system continued to rely on longterm residential care for children at social risk or without parental care. The number of such residential care institutions continued to drop. During the year some 7,500 orphans and other children deprived of parental care lived and studied in various types of boarding schools.

In recent years the government implemented policies to address the abandonment of children or their reintegration with their biological families. As a result the number of children deprived of parental care decreased. Human rights groups and the media reported that the deteriorated economic situation and government inaction created unsafe, inhuman, and sometimes life-threatening conditions in some institutions.

Authorities evacuated children's institutions in separatist-controlled territory in 2014, except for three boarding schools for children with significant disabilities in Rovenky and Krasnodon, Luhansk Oblast, and Shakhtarsk, Donetsk Oblast. According to the Ministry of Social Policy, 20 group homes with 187 adopted children remained in areas controlled by separatists. According to UNICEF these facilities relied on donations and volunteer assistance and did not receive necessary supplies. As of June the staff of the facility in Krasondon had not been paid in months.

Observers noted the judicial system lacked the expertise to work effectively with minors, and the legal process for juveniles emphasized punishment over rehabilitation. Supportive social services were often lacking, and children in custody or under supervision faced bureaucratic and social barriers to reintegration. Authorities viewed imprisonment as a form of supervision and punishment rather than correction and education.

<u>International Child Abductions</u>: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at <u>travel.state.gov/content/childabduction/en/legal/compliance.html</u> and countryspecific information at <u>travel.state.gov/content/childabduction/en/ukraine.html</u>.

Anti-Semitism

According to census data and international Jewish groups, an estimated 103,600 Jews lived in the country, constituting approximately 0.2 percent of the population. According to the Association of Jewish Organizations and Communities (VAAD), there were approximately 300,000 persons of Jewish ancestry in the country, although the number may be higher. Before Russian aggression in eastern Ukraine and the attempted annexation of Crimea by Russia, approximately 30,000 Jewish persons lived in the Donbas and 10,000 lived in Crimea, according to VAAD.

Jewish community leaders reported that societal anti-Semitism was low, and authorities took steps to address problems of anti-Semitism when they arose. Institutional anti-Semitism was rare, and VAAD stated that attacks were isolated and individuals were responsible rather than organized groups. VAAD claimed that negative attitudes towards Jews and Judaism continued to be low, although some individuals continued to espouse anti-Semitic beliefs. VAAD believed that some attacks were provocations meant to discredit the government. In September the Jewish pilgrimage to the Uman burial site of Rabbi Nachman took place without significant incidents.

On March 27, attackers severely beat a Jewish physician in Kharkiv in what he said was an assault with anti-Semitic overtones. Oleksandr Dukhovskoi, a pediatric neurosurgeon, told the media that he believed competitors ordered the assault, but that the attack was anti-Semitic in nature, as the assailants shouted, "Jew face, get out of town and out of the country." The incident remained under investigation at the end of the year.

According to VAAD there were 16 incidents of anti-Semitic vandalism in the first nine months of the year, slightly more than at the same time in 2014. Graffiti swastikas continued to appear in Kyiv and other cities. For example, in February vandals in Kremenchuk spray-painted swastikas on the grave of Sarah, the daughter of Rabbi Nakhman of Breslov, and attempted to set it on fire. According to police between July 28 and August 1, vandals smashed 19 headstones at a Jewish cemetery in Uzhhorod. On August 28, vandals set fire to tires at a Holocaust memorial in Melitopol. Other Holocaust memorials, monuments, and museums desecrated included ones in Odesa, Nikopol, and Novomoskovsk.

During the year attackers vandalized the Babyn Yar monument in Kyiv six times, a substantial increase over 2014. On four occasions vandals spray-painted swastikas on the monument and on one occasion in August doused it with a foul-smelling liquid. On September 13, vandals set fire to tires at the monument. The government responded by increasing security and posting guards at the site.

Senior government officials and politicians from various political parties continued efforts to combat anti-Semitism by speaking out against extremism and social intolerance and criticizing anti-Semitic acts.

In eastern Ukraine pro-Russian separatist leaders made anti-Semitic remarks throughout the year. On February 2, the so-called leader of separatists in Donetsk Oblast, Oleksandr Zakharchenko, stated that "miserable Jews" ran the Ukrainian government. On June 22, Igor Plotnitsky, the so-called leader of separatists in Luhansk Oblast stated that Jews were responsible for the Euromaidan movement and running the Ukrainian government. Separatists also seized a Jewish school in Luhansk.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <u>www.state.gov/j/tip/rls/tiprpt/</u>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other state services. The government did not effectively enforce these provisions.

The law requires the government to provide access to public venues, and involvement in public, educational, cultural, and sporting activities for persons with disabilities. The law also requires employers to take into account the individual needs of employees with disabilities. The government generally did not enforce these laws. According to the Ministry of Social Policy, approximately 25 percent of persons with disabilities were employed.

Advocacy groups maintained that, despite the legal requirements, most public buildings remained inaccessible to persons with disabilities, restricting the ability of such persons to participate in society. Access to employment, education, health care, transportation, and financial services remained difficult (see section 7.d.).

Inclusive education remained problematic. Authorities often did not integrate students with disabilities into the general student population. Only secondary schools offered classes for students with disabilities. State employment centers lacked resources to place students with disabilities in appropriate jobs.

NGOs noted the government was unable to provide outpatient care to persons with disabilities, thus putting the main burden on their families and forcing them to place children and sometimes adults with disabilities in state institutions.

Government policy favored institutionalization of children with disabilities over placement with their families. The state cared for more than 70,000 of the country's estimated 150,000 children with disabilities, but it lacked the legal framework and funds to deinstitutionalize them. Programs to provide for the basic needs of children with disabilities and inpatient and outpatient therapy programs were underfunded and understaffed. The inadequate number of educational and training programs for children with disabilities left many isolated and limited their professional opportunities in adulthood. Persons with disabilities in separatist controlled territory suffer from a lack of appropriate care.

Patients in mental health facilities remained at risk of abuse, and many psychiatric hospitals continued to use outdated methods and medicines. According to the Ukrainian Psychiatric Association, insufficient funding, patients' lack of access to legal counsel, and poor enforcement of legal protections deprived patients with disabilities of their right to adequate medical care.

According to a government report published in 2013, government monitors observed incidents of involuntary seclusion and application of physical restraints to

persons with mental disabilities at psychiatric and neuropsychiatric institutions of the Ministry of Social Policy. Health-care authorities placed patients in isolated and unequipped premises or even metal cages, where authorities held them for long periods without proper access to sanitation.

By law employers must set aside 4 percent of employment opportunities for persons with disabilities. NGOs noted that many of those employed to satisfy the requirement received nominal salaries but did not actually work at their companies.

National/Racial/Ethnic Minorities

Mistreatment of minority groups and harassment of foreigners of non-Slavic appearance remained problems. NGOs dedicated to combating racism and hate crimes observed that overall xenophobic incidents declined slightly during the year.

The law criminalizes deliberate actions to incite hatred or to discriminate based on nationality, race, or religion, including insulting the national honor or dignity of citizens in connection with their religious and political beliefs, race, or skin color. The law imposes increased penalties for hate crimes; premeditated killing on grounds of racial, ethnic, or religious hatred carries a 10- to 15-year prison sentence. Penalties for other hate crimes include fines of 3,400 to 8,500 hryvnias (\$142 to \$354) or imprisonment for up to five years.

Human rights organizations stated that the requirement to prove actual intent, including proof of premeditation, to secure a conviction made application of the law difficult. Through September authorities registered 540 cases of offenses against foreign citizens, 155 of which were resolved. Authorities did not prosecute any of the criminal proceedings under the laws on racial, national, or religious offences. Police and prosecutors continued to prosecute racially motivated crimes under laws against hooliganism or related offenses.

According to the Prosecutor General's Office, authorities registered 49 criminal cases involving racial, national, or religious hatred during the first nine months of the year. Of these authorities forwarded one case to court. Based on a Democracy Initiative monitoring report prepared by International Organization for Migration, as of October 31, there were 10 documented violent cases against racial or ethnic minorities, with 17 victims. Victims of the attacks were from Afghanistan, the Democratic Republic of the Congo, Ghana, Jordan, Nigeria, and Syria as well as Ukrainian citizens of Tajik, Jewish, and Muslim descent. Most of the incidents

occurred in Dnipropetrovsk, Kyiv, Kharkiv, and Odesa. There were 18 cases of vandalism, including arson, targeting Jewish and Romani property in the Dnipropetrovsk, Cherkassy, and Zakarpattya Oblasts and in Kyiv, Lviv, Odesa, and Mykolaev.

On June 11, a group of approximately 30 young men wearing balaclavas and armed with knives and sticks attacked foreign students in Kharkiv, including four from Jordan. The attackers wounded nine students, hospitalizing six. According to witnesses the assailants targeted the victims because they "looked like foreigners." Law enforcement officers were present but did not attempt to stop the attackers. Later they detained five persons, charging them with hooliganism, attempted murder, and armed assault.

Roma continued to face governmental and societal discrimination, although authorities had become more responsive to Romani community concerns. Romani rights groups estimated the Romani population to be between 200,000 and 400,000. Official census data placed the number at 47,600. The discrepancy in population estimates was due in part to a lack of legal documentation for many Roma. According to experts there were more than 100 Romani NGOs but most lacked capacity to act as effective advocates or service providers for the Romani community. Romani settlements were mainly located in Zakarpattya, Poltava, Cherkasy, Volyn, Dnipropetrovsk, and Odesa. Roma experienced significant barriers accessing education, health care, social services, and employment due in part to discriminatory attitudes against them.

In 2013 the government adopted a seven-year action plan to implement a strategy for protecting and integrating the Roma into society. While observers saw the plan as a positive step, the European Roma Rights Center (ERRC) reported it had not led to significant improvements for Roma. The ERRC monitored the plan in collaboration with the International Renaissance Foundation.

According to the Parliamentary Ombudsman for Human Rights, 24 percent of Roma have never had any schooling, and only 1 percent of the Romani population had a university degree. Approximately 31 percent of Romani children did not attend school. According to the ERRC, more than 60 percent of Roma were unemployed, creating a vicious cycle leading to social exclusion and marginalization. According to the ombudsman, securing employment was the main problem for the Romani minority. Approximately 49 percent of Roma named it as their most significant challenge.

According to the Romani women's foundation Chiricli, local authorities erected a number of barriers to prevent issuing passports to Roma. Authorities hampered access to education not only by a lack of documents, but also due to segregation of Romani children into special schools or lesser-quality classrooms.

During the year many Roma fled settlements in areas controlled by separatists and moved elsewhere in the country. According to Chiricli approximately 10,000 Roma fled separatist-controlled territory and were among the most vulnerable members of the country's IDP community. Because many Roma lacked documents, obtaining IDP assistance, medical care, and education was especially difficult.

There were several reports during the year that police arbitrarily detained Romani individuals, at times beating or mistreating them (see section 1.c.).

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

During the year the country updated its labor code to prohibit workplace discrimination on the basis of sexual orientation and gender identity. No law, however, prohibits discrimination on this basis in other areas. LGBTI groups, along with international and domestic human rights organizations, criticized the lack of such language in the National Human Rights Strategy.

According to the LGBTI group Nash Mir (Our World), there were both positive and negative developments in the situation of the LGBTI community in the country. The group reported an improvement in social attitudes towards homosexuality and a decline in homophobic rhetoric from churches and leading political figures, and some members of the Verkhovna Rada voiced their support for LGBTI rights. The group reported, however, that the level of homophobic aggression from right-wing nationalist groups increased, and government agencies consistently avoided any discussion of problems facing the LGBTI community.

On June 6, several dozen men, including members of Right Sector, attacked the Equality March in Kyiv, beating protesters and police and throwing firecrackers laced with shrapnel. The attackers injured nine participants and 10 officers. While law enforcement authorities protected the march, the Kyiv City State Administration had initially discouraged march organizers from holding the event. Law enforcement authorities arrested more than a dozen persons on charges of

hooliganism. In July several men attacked two LGBTI activists holding hands in central Kyiv.

On August 13, the district administrative court in Odesa prohibited a march supporting LGBTI rights at the request of the Odesa City Council (see section 2.b.).

Our World stated that violence against LGBTI persons was underreported. During the year the group recorded 16 assaults and four killings related to the victims' sexual orientation. Our World indicated that victims and families were reluctant to pursue hate crime charges in these cases due to homophobia. They reported an additional 52 cases of discrimination and abuse, mostly in the cities of Kyiv, Dnipropetrovsk, Odesa, and Zhytomir.

According to the Ukrainian Gay Alliance, an assailant killed a man in Odesa on December 12 due to his sexual orientation. The accused killer reportedly confessed to police that he killed his acquaintance due to his hatred for persons of a "nontraditional sexual orientation."

LGBTI victims also suffered from discrimination in court proceedings. On November 11, a Kharkiv court handed down a sentence of only eight years to a man who murdered another person solely due to his homosexuality.

According to HRW transgender persons in the country faced discrimination. They must undergo mandatory psychiatric treatment and an examination before a state medical board prior to receiving treatment for sexual reassignment. Transgender persons found the process humiliating and claimed to have difficulty obtaining official documents reflecting their gender.

According to Our World, the situation of LGBTI persons continued to deteriorate in Russia-occupied Crimea and the parts of Donetsk and Luhansk Oblasts controlled by Russia-backed separatists (see section 1.g. and the Crimea section).

HIV and AIDS Social Stigma

UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools, subjected to neglect, and kept isolated from other children. The most at-risk adolescents faced higher risk of contracting HIV/AIDs as well as additional barriers to accessing information and

services for its prevention and treatment. Persons with HIV/AIDS faced discrimination and, at times, lacked access to treatment.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of most workers to form and join independent unions, to bargain collectively, and to conduct legal strikes. There are no laws or legal mechanisms to prevent antiunion discrimination, although the labor code requires employers to provide justification for layoffs and firings, and union activity is not an acceptable justification. Legal recourse is available for reinstatement, back wages, and punitive damages, although observers described court enforcement as arbitrary and unpredictable.

The law contains several limits to labor rights. Labor laws and civil codes that apply to worker organizations are excessively complex and contradictory. Unions reported significant bureaucratic hurdles in the registration process, entailing the payment of multiple fees and requiring visits to as many as 10 different offices. Independent unions reported multiple incidents of harassment by local law enforcement officials while navigating the registration process, including nonstandard requests for documentation and membership information.

Restrictions on the right to strike include the requirement that a large percentage of a workforce (two-thirds of conference delegates or 50 percent of workers in an enterprise) must vote in favor of a strike before it may be called. Poorly defined legal grounds for striking allowed authorities to deny the right to strike due to national security or to protect the health or "rights and liberties" of citizens. The law also prohibits strikes by specific categories of workers, including personnel in the Prosecutor General's Office, the judiciary, the armed forces, the security services, law enforcement agencies, transportation-sector workers, and employees in the public-service sector.

The law made it difficult for independent unions to take part in tripartite negotiations, participate in social insurance programs, or represent labor at the national and international levels, while further entrenching the Federation of Trade Unions (FPU) and hindering the ability of smaller independent unions to act as effective representatives of their members' interests.

Authorities did not effectively or consistently enforce labor laws, particularly where inspections and worker safety were concerned. On the regulatory side, inspectors were limited in number and in funding and faced substantial bureaucratic barriers (also see section 7.e.).

The government generally respected freedom of association and the right to collective bargaining. Observers, however, disputed the independence of unions from government or employer control. Independent trade unions alleged that the country's largest trade union confederation, the FPU, enjoyed a cozy relationship with employers and members of some political parties. Authorities further denied unions not affiliated with the FPU a share of disputed trade union assets inherited by the FPU from Soviet-era unions.

Statutory worker-management commissions were not always effective. Management, or union representatives co-opted by management, at times dominated the commissions. There were cases of workers, who renounced membership in an FPU-affiliated union and joined a new union, facing loss of pay, undesirable work assignments, and dismissal.

In January, Natalia Skalska, the head of the primary trade union of All-Ukrainian Trade Unions Zakhyst Spravedlivosti, filed a complaint with the Confederation of Free Trade Unions of Ukraine alleging that her employer, the National Depository of Ukraine, discriminated against trade unionists and encroached upon the rights of trade union members. Skalska accused the company's chairman, Gennadiy Zhurov, of failing to recognize the union and neglecting the rights of its members. Employers subsequently fired Skalska and other trade union members from their positions. Skalska filed an appeal, which remained under consideration.

There were several cases of companies, private and state owned, not honoring collective bargaining agreements during bankruptcies. Wage arrears were common in the country and increased during the year (see section 7.e.).

Oleksandr Abramov, the head of a local branch of the National Independent Trade Union of Miners (NPGU) in Demitrov, Donetsk Oblast, complained in a letter to the NPGU office about alleged violations of the labor law. According to Abramov the administration of the "Krasnoarmiiskvugillia" company forced workers to conclude fixed-term employment contracts after tentatively dismissing them from their jobs. Employers required the workers who took such contracts to do the same amount of work, but without any of the social guarantees provided for by their

previous collective bargaining agreement. The NPGU requested the Ministry of Energy and Coal Industry to help resolve the situation.

In January, Olga Shkoropad, the head of the primary trade union of the Lviv Coal Mining Company, complained to the press about the company's wage arrears, which totaled 32 million hryvnias (\$1.3 million). On her behalf the NPGU wrote the Ministry of Energy and Coal Industry requesting assistance. To force the company to take action, workers staged protests and strikes while demanding payment of back wages. As of October 22, the Lviv Coal Mining Company ceased operations, further complicating the trade union's claims.

Labor NGOs operated in the country and focused on compliance with international labor standards and supporting the independent labor movement. The International Labor Organization (ILO) had an office in the Ministry of Social Policy, and the ministry routinely consulted it. An ILO representative served on various boards and committees. One NGO, the Solidarity Center, focused on fostering independent unions and provided economic and legal training for union leaders.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Resources, inspections, and remediation were inadequate to ensure enforcement. Penalties for violations ranged from three to 15 years' imprisonment and were sufficiently stringent to deter violations. As of July 1, the International Organization for Migration assisted 292 victims of trafficking (160 women and 132 men), 91 percent of whom were victims of labor exploitation.

There were reports that criminals trafficked women, men, and children for labor. Traffickers subjected some foreign nationals to forced labor in construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and forced begging. Traffickers subjected some children to forced labor (see section 7.c.).

Also, see the Department of State's *Trafficking in Persons Report* at <u>www.state.gov/j/tip/rls/tiprpt/</u>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets 16 as the minimum age for most employment. Children who are 15 years of age may perform "light work" with a parent's consent, but the law does

not clearly define the term. The law allows children to do some forms of work beginning at age 14 as part of an apprenticeship in the context of vocational training.

The government did not effectively enforce the law. Penalties for violations ranged from small fines for illegitimate employment or other labor law violations to prison sentences for sexual exploitation of a child or involvement in illicit activities or pornography, and were insufficient to deter violations. The penalty for forcing children to beg is imprisonment for up to three years.

The most frequent violations of labor law for minors related to their work in hazardous conditions, long workdays, failure to maintain work records, and delayed salary payments.

A 2012 Office of the Ombudsman for Children's Rights study on child labor trends found child labor in agriculture (30 percent of all total child labor), sales activities in kiosks and in the distribution of advertising leaflets (25 to 30 percent), construction (19 percent), and other unskilled positions. The survey was not nationally representative and did not include children in the informal sector. Children from socially disadvantaged families and those in state custody remained at high risk of being trafficked or exploited for begging. Commercial sexual exploitation occurred (see section 6, Children). Most child labor in the informal sector occurred in the agricultural and service sectors.

During the year enforcement of child labor laws deteriorated. Due to the reorganization of the inspection services, a complete ban on unplanned inspections (see section 7.e.), and a lack of funding for the State Labor Service, authorities did not conduct a single child labor inspection during the year. Law enforcement bodies in the Luhansk Oblast detected one case of child sexual exploitation, which was under investigation. According to the Ministry of Social Policy, during a three-year period from January 2012 to the end of the year, there were 17 cases of child trafficking, of which eight involved sexual exploitation, five involved labor exploitation, two involved children being sold, one involved both sexual and labor exploitation, and one case involved forced begging.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <u>www.dol.gov/ilab/reports/child-labor/findings/</u>.

d. Discrimination with Respect to Employment and Occupation

The Verkhovna Rada passed a sexual minorities' antidiscrimination amendment to the labor code laws on November 12 to meet the requirements of the EU for a visa-free regime. With the incorporation of changes in the amendment, the labor code now prohibits "any discrimination in the workplace, including violation of the principle of equal rights and opportunities; direct or indirect restriction of the rights of workers depending on race, color, political, religious and other beliefs, sex, gender identity, sexual orientation, ethnic, social and foreign origin, age, health, disability, suspicion or existence of HIV/AIDS, family and property status, family responsibilities, location, membership in trade union or other association of citizens participating in the strike, appeal or intent to apply to the courts or other bodies for protection of their rights, or providing support to other workers in defense of their rights, linguistic or other grounds not related to the nature of the work or the context of its implementation."

The government did not effectively enforce the law, and discrimination in employment and occupation reportedly occurred with respect to gender, disability, nationality, race, minority status, sexual orientation or gender identity, and HIVpositive status.

Industries dominated by women workers had the lowest relative wages. Women received lower salaries than men did due to limited opportunities for advancement and the types of industries that employed them. According to the Ombudsman's Office, men earned on average of 29.5 percent more than women earned. Domestic and international observers noted women held few elected or appointed offices at the national and regional levels.

e. Acceptable Conditions of Work

As of January 1, the national monthly minimum wage for all sectors was 1,218 hryvnias (\$50). The government based the minimum wage on a set monthly subsistence income level. Prior to local elections in October, the government stated it would raise the minimum wage by 13.1 percent, to 1,378 hryvnias (\$57). The subsequent budget law passed by the administration envisaged that such an increase would begin in December. There were cases of workers in the informal sector receiving wages below the established minimum.

The law provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. It provides for double pay for overtime work and regulates the number of overtime hours allowed. The law requires agreement between employers and the respective local trade union

organization on all overtime work and sets limits on the number of overtime hours allowed.

Wage arrears increased 34 percent from January through October 1. According to the State Statistics Committee, arrears stood at approximately two billion hryvnias (\$83 million) as of October. Most arrears accumulated in industry but also significantly affected companies in the construction, transportation, communications, real estate, and agricultural sectors.

The law requires employers to provide safe workplaces. While the law and associated regulations contain occupational safety and health standards, employers frequently ignored them because of the lack of enforcement mechanisms and the government's failure to hold employers accountable for unsafe conditions. The law provides workers the right to remove themselves from dangerous working conditions without jeopardizing their continued employment. According to one NGO that follows labor issues, employers in the metal and mining industries often violated the rule and retaliated against workers by pressuring them to quit.

The government did not effectively enforce minimum wage, hours of work, and occupational safety and health standards. Penalties for violations ranged from 510 to 1,700 hryvnias (\$21 to \$71), which were insufficient to deter violations. The State Labor Inspectorate was responsible for enforcing labor laws. Inspectors were limited in number and funding. By November 2014 the latest year for which such data were available, the number of inspectors had dropped to 457 from 616, in large part due to a 70 percent funding cut in 2014.

The government imposed a moratorium on surprise inspections from July 2014 through the end of the year, purportedly to cut the number of required inspections and certifications, deregulate the economy, and prevent corruption. The moratorium further constrained the government's ability to enforce labor laws effectively.

During this period authorities required the State Labor Service and its predecessor, the State Labor Inspectorate, to go through a lengthy interagency process to obtain permission from the Cabinet of Ministers to conduct an inspection. The labor inspections could also occur on the company's own request or on the formal request of the investigator in the framework of criminal proceedings against the company.

Lax safety standards and aging equipment caused many injuries on the job. The mining sector proved particularly problematic, with wage arrears, nonpayment of overtime, and operational safety and health complaints common.

Mineworkers, particularly in the illegal mining sector, faced very serious safety and health problems. Through September there were 13 mining fatalities, or approximately 86 percent fewer than in the same period in 2014. In the same period, authorities reported 489 coal miners injured, almost 73 percent fewer than in the same period in 2014. Observers attributed the sharp decrease in fatalities and injuries to the fact that many mines in the areas in eastern Ukraine affected by Russian aggression were closed, ruined, or had suspended operation, while others in areas not under government control did not provide statistics to authorities. In the first nine months of the year, there were 3,067 work-related injuries across all employment types, or 38 percent fewer than during the same period in 2014. There were 275 work-related fatalities during the period, a 37 percent decline from the same period in 2014. Workers faced unsafe situations in areas of conflict in Donetsk and Luhansk Oblasts.

Despite armed conflict taking place close to industrial areas in the Donbas region, enterprises largely continued to operate through September. Fighting resulted in physical damage to mines and plants by causing loss of power, destroyed transformers, physical damage from shelling, and reportedly intentional flooding of mines by separatists. Miners were especially vulnerable, as loss of electrical power could strand them underground. Additionally, loss of electrical power threatened the operability of mine safety equipment that prevented the buildup of explosive gases.

Raids by combined Russian-separatist forces made workplaces in Donbas unsafe. For example, in April armed pro-Russian militants took control of the Donetsk office of the mobile telephone operator KyivStar, stealing its equipment and occupying its offices. Many coalmines in conflict areas halted operations (see section 1.g.). According to the government, approximately 70 percent of the coalmines in the Donetsk Oblast were ruined, flooded, cut off from electricity, or had other dangerous conditions.

CRIMEA

In February 2014 Russian forces entered Ukraine's Crimean Peninsula and occupied it militarily. In March 2014 Russia announced the peninsula had become part of the Russian Federation following a sham referendum that violated

Ukraine's constitution. On March 27, 2014, the UN General Assembly adopted Resolution 68/262 on the "Territorial Integrity of Ukraine," which called on states and international organizations not to recognize any change in Crimea's status and affirmed the commitment of the UN to recognize Crimea as part of Ukraine. In April 2014 Ukraine's legislature (Verkhovna Rada) adopted a law attributing responsibility for human rights violations in Crimea to the Russian Federation as the occupying state. The United States does not recognize the attempted "annexation" of Crimea by the Russian Federation. Russian law has de facto applied in Ukraine's Crimea since the Russian occupation and purported "annexation" of the peninsula in March 2014. For detailed information on the laws and practices of the Russian Federation, see the Country Reports on Human Rights for Russia.

EXECUTIVE SUMMARY

A local authority installed by the Russian government and led by Sergey Aksyonov as "prime minister" of the "state council of the republic of Crimea" administered Occupied Crimea. The "state council" was responsible for day-to-day administration and other functions of governing. In September 2014 Russian occupation authorities held "parliamentary elections" in which only Russia-based political parties won seats. Authorities closed the election to independent observers; it was not free and fair and was held in contravention of the Ukrainian constitution. Russian authorities maintained control over Russian military and security forces deployed in Crimea.

During the year security services worked to consolidate control over Crimea and continued to restrict human rights by imposing repressive federal laws of the Russian Federation on the Ukrainian territory of Crimea.

The most significant human rights problems in Crimea during the year related directly to the Russian occupation:

First, Russian security services engaged in an extensive campaign of intimidation to suppress dissent and opposition to the occupation that employed kidnappings, disappearances, physical abuse, and deportations. Russian security forces routinely detained individuals without cause and harassed and intimidated neighbors and family of those who opposed the occupation.

Second, Occupation authorities deprived certain groups, in particular Ukrainians and Crimean Tatars, of fundamental freedoms, particularly regarding expressions

of nationality and ethnicity, and subjected them to systematic discrimination. Continuing their policy of imposing Russian citizenship on all residents of Crimea, occupation authorities subjected persons who refused Russian citizenship to discrimination in accessing education, health, and employment. These authorities interfered with the rights to expression and assembly, criminalizing the display of cultural and national symbols, preventing groups of private individuals from celebrating their national and cultural heritage, and restricting access to education in the Ukrainian and Crimean Tatar languages.

Third, Russian authorities engaged in a widespread campaign to suppress free speech and media in Crimea. They refused to register Crimean media and news organizations, preventing them from operating legally. In particular, Russian authorities denied ATR television and the QHA Crimean News Agency licenses, forcing them to close. Security services also detained and abused journalists and threatened them with prosecution for opposing the occupation.

Other problems included poor conditions in prisons and pretrial detention facilities; political interference in the judicial process; limitations of freedom of movement; the internal displacement of thousands of individuals to mainland Ukraine; failure to allow residents of Ukraine's region of Crimea to exercise the ability to vote in periodic and genuine elections to choose their leaders; official corruption; discrimination and abuse of ethnic and religious minority groups; discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; kidnapping and transport of orphans to Russia by occupation authorities; and employment discrimination against persons who did not hold a Russian passport.

The Russian-installed authorities took few steps to investigate or prosecute officials or individuals who committed human rights abuses, creating an atmosphere of impunity and lawlessness. Occupation and local "self-defense" forces often did not wear insignia and committed abuses with impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

Russian occupation authorities did not adequately investigate cases of abductions and killings of Crimeans from 2014. For example, in January occupation authorities suspended their investigation of the March 2014 killing of Crimean Tatar activist, Reshat Ametov, who observers noted being forced into a car by members of "self-defense" paramilitaries. His body was later found with signs of

torture, including his eyes gouged out. Despite video footage of the abduction, police suspended their investigation due to "lack of evidence."

Occupation authorities did not investigate other suspicious deaths and disappearances, occasionally marking them up as suicide. Human rights observers reported that families frequently did not challenge findings in such cases due to fear of retaliation.

b. Disappearance

There were numerous reports of disappearances and abductions that domestic and international observers attributed to Russian occupation authorities. In many cases the whereabouts of individuals were unknown for extended periods of time. Human rights groups reported that police often refused to register reports of disappearances while intimidating and threatening with detention those who tried to report a disappearance.

In March, Fyodor Kostenko disappeared shortly after crossing from Kherson Oblast into Crimea. Kostenko is the father of Euromaidan activist Oleksandr Kostenko, who was convicted in Crimea in May for protesting against the Yanukovych government in Kyiv. The last report concerning Fyodor Kostenko was on March 4, shortly after he crossed into Crimea and after he appeared at a press conference in Kyiv, where he protested his son's detention, which he characterized as illegal. Russian occupation authorities have not investigated his disappearance.

On August 27, men in police uniforms reportedly seized Mekhtar Aislanov, a Crimean Tatar, and threw him into a minivan; there has been no subsequent communication from him. On September 3, Russian authorities opened an investigation into his disappearance.

On December 24, Tatar leader Mustafa Jemilev noted that at least 20 Crimean Tatars have disappeared since the occupation of Crimea began. There was no information on at least eight individuals reported as abducted and missing in 2014. Russian occupation authorities did not adequately investigate the disappearances, and human rights groups believed Russian security forces kidnapped the individuals by for opposing Crimea's occupation.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

There were reports that Russian authorities in Crimea abused residents who opposed the Russian occupation.

Security services reportedly tortured Oleksandr Kostenko prior to his May 15 "conviction" for allegedly injuring a member of the Ukrainian antiriot Berkut force in Kyiv in February 2014. Kostenko accused his captors of beating him, subjecting him to a mock execution, and depriving him of food and water during his detention. A court sentenced Kostenko to four years and two months in prison. Observers noted the conviction was unique because the alleged crime took place outside of both Russia and Crimea and occurred before Russia's occupation of Crimea.

Human rights monitors reported that Russian occupying forces subjected Crimean Tatars in particular to physical abuse and beatings but pressured them not to file complaints. For example, according to Tatar leaders, on December 16, Federal Security Service (FSB) officers detained and allegedly tortured Tatar Ehnver Krosh with electric shock, in an attempt to coerce his cooperation with an FSB operation. Authorities released him the next day, reportedly after having threatened his family.

Human rights monitors reported that occupation authorities also threatened individuals with violence or imprisonment if they did not testify in court against individuals the authorities considered to be in opposition to the occupation.

Prison and Detention Center Conditions

Prison and detention center conditions reportedly remained harsh and overcrowded. According to a September report on Crimea by the OSCE/ODIHR and the OSCE high commissioner on national minorities, persons incarcerated during the Russian occupation did not have the opportunity to retain their Ukrainian citizenship. The report also noted that health care in prisons had deteriorated. Human rights groups reported that prisons suffered from overcrowding and poor conditions.

<u>Independent Monitoring</u>: Occupation authorities did not permit monitoring of prison or detention center conditions by independent nongovernmental observers or international organizations.

d. Arbitrary Arrest or Detention

Authorities arbitrarily detained protesters, activists, and journalists for opposing the Russian occupation.

Role of the Police and Security Apparatus

Russian occupation authorities applied and enforced Russian law in occupied Crimea. Russian government agencies, including the Ministry of Internal Affairs, the FSB, the Federal Investigative Committee, and the Office of the Prosecutor General, enforced the "law." The FSB also conducted security, counterintelligence, and counterterrorism activities and combatted organized crime and corruption. A "national police force" operated under the aegis of the Russian Ministry of Internal Affairs.

In addition to abuses committed by Russian forces, "self-defense" forces, largely consisting of former Ukrainian Ministry of Interior officers allegedly linked to local organized crime, reportedly committed many abuses. These forces often acted with impunity in intimidating opponents of the occupation and were involved in beatings, kidnappings, detentions, and arbitrary confiscation of property. While the "law" places the "self-defense" forces under the authority of the "national police," members of the forces continued to commit abuses while receiving state funding for their activities as well as other awards, such as beachfront property and service medals.

Arrest Procedures and Treatment of Detainees

<u>Arbitrary Arrest</u>: There were reports Russian-imposed authorities made arbitrary arrests, in particular targeting Crimean Tatars.

Authorities arrested persons involved in competing protests by pro-Russian and pro-Ukrainian groups on February 26, 2014, in Simferopol, which resulted in the deaths of two individuals. The event occurred prior to Russia's purported annexation of Crimea. Occupation authorities, nevertheless, subsequently prosecuted individuals alleged to have participated in the protest, although Russia did not exercise control over Crimea at the time. Human rights groups reported that authorities reviewed video of the incident and selectively brought charges against leading Crimean Tatar and Ukrainian individuals who subsequently opposed the occupation, in particular members of the Crimean Tatar Mejlis. The occupation authorities refused to investigate acts of violence committed by pro-

Russian "protesters," some of whom observers believed to have been working for Russian security services.

On January 28, police arrested Akhtem Chiygoz, a Crimean Tatar leader and deputy head of the Mejlis, and charged him with participating in the February 26 Simferopol protests. During a hearing in May, authorities extended his detention by three months. While Chiygoz was in detention, occupation authorities held him in solitary confinement, only returning him to the normal prisoner population after he began a hunger strike. In July occupation authorities extended Chiygoz's detention to November 19; authorities extended it again until January 29, 2016. On December 28, the Kharkiv Human Rights Protection Group cited complaints by Chiygoz's lawyers that authorities deprived them of enough time and access to case materials to provide an adequate defense during the trial, set to start in early 2016.

Following Chiygoz's arrest authorities arrested several other Crimean Tatars, accusing them of participating in the February 26, 2014 protests, including Asan Chebiyev (on February 4), Eskender Knemirov (on February 7), Eskender Emirvaliyev (on February 18), Talyat Yusonsov (on March 11), Ali Asanov (on April 15), and Mustafa Degirmindzhy (on May 10). Human rights groups believed that occupation authorities made the arrests to pressure them to testify against Chiygoz.

On April 14, police detained Mustafa Asaba, head of the Belgorod regional Mejlis, and accused him of participating in the February 26 Simferopol protests. Human rights observers believed that Russian security services planted ammunition in his home during a search in September 2014.

Security services also arrested persons involved in a protest on May 3, 2014, when several thousand Crimean Tatars protested at the administrative boundary between Crimea and Kherson Oblast against the occupation authorities' forced expulsion of Crimean Tatar leader Mustafa Jemilev. Following the protests authorities fined more than 200 individuals for conducting an "unauthorized meeting." In 2014 occupation authorities indicted four individuals for rioting and violating a state border in connection with the May 3, 2014 events, targeting Crimean Tatar leaders Musa Apkerimov, Rustam Abdurakhmanov, Edem Ebulisov, and Tair Smedlyaev. On January 17, authorities arrested Edem Osmanov, son of Euromaidan activist Mustafa Osmanov, and accused him of using force against the Russian occupation in connection with the May 3, 2014 events. On May 28, Apkerimov received a suspended sentence of four years and four months. On August 4, authorities fined

Edem Ebulisov in exchange for a plea of guilty for assaulting a state official. The status of the other investigations and trials was unknown.

e. Denial of Fair Public Trial

Under the Russian occupation regime, the "judiciary" was neither independent nor impartial and remained susceptible to political interference.

Trial Procedures

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Political Prisoners and Detainees

Russian occupation authorities together with local "self-defense" forces detained and prosecuted individuals for political reasons (see section 1.d.). Occupation authorities also transferred Crimean cases to Russia's legal system and changed the venue of prosecution for some detainees. On August 25, a Russian court sentenced film director Oleh Sentsov and activist Oleksander Kolchenko to 20 and 10 years in prison, respectively, on politically motivated charges. Occupation authorities had transferred them from Crimea to Russia for trial in 2014 (see *Country Reports on Human Rights* for Russia).

On June 2, a Russian court found Khaiser Jemilev, son of exiled Crimean Tatar leader Mustafa Jemilev, guilty of manslaughter, sentencing him to five years, later reduced to three and a half, in prison. Occupation authorities had transferred him from Crimea to Russia for trial in 2014. Human rights groups asserted that Russian authorities charged him with murder and later transported him to Astrakhan to put pressure on his father, Mustafa Jemilev, who opposed the occupation of Crimea (see *Country Reports on Human Rights* for Russia).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

There were reports that occupation authorities and others engaged in electronic surveillance, entered residences and other premises without warrants, and harassed relatives and neighbors of perceived opposition figures.

Russian occupation forces regularly conducted paramilitary exercises with the aim of intimidating residents of Crimea, especially Crimean Tatars. On April 2, Internal Affairs Ministry soldiers entered the town of Zhuravli, searching homes for weapons and "banned materials." Occupation authorities conducted similar searches in Lenino and Fontany. In both cases armed men in uniform without identification conducted extensive searches of houses without a warrant or pretext, accompanied by dogs and helicopters after setting up checkpoints with machine guns at the outskirts of the towns. There were reports that occupation authorities conducted similar searches in Simferopol.

Occupation authorities harassed family members of a number of political opponents. For example, they indicted Oleksandr Kostenko's brother, Felix Kostenko, for "insulting a judge." Occupation authorities also indicted Kostenko's friend, Stabislav Kransov, for "inciting hatred or enmity through mass media" and fled Crimea; security services frequently visited Kostenko's mother, who still resided in Crimea.

Following the sabotage of electrical lines from government-controlled territory to occupied Crimea, Russian officials cut power and natural gas to family members of members of the Crimean Tatar Mejlis in retaliation. Human rights monitors reported that occupation authorities harassed family and friends of Crimean Tatar leaders and placed them under surveillance.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Occupation authorities significantly restricted freedom of speech and press. Occupation authorities refused to register independent print and broadcast media outlets, forcing them to cease operations. Threats and harassment against international and Ukrainian journalists were common.

<u>Freedom of Speech and Expression</u>: Individuals could not publicly criticize the Russian occupation without fear of reprisal. Human rights groups reported that the FSB engaged in widespread surveillance of social media, telephones, and electronic communication and routinely summoned individuals for "discussions" for voicing or posting opposition to Russian occupation.

On April 21, occupation authorities detained Emir-Usein Kuku, a member of the Contact Group on Human Rights, and seized his laptop and mobile phone, allegedly on suspicion that he was involved in inciting ethnic hatred.

Occupying authorities considered the Ukrainian flag and other Ukrainian symbols to be illegal and arrested and harassed anyone publicly displaying these symbols. On August 24, Ukrainian Independence Day, occupation authorities arrested three men in Kerch for flying a Ukrainian flag and wearing T-shirts with Ukrainian symbols on them. The court sentenced one of the men to 15 days in jail for "disrupting public order." On the same day in Sevastopol, police arrested a small group of Ukrainian activists for laying flowers at a monument to Ukrainian writer Taras Shevchenko.

<u>Press and Media Freedoms</u>: Independent print and broadcast media could not operate freely. Occupation authorities refused to register most independent media outlets, forcing them to close during the year.

In 2014 occupation authorities required all Crimean media organizations to register with the Russian state media regulator Roskomnadzor by January 1. Occupation authorities extended that deadline to April 1. The authorities subsequently refused to issue licenses to independent news organizations or those that published articles opposing Russia's occupation of Crimea.

In February, Roskomnadzor refused to issue a license to QHA Crimean News Agency, which ceased operations in Crimea on April 1 and moved to Kyiv. Roskomnadzor also refused to register the Tatar language outlets 15 Minut and Avdet.

On April 1, the Crimean Tatar television station ATR stopped transmitting after occupation authorities refused to issue it a license. ATR submitted four applications between October 2014 and April, but occupation authorities refused it each time due to "lack of documents," despite the fact that an experienced Moscow law firm prepared its last two applications. The occupation "prime minister," Sergei Aksyonov stated ATR was an "enemy element" that had no role to play in Russian-occupied Crimea. AI and other human rights groups condemned Russia's decision to close ATR.

On April 29, the Committee to Protect Journalists (CPJ) appealed to Russian president Vladimir Putin to improve press freedom, criticizing raids, and detentions, while noting that, of the 3,121 press organizations registered in

Ukraine, only 232 had obtained registration from Roskomnadzor. In particular, the CPJ criticized occupation authorities for singling out Crimean Tatar publications for closure.

On March 2, Russian occupying authorities warned Nariman Dzhelyal, first deputy head of the Mejlis, not to organize any protest against ATR's closing. On March 31, occupation authorities detained eight students after creating a video supporting ATR. On April 15, occupation authorities fined two of them the equivalent of \$200 (14,800 rubles) for participating in an unsanctioned public event.

Occupation authorities took steps to replace independent, Tatar-language media with state-controlled alternatives. On September 22, the Millet television station began broadcasting in the Crimean Tatar language. The occupation authorities closely controlled its content. Millet received approximately 177 million rubles (\$2.4 million) in Russian government funding and does not report on issues such as disappearances of Crimean Tatars.

<u>Violence and Harassment</u>: There were numerous cases of Russian security forces or police harassing independent media and detaining journals in connection with their professional activities. On January 26, armed members of the Russian security services raided the headquarters of ATR, and demanded that it surrender any footage it had of the February 2014 protests. During a seven-hour search, the security services seized hard drives, video footage, and data. The occupation authorities threatened to arrest and fine individuals who gathered to protest the search.

On March 13, police detained independent journalist Natalya Kokorina for six hours and searched the home of the mother of Anna Andrievska, who wrote an article about the Crimea Battalion in December 2014. Both were independent journalists affiliated with the Center for Investigative Journalism. In separate incidents police also detained independent journalist Anna Shaidurova and former ATR Television cameraman Eskender Nebiyev.

<u>Censorship or Content Restrictions</u>: Following Russia's occupation of Crimea, journalists resorted to self-censorship to continue reporting and broadcasting. Russian occupation authorities banned most Ukrainian and Crimean Tatar-language broadcast programming, replacing the content with Russian programming.

In September occupation authorities directed media outlets not to mention the word "Mejlis" in reporting and not make any mention of its leader Refat Chubarov or former leader Mustafa Jemilev. The Russian-installed "prosecutor general" of Crimea ordered media outlets "to stop using the name or parts of the name of nonexistent organizations in news, articles, and interviews."

<u>National Security</u>: Occupation authorities used national security laws to restrict the work of journalists critical of the Russian occupation.

Internet Freedom

Russian occupation authorities restricted free expression on the internet by imposing repressive laws of the Russian Federation on Crimea (see section 2.a. of the *Country Reports on Human Rights* for Russia). Security services routinely monitored and controlled internet activity to suppress contrary opinions. According to media accounts, Russian occupation forces interrogated residents of Crimea for posting pro-Ukrainian opinions on Facebook or on blogs. On April 11, occupation authorities detained former ATR cameraman Amet Umerov and searched his house for allegedly posting remarks critical of the Russian occupation leadership on a social network. The search came days after Roskomnadzor, Russia's media regulator, was granted broad powers to search correspondence on social networking and e-mail systems.

On April 4, during a daylong raid and search of houses in Zhuravki for alleged extremist materials, occupation authorities reportedly cut the town off from internet, telephone, and electrical services.

Academic Freedom and Cultural Events

Russian authorities in Crimea engaged in a widespread campaign to suppress the Crimean Tatar language. While Crimean Tatar is an official language, occupation authorities dramatically reduced instruction in schools, and the language was offered only as an optional language at the end of the school day. Occupation authorities closed the Crimean Tatar school in Bakhchysarai. Additionally, there were reports of authorities pressuring Crimean Tatars to use the Cyrillic, as opposed to the Latin, alphabet.

After the Russian occupation, authorities pressured teachers and parents to discourage Ukrainian language education. In 2014 authorities closed the Ukrainian Philology Department at the V.I. Vernadsky University, creating a shortage of

teachers and discouraging Ukrainian instruction. Prior to the occupation, 8.2 percent of Crimean children received instruction in Ukrainian in seven Ukrainian language schools and 165 bilingual Ukrainian and Russian schools. During the year only 1.2 percent of Crimean residents received Ukrainian language instruction and only two Ukrainian language schools remained open. In 2013 some 12,694 students received instruction in Ukrainian; during the year only 949 did. Occupation authorities expunged courses on the history and literature of Ukraine from educational materials in Crimea, and punished teachers found using Ukrainian materials and dismissed some.

Occupation authorities imposed Russian laws regarding "banned" books and materials and reportedly removed Ukrainian language material from libraries in Crimea. In January occupation authorities fined the director of the Feodosia library 2,000 rubles (approximately \$27) because the library contained 12 books about the Holomodor (a man-made famine that occurred in Ukraine in the 1930s), which were deemed to be "extremist materials" because of its supposedly anti-Russian content.

In September occupation authorities threatened Vladimir Kazarin, chair of the Russian and Foreign Literature Department at the Tauride Tauris Academy, with dismissal after he stated that "the arrival of Russia absolutely devastated the educational field of Crimea" at a conference in Prague.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Organizations representing minority communities reported gross and widespread harassment and intimidation by Russian occupation authorities to suppress their ability to assemble peacefully. Abuses included arbitrary searches, interrogations, threats of deportation, and unsubstantiated accusations of possessing "extremist" literature.

On January 17, approximately 30 titushki, or hired thugs, attempted to break up a meeting of the Second All-Crimean Conference on Crimean Tatar Rights in Simferopol by assaulting and harassing participants. Police and security officers at the scene did nothing to prevent the disruption.

On May 18, Russian occupation authorities detained approximately 60 Crimean Tatars commemorating the 71st anniversary of the Soviet deportation of Crimean

Tatars, for displaying Ukrainian and Crimean Tatar flags. Prior to the march, authorities warned members of the Crimean Tatar Mejlis not to hold such a demonstration. Occupation authorities detained protesters for more than six hours without access to lawyers and released them without formal charges.

Occupation authorities criminalized the display of Ukrainian flags and symbols as extremist activity. On March 9, security services arrested Leonid Kuzmin, Alexander Kravchenko, and Vilidar Shukurdzhiyev in Simferopol after they displayed Ukrainian flags at a public celebration of the 201st birthday of Ukrainian poet Taras Shevchenko. On March 13, the court found all three guilty of holding an illegal rally and sentenced them to 40 hours of community service. Occupation authorities threatened Kuzmin with dismissal from his job as a teacher. On March 14, occupation authorities arrested Kuzmin at a memorial to Shevchenko wearing a blue and yellow ribbon--the Ukrainian national colors. Occupation authorities later issued Shukurdzhiyev an administrative warning for doing the same. On April 17, two unknown individuals assaulted Kuzmin, leaving him with a concussion.

Occupation authorities forbade any assembly marking Crimean Tatar Flag Day on June 26.

Freedom of Association

Russian occupation authorities required all social, religious, and media groups to reregister by January 1, 2016. There was concern that occupation authorities would abuse this process to hinder freedom of association by preventing legitimate associations from reregistering, thereby making their actions illegal.

Security services repeatedly arrested, detained, and searched members of the Mejlis, the recognized, elected representative body of Crimean Tatars. On March 30, occupation authorities subjected Nariman Dzhelyal to a five-hour search of his home following his election to the Mejlis. In September occupation authorities threatened to prohibit the Crimean Tatar Mejlis within the Russian Federation.

The Russian Federation Council's July 8 proposed a "patriotic stop list" of 12 foreign NGOs operations it considered to be a potential threat to the internal political situation of Russia; the list included the Crimean Human Rights Field Mission (CHRFM), which conducts monitoring of human rights abuses committed in Crimea. The CHRFM reported that officials and individuals were afraid to discuss human rights with them after they were placed on the "patriotic stop list."

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <u>www.state.gov/religiousfreedomreport</u>/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

Russian occupation authorities did not respect rights related to freedom of movement and travel.

<u>In-country Movement</u>: There were reports that occupation authorities selectively detained and at times abused persons attempting to enter or leave Crimea. On January 17, Russian occupation authorities detained without cause Emine Avamileva, a member of the Crimean Tatar Mejlis and Kurultai, for more than two hours at the administrative boundary between Kherson and Crimea. On January 23, occupation authorities detained Eksender Bariyev and Abmedzhyt Suleymanov, members of the Crimean Tatar Rights Committee, as they traveled from Crimea to Kherson Oblast.

<u>Foreign Travel</u>: In July occupation authorities prohibited Nariman Dzhelyal and Ilmi Umerov from the Crimean Tatar Mejlis as well as Zair Smedlyaev, head of the Central Election Commission of the Kurultai, from traveling to Ankara, Turkey, to attend the Second World Congress of Crimean Tatars.

<u>Exile</u>: On January 23, occupation authorities expelled Sinaver Kadyrov, a Crimean Tatar activist, although he had not formally refused Russian citizenship and had been compelled to accept it.

Mustafa Jemilev and Refat Chubarov, members of the Verkhovna Rada and the former and current chairman of the Crimean Tatar Mejlis, respectively, and Ismet Yuksel, general director of the Crimean News Agency, remained banned from entering Crimea by Russian occupation authorities on the pretext that they would incite radicalism. Occupation authorities have banned them since 2014.

<u>Citizenship</u>: In 2014 Russian occupation authorities imposed a Russian citizenship requirement on all residents of Crimea. Those who refused Russian citizenship became subject to arbitrary expulsion. Authorities announced that it would issue only 5,000 Russian "permanent residence permits" to Crimean residents during the year. Additionally, authorities denied those who refused Russian citizenship

access to government employment, education, and health care, as well as the ability to open bank accounts and buy insurance, among other limitations. According to media sources, Russian authorities prosecuted private employers who continued to employ Ukrainians.

In some cases authorities compelled residents of Crimea to surrender their Ukrainian passports. Loss of their Ukrainian passports made it potentially difficult for Crimeans to travel internationally, since many countries did not recognize passports issued to them by Russian occupation authorities.

Occupation authorities announced that, as of January 1, 2016, all individuals who retained Ukrainian citizenship must register their passports or be subject to fines or imprisonment.

Internally Displaced Persons

Approximately 30,000 residents of Crimea registered with Ukraine's State Emergency Service as IDPs on the mainland, according to the UN Office for the Coordination of Humanitarian Affairs. Local NGOs, such as KrymSOS and the Mejlis, believed the actual figure could be as high as 50,000 because the majority of IDPs remained unregistered. Many individuals fled out of fear occupation authorities would target them for abuse because of their work as political activists or journalists. Muslims and Evangelical Christians who left Crimea said they feared discrimination due to their religious beliefs.

Crimean Tatars, who made up the largest number of IDPs, said they were concerned about pressure on their community, including an increasing number of arbitrary searches of their homes, surveillance, and discrimination. Additionally, many professionals left Crimea because Russian occupation authorities required them to apply for Russian professional licenses and adapt to Russian procedures in their work.

Section 3. Freedom to Participate in the Political Process

<u>Recent Elections</u>: Russian occupation authorities prevented residents from voting with other Ukrainian citizens in the October 25 local elections by prohibiting the establishment of legitimate district and precinct election commissions and polling places in Crimea.

<u>Participation by Women and Minorities</u>: Russian occupation authorities harassed, detained, and denied freedom of movement to members of the Crimean Tatar Mejlis (see section 2.d.). The Russian-installed "prime minister," Sergey Aksyonov, stated occupation authorities no longer recognized the Mejlis as an official institution. Under Ukrainian law the Mejlis is the official, recognized, representative council of Tatars in the country.

Section 4. Corruption and Lack of Transparency in Government

There were no known requirements for Russian occupation authorities or their agents to file, verify, or make public any income or asset disclosure statements, nor is there a mechanism to provide for public access to information about their activities.

There were multiple reports during the year of rampant corruption among Crimean "officials," including reports of embezzlement of Russian state funds allocated to support the occupation. For example, in June the FSB opened corruption cases against three prominent officials: Andrei Skrynnik, the peninsula's "minister of industrial policies"; Nikolai Kochanov, the region's "tax inspection chief"; and Dmitri Petrov, the "port chief of Yalta."

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Most independent human rights organizations ceased activities in Crimea following Russia's occupation. Occupation authorities refused to cooperate with independent human rights NGOs and ignored their views, and they harassed human rights monitors and threatened them with fines and imprisonment.

An unofficial Turkish delegation visited Crimea on April 27-30. Its June 5 report stated that occupying authorities placed the delegation under surveillance, attempted to prevent the delegation from having meetings, and criticized the delegation when it did so. According to the report, Russian media engaged in a coordinated campaign to discredit the delegation. The Turkish delegation thanked "Crimean Tatars who agreed to meet with them despite pressures, fear, and threats to the safety of their lives."

From July 6-18, the OSCE conducted a human rights assessment mission on Crimea. Russian occupation authorities refused to meet with the mission and denied the mission entry to Crimea. The mission's report detailed allegations of

potentially serious human rights violations, emphasizing the need for independent human rights monitoring.

The CHRFM attempted to monitor the human rights situation in Crimea, but authorities sharply curtailed its activities after placing it on a "patriotic stop list" by the Russian Federation Council. The council recommended that the Russian Prosecutor General's Office, in coordination with the Russian Ministry of Foreign Affairs, determine whether the group was an "undesirable foreign organization." Should Russian authorities find the CHRFM "undesirable," members and anyone cooperating or associating with the group would be subjected to fines or imprisonment.

Additionally, Russian laws regulating NGOs prohibit any group that receives foreign funding and engages in vaguely defined "political activity" to register as a "foreign agent," a term that connotes treason or espionage. During the year authorities had not included any Crimean NGOs on the list; however, the law has had a chilling effect on their activities (see sections 2.b. and 5 of the *Country Reports on Human Rights* for Russia).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Occupying Russian forces created an atmosphere of impunity, creating a hostile environment for members of ethnic and religious minorities, and fostering discrimination and hostility against LGBTI persons.

Children

<u>Birth Registration</u>: Under both Ukrainian law and "laws" imposed by Russian occupation authorities, birthplace or parentage determines citizenship. Russia's occupation and purported annexation of Crimea complicated the question of citizenship for children born after February 2014, since it was difficult for parents to register a child as a citizen with Ukrainian authorities. Registration in Ukraine requires a hospital certificate, which is retained when a birth certificate is issued. Under the occupation regime, new parents could only obtain a Russian birth certificate and do not have access to a hospital certificate. The situation was further complicated because Ukrainian border guards did not recognize Russian birth certificates, so bringing a newborn child to Ukraine would be difficult.

<u>Institutionalized Children</u>: There were reports that Russian authorities continued to permit kidnapping orphans in Crimea and transporting them across the border

into Russia for adoption. The Ukrainian government did not know the whereabouts of the children.

Anti-Semitism

According to international Jewish groups, an estimated 15,000 Jews lived in Crimea, primarily in Simferopol. There were no reports of anti-Semitic acts.

National/Racial/Ethnic Minorities

Since the beginning of Russia's occupation, authorities singled out Crimean Tatars and Ukrainians for discrimination, abuse, deprivation of religious and economic rights, and violence, including killings and abductions.

Crimean Tatars are an ethnic group native to Crimea, dating to the Crimean Khanate of the 15th century. In 1944 Soviet authorities forcibly deported more than 230,000 Tatars to the Soviet Far East for allegedly collaborating with the Nazis during World War II. Following the dissolution of the Soviet Union, many surviving Crimean Tatars returned to Crimea. Prior to the Russian occupation, there were approximately 300,000 Crimean Tatars living in Crimea.

Occupation authorities systematically targeted members of the Crimean Tatar Mejlis, an elected, representative body of Crimean Tatars that the Ukrainian government legally recognizes. Russian occupation authorities formally banned its leader, Refat Chubarov, from Crimea for five years. Many of the individuals targeted in the cases regarding February 26 protests in Simferopol and March 3 at the administrative border between Crimea and Kherson oblasts were Mejlis members.

Occupation authorities harassed Crimean Tatars for speaking their language in public and forbid speaking it in the workplace. There were reports that teachers prohibited schoolchildren from speaking Crimean Tatar to one another.

Occupation authorities placed restrictions on the Spiritual Administration of Crimean Muslims, which is closely associated with Crimean Tatars. While the Spiritual Administration of Crimean Muslims has registered under Russian law, occupation authorities prohibited individual Muslim mosques associated with Crimean Tatars from doing so. Authorities routinely demanded information on any meeting held at a mosque outside of regular services and required that they be informed if an imam changed mosques.

Russian occupation authorities also targeted ethnic Ukrainians. On May 21, a group of ethnic Ukrainians met in public to celebrate "embroidery day" in honor of traditional Ukrainian dress. Security forces arrested four persons as well as three journalists from TV Inter. According to reports authorities arrested the group for having "prohibited items" and detained them for five hours. According to the Kharkiv Human Rights Monitoring Group, when the group asked why they were being fingerprinted, a security official told them that it was in case "something happens to you tomorrow…headless bodies get found here."

Occupation authorities have not permitted churches linked to ethnic Ukrainians, in particular the Ukrainian Orthodox Church-Kyiv Patriarchate (UOC-KP) and the Ukrainian Greek Catholic Church to register under Russian law. Occupation authorities harassed and intimidated members of the churches. According to Bishop Kliment of the UOC-KP, parishes in Saki, Krasnoperekopsk, and Kerch closed for financial reasons after authorities threatened the economic interests of business persons who supported the churches. Bishop Kliment reported regular and systematic surveillance of UOC-KP churches and parishioners.

Russian occupation authorities targeted businesses and properties belonging to ethnic Ukrainians and Crimean Tatars for expropriation and seizure. In particular, they prohibited Crimean Tatars affiliated with the Mejlis from registering businesses or properties.

Acts of Violence, Discrimination, and other Abuses Based on Sexual Orientation and Gender Identity

Human rights groups and local gay rights activists reported most of the LGBTI community fled Crimea after the Russian occupation began. LGBTI individuals were verbally and physically assaulted for their sexual orientation, and members of the LGBTI community reported that they were "completely underground." Russian occupation authorities prohibited any LGBTI groups from holding public events in Crimea. LGBTI individuals faced increasing restrictions on their right to peaceful assembly as occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the *Country Reports on Human Rights* for Russia).

Section 7. Worker Rights

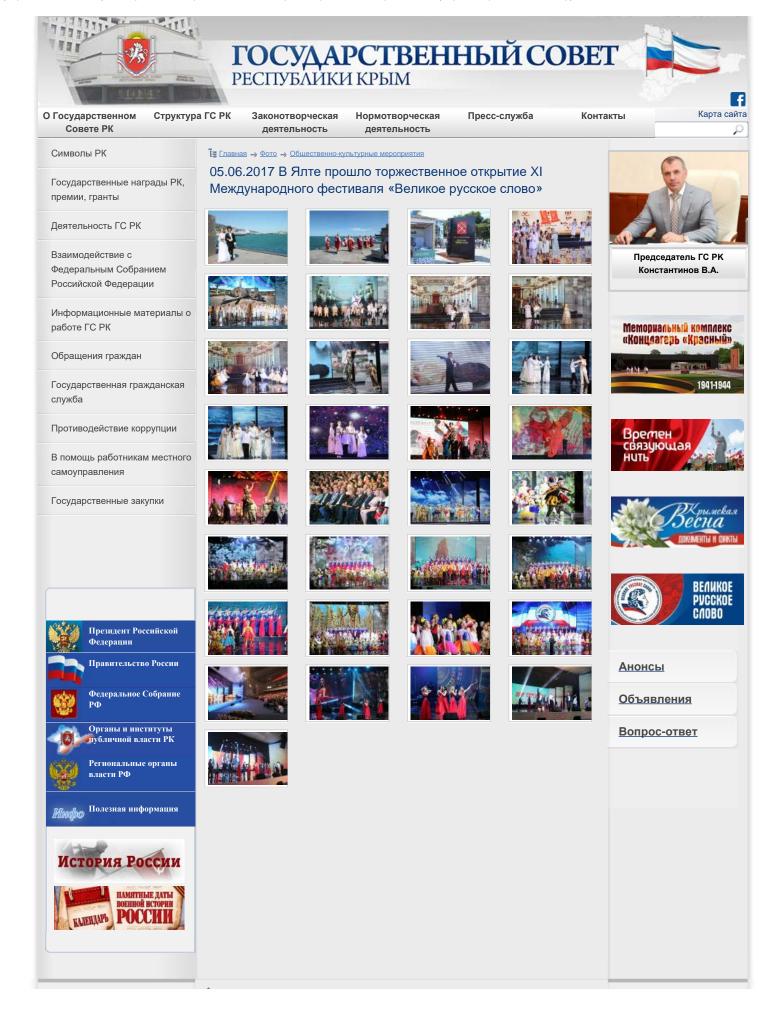
Russian occupation authorities announced both the labor laws of Ukraine and those of the Russian Federation were to remain in effect until January 1. Russian occupation authorities have stated that, after that time, conditions specified in employment agreements that do not meet the requirements of federal laws and other normative legal acts of the Russian Federation containing the norms of labor law would no longer be applicable after that date (see section 7 of the *Country Reports on Human Rights* for Russia).

Russian occupation authorities imposed labor laws and regulations of the Russian Federation on Crimean workers, limited worker rights and created barriers to freedom of association, collective bargaining, and the ability to strike. The NGO Freedom House reported that pro-Russian authorities threatened to nationalize property owned by labor unions in Crimea. Ukrainians who did not accept Russian citizenship faced job discrimination. Only Russian passport holders could continue to work in "government" and municipal positions.

Annex 1090

In Yalta the Solemn Opening of the XI International Festival "Great Russian Word" Was Held (6 May 2017), archived at http://crimea.gov.ru/foto/society/050620177.

Государственный Совет Республики Крым - Фотогалерея - 05.06.2017 В Ялте прошло торжественное открытие XI Международного фестиваля «Великое русское слово»



Annex 1091

Oxford English Dictionary (2018), accessed at http://www.oed.com/

Oxford English Dictionary | The definitive record of the English language

ethnicity, n.

 Pronunciation: Brit. /εθ'nIsiti/, U.S. /εθ'nIsidi/

 Frequency (in current use):

 Origin: Formed within English, by derivation. Etymons: ETHNIC adj., -ITY suffix.

 Etymology: < ETHNIC adj. + -ITY suffix.</td>

In sense 1 after Spanish †*etnicidad*...

†1. Paganism, heathen superstition. Obs. rare.

1772 T. NUGENT tr. J. F. de Isla <u>Hist. Friar Gerund</u> I. 332 From the curling spume of the celebrated Egean waves fabulous <u>ethnicity</u> [Sp. *etnicidad*] feigned Venus their idolatress conceived.

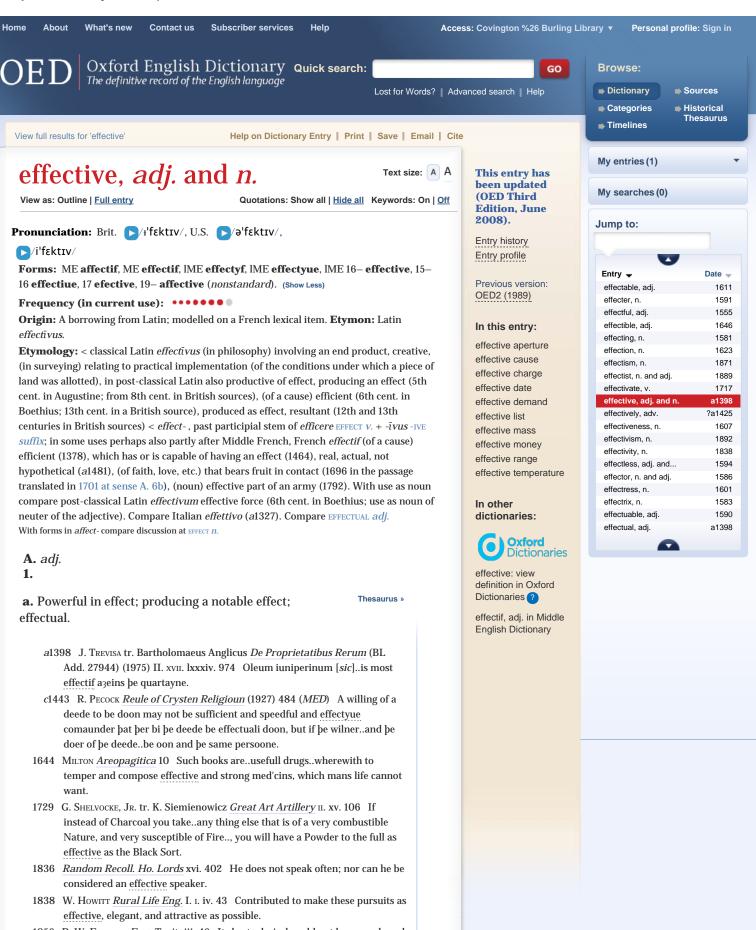
2. Status in respect of membership of a group regarded as ultimately of common descent, or having a common national or cultural tradition; ethnic character.

- 1920 I. B. BERKSON *Theories of Americanization* ii. 89 To regard every individual of an ethnic group as having primarily the characteristic nature of that group, as if affiliation with it invested him with a particular kind of ethnicity..is contrary to the doctrine that each individual structure is primary.
- 1953 D. RIESMAN in *Amer. Scholar* **23** I. 15 The groups who, by reason of rural or small-town location, <u>ethnicity</u>, or other parochialism, feel threatened by the better educated upper-middle-class people.
- 1964 P. WORSLEY in I. L. Horowitz *New Sociol.* 384 Existing barriers of <u>ethnicity</u> imported into office.
- 2010 J. BIEBER *Soweto* 13/1 Although almost every Sowetan speaks all black South African languages, the issue of ethnicity was one of the biggest problems that we faced.

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Annex 1092

Oxford English Dictionary (2018), http://www.oed.com/.



- 1856 R. W. EMERSON *Eng. Traits* iii. 46 Its best admiral could not have..anchored it [*sc.* England] in a more..effective position.
- 1860 N. HAWTHORNE *Marble Faun* II. xviii. 204 An Italian comedy..effective over everybody's risibilities.

- 1879 J. A. FROUDE *Cæsar* iv. 39 Fewer men, better trained and disciplined, could be made more effective.
- 1948Life 6 Sept. 18/2The impudent but effective tactics by which the Brooklyn
Dodgers hope to win their second straight National League pennant.
- 2006 <u>N.Y. Times Mag.</u> 22 Jan. 72/2 Studies have shown that a good number of female fishing spiders are from a very early age highly driven and effective hunters.

Thesaurus »

Categories »

b. Of a work of art, a design, a literary composition, etc.: producing a striking or pleasing impression.

- 1790 E. TATHAM *Chart & Scale Truth* I. 293 Poetical imitations are always the most perfect, the most proper, and the most <u>effective</u>, when they are made directly from things that are.
- 1804 *Times* 26 Oct. 3/4 The humour of the characters was heightened, the sentiments were given with more nature and impressiveness, and the affecting situations were rendered more striking and effective.
- 1853 G. JOHNSTON *Terra Lindisfarnensis* I. 107 The high bank..is..rendered effective by a perpendicular wall of naked sandstone.
- 1872 E. A. FREEMAN *Hist. Ess.* 21 It is not one suited to produce any very effective romantic narrative.
- 1882 Garden 18 Feb. 119/1 Varieties of Amarantus are..effective in the..garden.
- 1938 <u>Amer. Home</u> Jan. 21/2 Now that so many walls are in beautiful plain colors or in delicate Regency stripes, the opportunity to put something lovely on so effective a background is not to be missed.
- 1990 *Ideal Home* Aug. 45/4 For an <u>effective</u> display, choose larger than average plants with large leaves.

(Hide quotations)

Thesaurus »

†**2.** Concerned with, or having the function of, carrying into effect, executing, or accomplishing; (of a cause) that makes something to be what it is, efficient (cf. *effective cause n.* at Special uses). *Obs.*

- a1398 J. TREVISA tr. Bartholomaeus Anglicus *De Proprietatibus Rerum* (BL Add.) f. 107^v Pis spere conteyneb all be nebir bingis & ordeyneb & informeb hem alle, & is cause affectif of generacioun & of lyuynge [L. *generationis et vegetationis effectiua*].
- c1425 WYNTOUN <u>Cron.</u> IX. XXVII. 256 Dis wes be Proces causative, Dat eftyr folowit effective.
- 1597 T. MORLEY *Plaine & Easie Introd. Musicke* Annot. sig. ¶^v Musicke is diuided into two parts... The second may be called *Syntactical, Poetical,* or *effectiue*.
- 1607 R. PARKER *Scholasticall Disc. against Antichrist* I. i. 33 The former was significatiue onely, his effectiue.
- 1660 Bp. J. TAYLOR *Ductor Dubitantium* II. IV. i. 442 The act of the will..is acquisitive and effective, or recusative and destructive, otherwise than it is in any other faculties.
- 1708 J. C. STURM *Mathesis Juvenilis* I. 127 One sort of Geometry is Theorical, which demonstrates Theorems, and the other Practical or Effective, which demonstratively resolves Problems.

(Hide quotations)

†**3**.

a. That is concerned in the production *of* (an event or condition, or (*rare*) a material product). *Obs.*

Thesaurus » Categories »

- 1594 T. Bowes tr. P. de la Primaudaye *French Acad.* II. 379 Powers..are effectiue principles [Fr. *principes effectifs*] of all actions.
- 1607 R. PARKER *Scholasticall Disc. against Antichrist* I. ii. 91 The signe of the Crosse is..effectiue of grace.
- 1677 T. GALE *Court of Gentiles: Pt. IV* IV. 170 Politic Philosophie is defined..a Science effective of Justice in the Citie.
- 1684 tr. T. Bonet *Guide Pract. Physician* vi. 193 In the Tertian [Ague] the part effective of the bloud is out of its natural temper.

b. Having the power of acting upon the thing designated. ^{Thesaurus} *Obs.*

- 1646 SIR T. BROWNE *Pseudodoxia Epidemica* 214 Time is not <u>effective</u>, nor are bodies destroyed by it, but from the action and passion of their Elements in it.
- a1652 J. SMITH *Select Disc.* (1660) v. ii. 139 The more unbodied any thing is, the more unbounded also is it in its Effective power.

(Hide quotations)

Thesaurus »

4.

a. Actual, de facto; existing in fact; that is (..) so far as the effect is concerned. Frequently opposed to *potential*, *nominal*.

- 1620 T. SHELTON tr. Cervantes <u>2nd Pt. Don Quixote</u> l. 339 Sir, (quoth the Page) all I know of my selfe, is, that I am a reall Ambassador, and that Signior Sancho Pansa is an effective Gouernour [Sp. *Gouernador efectivo*].
- 1786 E. BURKE Speech 4 Apr. in Jrnls. House of Commons (1803) **41** 503/2 Afterwards displacing two effective governours..appointed in Succession by himself.
- 1790 E. BURKE *Refl. Revol. in France* 9 The collection of an effective and welldistributed revenue.
- 1829 <u>*Times*</u> 20 Aug. 4/1 The night watch is a watch rather formal and nominal than actual and effective.
- a1832 BENTHAM *Levelling Syst.* in <u>Wks.</u> (1843) I. 361 Those..whose present fortunes are above the mark..would be but a small part of the real and effective losers.
- 1878 H. P. GURNEY *Crystallogr*. 39 Potential and not <u>effective</u> planes of symmetry.
- 1938 *Polit. Sci. Q.* **53** 490 The organization of the Committee will become the organization of the War Cabinet, and the Minister in <u>effective</u> charge of the Committe will be the real Prime Minister.
- 1988 D. MAY *Hannah Arendt* ii. 37 His departure was the effective end of their marriage.
- 2005 *Managem. Today* Dec. 25/2 The artificial structure created to mask the effective renationalisation of Railtrack.

(Hide quotations)

b. In predicative use. Of an order, ruling, appointment, etc.: taking effect, in force. Frequently in verbless clauses.

- 1909 *Columbia Law Rev.* **9** 523 On May 1, 1908 the commodities clause of the so-called Hepburn Act became effective.
- 1952 *Times* 17 June 10/3 The Union Bank of Burma Act, 1952, will become effective on July 1 next.
- 1961 R. B. LONG *Sentence & its Parts* xi. 265 Effective the first of November, the library will close at eleven.

- 1992 <u>N.Y. Times</u> 19 Aug. A1/4 Mr. Baker, whose..appointment as Mr. Bush's chief of staff and campaign coordinator becomes <u>effective</u> Sunday, is said to be resisting the idea.
- 2000 S. GARDINER *Dominion of Wyley McFadden* v.176 Straightaway he cancelled the answering service, effective immediately.

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Categories »

5. Of personnel in the armed forces: fit for work or service. Also *ellipt.* (cf. sense B. 2). Now *rare*.

- 1648 H. PARKER <u>Of Free Trade</u> 11 When that shall be accounted an army of so many souldiers <u>effective</u>, this shall be despised as a rout of so many men rudely conglomerated, and thronged together.
- 1684 Scanderbeg Redivivus v. 105 Being not above 15 or 16000 Men Effective.
- 1701 *London Gaz.* No. 3733/4 The Imperial Army is said to consist of 44000 <u>Effective Men.</u>
- 1791 J. SMEATON *Narr. Edystone Lighthouse* §295 The copper-smiths..were not likely very soon to be effective.
- 1812 <u>Times 11 Aug. 3/3</u> On an average each battalion may be reduced to 500 men effective present under arms.
- 1865 T. CARLYLE *Hist. Friedrich II of Prussia* V. XVIII. i. 7 Army of 60,000 on paper; of effective, more than 50,000.
- 1905 <u>*Times*</u> 11 Aug. 9/6 The policy of the Government was to reduce the force to 180,000 men, and to spend the whole of the present grant of £1,500,000 in making it effective.

(Hide quotations)

6.

a. Designating that part or component of an agency or force which is actually brought to bear on a particular object or is instrumental in producing a result; designating a property or quantity considered, measured, or expressed in such a way as to take account of factors which modify its effect or prevent its direct measurement.

See also effective aperture n., effective mass n., effective temperature n. at Special uses.

- 1687 <u>*Philos. Trans. 1686–7*</u> (Royal Soc.) **16** 270 The <u>effective</u> Force (and consequently the Celerity) as to a first Moment, is to be 1/m of what it would be, had there been no resistance.
- 1760 *Philos. Trans. 1759* (Royal Soc.) **51** 120 Had the <u>effective</u> aperture or section of the water been the same..so that 131,2 lb. of water had been discharged instead of 144, the effect would have been increased in the same proportion.
- 1807 T. YOUNG *Course Lect. Nat. Philos.* I. xxxiv. 397 In the pedal harp, the half notes are formed by pressing pins against the strings, so as to shorten their effective length.
- 1825 'J. NICHOLSON' *Operative Mechanic* 67 This we call the virtual or <u>effective</u> head [of water].
- 1879 W. THOMSON & P. G. TAIT *Treat. Nat. Philos.* (new ed.) I: Pt. i. §228 The Component of a force in any direction, (sometimes called the Effective Component in that direction).
- 1956 C. A. CULVER *Musical Acoustics* (ed. 4) v. 65 The ear is most sensitive at a frequency of about 3000 cps. At that frequency a subjective sound reaction will result if the <u>effective</u> pressure of the sound wave is less than 0.0002 dyne/sq cm.
- 1966 M. R. BROER *Efficiency Human Movement* (ed. 2) vii. 72 The total <u>effective</u> force is the sum of the forces produced by all [muscle] groups if all are applied in the same direction and in the proper sequence.

- 1992 *PC World* Apr. 190/3 Many scanner vendors claim an 'effective' resolution of 600 dpi for their 300-dpi scanners using interpolation.
- 2001 <u>Model Engineer</u> **186** 121/1 Considerable force is applied to a slide valve by virtue of the steam pressure acting on its <u>effective</u> surface area and so port face wear is inevitable.

b. *Theol.* Of faith, love, etc.: that bears fruit in conduct. Categories »

- 1701 W. DARRELL tr. G. Daniel *Disc. Cleander & Eudoxus* vii. 332 Let us, on the contrary, suppose that there shou'd be no command at all, of affective love [Fr. *amour affectif*], but that the command of effective love [Fr. *amour effectif*] shou'd subsist and be accomplished.
- 1733 <u>Devout Christian's Compan.</u> (ed. 2) xxxvi. 374 And oh blessed Day! when we shall have once thoroughly possessed our Souls with such a vigorous and effective Faith as this.
- 1855 F. W. FABER *Growth in Holiness* (ed. 2) v. 71 <u>Effective</u> love makes us the living images of Jesus.
- 1913 Amer. Jrnl. Sociol. **18** 705 An effective love of one's neighbor is the product of a rational and idealizing faith.
- 2000 *Church Hist.* **69** 911 We see in Ewald's turn to the subject, to history, and to biblical narrative as the inspiration for building a Christian community of effective love the basic outline of nineteenth-century liberal theology.

(Hide quotations)

c. That is attended with result or has an effect.

Thesaurus »

- 1723 S. CLARKE in J. Clarke tr. *Rohault's Syst. Nat. Philos.* II. xvii. 227/1 ((*note*)) Of the Rays which fall parallel and contiguous upon a refracting Sphere, those that are effective or proper to produce a Rain-bow, must also come out of the Sphere parallel and contiguous.
- 1762 O. GOLDSMITH *Citizen of World* I. xlix. 215 There is an <u>effective</u> power superior to the people.
- 1776 A. SMITH *Inq. Wealth of Nations* I. I. x. 149 The masters alone had an effective voice in the legislation.
- 1799 tr. F. D'Ivernois *Hist. & Polit. Surv. Losses French Nation* x. 362 For an effective capital of twenty-two thousand livres (or the paltry sum of 880*l.* sterling), the republic has alienated the palaces, hotels, convents, and other edifices, which, according to Clauzell, produced an annual income of two millions.
- 1806 T. R. MALTHUS *Ess. Princ. Population* (ed. 3) II. III. x. 250 The quantity of effective capital employed in agriculture.
- 1831 *Times* 24 Dec. 3/3 The country..has made repeated, though partially effective, calls for an investigation of the builder's accounts.
- 1863 J. H. BURTON Book-hunter (ed. 2) 90 The honour of the first effective shot.
- 1945 *Salamanca (*N.Y.*) Republican Press* 28 June 3/4 More than 100 aimed and effective shots were laid in on the German column.
- 1985 *Times* 2 July 1/4 Despite largely effective calls for restraint by Mr Scargill there were angry boos and shouts of 'scab'.

(Hide quotations)

7. *Grammar*. Denoting the completion or result of an action. Cf. sense B. 4.

Thesaurus » Categories »

- 1904 Expositor 6th Ser. 10 444 The effective aorist κατήντησαν is very different from a durative like ἐπορεύοντο.
- 1906 *Classical Rev.* **20** 466/1 Little less fundamental for Dr. Moulton's purpose is his discussion of the Greek Tense-systems, where he distinguishes

'punctiliar' action, whether 'ingressive', '<u>effective</u>', or 'constative', from 'linear' or 'durative', and from 'perfect' and 'iterative'.

- 1932 *Jrnl. Eng. & Germanic Philol.* **31** 251 The latter class may be called the effective aspect: 'His strength *gave out*', i.e., he came to the end of his strength.
- 1970 *Language* **46** 300 The *-t* forms were predominantly selected..for preterits in contexts suggestive of non-durative ('effective') aspect.

(Hide quotations)

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B. *n.*

†1. An effective cause (see *effective cause n.* at Special uses and cf. sense A. 3). *Obs.*

- 1610 J. HEALEY tr. St. Augustine <u>Citie of God</u> XII. xxv. 466 Had the eye the apple..their rotundity not from any externall <u>effectiue</u>. [L. *Eadem ui diuina & effectiua..accepit speciem rotunditas oculi, & rotunditas pomi.*]
- 1686 J. GOAD *Astro-meteorologica* I. i. 1 No less are they the due <u>Effective</u> of the former.

(Hide quotations)

2. *Mil.*

a. An effective soldier (see sense A. 5); one fit for work or service. Usually in *pl*.

Thesaurus » Categories »

- 1708 DUKE OF MARLBOROUGH *Let.* 2 Aug. in H. L. Snyder <u>Marlborough–Godolphin</u> <u>Corr.</u> (1975) II. 1048 There must be care taken to pay the 20 crowns only for the efectives.
- 1722 London Gaz. No. 6060/1 The Garrisons..consist of 1000 Effectives.
- 1809 DUKE OF WELLINGTON *Let.* 30 June in *Dispatches* (1837) IV. 478 An abstract..which shows the comparative numbers of effectives and total.
- 1866 G. BANCROFT Hist. U.S. IX. xxiv. 407 They counted nine thousand effectives.
- 1900 *Times* 7 Dec. 13/3 Not half the nominal <u>effectives</u> of the Home Army could be placed in the field.
- 1966 Jrnl. Contemp. Hist. 1 163 The proposed increase in Army effectives in 1913 produced the next head-on collision between the SPD and the establishment.
- 2000 *Jrnl. Mil. Hist.* **64** 14 Nevertheless, the numbers of <u>effectives</u> did not quite match overall French strength in Andalusia.

(Hide quotations)

b. As a mass noun: that part of an army which is fit for ^{Categories} work or service.

- 1846 *Naut. Mag.* Sept. 486 In the year 1820, the effective of the English merchant navy amounted to 25,374 vessels.
- 1885 *Standard* 29 Oct. 5/5 The effective of the Turkish forces in the Balkan Peninsula now reaches 180,000 men.
- 1914 *Times* 16 Nov. 7/3 Making 13 battalions in all, and representing half the effective of the Guard Corps.
- 1970 *Jrnl. Rom. Stud.* **60** 75 It is noticeable that this figure is the effective of the old tribal army, based on the three tribes and the thirty *curiae*.

(Hide quotations)

†3. = *effective money n.* at Special uses. *Obs. rare.*

Categories »

1858 P. L. SIMMONDS *Dict. Trade Products* at *Effective* Bills on Vienna are

generally directed to be paid in effective.

(Hide quotations)

4. An effective verb or an effective aspect or part of a verb (see sense A. 7). *rare*.

Thesaurus » Categories »

1935 G. O. CURME *Gram. Eng. Lang.* II. xii. 237 In duratives, ingressives, effectives..the present participle represents the act as incomplete.

(Hide quotations)

SPECIAL USES

effective aperture *n. Optics* the diameter of the widest beam of light incident on an optical system that goes to form an image; also in extended use (e.g. in connection with radio waves or particle beams).

- 1844 <u>Littell's Living Age</u> 14 Dec. 412/1 Messrs. Merz and Mahler, of Munich, have more recently executed..an Achromatic Telescope whose object glass has 15 inches of effective aperture, and a focal length of 322 feet.
- 1887 *Proc. Royal Soc. 1886* **41** 282 We may elude the objection by contracting proportionally the effective aperture, but only at the expense of brightness.
- 1965 M. J. LANGFORD *Basic Photogr.* iii. 54 As the aperture closes the diameter of this incident light beam or 'Effective Aperture' narrows proportionally.
- 1995 *Sci. Amer.* Feb. 57/1 Radio astronomers have developed methods for combining signals from radio telescopes scattered around the globe, creating an effective aperture 8,000 miles across.

(Hide quotations)

effective cause *n*. an efficient cause.

- a1398 J. TREVISA tr. Bartholomaeus Anglicus *De Proprietatibus Rerum* (BL Add.)
 f. 106 Pe firmament sendiþ þe vertu of his li₃t, þat is <u>effectif cause</u> of generacioun, to þe erþe.
- ?1574 T. HILL <u>Contempl. Myst.</u> f. 68 The materiall or <u>effective cause</u> neare to the Earthquake, is the exhalation..engendred and included within the caues..of the earth.
- 1660 BP. J. TAYLOR <u>Ductor Dubitantium</u> II. IV. i. 466 But he that so assists, that he is the great effective cause of the evil which without his aide would not have been done at all, is intirely guilty.
- 1743 D. BROKKER *Cathedral Music* 12 I would not be misunderstood..that th assemblage of Instruments and Voices were any ways the <u>effective Cause</u> of the Glory's Appearance.
- 1892 <u>*Philos. Rev.*</u> 1 586 Mechanicalism: mechanical causes, in the sense of Kant, are assumed as the sole effective cause and are placed in opposition to teleological causes.
- 1950 *Mod. Law Rev.* **13** 239 Causes fall into two categories, contributing and effective.
- 2001 *Studia Islamica* **92** 183 Even if we accept that only God can be an <u>effective</u> cause.

(Hide quotations)

effective charge *n. Mil.* (now *rare*) the expenditure on effective forces, as distinguished, e.g. from that on military

Categories »

pensions, retired pay, etc.

- 1828 <u>Times 5 July (Suppl.) 6/1 In the effective charge of the ordnance there had been a reduction since the year 1815, the last year of the war, of nearly 3,000,000*l*. out of a sum of 3,800,000*l*.</u>
- 1849 MACAULAY *Hist. Eng.* I. 306 The whole effective charge of the army, navy, and ordnance, was about seven hundred and fifty thousand pounds.
- 1913 <u>*Times*</u> 6 Feb. 5/1 The borrowing Government should as a rule bear the noneffective as well as the <u>effective charge</u> for the period of employment.

(Hide quotations)

effective date *n.* the date on which an order, ruling, appointment, etc., takes effect.

- 1909 *Columbia Law Rev.* **9** 523 A little over a year after the <u>effective date</u> of the Act.
- 1998 I. HUNTER *Which? Guide to Employment* x. 177 The law currently states that the employee must have two years' continuous employment as at the effective date of termination (EDT).

(Hide quotations)

effective demand *n. Econ.* the actual level of demand, for practical purposes; *spec.* the level of demand that represents a real intention to purchase by those with the means to pay.

- 1819 <u>*Times*</u> 24 July 2/2 Every speculation in ordinary times is only sound or prudent in so far as it is calculated on the relative proportion of supply and effective demand.
- 1893 *Jrnl. Polit. Econ.* **1** 375 The point in the growth of the demand for food at which there will be an <u>effective demand</u> for one-and-a-half times as much American wheat as at present.
- 1953 J. L. HANSON *Textbk. Econ.* IV. x. 155 To distinguish demand from need this [demand at a price] is sometimes called effective demand.
- 1994 K. PERRY *Business & European Community* iii. 42 The economic environment then further worsened as a result of the 1973 oil crisis, which by reducing <u>effective demand</u> and increasing inflation contributed to the stagflation of the 1970s.

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effective list *n. Mil.* (now *rare*) the list of personnel or ^{Categories} » ships that are fit for service.

- 1843 *Times* 25 Feb. 3/2 How many of them [*sc.* admirals] were on the effective list?
- 1855 *Times* 6 Jan. 5/5 Two vacancies having occurred in the establishment of general officers on the effective list of the Royal Artillery.
- 1939 *Times* 3 Aug. 17/7 The completion of the Belfast brings up the total of British cruisers on the effective list to 60.
- 1946 *Mariner's Mirror* **32** 10 The *Rupert* was struck off the effective list in 1906.

effective mass *n*. the mass of something as calculated or inferred from its effect in a particular context; (*Physics*) the mass that needs to be assigned to a particle if the usual equations of motion are to hold in a situation where they do not strictly apply; *spec.* the mass that an electron appears to have in a crystal lattice, where its motion is affected by electric and magnetic fields.

- 1842 *Philos. Trans.* (Royal Soc.) **132** 249 The difference of the two last determinations...gives the effective mass [of air] between the stations.
- 1896 J. LARMOR in *Philos. Trans. 1895* (Royal Soc.) A. **186** 718 The motional forcive..will go on increasing the acceleration of the electron, of effective mass Le², until [etc.].
- 1909 W. C. D. WHETHAM in A. C. Seward *Darwin & Mod. Sci.* xxix. 568 An electric charge possesses mass, and there is evidence to show that the <u>effective mass</u> of a corpuscle increases as its velocity approaches that of light in the way it would do if all its mass were electromagnetic.
- 1917 *Physical Rev.* **9** 167 For all three metals..the <u>effective mass</u> of the carrier comes out somewhat larger than the accepted value for the mass of a slow moving electron in free space.
- 1922 T. M. LOWRY *Inorg. Chem.* xxxi. 544 The <u>effective mass</u> of the proton may be greater..when free or associated only with a planetary electron than it is when associated closely with electrons in the nucleus of an atom.
- 1949 *Physical Rev.* **75** 865/2 The ionization energy of donors is less than that of acceptors, probably because conduction electrons have a smaller <u>effective</u> mass than holes.
- 1995 P. WOODWARD <u>My Own Right Time</u> ii. 10 The <u>effective mass</u> of the bob increases slightly when the density of the air increases,...and its inertia has to be added to that of the pendulum.

(Hide quotations)

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effective money *n.* money in the form of coin, as opposed to paper money.

[1738 Some Thoughts Interest of Money 3 That the Price of Things in one Age, will bear that proportion to the Price of them in another Age, which the effective Silver in the nominal Pound of Money at one Time, bears to the effective Silver in the nominal Pound at another Time.]

- 1756 R. ROLT <u>New Dict. Trade</u> at Coin On the foot whereon the English money now stands, it is divided into real coin, or effective money; and imaginary money, or money of accompt.
- 1875 <u>N. Amer. Rev.</u> Apr. 481 If a town of a valuation of \$1,000,000 requires to raise \$20,000 of effective money, this might be done by a rate of \$20 on \$1,000.
- 1953 *Jrnl. Finance* **8** 409 It is not strictly proper to include in 'effective money' commercial bank vault and till cash.
- 2000 *Business Hist. rev.* **74** 181 These reforms also unleashed centrifugal forces as the center and localities struggled to command the real resources needed to maintain economic activity in the absence of <u>effective money</u>.

(Hide quotations)

effective range *n*. the range within which a missile, weapon, or firearm is effective.

Categories »

- 1844 *Times* 12 Sept. 5/3 Thus, while the extreme range of his 10-inched *canan obuiser* is 5,000 metres, its effective range is only1,200—a difference of four to one.
- 1846 A. S. MACKENZIE *Life Stephen Decatur* iv. 70 She was moored within half gun shot of the Bashaw's Castle, and the Molehead and Crown Batteries, and within effective range of ten other batteries.
- 1859 J. A. FROUDE <u>*Hist. Eng.*</u> (1858) I. i. 65 Two hundred and twenty yards..is to be taken as the <u>effective range</u> for fighting purposes of the old archery.
- 1908 Science 11 Dec. 822/2 The effective range of the modern high-power gun is

now about five miles.

- 1984 G. McWHINEY & P. D. JAMIESON <u>Attack & Die</u> ii. 29 Candid American officers admitted that their own troops often tried to extend their musket fire beyond effective range.
- 2000 <u>Asian Surv.</u> **40** 326 Trishul (Trident), a short-range all weather SAM [= surface-to-air missile] with an effective range of nine kilometers, is fitted with a high explosive fragmented warhead.

(Hide quotations)

effective temperature *n.* (*a*) *Physics* the temperature of the sun or other astronomical body, estimated as the actual temperature of a black body of the same size which would radiate the same amount of energy; (*b*) the temperature at which something is effective or functional; (*c*) the subjective degree of heat or cold, taking actual temperature and other environmental factors into account; (*d*) *Physics* the temperature of something as represented by the kinetic energy of its constituent atomic or subatomic particles.

- 1880 C. A. YOUNG in *Princeton Rev.* Jan. 94 We may..inquire what must be the temperature of a globe of the sun's size..and at the sun's distance from the earth, in order to send us the amount of heat actually observed. Assuming the radiating power of this fictitious sun to be the same as that of a surface of lamp-black (the best radiator known), the temperature corresponding to this assumption is designated as the sun's effective temperature.
- 1924 H. DINGLE *Mod. Astrophysics* ix. 119 The wavelength of maximum energy, from which the effective temperature is determined.
- 1929 R. A. WARDLE *Princ. Appl. Zool.* 197 There would seem to be for each species of insect a range of temperatures between whose maximum and minimum extremes the insect is active... This range of temperatures may be termed the range of Effective Temperatures.
- 1930 *Engineering* 28 Nov. 671/1 The effective temperature of a room, that is to say, the temperature at which, in still air, a sizeable black body at standard temperature will lose heat at the same rate as it is being lost in its environment.
- 1957 *Encycl. Brit.* XVII. 847 F/2 The term 'effective temperature' was sometimes used to denote what we now call 'colour temperature'. 'Effective temperature' is now used to denote the temperature of a black body for which the total emitted radiation..is the same as the total radiation..emitted from the surface of a star.
- 1976 O. OJO in C. G. Knight & J. L. Newman <u>Contemp. Afr.</u> viii. 104 The <u>Effective</u> <u>Temperature</u> index (ET)..was developed by exposing volunteer subjects to different atmospheric conditions of temperature, humidity, and air movement and by asking them to rate their comparative sensations of warmth or coolness.
- 1976 *Philos. Trans.* (Royal Soc.) A. **281** 513 The effective temperature of the plasma turbulence is many orders of magnitude larger than the initial electron temperature.
- 2002 F. CLOSE et al. *Particle Odyssey* x. 204 When individual electrons and positrons collide at energies at 100 GeV, the effective temperature is some 10¹⁵ degrees.

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