

The events of recent days mean that Russia now holds all the cards over the secession of Crimea from Ukraine

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On Saturday, Russia's parliament approved the deployment of Russian troops to Ukraine, while a referendum has been called in Crimea to determine the territory's future. [Jim Hughes](#) traces the history behind the current crisis, noting that the situation has its roots in the international management of secession during the 1990s. He argues that while much will depend on the wording of the referendum question, the developments over the past few days mean that Russia is very much in the driving seat in determining where Crimea's future will lie.



The attempt to reassert secession in Crimea cannot be fully understood without locating it within a time frame that dates to the fall of communism in the early 1990s, and without recognising some other relevant key historical factors. This case is a legacy of the international management of secession in the 1990s, in which the EU (or EC as it was then) played a lead role.

The European Community's "Arbitration Committee" under the chair of French constitutional lawyer Robert Badinter, was set up to give legal opinions on the secessions from Yugoslavia. It restated a number of international norms on secession and established three main principles. First when states were "in dissolution" the decolonising norm of *uti possidetis juris* would apply, namely, that secession would only be permitted to the next highest administrative entities below the state level. The conclusion was that there could be "no secession within secession" – a decision which excluded Kosovo from legal recognition as a secessionist case.

This principle also excluded many formerly autonomous entities in the newly independent states of the former Soviet Union which attempted to assert secession, such as Chechnya, Abkhazia, Nagorno Karabagh, South Ossetia, Tatarstan, and Crimea. The Badinter Committee decisions led to the so-called "frozen conflicts" in the region, where some entities were de facto independent and viable states but were not internationally recognised.



Troops in Perevalne, Crimea, on 2 March (Credit: Daniel Sandford)

Secondly, Badinter affirmed that the international recognition of secession had to be underpinned by a free expression of consent, and this was understood to require a referendum. Third, secessionist entities were to make provision for the protection of minorities. These three norms were upheld as articles of faith by EU countries throughout most of the 1990s.

Roots of the current crisis

To a large extent Russia accepted these principles, however grudgingly. The realpolitik of that time was that Russian power in international politics was extremely weakened by the collapse of the USSR. The overriding concerns of the Yeltsin administrations in the 1990s were managing the internal problems of Russia. The country was riven apart by

domestic political conflicts between president and parliament that at times verged on civil war. In September-October 1993 Yeltsin received unquestioning Western backing for using armed force to bloodily crush his elected parliament and nationalist protestors in Moscow. There is a sense of *deja-vu* with events in Ukraine excepting that Western backing this time round lies with the pro-Western and nationalist opposition in parliament.

Yeltsin also turned Russia inwards to manage the economic and social cataclysm of “shock therapy”, which facilitated the emergence of an oligarch-led kleptocracy. He also preferred stabilisation in the “frozen conflicts” in the near abroad, while taking a carrot and stick approach to internal secession, becoming entangled in a military quagmire in Chechnya, while simultaneously successfully concluding secret deals with leaders of recalcitrant Russian republics such as Tatarstan to buy off and co-opt separatist leaderships.

The current crisis in Crimea is rooted at worst in Yeltsin’s reluctance to defend Russia’s legitimate interests abroad or at best his preparedness to trade off the interests of the Russian diaspora against the interests of Russia’s military. Crimea was one of two such cases. First, Russia bowed to EU and US pressure to tolerate the systemic discrimination against Russophones (mostly ethnic Russians) in Estonia and Latvia, leading to those two countries being included in the enlargement process of the EU and NATO, despite their flagrant infringements of Western norms on minority protections.

Second, Yeltsin prioritised good relations with Ukraine and the cutting of a deal on the Black Sea fleet over the demands of the vast majority of the people of Crimea (mostly ethnic Russians) for secession from Ukraine and inclusion within Russia. The ethnic Russian separatist movement in Crimea peaked in 1995 and fell into disarray in the absence of support from Russia proper. The constitution of Ukraine of 1996 granted Crimea the status of “autonomy”, but virtually no self-governing powers. It was a mere fig leaf to cover the subordination of the territory to Kyiv. A Russo-Ukrainian agreement on keeping Russia’s Black Sea fleet in Crimea followed in 1997.

Western double standards

There are other historical factors to take into account in evaluating the current situation. Crimea is a territory of immense historical resonance to Russians, being embedded in their Golden Age literature of Pushkin, being the site of important historical sieges of resistance against Western aggression in the Crimean War and the Second World War. Not surprisingly Russians question the morality and constitutionality of Crimea’s transfer from Russian jurisdiction to Ukrainian in 1954. The transfer was formally justified as a gift to mark the anniversary of the Treaty of Pereiaslav of 1654, when the Ukrainian Cossacks joined the Russian state. In symbolic resonance it is not unlike an American leader gifting Gettysburg to the Canadians, or a French president gifting Verdun to Germany.

There are also serious questions about the constitutionality of Crimea’s transfer from Russia. Under Soviet constitutional norms such territorial transfers required mutual consent as expressed by the supreme soviets of each jurisdiction, including Crimea. The Soviet leadership under Khrushchev managed the transfer, in fact, by a Politburo (Communist Party) decision, only the praesidia of the supreme soviets (Russia and Ukraine) were involved, not the full supreme soviets as required, and the Crimeans were left out of the process altogether. We might ask whether constitutional niceties under communism matter for today. Communist constitutional norms certainly mattered for the Badinter Committee as they formed the basis for its opinions on status questions in former Yugoslavia.

The Badinter norms on which the EU operated on Yugoslavia (but not on Estonia and Latvia) were unravelled by the EU and US in their pursuit of independence for Kosovo from 1999. The Rambouillet Agreement and other international agreements made by the Contact Group of Western powers and Russia (that managed the Kosovo status issue), consistently affirmed that Kosovo remained under the sovereignty of the former Yugoslavia (i.e. part of Serbia). At the same time, the US and EU acted behind the scenes to push for Kosovo’s unilateral independence, which eventually came in 2008 and was speedily recognised by the majority of EU countries and the US.

This period of Western double standards over Kosovo was matched by Russian double standards over Chechnya,

and the South Caucasus cases of Abkhazia and South Ossetia. Chechnya was devastated by war, while Russia took the opportunity presented by Saakashvili's foolish military adventure in August 2008 to rout Georgian forces, and followed by recognising the independence of Abkhazia and South Ossetia. Any discourse from either EU countries, the US or Russia about respecting sovereignty and territorial integrity today and operating through international norms rings very hollow in light of recent historical experience, not only in the former communist space but also more widely.

The fundamental reality is that the international balance of power has tilted back in Russia's favour since the late 1990s for several reasons. First, Putin is not Yeltsin. Not only is he as a leader much more assertive of Russian's legitimate interests abroad, and much more nationalistic in his concern with the rights of ethnic Russians in the "near abroad", but he is also in a much better position in terms of power to do so.

He is also a sober and astute navigator of international politics. Russia is in a much more stable condition today compared with the chaos of the 1990s. Putin has imposed a strong vertical authority chain in the government, has resuscitated the economic and social, and military, position of the country through the windfalls of oil and gas revenues. He has restored Russian national pride, and consequently is also much more susceptible to domestic nationalistic pressures to "do something" about protecting Russian co-ethnics abroad. Equally, the EU is in political disarray since the economic meltdown of 2008-9, while the US is in a phase of hurting disengagement from disastrous military interventionism over the last decade, including a looming withdrawal from Afghanistan which will be greatly facilitated by Russian good will.

What now for Crimea and Ukraine?

What might be the trajectory for Crimea given the above? Arguably Ukraine is a country "in dissolution" under the Badinter criteria. Having forcefully deposed a democratically elected president, the current parliamentary leadership has yet to establish its own democratic legitimacy, and there is a serious question mark over whether new elections will actually alter the political situation very much.

The opposition forces are deeply divided ideologically, regionally and in terms of personalities, leaving open the possibility that another single candidate from the Russophone East of Ukraine (a cleaner and more moderate version of Yanukovich) could again triumph in a presidential election. The East-West split in Ukraine in the 2010 presidential election was a matter of a few percentage points. The opposition is in a flurry of inchoate parliamentary action. It has reverted Ukraine to the 2004 Constitution (agreed at the height of the "Orange Revolution"), which established a dual power arrangement between president and parliament – a fudge that did much to cause the period of stagnation thereafter leading up to the present crisis.

Some of the opposition's recent acts are designed to alienate Russophones and antagonise Russia, notably repealing a law giving minority languages, such as Russian, a protected status at regional level. Ukraine is in a dire economic situation, its treasury empty, and despite the rhetoric the level of loans from the EU or US will go nowhere near the many tens of billions of dollars required to stabilise the economy. Ukraine is economically heavily interdependent with Russia for its energy and for markets for its rather outdated industries in the Russophone east of the country. The East-West divide in Ukraine is as much about economic orientation as it is about culture and history.

Moreover, any loans are likely to come at an exorbitant price economically and politically, as they will be conditional. For the last decade and a half Ukraine's own kleptocracy has attempted to manoeuvre between the EU and Russia in a so-called "multivector" foreign policy, playing one off against the other to extract the best deal at the lowest cost in terms of conditions and impetus for reform. Popular dissatisfaction with the entire Ukrainian political and economic elites finally spilled out in the social revolution played out in the Maidan in Kyiv in recent months. The tragedy of Ukraine is that there is a fundamental vacuousness in its dominant political discourse about "joining Europe", and a mismatch between the aspirations of its society, especially its younger generations, for a better life (which is seen as synonymous with a "European choice") and the capacity of the Ukrainian state and the EU to

deliver.



Arseniy Yatsenyuk, Prime Minister of the new Ukrainian government (Credit: Ybilyk; CC-BY-SA-3.0)

There has not been, nor is there now, any political will in the EU to make Ukraine a member state. The European Neighbourhood Policy was designed precisely to minimise EU further expansion to the East. The EU has already overstretched itself and faces innumerable problems coping with integrating recent members as well as bailing out failed member states such as Greece. The price of what small sums will be given to Ukraine from the EU or, more likely the IMF, will be systemic reform – energy price rises, the ending of state subsidies for industries, and the cutting of state social benefits (among others), all of which will be politically catastrophic for whatever government introduces them. Ukraine's unemployment rate (25 per cent or so amongst youth for example) will skyrocket.

The EU and the US have minimal leverage to shape events in Crimea, and despite the rhetoric, have no will to get overly involved in the multibillion dollar rescue of Ukraine. Russian support is required not

only to bail out Ukraine (given the country's gas debts to Russia) but also on a host of more important international issues (not least the withdrawal from Afghanistan and Iran). Militarily Ukraine is also in a very weak position, with a conscript army that could itself fragment into Ukrainian and Russian components if pushed into military action, and a command echelon that seems to be prepared (given the sacking of the army chiefs by both Yanukovych and the new acting president Turchynov) to prefer caution and neutrality rather than be an instrument for splitting the country any further than it already is.

A major worry for Russia, however, would be the danger of a civil war in Crimea, leading possibly to a Crimean Tatar insurgency. In a situation where the state has failed and armed groups proliferate, events on the ground could escalate in such a way, which no doubt is one of the factors prompting the speedy assertion of Russian military control in Crimea.

Crimean secession

Is secession driven by economics or identity? The recent discussion in the UK about Scotland would very much suggest that British political elites view it as a matter of getting the economic appeals right. In which case, why would we expect Crimeans to choose Ukraine over Russia? A referendum has been called for the end of March in Crimea, which will satisfy the "consent" principle. By accelerating the referendum Crimea's leaders will pre-empt Ukraine's newly called presidential elections, which will be held in May.

Much depends on what the final question will be in that referendum – whether it opts for full autonomy within Ukraine, or all-out secession to Russia. The above analysis sets out both the identity based and economics based rationale for expecting a very high vote in favour of either full autonomy or secession for Crimea. Putin is now in the driving seat in this crisis, and will determine the outcome.

The recent military redeployments, the speedy legislative changes in the Russian parliament to facilitate reintegration of secessionist territories, and the calls for protection of co-ethnics suggest that Russia is using this opportunity to take back its gift of 1954. This will be an extremely popular decision in Russian society. By raising such hopes of a return of Crimea Putin is also narrowing his own room for negotiation on a lesser outcome. It should also send a warning signal to Latvia and Estonia where Russia's co-ethnics have been discriminated against for two decades. Wise counsel in the EU and US should be anticipating the next crisis as well as coping with the present one.

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Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.

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About the author

Jim Hughes – *LSE Government*

[Jim Hughes](#) is Professor of Comparative Politics in the Department of Government, LSE, and is Director of its Conflict Research Group.



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