

A Crisis of Legitimacy : Debunking Russia's Arguments

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Over the last few months, the situation in Ukraine has taken a frightening turn for the worst. What started out as a spontaneous popular protest in Kiev in November 2013 has evolved into a full-blown international crisis, pitting Russia against Ukraine, Russia against the West and Ukraine against itself. A lot of time is spent, on the airwaves or on the internet, in trying to understand the how and why of this sudden and largely unexpected conflict. Even more time is spent pointing a finger and hoping to find the culprit for the eruption of violence. Unsurprisingly, most of the criticism by the international community is directed towards Russia who invaded a sovereign country under dubious pretexts then proceeded to annex a chunk of it while maintaining military pressure to try and bully it into accepting its arbitrage.

But, according to Moscow, the annexation of Crimea and the proposed federalisation of Ukraine are completely logical, legal and legitimate. Russian officials and the Russia media are united in trying to convince the world of the legitimacy of Russian actions. By distorting the facts and misrepresenting the situation on the ground, we are presented with a picture of the crisis that is hard to accept. Nonetheless, Russian actions are taken for granted, in Russia and even abroad, so it is important to set things straight for posterity's sake. Below are a few of Russia's assertions, decrypted and debunked.

1. "The authorities in Kiev are illegitimate neo-Nazis"

In the [words](#) of Prime Minister Dmitry Medvedev, "Ukraine's new government is not legitimate". This is the main argument underpinning Russia's intervention in Ukraine. They argue that ousted president Viktor Yanukovich remains Ukraine's legitimate president and that the crisis was sparked by an illegal coup of pro-European – and anti-Russian – fascists and neo-Nazis. Like the rest of Moscow's discourse, this view cannot be completely dismissed, as a lot of outside

[observers agree](#). Indeed, the political situation in Kiev during the last days of February is murky. Yanukovich's destitution did not precisely follow constitutional guidelines while the inclusion of far-right Svoboda party members in the new Ukrainian government is certainly cause for concern. However, this should not lead us to reject the Ukrainian authorities' legitimacy as a whole.

As a matter of fact, the Council of Europe has recently taken a stand on this very issue in a [recent report](#), convincingly demonstrating that, even though president Yanukovich's destitution did not follow the law to the letter, it followed it in spirit. As the report states, the legitimacy of the new Ukrainian authorities has been widely recognized by the international community. Further, the decision to strip Yanukovich of his presidential title and to return to the 2004 constitution was made by 2/3 majority of Ukraine's Parliament. The parliamentarians who voted (including many from Yanukovich's own Party of Regions) were democratically elected in 2012 and their legitimacy cannot be questioned. They are the constitutional representatives of the Ukrainian people and, as such, have taken it upon themselves to constitute a new government after impeaching former president Yanukovich. This decision did not truly respect the constitution to the letter but, until the presidential elections set for May 25, there is no doubt about its legitimacy, moral and popular.

Moreover, following Moscow's logic, if the authorities in Kiev have a shaky legal standing at the moment, the government in Crimea is itself illegal and illegitimate. On February 27, "armed gunmen" [stormed and occupied](#) the Crimean Parliament before the MPs voted to sack the regional cabinet and to hold a referendum on May 25. They also [appointed](#) a new chairman: [Sergei Aksyonov](#) who was elected to the regional parliament with only 4% of the votes in 2010. His already feeble democratic legitimacy is thus even further weakened by the means in which he was appointed.

Another frequent claim made by the Russian

authorities is that the Ukrainian interim government must not be recognized as it is [full of Nazis and fascists](#), citing the role of the very distasteful Svoboda party and frankly repugnant Praviy Sektor group. Vladimir Putin himself, in his March 18th speech [criticized](#) the Ukrainian government's establishment: "Nationalists, neo-Nazis, Russophobes and anti-Semites executed this coup. They continue to set the tone in Ukraine to this day". This move to [dismiss Kiev's legitimacy](#) and [instil a climate of fear](#) is unconvincing as the importance of Svoboda in the government is [not to be overestimated](#). In all, only three ministers of the [21 member cabinet](#) stem from Svoboda (down from four, after Ihor Tenyukh resignation as Minister of Defence). Some would say that is already three too many but it is still not enough to dismiss the entire government as altogether illegitimate.

What's more, Moscow is quick to denounce supporters of Ukraine's sovereignty as fascists but does not hesitate to welcome far-right extremists as long as they agree with Russia's own version of the facts. [A few days ago](#), Marine Le Pen, leader of the French far-right *Front National* had an extensive discussion with the President of the Russian Duma, [faithfully echoing the Russian line of events](#) and endorsing its proposed federalising solution as if it were her own. Incidentally, in 2009, it was Marine Le Pen's turn to act as a hostess when the *Front National* and Svoboda signed a [collaboration agreement](#), finding a lot of [common ideological ground](#). In the current crisis, unsavoury political elements abound on all sides of this conflict but Moscow is wrong in thinking it has the moral high ground.

2. "Crimea is Kosovo"

A regular argument used by Russia to justify its – (c) overt – intervention in Crimea and further annexation, is that [Crimea is just like Kosovo](#). The countries of the West are thus all hypocrites for having recognized Kosovo's independence but refusing to do the same for Crimea, even though the circumstances are supposedly similar. An ethnic majority in a marginal region of a State bent on its destruction: the moral imperative to act and stop threats to the well-being of a terrorized population is evident. However, this Kosovo comparison poses two problems. First, Russia has consistently denied Kosovo's right to be independent, claiming that its secession from Serbia, aided by NATO and the West, was and is illegal. But this does not prevent Moscow from using that argument in justifying Crimea's temporary independence. This is absurd; a purportedly illegitimate case cannot be used as a basis to legitimise another. Either Kosovo and Crimea are both legitimate or they are both illegitimate, but you can't use the Kosovo argument if you refuse it in the first place.

The second problem with the Kosovo precedent is that, contrary to Russian claims, the circumstances of the crisis in Kosovo and Crimea are completely different. As David Phillips of Columbia University [writes](#), "there are fundamental legal and political differences between the internationally sanctioned

process, which culminated in Kosovo's independence and Russia's land-grab in Crimea". In 1999, NATO intervened in Kosovo only after a slaughter of Kosovar Albanians was well underway. The ensuing declaration of independence came 9 years later, after a long and careful diplomatic process to try out all the alternative solutions. In contrast, there was no violence in Crimea, no threat to the Russian population living there, and the events unfolded surprisingly fast. In less than a month, Crimea – which had known no recent tensions – was occupied, declared independence, held a referendum and was annexed by Russia. [Even Putin admits there was no violence in Crimea](#), claiming however that Russian action was necessary because there would have been violence if nothing was done. Unfortunately, baseless predictions are very poor arguments for a legitimate reaction. Even if the Kremlin is hosting a couple of *Minority Report* style [precogs](#) which can accurately predict future events, this is not enough to act on international matters.

3. "The people of Crimea have spoken"

Even if we discount Crimea's shaky moral claim to statehood, Russia argues that the March 16 referendum was legal, legitimate and completely justified. In the West too, most observers don't oppose the substance of the referendum but prefer to criticize the method. If Crimea's inhabitants were determined to join Russia, there were actually legal and constitutional means to do so. However, in the circumstances, the referendum should not be seen as valid because even if it accurately expressed the will of the people (which has yet to be seen), the method used sheds doubts on the entire process.

As noted before, the Crimean parliament voted to hold the referendum right after armed gunmen stormed the building. The vote was thus held under military duress. This was only a preview as the referendum as a whole was held under a military occupation. On the day that Crimea's inhabitants were called to determine their region's future, unidentified – Russian – soldiers patrolled the streets. How can a vote be called democratic when it is organised under such a military occupation? Furthermore, no time was given to organise a balanced campaign. The date for the referendum, initially planned for the 25th of May was advanced twice, being finally held just over two weeks after the initial decision. This hurry in itself is questionable as nothing justified it. With thousands of Russian soldiers in the peninsula, there was no chance of Kiev taking over the region, by force of otherwise. But the short delay meant that there was no opportunity for any democratic process to take hold. How can the people make informed decisions about their future if there is no time to form their opinion? Besides, there was no room left for dissenting information anyway, a [campaign of propaganda](#) and fear mongering was organized to convince people that the only way forward lay with Russia, bolstered by a [media blackout](#) in Russia and Crimea to shut out dissenting opinions.

Moreover, the options on the ballot were extremely confusing and one-sided. Two choices were offered: the “reunification of Crimea with Russia” or the “restoration of the 1992 constitution”. The problem is, first of all, that there was no status quo option and, second, that no one quite knows what the second option means as there were two Crimean constitutions in 1992. In one of them, Crimea is declared a sovereign State and in the second, a constitutional part of Ukraine¹. The wording on the ballot left a lot of room for manoeuvring and confusion. But in any case, the choice wasn’t really important as the Crimean Parliament [declared independence](#) four days before the referendum, leaving the voters with little choice but to support the move towards Russia or to abstain. No wonder then that 96% of the electorate chose to reintegrate Russia. The high scores obtained shed some doubts on the results; such a massive plebiscite is unheard of in democratic countries. The numbers also clash with [opinion polls](#) held in February 2014 – before the crisis – which showed that 40% of the population of Crimea supported the union with Russia.

4. “Russia is righting a historical wrong”

After the annexation, President Putin [addressed](#) Russia to explain and justify this action. His entire speech presents a [biased version of history](#) that fails to convince if we take even a cursory glance at the evidence. Three points in particular have to be redressed: Crimea’s historical “Russianness”, relations between Ukraine and Russia, and the NATO problem. To start with, Putin states that “Crimea has always been an inseparable part of Russia” and that the 1954 decision to transfer Crimea to Ukraine was illegal. Actually, Crimea has not always been a part of Russia, far from it. The peninsula was added to the Russian empire in 1783 after the annexation of the Crimean Khanate which had ruled the region since 1478. Since the Khanate’s rule on Crimea is actually longer than the Russian reign, should it be governed exclusively by the Crimean Tatars? Of course not, because a historical precedent does not constitute sufficient cause. If it did, Germany could very rightfully claim Kaliningrad – or Königsberg as it was called in Prussian – back from Russia. The historical argument is invalid because it never ends and thus does little to serve as justification. Regarding the Soviet decision to transfer Crimea from the RSFSR to the Ukrainian Soviet Republic, here too Vladimir Putin is wrong. The transfer, even if the reasons underpinning it seem unfair, was done in accordance with Soviet law². In fact, the 1977 Soviet Constitution – which serves as a legal basis for the borders and political configuration of the post-Soviet space – makes no mention of Crimea being a part of Russia. Moscow therefore has no legal claim to Crimea.

Putin further states that Russia has been a friendly neighbour to Ukraine, accommodating it on border issues in the expectation that it would “remain [a]

good neighbour”. This would then imply that, if and when Ukraine starts becoming a “bad neighbour”, Russia would feel free to renege on its promises. Again, this is a strange way of viewing international relations. Diplomatic agreements and border treaties aren’t made exclusively between friendly countries. And international treaties do not cease to exist just because the former partner has a change of government. If this happened, Russia herself would be in a precarious position as all the treaties signed between the Soviet Union and its partners, and inherited by Moscow – including its special status in the UN Security Council – would be invalid. This same line of thinking is prevalent in Sergei Lavrov’s [claim](#) that Russia should not be held to her promises signed in the Budapest Memorandum of 1994 (upholding Ukraine’s sovereignty and territorial integrity) as those promises were made to previous government. Actually, not only did Russia violate the Memorandum, it also violated the UN Charter as well as previous bilateral treaties enshrining Ukrainian territorial integrity.

Finally (at least for this commentary), Vladimir Putin, in his speech, asserts once again that one of the reasons for the crisis is NATO’s broken promise and expansion to the East. According to him, Ukraine is on the verge of joining the Alliance, prompting him to act. This is problematic in two respects. First, the Ukrainian authorities – and lead [presidential hopeful](#) Petro Poroshenko – have [repeatedly](#) stated that Ukraine’s membership to NATO is [not on the agenda](#). NATO’s Secretary General has also reiterated that there are [no plans](#) for opening the Alliance to Ukraine. Putin’s claim is simply false. However, the question of NATO seems central in explaining the roots of the current crisis. Many [Western commentators](#) in particular blame Russia’s (re)actions on the fact that NATO was creeping dangerously close to the Russian borders despite a famous promise made to Gorbachev in 1990 that the Alliance would not expand eastward after Germany’s reunification. While not trying to absolve Western leaders of any responsibility in the current East-West tensions, it is dangerous to point the finger solely at NATO, thereby forgetting that the Crimean – and East Ukrainian – crisis was sparked by Russia. Moreover, there never was any “pledge” made not to expand NATO in 1990³. This issue should be put to rest. We could argue that NATO enlargement wasn’t a wise decision but we can’t forget that the most fervent supporters of NATO expansion to the East were the Eastern European countries themselves. Immediately after the fall of the Soviet Union, they turned to the Alliance, asking to be accepted, viewing it as the best security guarantee against the perceived threat of Russia. Sovereign States joined NATO willingly; this was no imposed “sphere of influence”. And, watching the situation in Ukraine unfold, these countries are now reinforced in their decision. Russia hasn’t done much to convince its neighbours that it poses no threat and that NATO isn’t necessary anymore, on the contrary, it has confirmed those fears. The Baltic States and Poland in particular are very worried about the Russian

1 Emmanuelle Armandon, *La Crimée entre Russie et Ukraine. Un conflit qui n’a pas eu lieu*, Bruylant, 2012, pp. 86-91.

2 *Ibid*, pp. 46-51.

3 Mark Kramer, “The Myth of No-NATO-Enlargement Pledge to Russia”, *The Washington Quarterly*, 32:2, April 2009, pp. 39-61.

leadership's current policy and have called for more NATO involvement in the region as the only protection against a resurgent Russia.

In bad faith

Russian arguments in this crisis share a common trait: none of them are true but none of them can be dismissed outright. They present a simplistic view of reality, asserted in bad faith, but which lacks credibility as soon as you start digging. Even so, they all have a small kernel of truth that is sufficient to make the world hesitate while Russia acts, benefitting from this margin of uncertainty to create new facts on the ground. The problem isn't so much with the substance of truth as it is with the degree of truth at play. We can see this again in Sergey Lavrov's [recent remarks](#), accusing the West of "applying double standards to activists in eastern Ukraine protesting against the coup-appointed government, forgetting similar protests in the capital's Independence Square". Very superficially, we could indeed compare the Euromaidan protests to the demonstrations in the East, seeing both as popular opposition to the regime in Kiev, be it Yanukovich's or the interim government's. But this superficial and simplistic view presented by the Russians is cynical at best. Yes, on the face of it, both movements seem to share the same roots. In reality though, you cannot compare the spontaneous popular and peaceful protests that started in November 2013 with armed separatism waged by organized, armed and masked gunmen who seem directly supported by Moscow and whose objectives lie with a new Russian annexation.

Regardless, Moscow's aims are not to find the truth in this matter or even to convince the West of its good faith. Rather, these claims are made to make us pause, to buy Russia enough time to prevent us from reacting efficiently. In this, Russia is quite successful as the events in Ukraine have seen Russian tactics triumph in the face of Ukrainian panic and Western caution. Will these tactical successes lead to a strategic victory and a rewriting of history? That is for time to tell.

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