

War over Old Ideologies: The Wasted Opportunity for a Historical Turn in the Ukraine conflict

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Abstract The Ukraine conflict is a dispute about state borders rooted in old ideologies. Russia claims that illegitimately revised historical borders must be corrected. Western states argue that in disputes over state borders, the status quo of territorial integrity must be maintained. The alternative to these positions is the principle of direct self-determination by the affected citizens. Only this principle can warrant peaceful settlements of future border conflicts. This paper discusses a proposed set of rules necessary to implement this principle.

Keywords Ukraine conflict . Self-determination . Territorial integrity . Secession . Referendum

Krieg um alte Ideologien – Die vergebene Zeitenwende im Ukraine Konflikt

Zusammenfassung Der Ukraine-Konflikt ist ein Streit um Staatsgrenzen. Ob aber Staatsgrenzen falsch oder richtig sind, darüber wird nach alten Ideologien geurteilt. Russland führt den Krieg unter Berufung auf historische Grenzen. Westliche Staaten argumentieren, im Streitfall sei der Status quo und damit die territoriale Integrität zu wahren. Diesen Dogmen steht die Auffassung gegenüber, in Sachen Staatsgrenzen müsse der Bürgerwille maßgeblich sein. Allein dies verspräche einen dauerhaft friedlichen Umgang mit dem Staatsgrenzenproblem. Ein hierauf aufbauendes neues Regelwerk wird in diesem Beitrag diskutiert.

Schlüsselwörter Ukraine-Konflikt . Selbstbestimmungsrecht . Territoriale Integrität . Sezession . Referendum

1 Introduction

Russia's war against Ukraine presented an opportunity for a new political framework of self-determination in national border disputes. Sadly, the West failed to recognize it, resorting to old ideologies and patterns of conflict escalation. Citizens of the West have been complacent about the ability of the current international order to maintain peace and cooperation among nations. Russia's invasion of Ukraine and the Western response are the latest signs of the cracks forming in that order. China's ambition to similarly "reunify" Taiwan under its control is poised to break it completely. This state of affairs exposes the fact that the current international political framework is failing us. To help counter such reactionary aggression, innovative peace concepts are required.

The Ukraine war is part of a perpetual state of past, present, and future border conflicts, which can be characterized as the creep of World War III. These conflicts will continue to flare up in many regions around the world from time to time as citizens increasingly attempt to assert their desires for independence or affiliation with other territories. The seeds of conflict are present in independence movements from Scotland and Catalonia in Europe to Hong Kong and Tibet in China or the Kurds in Iraq. While these disputes around territorial claims and control may sometimes appear minor and isolated and some of them may even be resolved without a shot fired, they nonetheless sow the seeds for greater disruption to global order if political elites cannot manage to innovate on the international political framework in ways that provide a democratic outlet for self-determination.

The Ukraine conflict was an opportunity to embrace such innovation. Instead, Western countries resorted to old ideologies and tactics from the Cold War era, thereby bearing partial responsibility for the ongoing conflict. While Putin and his ilk cling to the imperial spirit of the tsarist and Soviet eras, Western ideology has undergone a significant catharsis over the settlement of national borders. After two world wars and countless regional and civil wars fought over disputed borders, Western political elites have concluded that national boundaries must remain fixed and inviolable for fear of instigating further conflict between nations. This stance has led to the doctrine of absolute territorial integrity. One which, taken to its logical conclusion, naturally leads political elites to view separatist movements as illegitimate and separatists as villains.

However, this doctrine has been ill-conceived. Regardless of the rationale for their original formation, state borders are arbitrary human constructs made by fallible human beings influenced by circumstance, economic interests, military power, and chance. Therefore, just as human societies and institutions change over time, so should their borders, guided by

democratic principles. Although the present consensus supports the current national boundary lines of the global political map, many of these boundaries are rightly perceived by the citizens within them as inequitable and intrusive. At least in part, Ukraine's borders in the Donbas region and the Crimean Peninsula can be considered such a case.

As long as many state borders lack equity and legitimacy, a doctrine of absolute territorial integrity is antithetical to global peace policy. Violations of territorial integrity alone should not be a legitimate basis for political or economic sanctions and military action against the responsible states. Such efforts can also be for peace, freedom, and self-determination. Nation states supporting separatists, whether militantly or not, morally, are not necessarily "on the wrong side of history."

On occasion, even the NATO alliance has been willing to disregard territorial integrity. For example, during the breakup of Yugoslavia, Western countries supported militant separatists against a brutal and oppressive Serbian regime engaging in ethnic genocide. From Russia's perspective, it was intervening similarly to protect an ethnic Russian minority in Crimea at a point of real political turmoil in Ukraine. Though the majority of Russian speaking people of the Crimean Peninsula were not under any threat of genocide, Russia's initial invasion of Crimea was nonetheless more morally ambivalent than typically characterized by Western leaders and the media. The annexation of Crimea by Russia in 2014, including the forced de facto secession of parts of Donbas, was spurned with great indignation by the West. Ukraine's territorial integrity had been violated contrary to international law; therefore, the status quo ante was demanded to be unconditionally restored. Otherwise, Russia must be – if nothing else – punished with sanctions. This conclusion follows from a purely legal point of view within international law.

However, the legitimate interests of the citizens were never given serious consideration. The question of what citizens in these Ukrainian territories wanted – whether the current borders should be strictly retained or whether they felt their right to self-determination was being violated – was neither asked nor answered.

Strict adherence to territorial integrity leaves no scope of discretion for the people's will. In the West, political elites cling to the conviction that territorial disputes are best controlled by perpetuating existing borders and that anything else entails significant risks of unending violent conflict. There is no willingness to think beyond existing international law on this issue. Consequently, the West continues insisting on the unconditional return of Crimea and the separatist areas in the Donbas region of Ukraine.

2 Law or Morality

Vladimir Putin justified the Russian invasion of Ukraine in 2022 primarily on historical grounds, invoking former borders of the tsarist empire and the Soviet Union. The Ukrainian borders, Russia argued, had been arbitrarily formed to Russia's detriment and therefore constituted historical injustice, and, moreover, Ukraine was not a "real" state that could claim territorial integrity.

This argument is no less arbitrary than the insistence on immutable state borders by the West. However, in 2014, Putin deftly justified Russia's interventions in Crimea and the Donbas on a legitimate consideration: the protection of (presumably) disadvantaged regional Russian-speaking majorities of the Donbas and the Crimean Peninsula. Putin even compared the Crimean secession to Kosovo's secession from Serbia, invoking values such as the right to self-determination and the protection of minorities—values the West also claims to cherish. Consistent with this concern, in the spring of 2014, with Russian support, referendums were held first in Crimea and then in the separatist regions in Donbas. With alleged approval rates of more than 90 % of those participating in the referendums, Russia claimed the people's will legitimized the newly enforced border. Putin could argue that these were legitimate secessions from Ukraine rather than forced annexations of territory.

There are, of course, legitimate doubts about the referendums and whether they even came close to reflecting the actual sentiment of citizens. However, there has been no reliable evidence that a clear majority would have voted against secession in a fairly conducted referendum. From this perspective, the referendums strengthened Russia's moral position in the conflict. Russia had broken international law, but in so doing, it might have upheld the right to self-determination of a regional ethnic or linguistic majority.

The reaction to these referendums confirmed the bias of the West. Western elites suggested the referendum results were manipulated but argued they were illegal in the first place for not complying with the Ukrainian constitution. The will of the people was never seriously considered. Just as Russia had self-righteously disregarded international law, the West self-righteously disregarded the moral right to self-determination. This state of affairs is reminiscent of the disputes that led to World War I, into which Europe slid with similar somnambulistic obstinacy.

3 Determining the Will of Citizens

A more tenable approach to the situation after the referendums would have been for the Ukrainian government and its Western allies to ask the following questions: What if we agreed to have the referendums repeated under international supervision? Furthermore, what if the new referendums confirmed majorities in favor of secession? Can we ignore the right of regional majorities to self-determination?

In the years after 2014, it is doubtful whether internationally monitored referendums in Crimea and the Donbas region would have resulted in majorities favoring remaining in Ukraine. A clear majority for secession would have been the likely outcome in the predominantly Russian-speaking Crimean Peninsula, but Russophile majorities also existed in the separatist areas in the Donbas. If there had been actual internationally recognized referendums in these territories, they would have almost certainly led to a loss of territory for the Ukrainian state.

Ukraine and its Western allies would have perceived this as an untenable compromise if not an ignominious defeat, giving Russia's imperial ambitions a threatening boost. But the facts and figures suggest nothing of the sort. Crimea and the then-separatist regions of the Donbas together accounted for less than 10 % of Ukraine's population and hardly more than 7 % of Ukraine's territory. If the majority of the citizens in these areas did not want to be citizens of Ukraine, then secession would have strengthened social cohesion in the remaining Ukrainian territory and thus made domestic peace more secure. From this perspective, it would have been in Ukraine's self-interest to work toward internationally controlled referendums in the disputed territories. If complied by both sides, any outcome of such referendums, even a *prima facie* undesirable one, would have been better than the ongoing war with its untold loss of life and destruction.

Suppose referendums had confirmed majorities in favor of annexation by Russia, or of secession as self-governed states. In that case, the ceasefire lines of 2014 could have become internationally recognized new state borders of Ukraine without any bloodshed. There would have been no basis for the Russian invasion in 2022 nor for the violent rupture of the rules-based political order and basic moral standards that came with it. The now hate-based conflict between the pro-Ukrainian majority and the – however diminished – pro-Russian minority in Ukraine could have been avoided, a slightly shrunken Ukraine would have been stabilized internally with new state boundaries, and the Ukrainian government would, at least with Western allies, have faced less opposition to joining international organizations such as the European Union or NATO. Moreover, a contained Putin could still have staged himself as a fighter against past injustice.

If the Russian-led referendums appeared so suspicious, why did the West not make any effort to call for new referendums under international supervision? Why wouldn't Russia want the same to legitimize its claims within the international community? Why, instead, have the parties risked and resorted to war when a peacekeeping solution seemed within reach? The answer can only be that antiquated ideologies blinded them.

Putin's imperial ideology is antithetical to legitimizing secessionist referendums. Accordingly, Putin shunned the risk that referendums in the occupied territories would prejudice future Russian policy on state border issues; the risk, in particular, that Russia would, in similar cases, have to comply with outcomes of referendums that run counter to its imperial goals. But Western countries had no lesser reservations. They feared acknowledging such referendums might unsettle established political principles and, perhaps, even the whole established international order. Therefore, instead of paving the way for fruitful peace efforts, the referendums staged by Russia in 2014 have remained meaningless.

The same applies to the referendums staged by Russia in 2022 in the meanwhile enlarged captured territories in the Donbas. Again, these referendums were pure pretense that Putin could reliably count on the West to dismiss as illegitimate and a sham—rather than demanding that they be conducted under international supervision. These referendums were even less legitimate than in 2014, for no other reason than that the conflict had resulted in massive flight and expulsion of Ukrainian citizens from the disputed territory. Nevertheless, the West could have called for supervised referendums with adapted modalities, giving, for example, voting rights to refugees and displaced persons willing to return. Had the West made such a demand, Putin would have been caught flat-footed in his domestic and international propaganda.

4 Contradictions and Mental Barriers

This clash of rigid ideologies has stunted the ability of political elites to consider alternative solutions, of which the Ukraine conflict is just the most recent example. At least in retrospect, we should ask ourselves how to break out of this cycle of perpetual violence over disputed territory.

The Russian annexation of Crimea was an opportunity for the West to re-examine its absolutist commitment to territorial integrity. The taboo on questioning state borders is rooted in the assumption that disputed borders cannot be peacefully altered. However, the annexation of Crimea in 2014 was accomplished with no significant violence, suggesting that

it had taken place with the tacit consent of most Crimean inhabitants. Thus, Russia could have argued it had peacefully corrected an illegitimate state border based on democratic principles. Although this act had violated Ukraine's territorial integrity, the approach rooted in the Crimean population's right to self-determination, which, in contrast, the approach of strict adherence to territorial integrity does not recognize.

Although Russia did not run with this line of argument, the West lacked conviction. Whereas the annexation of Crimea was relentlessly denounced as a breach of international law, the West's commitment to recapturing Crimea remained half-hearted. If this annexation had been as untenable in moral as it was in legal terms, the West could have gone much further in terms of economic sanctions and military commitment at the time.

However, Western as well as Russian political elites lack coherent political and moral orientation, with both positions embodying contradictions. Putin had based his territorial claims simultaneously on imperialistic grounds and on the self-determination of citizens, wherein a fundamental contradiction was inherent. The West, on the other hand, saw itself as upholding modern democratic principles yet adhering to an international legal framework that impedes democratic self-determination concerning state borders.

If the West had been less rigid in its ideology, it would have seriously considered internationally monitored referendums to determine Ukraine's future borders. This would have put the Russian leadership in an awkward predicament. For it was Putin's Russia for whom a precedent for direct self-determination on state borders would have been most ominous. Such a precedent could easily be invoked by regional ethnic, linguistic, religious, and cultural majorities on the fringes of the Russian Federation, putting to an end the vision of an expansionary imperialist Russia.

Putin would, therefore, have had little choice but to refuse any call for monitored referendums in the secessionist areas. That, however, would have rightly been interpreted as admitting that the results of the original referendums would not stand up to scrutiny, i.e., that they were indeed a sham. Putin would have faced the grim choice of either burying his imperial visions or exposing himself as a "ballot rigger".

The reality, however, is that Putin did not even have to worry that the West would demand monitored referendums. He knew Western countries had traditionally been hostile to separatist aspirations and did not even refrain from violence against referendums against separatist movements, as was the case by the Spanish government in Catalonia as recently as 2017. A call for monitored referendums on Ukrainian territory by Western elites would have morally exposed not only Putin but also their own hypocrisy. It was clear that Western states

also would not dare to risk introducing a precedent for future self-determination over state borders for fear of legitimizing separatist movements in their own territories.

Putin could be equally confident that China, Russia's biggest strategic partner against the West, would want to keep direct self-determination over state borders off the political agenda. In China, alarm bells would have rung if internationally supervised referendums on secessions had been seriously considered in the Ukraine conflict. In such a case, China's control in some regions of its territory would quickly come under dispute, most likely beginning with Hong Kong.

5 A Wasted Opportunity

All this may suggest that the course of events in the Ukraine conflict was inevitable, as though the West could not have acted otherwise. As though the risks of any alternative approach were unbearable, and the ongoing war with all its loss of life, suffering, and destruction were the least dire of all possible outcomes. But this would be merely a convenient myth to tell ourselves.

A door of opportunity existed for a peaceful solution. All that was required was for some courageous political leaders, whether Western or otherwise, to respond constructively to the referendums held in the secession areas: for them to acknowledge that such referendums as initiated by Russia were a legitimate solution provided they were internationally supervised, to declare they would accept and support the outcome of such supervised referendums, and to encourage other heads of state to do the same.

Even if only one state leader of international sway had pursued such an initiative, this could have given a significant boost to the political imagination and, perhaps, could have broken the ideological rigidity around the issue. Sadly, no such courageous leader ever came forward.

Has the intellectual foundation not already been laid? Should referendums on state borders not be self-evident in the 21st century, at least for committed democrats? One would think it intuitively evident that such direct self-determination is the next chapter in the evolution of democracy. Would this not make the world a more peaceful place?

While a right for citizens to self-determination in matters of national and regional boundaries is certainly achievable, it would, of course, be highly challenging to implement. Take the Ukraine conflict, for example. Even if a new Ukrainian state border had been redrawn along the 2014 ceasefire lines after a referendum, that would not have resolved the border issue. These ceasefire lines had not resulted from a democratically determined will of citizens but from the military balance of power at the time. Demands to redraw the border would likely have

followed, with more to follow in other regions. This could not have been denied on plausible grounds.

No border, whether new or ancient, should be immutable. Just as Russia cannot invoke the borders of the Tsarist Empire or the Soviet Union forever, democratically decided borders cannot claim eternal validity. The only unchanging truth in this matter is that the will of the citizens must take precedence over history.

This will is, of course, subject to change. Therefore, a new internationally recognized framework is required to manage these changes according to democratic principles.

6 A New Set of Rules

If state borders can be freely changed, a consensual set of rules becomes all the more urgent. Without a rule-based process, the danger that border alterations are fought for by force can hardly be abated. Therefore, well-designed and internationally recognized electoral laws must be established to ensure a reliably peaceful process of self-determination over state borders.¹

Such electoral law must make border conflicts easy enough to resolve to prevent the danger of escalations. As the Ukraine conflict demonstrates, escalations produce hatred and contempt, severely narrowing the spectrum of possible conflict resolution. In Ukraine, the Russophile minority and Ukrainian-nationalist majority had not been so irreconcilably opposed to each other at the outset prior to the invasion. In an earlier phase, the parties might even have negotiated modalities of secession that preserved important institutional ties between pro-Russian and pro-Ukrainian territories. Modalities, for example, by which a common currency would be maintained or even common armed forces.² Once the violence started, such possibilities were indefinitely foreclosed.

A well-designed electoral law that can prevent such militant escalations would include the provision that new referendums on national borders can be called for at intervals of e.g. two or more years. This would ensure that previous decisions on state borders can be peacefully corrected and new border issues addressed at any time if citizens desire. This mechanism would

¹ Such an electoral law was outlined in the general concept of the so-called freedom of political association (Wehner 2019, 2020). For further texts on the so-called freedom of political association see also <https://reformforum-neopolis.de/reformforum/demokratie/-staatsgrenzen.htm> and <https://reformforum-neopolis.de/reformforum/demokratie/-friedenspolitik.html>. The concept of freedom of political association is part of the so-called neocracy concept (German: *Neokratie*). For details see also <https://www.reformforum-neopolis.de/>.

²The concept of neocracy proposes concrete modalities for such institutional arrangements.

not only make conflicts over national borders less threatening but even inspire citizens towards meaningful challenges for the progressive evolution of the political map.

7 The Turning Point in History

If any Western political elites had proposed internationally monitored referendums in the secessionist areas of Ukraine, the Russian leadership would have refused this for the reasons discussed. Russia would thus have tacitly admitted that it had only evoked the right to self-determination as a pretext. Being put on the defensive in this way, Putin would have – domestically and internationally – encountered much stronger opposition to his belligerent policies and preparation for war, possibly even thwarting the 2022 invasion from the outset.

Declaring the right of direct self-determination for the Ukrainian people would have opened the door to further important options in the conflict. For example, Ukraine could have let its citizens vote region by region on whether to remain part of Ukraine, become independent, or join Russia. The foreseeable results of these votes would have prevented the Kremlin's grotesque illusion that invading Russian troops would be joyfully greeted by Russian-flag-waving Ukrainians, further weakening Russia's belligerence.

The political reality, however, was a far cry from these hypothetical scenarios. With the prevailing political consciousness, the time was not ripe to seriously discuss a general democratic right of secession. Yet, doctrines such as territorial integrity are increasingly at odds with claims to political freedom and self-determination. Such rigid doctrines have never been more than a stopgap and have been violated too often by Western states for their moral leadership on these issues to be credible. And moral leadership will become ever more critical for the West as its economic and military leadership continues to fade. All the sooner and more resolutely, therefore, should the West stand up for general direct self-determination on national borders; for citizens, that is, to decide for themselves, according to rules created precisely for this purpose, who will associate with whom in which borders in a common state.

Eventually, the West – and ultimately the international community – will have to decide which of these three criteria shall be given priority in determining state borders: history, status quo and the citizens' will (freedom of political association).

Only the latter offers the prospect of reliable, lasting peace among and within nations. Western states would be well advised to take on a leading role in asserting this principle. Its global implementation may be a century-long project, but it would be a quantum leap in the evolution of our political civilization.

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