

# THE CRIMEAN CRISIS AND ITS IMPACTS ON INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

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## ABSTRACT

The Crimean Crisis in 2014 sent ripples throughout the world. The political and legal machinations, both domestic and international, of every side of the conflict have been one of the most debated matters in the past years. The claims regarding the rights of the peoples to choose their political and national identity and future have once again become the topic for students and academics of international law and international relations. However, these aspects are not the only disputes in question, the claims of territorial rights and the quest of international human rights and their protection also play vital roles in this crisis. Therefore, it is of paramount import that this crisis be studied and analysed so that we may predict the trends of the world and that we may better understand the issues and seek the peaceful resolutions to the potential problems that may yet occur.

**KEYWORDS:** CRIMEA – HUMAN RIGHTS – INTERNATIONAL LAW –  
INTERNATIONAL RELATIONS – RECOGNITION – RESPONSIBILITY TO PROTECT  
– SELF-DETERMINATION – TERRITORIAL INTEGRITY

# THE CRIMEAN CRISIS AND ITS IMPACTS ON INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

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## 1. Introduction: A Brief History leading up to the Conflict

The crisis in Crimea began as a result of the Euromaidan Revolution, also known as Ukrainian revolution of February 2014.<sup>348</sup> The Revolution was the result of years of mismanagement, corruption<sup>349</sup> and lack of economic growth after the so-called Orange Revolution in 2004.<sup>350</sup> To remedy this problem, Mr. Viktor Yanukovich, 4<sup>th</sup> President of Ukraine, tried to establish closer ties with the European Union (EU) and Russia. With the European Union, Mr. Yanukovich initially agreed upon the concept of closer economic and political ties in the form of the Ukraine-European Union Association Agreement.<sup>351</sup> This reflected the intention of both parties for the possible accession of Ukraine to the European Union.<sup>352</sup>

Russia, on the other hand, also has its interests in the country, the focus of which is in the Crimean peninsula, which serves as an access point and base for its fleet in the Black Sea. Furthermore, Ukraine is largely dependent on Russia for gas

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<sup>348</sup>Harriet Alexander, 'Ukraine revolution: Tuesday February 25 as it happened', *The Telegraph*, 25 Feb 2014, <<http://www.telegraph.co.uk/news/worldnews/europe/ukraine/10659755/Ukraine-revolution-live.html>> accessed 22 February 2015.

<sup>349</sup>'UAH 1.5 b in budget funds embezzled since year-start, interior minister says', *Interfax-Ukraine*, 18 June 2007, <<http://en.interfax.com.ua/news/general/15780.html>> accessed 22 February 2015.

<sup>350</sup>'Ukrainians Pessimistic about Country's Future; Confidence in Political Leaders Falling', *International Foundations For Electoral Systems*, 13 September 2011, <<http://www.ifes.org/Content/Publications/Press-Release/2011/Ukrainians-Pessimistic-about-Countrys-Future-Confidence-in-Political-Leaders-Falling.aspx>> accessed 22 February 2015.

<sup>351</sup>Peter Moskowitz, 'What does the West want from Ukraine?', *Al Jazeera America*, 6 March 2014, <<http://america.aljazeera.com/articles/2014/3/6/what-does-the-westwantfromukraine.html>> accessed 22 February 2015.

<sup>352</sup>'Ukraine ratifies EU association agreement', *Deutsche Welle*, 16 September 2014, <<http://www.dw.de/ukraine-ratifies-eu-association-agreement/a-17925681>> accessed 22 February 2015.

and serves as an important trade partner.<sup>353</sup> This gives Russia immense leverage. At the same time, this also underlies the stake Russia has in the region. Therefore, it should not come as a surprise that, despite having agreed upon the initial concept of agreement with the European Union, Mr. Yanukovich later refused to sign the agreement, opting to sign the Ukrainian–Russian action plan at Russia’s urging instead.<sup>354</sup> This move led to civil unrests in Kiev, which later escalated into full-blown clashes between the protesters and law enforcement groups.<sup>355</sup>

Consequently, Mr. Yanukovich fled to Russia on the night of 21<sup>st</sup> February 2014.<sup>356</sup> The political tensions and escalations further highlighted the underlying political tension and division within Ukraine. This is evident as the eastern part of the country associates itself more with Russia, while the western part associates itself more with the European Union.<sup>357</sup> The tension between ethnic groups inside the country, most notably the ethnic Russians, who felt that they would be discriminated against should Ukraine’s ascension to the European Union come to pass, only serves to divide the country ever further apart.

After Mr. Yanukovich fled the country, pro-Russia groups began their activities in the Crimean peninsula. This accumulated in the referendum and the subsequent ascension of Crimea to the Russia.<sup>358</sup> This incident included the presence of pro-Russian paramilitary groups, alleged involvement of Russian

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<sup>353</sup> ‘Ukraine trade profile’, *World Trade Organization*, September 2014, <<http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Country=UA&Language=F>> accessed 22 February 2015.

<sup>354</sup> Laura Smith-Spark, Marie-Louise Gumuchian, Diana Magnay ‘Ukraine, Russia sign economic deal despite protests’, *CNN*, 23 January 2014, <<http://edition.cnn.com/2013/12/17/world/europe/ukraine-protests/>> accessed 22 February 2015.

<sup>355</sup> ‘At least four reported dead, more than 100 injured as violent clashes break out near Ukraine’s parliament’, *Kyiv Post*, 18 February 2014, <<http://web.archive.org/web/20140218165210/http://www.kyivpost.com/content/kyiv/renewed-violence-breaks-out-today-near-ukraines-parliament-at-least-one-injured-336993.html>> accessed 22 February 2015.

<sup>356</sup> Hannah Strange, ‘Ukraine crisis: Viktor Yanukovich denounces ‘coup’ as he leaves Kiev’, *The Telegraph*, 22 February 2014, <<http://www.telegraph.co.uk/news/worldnews/europe/ukraine/10655398/Ukraine-crisis-Opposition-demands-Viktor-Yanukovich-resign.html>> accessed 22 February 2015.

<sup>357</sup> Glenn Kates, ‘Ukraine’s East-West Divide: It’s Not That Simple’, *Radio Free Europe/Radio Liberty*, 27 February 2014, <<http://www.rferl.org/content/ukraine-east-west-divide/25279292.html>> accessed 22 February 2015.

<sup>358</sup> Chris Morris, ‘Crimea referendum: Voters ‘back Russia union’’, *BBC*, 16 March 2014, <<http://www.bbc.com/news/world-europe-26606097>> accessed 23 February 2015.

Special Forces<sup>359</sup> and various confrontations and protests. Additionally, on 1<sup>st</sup> March 2014, Russia authorized the deployment of its armed forces in Crimea.<sup>360</sup> The tension rose ever higher when Russian troops were mobilized along the Russia-Ukraine border<sup>361</sup> and the declaration of independence by Crimea.<sup>362</sup> Immediately afterwards, Russian military presence became overt, with Russian troops surrounding Ukrainian military base in Crimea.<sup>363</sup> Ukrainian soldiers stationed there were then forced to withdraw from the region.<sup>364</sup> The ascension of Crimea to Russia was complete.

## 2. Socio-Political Aspects and Impacts within the Context of the Crisis

The international politics are the main driving force behind the events of this crisis. It is therefore impossible not to mention the political aspects of the Crimean crisis and the relations between Russia and Ukraine. In this section, the brief observation of the actions between both sides will be presented, based upon their prior relations and interactions.

Since it is clear that Russia had, practically, already claimed Crimea, it can be pointed out that the negotiation between both sides had broken down, specifically after the ousting of Mr. Yanukovich and the abrupt tension in the Crimea region. Immediately after the government of Mr. Yanukovich was removed, Mr. Putin had argued that the new government was illegitimate and that the bi-lateral agreement regarding the use of Black Sea Naval Base<sup>365</sup> was voided. He reasoned that since the previous government was ousted and that he had yet to enter into relations with a nation whose government he did not recognize, the agreement was no more and that he needed not to be bound by its

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<sup>359</sup>David Ignatius, 'Russia's military delivers a striking lesson in Crimea', *The Washington Post*, 18 March 2014, <[http://www.washingtonpost.com/opinions/david-ignatius-russias-military-delivers-a-striking-lesson-in-crimea/2014/03/18/c1273044-aed7-11e3-9627c65021d6d572\\_story.html](http://www.washingtonpost.com/opinions/david-ignatius-russias-military-delivers-a-striking-lesson-in-crimea/2014/03/18/c1273044-aed7-11e3-9627c65021d6d572_story.html)> accessed 11 March 2015.

<sup>360</sup>Alison Smale, Steven Erlanger, 'Ukraine Mobilizes Reserve Troops, Threatening War', *The New York Times*, 1 March 2014, <[http://www.nytimes.com/2014/03/02/world/europe/ukraine.html?\\_r=0](http://www.nytimes.com/2014/03/02/world/europe/ukraine.html?_r=0)> accessed 23 February 2015.

<sup>361</sup>Mark Thompson, 'Russian Forces Double Along Ukraine Border', *Time*, 28 March 2014, <<http://time.com/41490/russia-ukraine-crimea-putin/>> accessed 23 February 2015.

<sup>362</sup>'Crimea parliament declares independence from Ukraine ahead of referendum', *RT*, 11 March 2014, <<http://rt.com/news/crimea-parliament-independence-ukraine-086/>> accessed 23 February 2015.

<sup>363</sup>Billy Neely, 'Crimea Standoff: Russian Gunmen Surround Ukraine Military Base', *NBC News*, 2 March 2014, <<http://www.nbcnews.com/storyline/ukraine-crisis/crimea-standoff-russian-gunmen-surround-ukraine-military-base-n42406>> accessed 23 February 2015.

<sup>364</sup>Jonathan Marcus, 'Ukrainian forces withdraw from Crimea', *BBC*, 24 March 2014, <<http://www.bbc.com/news/world-europe-26713727>> accessed 23 February 2015.

<sup>365</sup>The discussion regarding the importance of Naval Base Agreement will be discussed in the subsequent sections.

restrictions, such as the numbers of Russian personnel allowed in the area and the numbers of ships allowed within the base.<sup>366</sup> Based upon his line of argument, however, one must bear in mind that the recognition of state and the recognition of government are different, an issue which will be discussed further on.

From the perspective of international politics, this failure falls clearly within two scopes: the unwillingness of both parties to negotiate and lack of peaceful resolution and recourse to the legal mechanism.

The first instance is evident in the fact that the break-downs of negotiation happened very quickly and the attempts to negotiate were frequently thwarted by the unnecessary unwillingness and stubbornness displayed by both states, as evident in the rapid deployment of troops and escalations.

Secondly, neither party referred this matter to any other international bodies that can offer the peaceful alternatives to armed confrontation. While Ukraine approached the Security Council for aids, citing the needs for support in its struggle with Russia's deployment of troops in the Crimea region and Eastern

Ukraine,<sup>367</sup> no further attempts or resolutions had been forthcoming and, in the same vein, the support from the international community had also been lacking. Though it can be argued that the economic sanctions placed upon Russia were effective to a certain degree, they proved largely ineffective in remedying the problems. Instead, the international economy suffered greatly due to the devaluation of the rouble<sup>368</sup> and the sanctions<sup>369</sup> also did little to improve the situation in Ukraine. Even after the successful, albeit arguably unlawful, integration of Crimea into Russia, few measures have been taken and it is surprising that both parties did not refer the matter to the International Court of Justice, using special rapporteur or negotiate. This can be observed from the fact that both sides opted to rapidly deploy military personnel in the following

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<sup>366</sup> 'Vladimir Putin answered journalists' questions on the situation in Ukraine', *Presidential Executive Office*, 4 March 2014, <<http://eng.kremlin.ru/news/6763>> accessed 23 February 2015.

<sup>367</sup> 'Ukraine, in Emergency Meeting, Calls on Security Council to Stop Military Intervention by Russian Federation', *Security Council Meeting Coverage*, 1 March 2014, <<http://www.un.org/press/en/2014/sc11302.doc.htm>> accessed 26 February 2015.

<sup>368</sup> Natalie Kitroeff, Joseph Weisenthal, 'Here's Why the Russian Ruble Is Collapsing', *Bloomberg*, 16 December 2014, <<http://www.bloomberg.com/news/articles/2014-12-16/no-caviar-is-not-getting-cheaper-everything-you-need-to-know-about-the-russian-ruble-collapse>> accessed 26 February 2015.

<sup>369</sup> Mike Dorning, Ian Katz, 'U.S. Won't Ease Sanctions to Stem Russia's Economic Crisis', *Bloomberg*, 17 December 2014, <<http://www.bloomberg.com/news/articles/2014-12-16/u-s-won-t-ease-sanctions-to-prevent-economic-meltdown-in-russia>> accessed 26 February 2015.

conflicts in Eastern Ukraine. Though it could be argued that the situation called for the deployment of personnel, it is undeniable that better solutions were present. However, neither side, for whatever reasons, was willing to stand down. This finally led to the prolonged failure to negotiate and remedy the issues. Though it is understandable in terms of national security, it must be accepted that the situation simply escalated too fast and too precisely, judging from the unprecedented speed with which Russia recognizes the state of Crimea and absorbed it into its territory. The alarming speed with which the situation developed was nothing short of frightening; Crimea declared the result of its referendum on 16<sup>th</sup> March 2014.<sup>370</sup> The following day, Mr. Putin issued a decree declaring and recognizing Crimea as an independent state.<sup>371</sup> The Treaty on the Adoption of the Republic of Crimea to Russia was signed by representatives from Russia, Crimea and Sevastopol on 18<sup>th</sup> March 2014<sup>372</sup> and ratified by the Russian Federation Council three days later.<sup>373</sup> The whole process took approximately a week and the effect, as it is today, is practically and effectively irrevocable.

### **3. Legal Aspects of the Conflict**

#### **3.1. Legal obligations between the states: sources, treaties and relations**

The obligations both countries have towards each other and the international community are present in various treaties and, as bases for the arguments, these rights and obligations of the parties involved must first be scrutinised and understood.

The Charter of the United Nations clearly states that the purpose of the United Nations is to:

Maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of

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<sup>370</sup> 'Crimea declares independence, seeks UN recognition', *RT*, 17 March 2014, <<http://rt.com/news/crimea-referendum-results-official-250/>> accessed 26 February 2015.

<sup>371</sup> Steven Lee Myers, Peter Baker, 'Putin Recognizes Crimea Secession, Defying the West', *The New York Times*, 17 March 2014, <[http://www.nytimes.com/2014/03/18/world/europe/us-imposes-new-sanctions-on-russian-officials.html?\\_r=0](http://www.nytimes.com/2014/03/18/world/europe/us-imposes-new-sanctions-on-russian-officials.html?_r=0)> accessed 26 February 2015.

<sup>372</sup> 'Treaty to accept Crimea, Sevastopol to Russian Federation signed', *RT*, 18 March 2014, <<http://rt.com/news/putin-include-crimea-sevastopol-russia-578/>> accessed 26 February 2015

<sup>373</sup> 'Russian Federation Council ratifies treaty on Crimea's entry to Russia', *TASS*, 21 March 2014, <<http://tass.ru/en/russia/724749>> accessed 26 February 2015.

international disputes or situations which might lead to a breach of the peace;<sup>374</sup>

Furthermore, it is mandated that all members must respect the principle of sovereign equality<sup>375</sup>, seek peaceful resolution of disputes<sup>376</sup> and shall “*refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations*”.<sup>377</sup>

Russia and Ukraine had a history of peaceful cooperation, as evident from Article 3 of the 1997 Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation<sup>378</sup> and the Black Sea Fleet Status of Forces Agreement (SOFA). Furthermore, both Russia and Ukraine became members of the United Nations on 24<sup>th</sup> October 1945. This is because Ukraine was a part of the Union of Soviet Socialist Republics up until the early 1990’s. As members of the United Nations, both nations have the obligation to respect peace and territorial integrity of all other member states and must abide by international law. The rapport between the two states, as can be observed based upon their prior relations, appeared to be mutually beneficial as evident in the agreement that Ukraine would lease, and share, the facility of the Black Sea Naval Base to Russia for discounted price for natural gas. However, Russia, as a major power regionally and internationally, seems to hold considerable influence and sway over its former regions. This is evident in the facts that Ukraine relied almost totally on Russia for fuel and natural gas and that Russia was, and still is,<sup>379</sup> Ukraine’s biggest trading partners.<sup>380</sup> Therefore, it should not come as a surprise that one of the first actions, coupled with the fact that Ukraine was behind on the payment of debt to Russia, undertaken by Moscow after the forming of new government in Ukraine was to cut off the supply of fuel and gas.<sup>381</sup>

The obligation to resolve conflict peacefully applies *erga omnes* to all member states of the United Nations as failure to comply with this principle can lead to

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<sup>374</sup>Charter of the United Nations, signed 26 June 1945, entered into force 24 October 1945, 1 UNTS XVI (U.N. Charter) art 1(1).

<sup>375</sup>ibid art 2(1).

<sup>376</sup>ibid n. 27 art 2(3).

<sup>377</sup>ibid n. 27 art 2(4).

<sup>378</sup>Treaty on Friendship, Cooperation, and Partnership between Ukraine and the Russian Federation, signed 28 May 1997, entered into force 12 July 1999, art 3.

<sup>379</sup>Mark Adomanis, ‘Russia Is Still Ukraine’s Largest Trading Partner’, *Forbes*, 5 January 2015, <<http://www.forbes.com/sites/markadomanis/2015/01/05/russia-is-still-ukraines-largest-trading-partner/>> accessed 1 March 2015.

<sup>380</sup>ibid n. 6.

<sup>381</sup>‘Ukraine crisis: Russia halts gas supplies to Kiev’, *BBC*, 16 June 2014, <<http://www.bbc.com/news/world-europe-27862849>> accessed 1 March 2015

the disruption of peace and security, the direct violation of the tenet and principle of the United Nations. The evidence of the failure to seek a peaceful resolution and active disruption of peace process can be found in the actions undertaken by both sides of the conflict. However, it is more prominent and pronounced by Russia's actions during and after the clashes in Kiev and the successive escalation of the crisis, such as the recognition of Mr. Viktor Yanukovich as a legitimate president of the Ukraine, the quasi-deployment of Russian troops along the hotspots by President Vladimir Putin,<sup>382</sup> the alleged support to the local militia<sup>383</sup> and the consequent recognition of Crimea as a sovereign state amid the protests and outcry of the international community.<sup>384</sup>

### **3.2. Russia's claims regarding the protection of ethnic Russians in Crimea**

Though this topic shares many of its values and similarities with the rights and obligations stated in the previous topic, the right of self-determination is a major issue and a distinct aspect of the law involved in the crisis. It is therefore more appropriate to analyse this aspect independently from other topics before pointing out the connections between the right of self-determination and other relevant rights and obligations.

Mr. Putin cited Russia's obligation to protect ethnic Russians in Crimea as a basis to deploy Russian troops in Crimea.<sup>385</sup> Furthermore, in order to determine Crimea's future, the local governing bodies decided to host a referendum.

Though a referendum may seem democratic, its result was highly disputed. This is due to various factors including the instability of the region, the volatile climate of the politics and the presence of various military and paramilitary forces in the area.<sup>386</sup> The result of the referendum was regarded as illegitimate

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<sup>382</sup>Lukas I. Alpert, Jay Solomon, 'Russia Orders Military Drill, Stoking Tensions', *The Wall Street Journal*, 26 February 2014, <<http://www.wsj.com/news/articles/SB1000142405270230470990457940631089232400>> accessed 1 March 2015.

<sup>383</sup>Paul D. Shinkman, 'Masked Troops, Militia Seize Key Military Base in Crimea', *U.S. News*, 19 March 2014, <<http://www.usnews.com/news/articles/2014/03/19/masked-troops-militia-surround-key-crimean-port-block-ukrainian-officials>> accessed 1 March 2015.

<sup>384</sup>'Russia's Vladimir Putin recognises Crimea as nation', BBC, 17 March 2014, <<http://www.bbc.com/news/world-europe-26621726>> accessed 1 March 2015.

<sup>385</sup>Kathy Lally, Will Englund 'Putin says he reserves right to protect Russians in Ukraine', *The Washington Post*, 4 March 2014, <[http://www.washingtonpost.com/world/putin-reserves-the-right-to-use-force-in-ukraine/2014/03/04/92d4ca70-a389-11e3-a5fa-55f0c77bf39c\\_story.html](http://www.washingtonpost.com/world/putin-reserves-the-right-to-use-force-in-ukraine/2014/03/04/92d4ca70-a389-11e3-a5fa-55f0c77bf39c_story.html)> accessed 1 March 2015.

<sup>386</sup>Kathy Lally, 'Putin's remarks raise fears of future moves against Ukraine', *The Washington Post*, 17 April 2014, <[http://www.washingtonpost.com/world/putin-changes-course-admits-russian-troops-were-in-crimea-before-vote/2014/04/17/b3300a54-c617-11e3-bf7a-be01a9b69cf1\\_story.html](http://www.washingtonpost.com/world/putin-changes-course-admits-russian-troops-were-in-crimea-before-vote/2014/04/17/b3300a54-c617-11e3-bf7a-be01a9b69cf1_story.html)> accessed 1 March 2015.

by most nations. The United Nations General Assembly requested the international community not to recognize the change in Crimea's status<sup>387</sup> and the United Nations Security Council sought to declare the referendum invalid<sup>388</sup> but the decision was never passed with Russia vetoing the resolution and China abstaining.<sup>389</sup>

In this regard, there are two points to consider: the objects of the protection and Russia's rights and responsibilities to protect.

### 3.2.1. Self-determination

From a legal perspective, the objects of the protection are the ethnic Russians in Crimea and their rights as people that identify socially, linguistically and culturally as a distinct group in the region. The rights of the group of individuals who identifies themselves as specific 'peoples' are known collectively as the right to self-determination. This right includes the right to determine their political, economic, social and cultural futures. Self-determination exists as a distinct instrument under International Covenant on Civil and Political Rights (ICCPR)<sup>390</sup>, as a principally accepted goal under the United Nations Charter<sup>391</sup> and most evidently interpreted in Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations ('Friendly Relations Declaration') as:

[A]ll peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.<sup>392</sup>

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<sup>387</sup>'General Assembly Adopts Resolution Calling upon States Not to Recognize Changes in Status of Crimea Region', *General Assembly Meeting Coverage*, 27 March 2014, <<http://www.un.org/press/en/2014/ga11493.doc.htm>> accessed 1 March 2015.

<sup>388</sup>'Security Council Fails to Adopt Text Urging Member States Not to Recognize Planned 16 March Referendum in Ukraine's Crimea Region', *General Assembly Meeting Coverage*, 15 March 2014, <<http://www.un.org/press/en/2014/sc11319.doc.htm>> accessed 1 March 2015.

<sup>389</sup>Bill Chappell, 'Russia Vetoes U.N. Security Council Resolution On Crimea', *NPR*, 15 March 2014, <<http://www.npr.org/blogs/thetwo-way/2014/03/15/290404691/russia-vetoes-u-n-security-council-resolution-on-crimea>> accessed 1 March 2015.

<sup>390</sup>International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 1.

<sup>391</sup>*ibid* n. 27 art 1.

<sup>392</sup>UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, (published 24 October 1970) A/RES/2625(XXV) <<http://www.refworld.org/docid/3dda1f104.html>> accessed 3 March 2015.

The aspects of self-determination can be further divided into two distinct norms as internal self-determination and external self-determination. Internal self-determination focuses on the rights of the people to determine political, economic and social system and their participation and representation therein within the community, region or state.<sup>393</sup> External self-determination, on the other hand, can be considered a step-up from the previously mentioned internal self-determination. The Conference on Security and Co-operation in Europe Final Act ('Helsinki Final Act') recognizes that:

By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

External self-determination functions as the last resort, being asserted as a response in extreme circumstances where the rights of internal self-determination are prohibited and unrealizable and other recourses are beyond reach.<sup>394</sup> However, the rights to self-determination, as a basis for secession, is not widely accepted as it contradicts with the principle of territorial integrity as stated in Friendly Relations Declaration that:

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.<sup>395</sup>

In some cases, such as East Timor, Bangladesh and Kosovo, the act of creating a new nation is a viable and justified solution. Usually, however, these cases are exceptions rather than norms; these nations were created as a result of bloody violence and extreme violation of various human rights. Another exception is the decolonisation of countries under colonial rules.<sup>396</sup>

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<sup>393</sup> Katherine Del Mar, *The Myth of Remedial Secession* (Cambridge University Press 2013) p. 87.

<sup>394</sup> *ibid* n. 46, p. 89.

<sup>395</sup> *ibid* n. 45.

<sup>396</sup> *ibid*.

In the case of East Timor, the conflict arose from the invasion of East Timor in 1975 and subsequent occupation. In 1999, the referendum was held to determine the status of East Timor, with Indonesia responsible for the maintaining security. The result, announced by then-Secretary of the United Nations Kofi Anan, showed that 78.5 percent of the population voted for independence. The result led to bloody attacks by anti-independence paramilitary groups and Islamic extremist gangs, who fired upon civilians, set the capital city and its catholic churches on fire and attacked the International Committee of the Red Cross headquarters. These acts of violence led to the intervention from multinational forces called International Force for East Timor (INTERFET), led by Australia, followed by the deployment peacekeeping force of the United Nations and resulted in the ceasefire and stabilization of East Timor. The mission was declared completed in 2012, by the mandate of United Nations Security Council's Resolution 2037.<sup>397</sup>

Similarly, Bangladesh, formerly known as Eastern Pakistan, gained its independence as a result from the acts of persecution from the Muslim majority towards local Bengali population, who called for the rights of self-determination. The violence began with the massacre on 26th March 1971, followed by Bangladesh war for independence which lasted for 9 months. The conflict resulted in ethnic violence, human rights violations and ethnic rapes that costed 300,000<sup>398</sup> – 3,000,000<sup>399</sup> lives and ended with the independence of Bangladesh. The conflict saw the involvement of India, in support of Bangladesh from December 1971 onwards, on the claims that it was protecting the lives of the

Bengali population. It should also be noted that India's claim to intervene was also aimed at stabilizing the power scale in the region, as Pakistan was and still is India's main rival in South Asia, and that it was estimated that fighting a war against Pakistan was more economical than taking in millions of refugees.<sup>400</sup>

Lastly, in the case of Kosovo War, the conflict saw widespread cases of human rights violation committed by all sides, including Kosovo Albanian, Yugoslav and – to a lesser extent – NATO, such as ethnic cleansing, recruitment and deployment of child soldiers and massacres of civilians. The war began when

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<sup>397</sup> 'Security Council Extends Mission in Timor-Leste until 31 December, Endorses Phased Drawdown Following Successful 2012 Elections', *Security Council Meeting Coverage*, 23 February 2012, < <http://www.un.org/press/en//2012/sc10554.doc.htm> > accessed 19 August 2015.

<sup>398</sup> Mark Dummett, 'Bangladesh war: The article that changed history', *BBC*, 16 December 2011, < <http://www.bbc.com/news/world-asia-16207201> > accessed 17 August 2015.

<sup>399</sup> 'Bangladesh sets up war crimes court', *Al Jazeera*, 25 March 2010, <<http://www.aljazeera.com/news/asia/2010/03/2010325151839747356.html>> accessed 17 August 2015.

<sup>400</sup> 'Indo-Pakistani Wars', *WebCite*, <<http://www.webcitation.org/5kwrHv6ph>> accessed 18 August 2015.

Kosovo Liberation Army (KLA) tried to declare its independence from the rule of the Federal Republic of Yugoslavia, under Slobodan Milošević. The intervention by NATO, aimed to stop the violation of human rights as quickly and decisively as possible, came in the form of aerial bombardments, which lasted more than 20 days. The bombing led to the Kumanovo Treaty, which brought about the withdrawal of Yugoslav troops from Kosovo, and the establishment of United Nations Interim Administration Mission in Kosovo (UNMIK), under the mandate of United Nations Security Council Resolution 1244 and the subsequent *de facto* separation of Kosovo, which was put under temporary administration of UNMIK, from Yugoslavia.<sup>401</sup>

It can be argued that in this present case, Crimea, unlike the 3 examples presented, was in no position to claim the exercise of self-determination as a ground for secession. This is because it was neither under serious threats, imminent or otherwise, of human rights violations, extreme duress that threatened the existence of the region or other viable claims, nor was it under any colonial rules or was it unshackling itself from colonisation.

The term 'colony' can be defined, according to Black's Law Dictionary as "a dependent territorial entity subject to the sovereignty of an independent country, but considered part of that country for purposes of relations with third countries."<sup>402</sup> In the present case, Crimea has two statuses. Firstly, Crimea is *de jure* an autonomous republic of Ukraine. Secondly it is also *de facto* a district under Russia. This shows that Crimea was, and arguably still is, a part of regional administrative body of Ukraine and, in no way, a colony of Ukraine.

### 3.2.2. Responsibility to Protect

Russia claimed that it has the responsibility to protect the ethnic Russians in the Crimea region. Responsibility to protect, also known as 'R2P', is an emerging norm that can be considered an evolution of humanitarian intervention. R2P arose from the initiative by the Canadian government in 2001 and focuses on the protection of civilians in the case where their state or government fails or refuses to protect them from large scale human rights violations. This principle can be found in World Summit Outcome document by the United Nations and consisted of three main 'pillars'.

Firstly, the state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This also includes

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<sup>401</sup>UN Security Council, Security Council resolution 1244 (1999) [on the deployment of international civil and security presences in Kosovo], 10 June 1999, S/RES/1244 (1999), <available at: <http://www.refworld.org/docid/3b00f27216.html>> accessed 21 August 2015.

<sup>402</sup>Black's Law Dictionary, 301 (9<sup>th</sup> ed. 2009).

incitement or encouragement to commit any of the aforementioned crimes Secondly, the international community shall assist, as appropriate, the state in the performance and realization of the aforementioned goals, and the United Nations in the prevention of crime.<sup>403</sup> Lastly, should the effort prove futile, the international community, through the United Nations, has the responsibility to act and protect the civilians. The measures include those prescribed under Chapter VI and VII of the United Nations Charter.<sup>404</sup> Measures under Chapter VI include peaceful settlements of disputes<sup>405</sup> and reference to the United Nations General Assembly and/or the United Nations Security Council.<sup>406</sup> Under Chapter VII, the measures become bolder and more aggressive, reflecting the more serious nature of the situation and are designed to counteract the threats to international peace and security. It is for these reasons that the matters under Chapter VII are handled practically exclusively by the United Nations Security Council. For instance, the Security Council has the authority to determine the nature of the situation and impose the sanctions accordingly, which may include non-military<sup>407</sup> or military measures.<sup>408</sup> This reflects the inherent nature of R2P; should a nation prove unable or unwilling to provide the protection to its people, the appropriate measures will be imposed and escalated according to the severity of the situation. This explains the basis of application of measures under Article VI before the imposition of sanctions under Article VII.

It is clear from the words of the World Summit Document that R2P is intended to limit the power of sovereignty. The sovereign rights of states exist mainly to ensure the protection of civilians in the face of large-scale human rights violation and if the state proves unwilling or unable to ensure the protection, the international community has the responsibility to intervene, using various measures as prescribed within Chapter VI and VII of the United Nations, including coercive measures such as diplomatic and economic sanctions. The use of force is also possible, but only as a last resort.

Russia's intervention in Crimea came in the form of strategic deployment of troops. Mr. Putin defended the mobilization of troops by stating that his aim was of protecting "the people with whom we have close historical, cultural and

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<sup>403</sup> UN General Assembly, Strengthening of security and co-operation in the Mediterranean region, 4 December 1986, A/RES/41/89, <<http://www.refworld.org/docid/3b00f0028.html>) accessed 3 March 2015, para 138.

<sup>404</sup> *ibid* n.51, para 139.

<sup>405</sup> United Nations, Charter of the United Nations, Chapter VI, art 33(1), 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html> [accessed 21 August 2015]

<sup>406</sup> *ibid*, art 35(1).

<sup>407</sup> *ibid* n.58, Chapter VII, art 41.

<sup>408</sup> *ibid* art 42.

economic ties.” He further stated that the protection of these people is in Russia’s national interests and that the operation served as “a humanitarian mission.”<sup>409</sup>

The application of R2P in this case is arguable since, as previously stated, there are no imminent threats to the population. The latest application of R2P was during the crisis in Libya, during which the United Nation Security Council adopted Resolution 1970, a condemnation of Muammar Gadhafi’s use of lethal force against the protesters during Libyan Civil War, and made an explicit reference to the application of R2P.<sup>410</sup> Furthermore, to emphasize the severity of the situation in Libya, the United Nations Security Council adopted Resolution 1973, which called for the establishment of no-fly zone over Libyan’s airspace, demanded immediate ceasefire and urged for an end of violence against civilians, which in this case was labelled as a possible crime against humanity.<sup>411</sup>

The examples taken from the Libya conflict serve to highlight the lack of ground for the application of R2P in Crimea. In Libya, before the intervention by The North Atlantic Treaty Organization’s (NATO) forces, it has been estimated by various sources such as the International Coalition Against War Criminals<sup>412</sup>, Human Rights Watch<sup>413</sup> and Italian Ministry of Foreign Affairs<sup>414</sup> that in February, within the first 2 weeks of the conflict, at least 200 people died and the number could be as high as 1,000. Crimea, on the other hand, did not face the threats of such magnitude as those that had occurred in Libya. The claim of the violation was based upon the perceived discrimination felt by the ethnic Russians within the region.<sup>415</sup> It can thus be argued that the intervention was

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<sup>409</sup>“Transcript: Putin defends Russian intervention in Ukraine’ (The Washington Post, 4 March 2014)<[http://www.washingtonpost.com/world/transcript-putin-defends-russian-intervention-in-ukraine/2014/03/04/9cadcd1a-a3a9-11e3-a5fa-55f0c77bf39c\\_story.html](http://www.washingtonpost.com/world/transcript-putin-defends-russian-intervention-in-ukraine/2014/03/04/9cadcd1a-a3a9-11e3-a5fa-55f0c77bf39c_story.html)> accessed 3 March 2015.

<sup>410</sup>UN Security Council, Security Council resolution 1970 (2011), 26 February 2011, S/RES/1970 (2011) <[available at: http://www.refworld.org/docid/4d6ce9742.html](http://www.refworld.org/docid/4d6ce9742.html)> accessed 3 March 2015.

<sup>411</sup>UN Security Council, Security Council resolution 1973 (2011) [on the situation in the Libyan Arab Jamahiriya], 17 March 2011, S/RES/1973(2011), <<http://www.refworld.org/docid/4d885fc42.html>> accessed 3 March 2015.

<sup>412</sup>‘Live Blog - Libya Feb 22’, *Al Jazeera*, 22 February 2011, <<http://blogs.aljazeera.com/blog/africa/live-blog-libya-feb-22>> accessed 29 March 2015.

<sup>413</sup>‘European nationals, companies flee Libyan unrest’, *Agence France-Presse*, 22 February 2011, <<http://newsinfo.inquirer.net/breakingnews/world/view/20110222-321532/European-nationals-companies-flee-Libyan-unrest>> accessed 29 March 2015.

<sup>414</sup>Alexander Dziadoszf, ‘Fear stalks Tripoli as Libya’s east celebrates’, *Reuters*. 23 February 2011,<<http://www.reuters.com/article/2011/02/23/us-libya-protests-idUSTRE71G0A620110223>> accessed 29 March 2015.

<sup>415</sup>Meg Sullivan, ‘Justifying Crimea: President Putin Invokes R2P’, *Brown Political Review*, 11 April 2014, <<http://www.brownpoliticalreview.org/2014/04/justifying-crimea-president-putin-invokes-r2p/>> accessed 3 April 2015.

hardly justified since there were no imminent threats of human rights violation (nor were those threats ever realized) and even if the threats had been real, Ukraine, as a sovereign state, has the power and authority to deal with the aforementioned threats. As a matter of fact, Ukraine barely had time to address the problems since the secessionist movement had already mobilized for secession and Russia had already deployed its troops along the Russian – Ukrainian border and within the Crimean region.

It can therefore be concluded that while the people of Crimea have the right of self-determination, the reasons for secession were hardly justifiable since there had been no threats, perceived or otherwise, that would lead to large-scale violation of human rights. It can be concluded that those threats were never realized nor present. Additionally, had those threats been real, they were still not sufficient to warrant a military intervention.

### **3.3. Legal Status of Crimea – Recognition and Status**

The most important question one could and should ask at the moment is the one regarding the legal status of Crimea. In this respect, the recognition of Crimea as a sovereign state that has the power to secede from a nation to become a part of another state is at heart of the discussion and must be analysed.

Recognition is one of the points where international law and international politics converge and join together. The matter of recognition of Crimea, first, as a sovereign state and, second, as a territory of Russia, calls into question the significance of this doctrine. In this matter, the most important aspect is the notion of statehood. It is generally accepted that a state comprises of four elements: population, territory, government and capacity to enter into relations with the other states.<sup>416</sup> Population, territory and government can be considered physical manifestation of a state; a nation needs to have a defined territory, complete with boundary and borders and the population that inhabit the territory, led by a government that undertakes the duty to administer and govern the affairs of that nation. The capacity to enter in relations with other states, on the other hand, stems mostly from sovereignty and recognition from other states and dictates the rights, duty and responsibilities of a nation, both domestically and internationally.

The problem calls into question the legal effects of recognition. The various questions regarding recognition are the point of great debates and have been one of the most obscure areas of international law. Recognition, under the

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<sup>416</sup>1933 Montevideo Inter-American Convention on the Rights and Duties of States, 26 Dec. 1933, 49 Stat. 3097, 165 U.N.T.S. 21, art 1.

declaratory view, is perceived to have limited legal effect since it is merely a declaration or acknowledgement of an existing state.<sup>417</sup> On the other hand, under the view of constitutive school of thought, recognition is vital to the existence of statehood since it serves as a precondition of existence of legal rights and personality. Therefore, it can be argued that the existence of a state is dictated by the relations, political decision and acceptance of other states.<sup>418</sup>

Moreover, the problems do not end at the recognition of a state. The recognition of government also plays a vital role in international relations and politics. The recognition of government, however, serves a very different role. It can be stated that the non-recognition by other states towards a government that claims to have national personality usually indicates the fact that such a government has yet to attain the independence, authority, or control to be accepted among sovereign states.<sup>419</sup> This is because a state is an entity, a person under international law that is accepted as such due to the nature of its existence, history and significance in the international community. Government, however, is merely one of the facets constituting a state. This is obvious, judging by the nature of statehood that a state possesses “a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states”.<sup>420</sup>

As previously stated, Mr. Putin claimed that Russia was not bound by the bilateral agreement regarding the use of Black Sea Naval Base due to the fact that he believed that the new Ukrainian government was illegitimate. This line of argument, however, does not create any legal obligation. First of all, the statement, under the current trend of international law, was merely a political statement and did not constitute any declaration that would otherwise create any legally binding effects.

Second of all, even if the statement was a valid recognition, the international community vastly rejected the status of Crimea as a sovereign state. The status of Crimea, after the annexation, is not recognized internationally as evident in the adoption of United Nations General Assembly Resolution 68/262. The Resolution, entitled ‘Territory Integrity of Ukraine’, called upon the states not to recognize the change in the status of Crimea and Sevastopol.<sup>421</sup> The Resolution

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<sup>417</sup> Ian Brownlie, *Principles of Public International Law* (6<sup>th</sup> edn, Oxford University Press 2003) p. 86 – 87.

<sup>418</sup> *ibid* p. 87 – 88.

<sup>419</sup> *ibid*.

<sup>420</sup> *ibid* n. 61.

<sup>421</sup> UN General Assembly, *Territorial Integrity of Ukraine : resolution / adopted by the General Assembly , 1 April 2014, A/RES/68/262, <<http://www.refworld.org/docid/534502a14.html>> accessed 13 April 2015.*

was approved by 100 nations, though, in reality, Russia has effective control over Crimea and Sevastopol.

Since it is already stated that recognition serves as a bestowment of legal personality, it is clear that in this case, the world at large did not accept Crimea as a sovereign state nor did it agree to recognize the local governing bodies as valid. Last of all, regime change does not constitute the end of statehood. As stated earlier, government is a part of the state. However, should there be a change in the government, the state remains since it cannot be argued that a nation falls when the government is removed.<sup>422</sup> Therefore the claims made by Mr. Putin served merely as reasons to intervene and, possibly profit from the drastic change in Ukrainian political climate; citing the lack of obligations on Russia's part and the claims of Ukraine's inability and/or unwillingness to protect the ethnic Russians in its territory.

#### **4. Conclusion – Political and Legal Impacts**

##### **4.1. Politics**

The biggest impact the crisis created is definitely within the scope of international politics and international relations. Furthermore, this crisis led to changes in direction of the International law governing the relations between states. It can be argued that this is the political move by Russia to stem the influence of the European Union and the Western powers.

In the past five years, Russia's behaviours can be summarized as 'erratic'. First, it sought to play the role of peacemaker and arbitrator during the conflict in Syria, arguably playing the role of 'good cop' – proposing the non-violence means to the disarmament of Syrian's chemical weapons<sup>423</sup> – to the United States' 'bad cop' approach of possible use of force.<sup>424</sup> Then it turned around and prosecuted opposing environmentalists<sup>425</sup> and homosexual rights activists<sup>426</sup> before the

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<sup>422</sup>Stefan Talmon, 'Recognition of Governments in International Law: With particular reference to governments in exile', (Clarendon Press 1998) p. 22 – 23.

<sup>423</sup>Jeremy Bowen, 'US and Russia agree Syria chemical weapons deal', *BBC*, 14 September 2013, <<http://www.bbc.com/news/world-middle-east-24091633>> accessed 12 April 2015.

<sup>424</sup>Andrea Shalal-Esauss, 'Nimitz carrier group sails into Red Sea in 'prudent' move', *Reuters*, 2 September 2013, <<http://www.reuters.com/article/2013/09/02/us-syria-crisis-ships-idUSBRE9810DA20130902>> accessed 12 April 2015.

<sup>425</sup>'Sochi Olympics countdown sees Russia jailing second prisoner of conscience this week', *Amnesty International*, 5 February 2014, <<https://www.amnesty.org/en/articles/news/2014/02/sochi-olympics-countdown-sees-russia-jailing-second-prisoner-conscience-week/>> accessed 13 April 2015.

<sup>426</sup>'Russian LGBT activists arrested on first day of Sochi games', *Al Jazeera America*, 7 February 2014, <<http://america.aljazeera.com/articles/2014/2/7/russian-lgbt-activistsarrestedon>>

beginning of 2014 Winter Olympic in Sochi. Around the same time, the political tension in Ukraine was deteriorating and Russia conveniently inserted itself into the equation that soon spread in to Crimea.

After the referendum, Russia's operation in Crimea became overt; its troops and its supporters openly taking control of Crimea. This resulted in the confrontations between Ukrainian troops stationed in the army base and Russian troops, who demanded their capitulation and withdrawal from Crimea. The 'annexation', or 'secession and integration' in Russia's point of view, resulting from these events are clearly violations of Ukraine sovereignty and territorial integrity.

Though Russia has claimed its obligation to protect human rights and intervene, international law and international community at large did not agree with Russia's stance on the matter. The following economic sanctions by the Western powers did more harm than good, however, as it disturbed the balance of the world economies, resulting in the crash of Ruble and the subsequent drop in oil prices. Though the moves by Russia were not in accordance with international law, they served Russia's purposes exactly by literally 'flexing its muscles'; protecting its 'interests' in its satellite states and the surrounding regions. This is clearly in accordance with the role Russia has been projecting since the days of the Cold War; a counterweight to the European Union, the United States and the NATO. It can be assumed, from this point onwards, that diplomatic and political moves by Russia will become bolder and more aggressive as it continues to build its core sphere of influence to counter the influence, waning as it may be, of the Western powers.

#### **4.2. Responsibility to Protect**

In relation to the political impact of the crisis, the interpretation of R2P is also a major point of concern for many. Though Russia claimed that it had the responsibility to intervene and protect ethnic Russians within Crimea from persecution, the basis for this was lacking. This is evident since the claim was dismissed and criticized as a political move to annex Crimea. This is clear from the fact that Crimea and the Black Sea serve as the gateway and buffer to the Balkan, the territory of former Eastern Bloc nations, many of which are now member of NATO. The influence over this region is of strategic import and Russia has everything to gain and lose in its fight to control this territory.

The use of R2P by Russia in this instance is a clear perversion of the principle. As previously stated, there were no grounds for Russia to intervene and Russia had

neither the rights nor the responsibilities to protect ethnic Russians in Crimea. This is because there were no threats of gross violations of human rights in the first place. Furthermore, Russia's intervention also undermined and disregarded the sovereignty of Ukraine. This is further highlighted by Russia's adamant stance in the inviolability of the principle of state sovereignty; it seems that Russia is willing to apply this principle selectively, as proven by its stance during the conflict in Syria, in which Russia vetoed the Security Council's resolution to intervene in that conflict, stating that the sovereignty of Syria must be respected.<sup>427</sup> On the other hand, Russia seemed to have no qualms in violating the principle of sovereignty in Ukraine; a country in its vicinity that contains a valuable strategic asset in Russia's sphere of influence.

It is therefore safe to assume that Russia's interpretation and application not only perverted the application of R2P, but also created an illegitimate precedence. This can prove to be problematic in the future as the definition and application of R2P. This incidence will create room for further infractions and may lead to the possible abuse of this power by other states.

In conclusion, Russia's, and Crimea's, actions during the conflict were not in accordance with various principles under international law. Russia had no basis for the claims to intervene in Crimea. Furthermore, Crimea was also at fault, but this could be largely attributed to Russia's involvement in the matter, as its actions were inconsistent with the norms of international law; the act of intervening and supporting paramilitary groups that consequently led to the annexation of Crimea, though not unprecedented were still in violation of principle of non-intervention and sovereign equality. As a matter of fact, Russia has practically bullied Ukraine into accepting the annexation and has scared the international community from taking any fruitful actions by the speed and aggressiveness of its manoeuvres, to the point that Russia was the one dictating the terms while the rest of the world danced to its tempo. The condemnation by the international community, specifically the United Nations General Assembly, serves as a disapproval of their actions. It is, therefore, tantalizing that the world, fragile as it is, has arrived at this very point. This incident will surely prove to be a very interesting and hotly contested issue and, with the right course of actions, will, hopefully, lead to some measures of development that will pave way for constructive resolution of future disputes of similar manners.

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<sup>427</sup> Paul Harris, Martin Chulov, David Batty, Damien Pearse, 'Syria resolution vetoed by Russia and China at United Nations', *The Guardian*, 4 February 2012, <<http://www.theguardian.com/world/2012/feb/04/assad-obama-resign-un-resolution>> accessed 14 April 2015.

