The Legal Status and Modern History of Crimean Autonomy

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Over the past weeks, much has been said about the Republic of Crimea's secession/annexation to the Russian Federation and on its illegality (see on this blog here) and I personally agree with these statements. At the same time, I believe that the Crimean problem is much more complex at its roots and that some of Crimea's history and its struggle for independence in the past have been overlooked in most of the recent discussion. I will provide some historical overview of the Crimean struggle for independence. It will dispel the widespread myth that Crimea for centuries had been part of Russia and was "gifted" to Ukraine and illustrate that yet another annexation of Crimea by Russia does not solve the Crimean problem.

The modern history of Crimea begins in 1783, when Crimea was annexed by the Russian Empire. Until then, the Crimean Khanate had been part of the Ottoman Empire, where it enjoyed broad autonomy. Between 1783 and 1918, Crimea remained a region of the Russian Empire, with Crimean Tatars being the majority of Crimea's largely rural population. There were also large numbers of Russians and Ukrainians as well as smaller numbers of Germans, Jews (including Krymchaks and Crimean Karaites), Bulgarians, Belarussians, Turks, Armenians, and Greeks and Gypsies. In 1853–1856, the Russian Empire engaged into the Crimean war with an alliance of the French Empire, the British Empire, the Ottoman Empire, the Kingdom of Sardinia, and the Duchy of Nassau. As a result of this war, the economic and social infrastructure of Crimea was ruined, the ethnic balance in the region was altered.

The first republic in the history of Crimea was pronounced in December of 1917, as the "Soviet Socialistic Republic of Taurida" (Crimean Tatar government). This republic existed for less than two months. In January 1918 it was occupied by the Austrian-German army and plunged into a civil war. What followed were several regime shifts within a short time: In May–June 1918 Crimea was first under German, then under Ukrainian occupation, followed by the First Crimean regional government (which was more of a German puppet state) under Lipka Tatar General Maciej Suleyman Sulkiewicz. In April 1919, it went back to a bolshevist government, which established Crimea as a Soviet Socialist republic. From June 1919 till November 1920, the white movement generals (the anti-communist forces that fought against the Bolsheviks during the Russian Civil War) had the control over the territory. In October 1921, upon the final victory of communists, Crimea was not reinstated as an autonomous republic for the sake of greater centralization of power. Instead, Crimea became a territorial autonomy within the Russian Social Federalist Soviet Republic.

In 1944, under Stalin's regime, Tatars were deported en masse to Siberia, the Urals, Kazakhstan, Uzbekistan etc. Along with the Tatars, other ethic minorities of Crimea, such as Gypsies, Turkish and Karaites, suffered the same fate (very detailed research on this topic can be found in the book of N. Conquest, The Nation killers: the Soviet deportation of Nationalities, London, 1970.)

In 1945, Crimea was transformed into a regular administrative unit – "oblast", and in 1954, considering the close economic, cultural and geographical links, the Presidium of USSR made a decision about the incorporation of the Crimean "oblast" into the Ukrainian Soviet Socialist Republic. The Presidium put an obligation on the Ukrainian SSR to rebuild the region from Ukrainian budget, create infrastructure for the peninsular (including water and energy supply) and set

up a recreation area on the Western coast of Crimea. Until 1991, the status of Crimea was no different from the one of other administrative units of Ukrainian SSR.

The collapse of the Soviet Union led to the "parade of independencies". One by one, the soviet republics started to declare their independence. In the wake of the Ukrainian independence process, the legal status of Crimea was raised before the parliament of the Ukrainian SSR. In February 1991 (even before Ukraine became independent), the parliament of Ukrainian SSR voted for a law which restored the Crimean Autonomous Soviet Socialist Republic. This was mainly a political move and seen as a tribute to history, an atonement for the ethnic cleansing and deportation of Crimean Tatars. The preamble of the 1992 Constitution of Crimean Republic underlines this point:

> *connected by the centuries-old ties, common historical destiny, unequivocal condemnation of criminal and inhumane acts, committed by the totalitarian regime against the people of Crimea, recognizing Universal Declaration of Human Rights, considering the social, economic, civil rights of individual and decent living standards for all, adopt the Constitution of the Republic of Crimea…*

The 1992 Constitution of the Republic of Crimea also factually declared independence. According to this Constitution, the parliament and the council of ministers of the Republic of Crimea possess the highest legislative and governmental power (for example, Art. 10 allows entering economic or cultural relations with other states), the state language was declared to be Russian, the republic provided its own citizenship and state symbols. Despite these broad governmental powers and declarations of territorial integrity, the Republic was a part of Ukraine: Art. 9 of the 1992 Crimean Constitution states: "the Republic of Crimea is a part of the state of Ukraine and determines its relation on the base of treaty and agreements". 'The treaty' refers to a future Union treaty, which was supposed to found a Union of Sovereign Republics, but was never signed.

It seems hard to reconcile the declaration of independence with Art. 9. Probably, the creators of that constitution were looking to sign the new Union Treaty and wanted the Republic of Crimea to participate in it as a "union republic", which would have had a right to claim independence from the Union, as opposed to autonomies. It is not clear what exactly the lawmakers meant by "a part of the state of Ukraine". A look at the Soviet constitution might shed light on the issue.

According to the Soviet constitution, there were "union republics" and "autonomous republics." Union republics were the highest form of sovereignty and autonomy within the USSR. The Union republics such as Russia, Moldova, Georgia, Azerbaijan and Ukraine became new sovereign states after the collapse of the Soviet Union. The autonomous republics (from 1964 till 1990 the USSR numbered 20 autonomous republics) were subsidiary entities, with no right of secession from the USSR as other political subdivisions of the Union; therefore, they did not have that level of sovereignty and could not claim the same level of independence. With the exception of Crimea, the former autonomies of the Soviet Union signed a federation agreement in 1992 and became subdivisions of Russian Federation with no possibility of secession. (The autonomous republics within the RF do not contain term "autonomous" in their proper names, the are simply called republics, for example, Republic of Tatarstan). It therefore appears that Ukraine and Crimea wanted to enter into a Union, which left greater autonomy than the new Russian Federation and was closer to the status Ukraine had when it was part of the Soviet Union vis-à-vis Russia. However, as mentioned, the Union Treaty was never signed.

Instead, upon adoption of the Ukrainian Constitution of 1996, the Crimean governmental bodies lost their governmental power and became representative bodies (Art. 136 of Ukrainian Constitution). The relevant changes were later made in the Constitution of the Autonomous Republic of Crimea: part 3 of Art. 1 provides representative and control functions of the parliament and the council of ministers of the ARC.

These significant changes however did not stir up resistance, probably because the economic, cultural and infrastructural ties with the inland were close and an independent functioning of the region was not reasonable or even economically possible, taking into account the overall economic state in post-soviet countries.

According to Art. 2 of the Constitution of Ukraine, Ukraine is a unitary state and its sovereignty extends to all its territory. Art. 133 states that the Autonomous Republic of Crimea (ARC) is an integral part of the administrative and territorial structure. The legal status of the ARC is determined in a separate chapter of Ukrainian Constitution: the ARC has its own constitution; the proper name includes the word "republic", the Verkhovna Rada of the ARC (the "supreme council", parliament) is a representative legislative organ which is entitled to adopt the Constitution of the ARC and other legislative acts; the council of ministers; the emblem, hymn, flag and state language – all characteristics of a state. However, these characteristics are substantially limited by other chapters of Ukrainian Constitution. For example, the Constitution of the ARC has to be approved by the Ukrainian Parliament, all the legislative acts should be in conformity with the Constitution of Ukraine, acts of the president and the council of ministers. The ARC can only regulate the questions of local economy and the process of formation of the local representative bodies (the parliament and the council of ministers). In a nutshell, Ukrainian constitutional law views the ARC as a limited political autonomy.

While generally speaking, the Western world is right in saying that the annexation was illegal, the situation with Crimea is much more complicated and goes back generations.

Crimeans have been struggling for independence for a long time. The autonomy within the Ukrainian state could be seen as an achievement and a step towards possible future independence (for example, if the region pursues a variant of the Scottish scenario). However, now it seems like they lost this possibility yet again. The Republic of Crimea was incorporated into the RF as a new constituent entity and under Russian law, there is no procedure to dismember the federation. Whether the heterogenous population on Crimea will be satisfied with the current situation remains to be seen. In my view, this was hardly the last step. Rather, I expect the Crimean struggle for an independent status to continue, and rather sooner than later.Over the past weeks, much has been said about the Republic of Crimea's secession/annexation to the Russian Federation and on its illegality (see on this blog here) and I personally agree with these statements. At the same time, I believe that the Crimean problem is much more complex at its roots and that some of Crimea's history and its struggle for independence in the past have been overlooked in most of the recent discussion. I will provide some historical overview of the Crimean struggle for independence. It will dispel the widespread myth that Crimea for centuries had been part of Russia and was "gifted" to Ukraine and illustrate that yet another annexation of Crimea by Russia does not solve the Crimean problem.

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ABOUT THE AUTHOR

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