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• POST-COLONIALISM
Independence

Editors
Dr. Hanna Shelest
Dr. Mykola Kapitonenko

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Contacts:
website: http://ukraine-analytica.org/
e-mail: Ukraine_analytica@ukr.net
Facebook: https://www.facebook.com/ukraineanalytica
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POST-SOViet SOVEREIGNTY AND UKRAINE’S POLITICAL DEVELOPMENT

Dr Mykhailo Minakov
Kennan Institute, Woodrow Wilson International Centre for Scholars

In a realistic analysis of the status of national sovereignty of Ukraine and other post-Soviet states, the author argues that Russian aggression against Ukraine, post-Soviet frozen conflicts, and the U.S.-Russia antagonism have established the political, legal and military macrocontext in which Ukraine can develop for the foreseeable future. In this context, Ukraine can maintain its existing and even regain its pre-2014 level of sovereignty if it develops either as a buffer zone between the EU/West and Russia, or as NATO’s battering ram. The author concludes that the new Eastern Europe will remain a region of damaged national sovereignties with a high chance for new conflicts and poor chances for stable peace and socio-economic prosperity.

Today, the concept of sovereignty is once again being contested, both theoretically and practically. This dispute manifests itself at multiple levels: globally, regionally and in national contexts. It is also one of the major sources of the insecurity felt in political and legal orders around the globe, in the new Eastern Europe, and in Ukraine.

The theoretical debate is visible, for example, in various attempts at defining sovereignty. Contemporary encyclopaedias of philosophy, law and politics agree on the core notion of sovereignty as a "supreme authority" connected with a state and a territory, but vary in their explanation of the nature of this authority. This incongruence in the concept of sovereignty is evident in terms of its internal and external dimensions, levels of absoluteness, different kinds of sovereignty holders, and so on. Yet the theoretical debates in and of themselves do not necessarily undermine order: only if the theoretical dispute merges with the practical application are they likely to lead to profound political conflicts.

The practical dispute over sovereignty is grounded on the intra- and international struggle of different political groups, states and alliances of states. This struggle is vested in different ideological interpretations of the idea of sovereignty by political agents. Historically, the limits to these interpretations were imposed by international legal acts, such as the Peace

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1 Here I refer to the new Eastern Europe as a region consisting of Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine.

of Westphalia (1648), the Montevideo Convention on the Rights and Duties of States (1933), and the United Nations Charter (1945). Still, there was enough room for differences and changes in the practice of sovereignty. These legal acts were usually the result of profound political and security crises stemming precisely from the struggles over state sovereignty over the last four centuries.

Today, the sovereignty of post-Soviet states is in crisis, especially visible in the case of Ukraine. After 30 years of political development in the Eastern European region – called the “Eastern Neighbourhood” from the Western European perspective –, the regional order has come under destructive pressure, partly due to contested applications of sovereignty. This paper will argue that multilevel disputes over the notion of sovereignty are directly connected to the current disorder in Eastern Europe and will describe how it damages Ukraine’s sovereignty and prospects for development.

The Global Context

The major current debate over the concept of sovereignty is a struggle between “sovereignists” and “cosmopolites.” This conflict is a recent turn of events – the sovereignist turn – and equally affects democracies and autocracies around the world as it is changing the post–World War II consensus about what sovereignty means.

Sovereignism per se is not a new ideology: it was actually the logic of the political development of modern states argued for by Jean Bodin, the authors of Peace of Westphalia, and Thomas Hobbes. At around the same time, a State was recognized as a super-institution with the exclusive right to sovereignty. Its rival institutions – various religious organizations, tribes, feudal clans, transcontinental corporations, and so on – lost their case to the State. In a sense, the modern sovereign State was evolving together with modernity itself. Thus, between the 16th century and today, the concept of sovereignty has evolved through at least five stages, each marked by the dominant interpretation of sovereignty.

First, sovereignty was understood as an absolute, indivisible power – the view held by Bodin and Hobbes – that was linked to an absolute, enlightened monarch as the embodiment of the State.

Next, sovereignty was perceived as the position of the supreme and final authority at the top of a pyramid of discrete lower powers, as proposed by Locke and the federalists, and their followers. This interpretation was used with constitutionally limited monarchies and some early modern republics.


Then, sovereignty was applied as a common term to denote two distinct authorities: the highest law-making authority and the legitimate power to rule, which limited each other’s scope and endowed the people, not the ruler, with sovereignty in the liberal and nationalist traditions. These practices mainly applied to different nation-states.

In the fourth phase, sovereignty was treated as the coexistence of internal sovereignty, which granted a monopoly on the use of legitimate force within a specific territory, and external sovereignty, which granted external war- and peace-making powers. This was the dominant position in the inter-war period, and partly in the post-WWII period as the world system began to globalize.5


In the course of this history, the holder of sovereignty has shifted, from the traditional monarch, to an absolute monarch in a regular state with an emerging bureaucracy, then as a nation-state with an established bureaucracy, and finally as combination of international, national and human individual agencies.7

After the unprecedented violence of World War II, the concept of sovereignty had to adapt to the requirements of justice within and among the nations, as well as to the demands of human dignity and the continuing existence of humanity. This concept and practice of sovereignty were an ambitious process that participated in the creation of the “full world,” in which political systems, jurisdictions, economies, environmental systems, and humanity as a biological species could be managed only if national territorial sovereignty was limited by other “sovereigns.”8 To reduce the threat a sovereign state constitutes for peace and life on the planet, the United Nations Organization was established as an all-embracing platform for interstate conflict prevention, management and resolution.

On the other hand, most colonies were emancipated from subjugation and gained national territorial sovereignty in the late 20th century.9 Meanwhile, the sovereignty of the state was more and more outweighed by the increasing sovereignty of the human individual and the growing role of human rights within and among states.10 Altogether,

After the unprecedented violence of World War II, the concept of sovereignty had to adapt to the requirements of justice within and among the nations, as well as to the demands of human dignity and the continuing existence of humanity.
this combination of sovereignty practices defined the period from 1947 through the end of the Cold War, until the sovereignist shift.

The sovereignist position is a discursive and practical challenge to the post-WWII complex interpretation of sovereignty, undertaken by political forces that insist on dismantling the international legal order and returning to exclusive, unlimited national territorial sovereignty. Contemporary sovereignism is an ideology that ascribes sovereignty to “the people,” which is an imagined majority whose specific qualities are traditional to each separate state and cannot have universal connotation or even agreement with the cosmopolitan notion of human rights.11

The sovereignist shift has had a particularly strong impact on the state sovereignty of the new Eastern Europe, aka, the Eastern Neighbourhood.

The Regional Context

With the dissolution of the socialist bloc over 1989-91, the new Eastern European societies and states coexisted for almost 30 years in a system with multiple norms and tendencies, and very different understandings of sovereignty.

One tendency is connected with the spread of nationalist imagination legitimizing the connection between the national group, the territory populated by this group, and the state. This was the ideology driving the dissolution of complex multinational states in Eastern Europe.12 By the end of 1992, the USSR, the Yugoslav Federation and Czechoslovakia all ceased to exist. Yet there were many more tendencies. The "parade of sovereignties" in the USSR has led to the establishment of 15 recognized sovereign states and four de facto states.13 Between December 1991, with the Belavezha Accords and Alma-Ata Protocol, and December 1994, with the Budapest Memorandum, the new post-Soviet nations, especially those in Eastern Europe and the Southern Caucasus, were going through a period that put three sovereignty concepts at the foundation of their statehood:

1) people sovereignty, which treated the populations of Soviet republics as sovereign peoples with the right to self-determination;14 or ethnonational sovereignty, which treated the populations of some Soviet regions as sovereign peoples aspiring to the right to self-determination;15

2) individual sovereignty, or cosmopolitan norms, which provided the new post-Soviet states with liberal legitimacy to overcome the ills of totalitarianism;16

3) regional values, which arrived first as the Council of Europe’s fundamental treaties, and then as EU-related transnational, multilayer norms and became an additional source of sovereign recognition.

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11 Minakov, The Sovereintist Turn, p. 106.
14 This logic is seen in the declarations of sovereignty of the republics in 1990, and many declarations of independence of 1990-91 repeated it.
15 This logic could have been been based either in ethnonationalist (for example, in the Nagorno-Karabakh or Abkhaz cases) or civic autonomist/irredentist (for example, in the Transnistrian case) arguments.
16 Such norms are present in most republican declarations of sovereignty and declarations of independence, as well as in the post-Soviet constitutions of the early 1990s.
By the end of 1994, these interpretations of sovereignty – despite of their theoretical contradictions – were predominantly resolved in the political practice of international relations among post-Soviet nations. Over the next several years, Russia ceased its support for secessionist movements outside its territory, focused on secessionism within the Federation itself, and signed a number of bi- and multilateral cooperation agreements with other post-Soviet nations.

A new period in regional order came around 2003–2006, when political systems founded in the early post-Soviet period and developing outside the EU’s legislative influence were entering into a deep crisis. In two cases, Georgia and Ukraine, the crisis resulted in colour revolutions. In Moldova and Armenia, the protest waves did not change regimes, but democratized them significantly. And in Azerbaijan and Belarus – as well as in Russia – a reactionary autocracy gained impetus for cutting back the remaining leeway for political freedoms.

The new Eastern Europe was slowly growing into a region of international conflicts that manifested in the 2008 Russian-Georgian war, partial recognition of two quasi-states, and economic conflicts among Russia, Ukraine, Georgia, Moldova, and Belarus. Altogether, this began to inspire more distrust between the elites and ordinary citizens in the region. By 2009, when the EU introduced its Eastern Partnership policy, the Eastern Neighbourhood region was a constellation of states with damaged state sovereignty:

1. Six sovereign states – Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine – included two partly recognized quasi-states, Abkhazia and South Ossetia, and two de facto statelets, Nagorno-Karabakh and Transnistria.

2. At least two “frozen” international conflicts were taking place, with economic blockades and sporadic military clashes: between Armenia and Azerbaijan, and between Georgia and Russia.

3. Three countries had a deficit of sovereignty over their internationally-recognized territory: Azerbaijan, Georgia, and Moldova.

4. Two states controlled more lands than their internationally-recognized territory: Armenia as the sponsor state of Nagorno-Karabakh, and Russia as the sponsor state of Abkhazia, South Ossetia and Transnistria.

The growing contradictions between the post-Soviet states with very different statuses of their sovereignty were supported and deepened through the growing influence on the nations of new Eastern Europe of Western- and Russian-led regional integration projects: EU associations and possible enlargement, NATO enlargement, the Custom Union, and so on.17 By 2013, the “hardened” integration projects entered a phase of direct conflict

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in Ukraine: in 2014, after the Euromaidan's change of government in Kyiv, and Russian aggression against Ukraine and its support of secessionist/irredentist forces resulted in even deeper structural conflict around the region.

The 30th anniversary of the post-Soviet nations' independence has been marked by multilayer sovereignty disputes, related military and economic conflicts, and ideological change. By 2021, all the limits of the practical application of the post-Cold War notion of sovereignty had become evident, as the sovereignist position manifested itself. Ukraine is surrounded by political regimes in which transnational norms of human rights are restricted and the power elites use official institutions to construct new "peoples," conservatively defined majorities of populations. These regimes vary from Putinism in Russia to Orbanism in Hungary to the Kaczyński doctrine in Poland.

**Ukraine: Damaged Sovereignty and Development Options**

For over 20 years, Ukraine developed as a state with an apolitical system and culture connected to the Soviet past, but with many revolutionary innovations after the change of 1991. In terms of sovereignty, the Soviet legacy was connected to the territory of Ukrainian Soviet Socialist Republic, which was internationally recognized as the territory of independent Ukraine, and to a ruling class stemming mainly from the late Soviet-era *nomenklatura*. However, there were important sovereignty innovations connected with the establishment of the national state, ideological pluralism, an open market economy, civic political identity, and multilateralism in foreign relations.

This combination was not unique: the developmental pattern where pre- and post-communist political and economic factors were merged was shared by many post-communist nations and usually termed the *Bridge* model. This Bridge was seen as a cooperation setup to link the East/Russia and the West/EU economically and culturally. Such a model, whether in Latvia, Belarus or Ukraine, envisaged multilateral geopolitical "vectors" leading to certain economic gains from active trade and the recognition of sovereignty by key geopolitical players.

Unlike Latvia or Belarus, which were "bridges" with significant economic gain despite their definitive choice to participate in only one regional integration project, Ukraine developed as a "bridge" without a clear preference and without solid economic profit until 2014. Before that year, Ukraine moved in "revolutionary cycles," 1993-2004 and 2005-2013. In terms of sovereignty, these cycles had certain internal and external specificity. Both cycles started with a period of successful protests, political freedom and democratic promise. At that time, especially during the second cycle, Western support for Ukraine's sovereignty was growing, and Russian influence was clearly shrinking.

The next period would be characterized by popular disorientation and intensified competition among parties and clans. At that time, external influences were equally strong, with some parties and clans allying with the Western powers, and other groups allying with Russia. The third cycle usually led to a victory of one of the clans, which would then try to build an authoritarian pyramid and establish a stronger orientation towards Russia. This would provide the basis for the consolidation of opposition clans

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and parties, as well as marginalized social groups, and the start of mass protests. Twice in the last 30 years, such a consolidation resulted with revolutionary attempts that shook the political system, and undermined its “bridge” role to all “shores.” Moreover, external influences were reaching such a level that they threatened the existence of Ukraine as a sovereign nation.19

Both external and internal conditions for Ukraine’s development have radically changed since 2014, and the external factors now play a much bigger role than internal ones.

The Bridge model finally lost its value for Ukraine since the start of a multilevel conflict with Russia and the loss of control over Crimea and parts of the Donbas in 2014. With this security challenge, Ukraine’s revolutionary cycles seem to have come to an end. The annexation of Crimea and the ongoing conflict in the Donbas have damaged Ukraine’s state and national sovereignty, securitized politics, and diminished the electoral role of voters oriented towards Russia. The pro-Russian clans and parties have either closed or been marginalized. Security needs and patriotic motivations are helping maintain high levels of popular consolidation around Ukraine’s sovereignty and independence.

The conflict with Russia has significantly limited trade with it and changed the shape of the Ukrainian economy. The annexation and war have changed Ukrainian foreign policy from wavering multilateralism into a clear orientation towards allying with the US, the EU and NATO. In short, developmental dynamics and the national interest have changed: as a state with contested sovereignty over part of its territory, Ukraine cannot develop as a bridge anymore. Even if the Minsk Agreements were to be implemented and the communities of the uncontrolled Donbas reintegrated, the issue of Crimea would ultimately a factor for mutual estrangement and hostility between Moscow and Kyiv for decades to come. To ensure its security, Ukraine would need to rely on either consolidated Western support, or the combined support of several Western and non-Western partners, with the US as the primary ally.

Both external and internal conditions for Ukraine’s development have radically changed since 2014, and the external factors now play a much bigger role than internal ones. 2021 saw increased Russia-US20 and Russia-Ukraine21 antagonism, which added to many other incentives for Washington and Kyiv to be allies. However, this alliance is limited by certain factors, such as an escalation in attacks in the Donbas and drawing of Russian troops to Ukraine’s border over March-May 2021, leading to a visit by Secretary of State Blinken to Ukraine in May 2021. Even though there is consolidated bipartisan support for Ukraine in a possible open conflict with Russia, the US, as well as the EU, G7, and NATO, have offered neither military nor substantial economic support. Instead, the US and the “collective West” demanded greater reforms without offering clear membership prospects in the EU or NATO.

21 M. Samorukov, “Are Russia and Ukraine sliding into war?” Carnegie Center Moscow, 5 April 2021 [https://carnegie.ru/commentary/84250 access: 1 May 2021].
Given all this and seeing no prospects for reconciliation, or even a reduction in antagonism, between Russia and Ukraine, the Western powers, and other states of new Eastern Europe, it is our opinion that there are only two possible routes for Ukraine to develop: as a buffer zone or a battering ram. The bridge model is no longer viable.

The buffer zone model has already been in place since the annexation of Crimea and start of the conflict in the Donbas. Ukraine has radically decreased economic cooperation with Russia, which, in terms of import and export has dropped to the third or fourth place. Diplomatic and political ties, as well as most bilateral agreements have been severed. Instead, Ukraine has introduced amendments into its Constitution enshrining the European and Euro-Atlantic course as a “constitutional” foreign policy priority and an additional source of sovereignty.

If the buffer zone model becomes the main model for Ukraine to develop in relation to US-Russia antagonism, the country will be even more isolated from Russia and strengthen a number of bilateral connections, with the US, the UK, Turkey, and major rivals to Russia among EU member-states. These ties would shore up the country’s security, prevent the Russian conflict from escalating, and preserve the current political and socio-economic order. Ukraine’s political class would be left to itself and its usual practice of the imitation of reforms and cooperation with the Western partners. The Donbas war would remain at the current level or would turn into a Transnistria-like frozen conflict. Ukraine’s main geopolitical role would then be to keep Russia and the EU/West at distance from each other and, unfortunately, to serve as a space of their proxy operations.

In this case, Ukraine’s state sovereignty would continue to be damaged. The post-Cold War combination of the three elements of sovereignty – state, individual, and regional – will not be stable in such a situation, as the buffer zone model involves the power elites consolidating power in their hands, reducing transnational norms of human rights, and limiting the influence of regional normative systems. If this model continues to be applied, Ukraine’s sovereignty will follow.

The battering ram model is also possible if West-Russia antagonism deepens. To survive, Ukraine would need to enter into much deeper integration with NATO or with several Western military strongholds, such as the US and the UK. In this case, Western military bases would provide Ukraine with guaranteed security on government-controlled territory and minimal ties between Ukraine and Russia, Russia’s allies and proxy-controlled Ukrainian communities in the Donbas and Crimea. All oligarchic clans with Russian ties would be eliminated, and other clans and Ukraine’s political class as a whole would be forced to reject their usual self-isolating practices: adhering to the alliance with the West would become critical for maintaining power. To pay back, the Western allies would need to economically integrate Ukraine and cover its losses from breaking economic ties with Russia and Russia-oriented countries. Such a model would resemble the case of South Korea, with clear differences reflecting the times and geography.

In this model, Ukraine’s sovereignty would be secured from further weakening. The balance of all three sovereignty elements would be re-established and supported from outside. However, the prospects for

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22 In 2020, the main importers to Ukraine were China (15.3%), Germany (9.4%), and Russia (8.5%); the main exporters of Ukrainian products were also China (14.4%), Poland (6.7%), and Russia (5.5%). See “Report,” Derzhstat, 4 April 2021.
Ukraine’s return of control over the lost communities and territories would recede to the indefinite future.

Which of the models becomes a reality depends on which model of new Cold War shapes relations between the West and Russia. The first Cold War had three major phases.\(^2\)\(^3\) The period between post-war situation (1947) and the Cuban Crisis (1962) had no rules and was easy, applying proxy war methods like the Korean War or Soviet intervention in Hungary in 1956, and the build-up of arms in anticipation of a direct conflict. After the Cuban Crisis, both sides started following certain unwritten rules towards each other and limited their standoff to proxy wars. Finally, after the Helsinki Accords (1975), a West-East détente became possible, though proxy wars continued.

Now, the question is which Cold War periods will today’s US/West- Russia antagonism lead to. If it develops like the post-Helsinki period, the buffer zone is the most probable scenario for Ukraine. If antagonism deepens and return to the logic of the early Cold War period, the battering ram model becomes a more realistic option. The thinking of the post-Cuban Crisis period provides Ukraine with a choice between the two models.

Conclusions

Without a West-Russia détente and Russia-Ukraine, Russia-Georgia and Russia-Moldova reconciliations, the new Eastern Europe will remain a region of variously damaged sovereignties. This means that the conflicts will continue among the states, and socio-economic prosperity will not be ensured.

Given current geopolitical divisions and the interests of the power elites in Ukraine, Russia, the US, EU, and other involved parties, Ukraine should prepare to live with a long conflict, economic hardship and damaged sovereignty. Whichever development plans are drawn up, Ukraine’s decision-makers need to deal with the limitations that damaged sovereignty imposes on any nation.

Mykhailo Minakov, D. Habil. in Philosophy, is a senior advisor at the Wilson Centre’s Kennan Institute and a philosopher and scholar working in political philosophy, social theory, development, and the history of modernity. He is the author of six books, co-author of five others, and has published numerous articles in philosophy, political analysis, history, and policy studies. Dr. Minakov has over 20 years of experience in research and teaching in Ukraine, Germany, Italy, Switzerland, and the United States. He is the editor-in-chief of the peer-reviewed Ideology and Politics Journal, of the Kennan Focus Ukraine blog, and of the philosophical web portal Koinè.

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