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POLICY UPDATE

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On Jan. 18, 2018, Ukraine's parliament voted in favour of a controversial full draft of a new law on the conflict in Eastern Ukraine.¹ The law has gained a lot of attention, despite the fact there is no final document yet, because it identifies Russia as an aggressor and occupying state. The new law is important for a few other reasons. First, its primary purpose is to stymie Russia's geopolitical aspirations by having Ukraine retake the disputed territories by force. Second, it makes no mention of the Minsk agreements, the acceptance of which was a provision for the lifting of sanctions against Russia. Nor does it recognize the Luhansk People's Republic (LNR) and the Donetsk People's Republic (DNR) as legitimate parties to the conflict. Indeed, there is no reference to the peace agreement brokered by France and Germany in 2015, which obliged Kiev to develop legislation regarding autonomy and amnesty for its minorities. Instead, the trade and transport blockade between Ukraine and the Donbass will be strengthened. And last, the law dramatically realigns Ukraine's military forces by granting extra powers to the Ukrainian president, commander of the country's united forces.

The Russians have questioned Kiev's motivation for this fundamental strategic change, suggesting that the U.S. stands to gain the most from the new law by selling even more arms to Ukraine while simultaneously making it more difficult for Russia to maintain its geopolitical advantage. Given that the U.S.'s long-standing strategy is to drive a wedge between Russia and Europe, Russia's concerns are understandable. Just recently, U.S. Secretary of State Rex Tillerson condemned an energy deal that would see Russia's liquefied gas exported to Germany. The government in Kiev, facing elections this spring, has been forced to take an even more hard-line stance against the separatists in the Donbass in the face of increasing pressure from the right. President Petro Poroshenko is desperate to divert attention away from his government's poor performance amid a number of corruption scandals.

The Canadian government thus far has been silent, reflecting, in part, its uncertainty on how the law will significantly change Ottawa's commitment to the Minsk agreements which Canada's OSCE delegation helped develop. Foreign Affairs Minister Chrystia Freeland's support for the government in Kiev, thus far unwavering, will be tested, as Ukraine moves to a firmer war footing. The most troubling aspect of the legislation is the right to impose martial law. Should that arise, Canada's aid accountability act would require a parliamentary review regarding our financial and development assistance contributions to Ukraine. Indeed, the free trade agreement Canada has with Ukraine (CUFTA), which the Liberals signed into force, would be cast into doubt.

The new law's most ambiguous and troubling aspect is the assertion that Russia is an unwelcome occupant of Eastern Ukraine that can and should be forcibly and physically removed from Ukrainian territory. The reality is more complicated than the word "occupier" would suggest. A more accurate framing would be grey-zone conflict, in which states rely primarily on covert operations which never pass the threshold of war. There is an overarching ambiguity regarding

¹ (Law No. 7163: "On the peculiarities of state policy on the restoration of the state sovereignty of Ukraine over temporarily occupied territories in Donetsk and Luhansk Oblasts").








long-term victory by participants in grey-zone conflict. Termination may be both undesirable and unnecessary to achieve key strategic goals. Such grey-zone strategies are hardly unique to Russia.

Complicating matters, Ukraine has had a number of private militias that have played a pivotal role in the conflict, each of them answerable not to Kiev (or Russia) but to regional oligarchs. Given a Ukrainian army in decay after years of neglect, corruption and stagnation, Kiev's military was given a significant boost through private volunteer Ukrainian battalions funded by both public and diaspora donations together with oligarchs.

Now that these private militias have become formally part of Ukraine's military with public funding, questions remain as to whose interests they serve. For example, Ihor Kolomoyskyi, a prominent Ukrainian oligarch, invested substantial funds in volunteer battalions which the Ukrainian authorities in Donetsk and Luhansk later used.

Notable Ukrainian oligarchs



	Major businesses	Net worth, \$bn*	Media interests
 Ihor Kolomoyskyi	UkrNafta (<i>oil & gas</i>), PrivatBank	1.36	1+1 Media Group (TV, online)
 Rinat Akhmetov	Metinvest (<i>mining & steel</i>), DTEK (<i>energy</i>)	6.9	Media Group Ukraine (TV, online)
 Viktor Pinchuk	EastOne Group (<i>finance</i>), Interpipe (<i>metals</i>)	1.5	StarLightMedia (TV), Fakty i Kommentarii
 Dmitry Firtash	RosUkrEnergo (<i>gas transport</i>), Gaztek (<i>gas</i>), Ostchem (<i>chemicals</i>)	0.5	Inter Media Group (TV)
 Petro Poroshenko	Roshen (<i>confectionery</i>), Leninska Kuznya (<i>shipbuilding</i>)	1.3	Kanal 5 (TV)

Sources: Forbes; *The Economist* Photo credits: AP; Camera Press; EPA; Eyevine; Reuters *All March 2015 except Firtash, March 2014

Figure 1: An illustration outlining notable Ukrainian oligarchs. (Source: *The Economist*)

Though unelected, oligarchs exercise a great deal of influence and power in Ukrainian politics. For example, the successful “marriage” between Rinat Akhmetov’s business group and Viktor Yanukovich’s Party of Regions provided for mutual control over the Donbass for at least a decade prior. But pro-separatist rallies threatened Akhmetov’s business interests. As a result, Akhmetov adopted a relatively neutral position calling for peaceful resolution through negotiation. As the



wealthiest and most influential oligarch in Ukraine, his relative inaction was a key factor in separatist forces eventually taking over Donetsk and Luhansk.

Even though the majority of current literature describes grey zone as a synonym for covert tactics and actions by Russia and China, in reality NATO has adopted many of the tools associated with this form of conflict as well. For example, cyber-space is not the sole purview of Russia. The U.S. is said to have used cyber-attacks against Russia – as it claims – in retaliation with much remaining unknown about specifics. Furthermore, the West has also used pressures such as economic sanctions against Russia to weaken its economy, thereby attempting to channel its foreign policies away from confrontation. The effectiveness of such economic measures vis-à-vis Russia remains uncertain, though judging by Tillerson's efforts to block the gas pipeline they are unlikely to diminish very soon. Concurrently, Russia has not been the only party to have allegedly backed sub-state actors in the conflict. Nevertheless, as the Ukraine law assigns responsibility solely to Russia and not its proxies or non-state actors, a deeper analysis of this assertion merits attention.

One of the important inaccuracies regarding grey-zone conflict is its conflation with hybrid warfare. Rather, hybrid warfare techniques are utilized within the broader grey-zone conflict category. For example, cyber-warfare has become especially elaborate as software and hardware grow increasingly sophisticated. Cyber-warfare is the tactical backbone in the conflict in Eastern Ukraine. Cyber-attacks remain below the threshold of overt warfare because they can rarely inflict immediate damage or cause casualties. Moreover, most cyber-operations can only be probabilistically attributed to specific state actors and sponsors do not acknowledge their involvement.

Third parties use unconventional hybrid warfare tactics such as political and information warfare, propaganda and disruptive social media strategies appealing to ethnic diasporas and political opponents of the state. They supply equipment and training of non-state actors, state-level economic pressures, and support unconventional operations by the security apparatus. Like the U.S. and Canada, Russia is unlikely to entirely use these techniques itself, leaving the execution of the tactics and operations to sub-state actors and proxies.

Third parties may provide direct material support to organized crime, militant elements, separatist factions and local elites within the opponent's territories to fight on behalf of one or more of the conflicting parties. This method not only increases the overall number of actors and stakeholders in the conflict but creates problems with attributability of actions to specific entities when attempting to reach conflict resolution.

Despite all this indirect evidence, it remains unclear how much control Russia has over actions proxies have taken in Eastern Ukraine. Some evidence suggests growing Russian influence over the separatists in the LNR and DNR. For example, on Nov. 17, 2017, Viktor Medvedchuk, of the pro-Russia organization Ukrainian Choice, requested that President Vladimir Putin speak with the leaders of Luhansk to facilitate the exchange of prisoners of war with Ukraine. Within two



weeks, on Nov. 30, 2017, the exact number of prisoners Medvedchuk requested were ready to be exchanged between the separatists and Ukraine.

There are also signs of deeper economic integration between Eastern Ukraine and Russia as Kiev's embargo takes hold. In December of 2014 the Ukrainian government terminated all social transaction to the Donbass region, provoking a significant decline in the wellbeing of the most insecure strata of population. Since that time Russia has provided Eastern Ukraine with \$820 million annually to cover social benefits and pensions in both republics. In 2015 both the LNR and the DNR transitioned to the Russian ruble. Today, about 90 per cent of all transactions are ruble-based.



Figure 2: Anti-government protesters dig up cobblestone to use as rocks against riot police at Kiev's Independence Square on February 19, 2014. (Genya Savilov/Getty Images)

Around the same time, the large industries ceased sending revenue to Kiev, after Ukraine stopped buying anthracite from operating factories. Ukraine also delivered natural gas and electricity to the region. With the blockade in place, about 74 per cent of the region's exported goods now go to Russia, and about 67 per cent of all imported goods come from Russia.

In terms of social media and non-traditional techniques of influence, even prior to the conflict, Russian-language television solidified existing social networks within the Russian-speaking



diaspora in Eastern Ukraine, thereby contributing to the region's social cohesion. Starting with the Euromaidan demonstrations and related political unrest in 2014, Russian media outlets identified those forces opposed to Yanukovich as right-wing extremists, criminals, oppressors and fascists. This description lay in stark contrast to Ukrainian television channels and online media, which presented the events and individuals associated with the overthrow of the Yanukovich government as heroic and glorious.

As a result, a large portion of the Russian-speaking population of South and Eastern Ukraine has become markedly sympathetic to Russia's point of view, while the ethnic Ukrainian population in the rest of the country largely accepted the narrative the opposition presented to the Yanukovich government. Few remember that between 1.2 to 2.5 million civilians from Eastern Ukraine instinctively fled the conflict to Russia instead of Ukraine in 2014 and 2015.

States frequently use economic pressure against their opponents in grey-zone conflicts. The inducement of economic pressure, through methods such as sanctions, is intended to erode the essential sectors of the opponents' economy, especially in situations of asymmetric economic interdependence, in hopes of facilitating a change in policy direction. For example, prior to the events in 2014, Russia and Ukraine engaged in substantial co-operation in the energy sector. Russia has been the single largest supplier of Ukrainian oil and gas for domestic consumption. In December 2013, Russia and Ukraine signed the Ukrainian-Russian Action Plan, which solidified their energy co-operation and provided Ukraine with a discount for Russian natural gas at one-third of the market value. In 2014, during the unrest in Eastern Ukraine and the Maidan, Gazprom, operated by the Russian government, annulled the discount. Concurrently, the Russian oil and gas company recalled Ukraine's gas- and oil-related debt and demanded prompt payment. In May 2014 Ukraine was able to pay \$786 million to Gazprom.

Then in 2015, Russia ceased the export of its gas to Ukraine demanding upfront payments for natural gas as well as immediate repayment of energy debts. Even though this scenario between Russia and Ukraine appears as an energy dispute, its timing and magnitude are an attempt to establish the upper hand. Ultimately, neither Western sanctions vis-à-vis Russia nor Russian manipulation of gas deals in relation to Ukraine can be classified as a conventional tool in conflict or a declaration of war, thus falling within the essential toolkit available to states in grey-zone conflicts.

One of the most important elements is the direct support for sub-state criminal and militant elements which fight on behalf of one or both of the conflicting parties. Considering that even prior to the conflict, 35 per cent of the Ukrainian economy was operating in the shadows, the environment is set up perfectly for the underground and criminal elements who engage in black-market arms sales and profiteering.

In sum, the conflict in Eastern Ukraine amalgamates many state and sub-state parties who use hybrid military and soft power tactics such as economic influence and social media persuasion. In a desperate effort to regain control over a highly uncertain situation, with no clear end point in sight, Ukraine's government has spontaneously and unilaterally rewritten its policy on the



conflict. Ultimately, such actions only add to the complexity and ambiguity of the situation, making the resolution of this particular grey-zone conflict through mediation an even more challenging task. Should the controversial law be fully implemented, the chances for peaceful settlement will decrease significantly. The next step is to keep a cautious eye on Canada and the United States, whose financial and material support is essential to the lawmakers in Kiev.

► About the Author

David Carment is a full Professor of International Affairs at the Norman Paterson School of International Affairs, Carleton University and Fellow of the Canadian Global Affairs Institute (CGAI). He is also a NATO Fellow and listed in Who's Who in International Affairs. In addition Professor Carment serves as the principal investigator for the Country Indicators for Foreign Policy project (CIFP).

Professor Carment has served as Director of the Centre for Security and Defence Studies at Carleton University and is the recipient of a Carleton Graduate Student's teaching excellence award, SSHRC fellowships and research awards, Carleton University's research achievement award, and a Petro-Canada Young Innovator Award. Professor Carment has held fellowships at the Kennedy School, Harvard and the Hoover Institution, Stanford, and currently heads a team of researchers that evaluates policy effectiveness in failed and fragile states (see Country Indicators for Foreign Policy). Recent publications on these topics appear in the Harvard International Review and the Journal of Conflict Management and Peace Science.

Milana Nikolko is an adjunct professor at the Institute of European, Russian and Eurasian Studies (EURUS), Carleton University (Canada). From 2005 to 2014 Nikolko was associate Professor of Political Science (Docent) at V.Vernadsky Taurida National University (Ukraine), in 2008 was appointed as visiting professor at Political Science Department, Valdosta State University (USA), in 2009-2010 she was visiting Professor at Chair of Ukrainian Studies, University of Ottawa. Dr. Nikolko's current field of interests includes research on Ukraine's national building process, a study on traumas and narratives of victimization in ethnic communities, Migration and Diasporas group on post-Soviet Space and research on Social Capital and Diaspora networks in comparative perspective.

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