Vladimir Putin's Culture of Terror: What Is to Be Done?

Charles Reid Jr.
University of St. Thomas School of Law, cjreid@stthomas.edu

Follow this and additional works at: http://ir.stthomas.edu/ustjlpp

Part of the Human Rights Law Commons

Bluebook Citation
VLADIMIR PUTIN’S CULTURE OF TERROR:
WHAT IS TO BE DONE?

DR. CHARLES REID

INTRODUCTION.................................................................................................................. 276
I. BORIS NEMTSOV ........................................................................................................... 277
II. A LONG TRAIL OF TERROR AND BLOOD ................................................................. 282
   A. The Murders............................................................................................................... 282
      1. Sergei Yushenkov ............................................................................................... 283
      2. Anna Politkovskaya ........................................................................................... 284
      3. Alexander Litvinenko ......................................................................................... 285
   B. Putin’s Culture of Domestic Terror .......................................................................... 287
III. PUTIN EXPORTS HIS CULTURE OF TERROR ............................................................ 291
    A. Georgia .................................................................................................................. 292
    B. Ukraine .................................................................................................................. 300
       1. The Poisoning of Viktor Yushchenko ................................................................. 300
       2. 2014/2015: The Russian War On Ukraine ......................................................... 304
    C. Dreams of a Greater Russia .................................................................................. 318
IV. VLADIMIR PUTIN AND THE NUCLEAR TRIGGER .................................................... 329
V. WHAT IS TO BE DONE? .............................................................................................. 340
   A. Russian Autocracy .................................................................................................. 340
   B. Support For Liberal Democracy .......................................................................... 344
   C. Economic Sanctions ............................................................................................... 348
   D. Diplomacy: China and India ................................................................................. 350
   E. European Economic Integration ............................................................................. 354
   F. Military Responses ................................................................................................. 358
      1. Arming Ukraine .................................................................................................... 359
      2. Expansion and Extension of NATO .................................................................... 362
      3. Missile Defense .................................................................................................. 365
   G. Vladimir Putin: Constraining Boldness Born of Weakness .................................. 367
CONCLUSION: SADNESS AND HOPE ........................................................................... 376
INTRODUCTION

Russian President Vladimir Putin has come to rule his nation through the creation of a culture of terror and he has begun to use similar tactics in his dealings with the world. It is the purpose of this Article to articulate a way forward for the global community in the light of what is truly an unprecedented development: a rogue nuclear superpower whose leadership governs through assassination; which invades and threatens to invade peaceful nations; and which routinely makes loose and irresponsible nuclear threats.

First, a word about what is meant by “culture of terror.” A culture of terror, to summarize the scholarly consensus, is a weapon of political intimidation. A superior force makes use of unpredictable but extreme acts of violence to keep its opponents weak and confused and the great mass of people too intimidated to act in concert." It creates a “space of death” and “establishes ‘collective fear’ as a brutal means of social control.” Rumors, whispered threats, vaguely-described conspiracies, in addition to “systematic murder” all play a part in the creation and maintenance of a culture of terror. The culture of terror is both a state of being and a means to an end. As such, it has been used by authoritarian regimes, narco-

gangs,\textsuperscript{9} and terrorist operations, such as ISIS.\textsuperscript{10}

Vladimir Putin, it will be demonstrated in this Article, has created a regime that governs domestically through the promotion of a culture of terror. It is a culture that he has also begun to employ to get his way in his dealings with other nations. His tactics and his methods represent a profound and unique threat on the world stage today and calls for a global response.

This Article is divided into five sections. In the first two sections, I consider the widespread and sustained use of political killing that has occurred during Putin’s time in the Kremlin and how that has brought about a culture of terror. Section III considers the ways in which Putin has begun to export his brutal methods of intimidation to his dealings with other nations. Section IV considers the ways in which Vladimir Putin has begun to rely on reckless threats to use nuclear weapons as a means of enforcing his will on the world. Section V, finally, argues for comprehensive, multi-faceted, collective action by the world community to bring to a halt this growing culture of terror.

I. BORIS NEMTSOV

Had Boris Nemtsov never entered politics, had he kept working quietly in his chosen field of physics, he might well have achieved worldwide recognition for any number of scientific accomplishments. He earned his doctorate degree at the age of twenty-five from the Lobachevsky State University of Gorky, a leading Soviet and now Russian research institute in the field of radio physics.\textsuperscript{11}

As a young physicist, he authored or co-authored over sixty academic

\textsuperscript{1992).}

11. 2 BERNARD A. COOK, \textbf{EUROPE SINCE 1945: AN ENCYCLOPEDIA} 901 (2001); Nemtsov’s alma mater has been renamed the Lobachevsky State University of Nizhny Novgorod, and is now considered a world-class research university. \textit{See Nizhny-Novgorod University Receives World-Wide Acclaim as Russian Start-ups Present Themselves in Maryland}, \textbf{MARCHMONT NEWS}, Nov. 10, 2014.
articles dealing with “quantum physics, thermodynamics, and acoustics.” He was among the inventors of an acoustic laser. He had, in other words, launched what had every promise of becoming a creative, powerful academic career at the Gorky Radio-Physics Research Institute.

Nemtsov, however, was drawn to politics in the wake of the 1986 nuclear disaster at Chernobyl. He organized local protests in Nizhny-Novgorod calling for reforms in the nuclear power industry. Four years later, in 1990, with the passage of democratic reforms, Nemtsov ran for and was elected to the Supreme Soviet of the Russian Federation representing Nizhny-Novgorod.

Nemtsov enjoyed meteoric political success in the 1990s. The turning point for Nemtsov came in August, 1991. A group of old Soviet leaders seeking to roll back Mikhail Gorbachev’s reforms staged a coup which they hoped would remove him from power. A tense situation developed in Red Square as it appeared for a while that troops of the Soviet army might fire on protestors gathered there. Nemtsov, however, was among those who stood against the coup plotters and successfully negotiated with the Soviet Army to disobey orders.

The coup, although unsuccessful in its stated goal of returning Russia to its Soviet past, did bring about unexpected but lasting changes to Russian political life. Mikhail Gorbachev remained in office as Secretary General of the Soviet Union only a few months longer and the Soviet Union itself dissolved by the end of 1991. Its various constituent Republics gained their independence as free-standing nations, including, most especially, the

Russian Federation.22

In recognition of his talents and in return for his obvious loyalty, Boris Yeltsin, the new President of the Russian Federation, named Nemtsov the governor of Nizhny-Novgorod in November, 1991.23 Nemtsov was among the most aggressive of the free-market reformers, and he quickly moved to privatize land-holdings in his region.24 In December 1993, Nemtsov ran for and was elected to the Federation Council, the upper house of the Russian Parliament.25 In 1995, he was re-elected governor of Nizhny-Novgorod,26 and shortly after that was appointed Yeltsin’s Deputy Prime Minister.27

The way was now open to even greater success. By 1997, Nemtsov was looking like an obvious successor to Boris Yeltsin as President of the Russian Federation.28 He polled well in public opinion surveys.29 Fissures, however, began to appear in the Russian economy in the summer and fall of 1997,30 and these cracks turned into a crisis by the summer of 1998.31
currency crisis\textsuperscript{32} led to a Russian default on sovereign debt,\textsuperscript{33} and this in turn provoked a severe recession.\textsuperscript{34} And suddenly, the brilliant young reformer’s star was dimmed and he was forced from office.\textsuperscript{35} He was too closely associated with the West and with privatization to maintain his lofty stature in the public’s mind.\textsuperscript{36}

As it happened, Boris Yeltsin resigned from the presidency unexpectedly in December 1999, before the completion of his term, and was succeeded by Vladimir Putin who had been named a deputy prime minister only a few months before.\textsuperscript{37} Serving either as president or as prime minister since his formal rise to power,\textsuperscript{38} Putin has exercised an autocratic control over Russia ever since his ascension to the highest office.\textsuperscript{39} Nemtsov was forced to move into the opposition, where he proved himself one of Putin’s most fearless and relentless critics.\textsuperscript{40}
Nearly from the beginning of Putin’s rule, Nemtsov was making allegations that went to the heart of his growing authoritarianism.\textsuperscript{41} He developed his own set of proposals for bringing peace to Chechnya during that province’s rebellion against Russian rule.\textsuperscript{42} He proposed as well the need for a searching inquiry to get to the truth concerning a series of mysterious apartment building explosions in 1999 that were used as an excuse for launching the second war on Chechnya.\textsuperscript{43} He was a brash, boyish, gadfly who published a string of pamphlets cataloging the misdeeds of the man at the top of the Russian pyramid.\textsuperscript{44} He attacked the disturbing phenomenon of “Putinism,” and all the adulation heaped upon the strongman at the top of the Russian pyramid.\textsuperscript{45}

From the earliest stages of its confrontation with Russia, Nemtsov declared his support for Ukraine’s national independence and freedom from Russian domination.\textsuperscript{46} His support for Ukraine’s territorial integrity grew


\textsuperscript{42} Andrei Uglanov, \textit{Time To Send Nemtsov To Chechnya: Boris Nemtsov’s Proposals For Chechnya Are Actually Constructive}, \textit{WHAT THE PAPERS SAY} (Russia), Sept. 13, 2001; Natalia Loginova, \textit{Nemtsov Wants to Get Maskhadov To Talk: Boris Nemtsov Comes Up With Another Chechnya Initiative}, \textit{DEFENSE AND SECURITY} (Russia), Sept. 10, 2001; Russian MP Replies to Putin’s Challenge to Get Results With Rebels or Quit, BBC INTERNATIONAL REPORTS, Sept. 7, 2001; and Russian MP Nemtsov, Ingush President Discuss Means For Peace in Chechnya, BBC INTERNATIONAL REPORTS, Sept. 5, 2001.

\textsuperscript{43} In 2002, Nemtsov called for the formation of a parliamentary commission to investigate the apartment bombings, which served as pretext for entry into war. 1999 Bombings Still On Russian Minds, NORTH CAUCASUS ANALYSIS available at www.jamestown.org (2002).

\textsuperscript{44} The reports he wrote included Putin: A Summing-Up; Putin and Gazprom; Putin and the Financial Crisis; Putin and Corruption. Keith Gessen, \textit{Remembering Boris Nemtsov}, LONDON REVIEW OF BOOKS, Mar. 19, 2015.


\textsuperscript{46} Thus at the time of the Orange Revolution in November and December, 2004, which brought to power Ukrainian western-oriented democrats over Vladimir Putin’s staunch opposition, Nemtsov sided with the reformers and against Putin. \textit{See}, for instance, \textit{Kremlin Aghast at Prospect of West-Leaning Government}, IRISH TIMES, Nov. 24, 2004; Andrei Lipsky, \textit{Technology of the
more pronounced in the months leading up to his assassination.\textsuperscript{47} Indeed, he was planning to lead a protest march against Russian involvement in Ukraine at the time he was assassinated.\textsuperscript{48} The President of Ukraine, Petro Poroshenko, suggested that Nemtsov was murdered for his continuing backing of the Ukrainian cause and evidence he was about to reveal concerning Russian direct military support.\textsuperscript{49}

\section*{II. A LONG TRAIL OF TERROR AND BLOOD}

\subsection*{A. The Murders}

The targeted, theatrically-staged murder of Boris Nemtsov on February 27, 2015, within walking distance of the Kremlin, represents both a culmination and a turning point.\textsuperscript{50} It is a culmination because it is impossible not to see it as a kind of horrific, grisly completion of a line of political murders that stretch back in time to Vladimir Putin’s first days in office.

\begin{itemize}
\item \textsuperscript{48} Murder in Moscow: Opposition Leader Killed, VOA \textit{News} Feb. 27, 2015; Lora Moflah, Murdered Opposition Leader Was a Longtime Putin Critic: Boris Nemtsov Had Been Due to Lead a Mass Rally Against Putin and the War in Ukraine This Sunday, \textit{Int’l Business Times News}, Feb. 27, 2015; and Howard Amos & David Millward, Leading Putin Critic Gunned Down Outside of Kremlin: Boris Nemtsov, Former Deputy Prime Minister, Gunned Down Near Kremlin Before Taking Part in March Against Russian War in Ukraine, \textit{Telegraph Online (UK)}, Feb. 28, 2015.
\item \textsuperscript{49} Poroshenko: Boris Nemtsov Killed Over Evidence Linking Russia to Ukraine Conflict, \textit{Huffington Post} February 28, 2015.
\item \textsuperscript{50} Frederik Pleitgen, Alla Eshchenko, & Laura Smith-Spark, Crowds Mourn Killing of Boris Nemtsov, Outspoken Putin Critic, CNN, Feb. 28, 2015; and Julia Ioffe, After Boris Nemtsov’s Assassination, ‘There Are No Longer Any Limits,’ \textit{N. Y. Times Magazine}, Feb. 28, 2015.
\end{itemize}
office.

1. Sergei Yushenkov

We might consider Sergei Yushenkov (1950-2003). He was a colonel in the Red Army and a “professor of Marxist-Leninist philosophy” in 1991, at the time of the fall of the Soviet Union. He entered politics in the middle 1990s with the goal of subjecting the military to the rule of law and bringing the armed forces under strict civilian control.

By the late 1990s, Yushenkov was plainly in the camp of the reformers. He was an outspoken critic of the Russian war in Chechnya. Like Nemtsov, he was suspicious of the mysterious apartment explosions that served as the pretext for launching the second Chechen War in late 1999.

By the early 2000s, he had become a leader of Russia’s emerging Liberal Party. He was a critic of the rising militarism evident in Russian society. Initially, he was aligned strongly with the tycoon Boris Berezovsky, who promised generous funding for Yushenkov’s movement although he subsequently reneged on his promise.

After Berezovsky withdrew his funding, Yushenkov secured different sources of funding and reorganized his Liberal Party. In April, 2003, he was killed “by a single shot to the chest.” Immediately, suspicions centered on the political motives for the assassination. And while some

52. Id.
60. Russian MP’s Death, supra note 59 ("Yushenkov’s murder . . . is seen by Russian
convictions were eventually obtained, suspicions still center on Vladimir Putin and his “security police.”

2. Anna Politkovskaya

Anna Politkovskaya was another victim (1958-2006). Born in New York of Ukrainian diplomat parents, she trained as a journalist at Moscow State University in the old Soviet Union. She enjoyed dual citizenship, both American and Russian, although her home and life and love were all in Russia.

She came of age as a journalist in the 1990s. Like other reformers, she was a critic of the second Chechen War (1999-2009) and conducted award-winning investigative reporting from that region. She was fearless in her coverage, even reporting from inside a major hostage incident - the taking by Chechen guerilla fighters of a movie theater in Moscow in 2002.

In the mid-2000s, she offered a more systematic criticism of Putinism. In *A Russian Diary*, Politkovskaya described the ways in which Putin sought to frustrate and suffocate Russian democracy. Following the elections of December, 2003, Putin moved to draw opposition parties to himself, under the umbrella of United Russia, his own political movement. Mature parliamentary democracy, featuring a loyal opposition, was made impossible. He grounded his “authority solely on the fact that there is no

64. The journalism program at Moscow State University has been praised as world-class. “Looking at the curriculum of the journalism school of Moscow State University, one could assume that Russia has one of the best journalism schools in the world.” Beate Ursula Josephi, *Conclusions, in JOURNALISM EDUCATION IN COUNTRIES WITH LIMITED PRESS FREEDOM* 257 (Beate Ursula Josephi ed., 2010).
65. Because of her dual citizenship, her loyalty was under constant suspicion. STEVE LEVINE, *PUTIN’S LABYRINTH: SPIES, MURDERS, AND THE DARK HEART OF THE NEW RUSSIA* 71-72 (2008).
70. *Id.* at 16–17.
71. *Id.* at 24 (“Putin has crushed our argumentative Parliament”). *Id.*
alternative to him.”

She built an even more comprehensive account of Putin’s authoritarianism in Putin’s Russia. Through a patient marshaling of the details of ordinary life, “Politkovskaya demonstrate[d] that the law is manipulated for political or criminal ends, often both at once. Corruption, graft, and human rights abuses are flourishing under the former head of the Federal Security Bureau, the reborn KGB [Putin].

Putin’s Russia brought on the death threats, some of them “directly from the Kremlin.” She was poisoned in an unsuccessful assassination attempt in September 2004. Finally, the death threats were made real on October 7, 2006, Vladimir Putin’s birthday, when Politkovskaya was found shot to death in an elevator in her apartment building.

3. Alexander Litvinenko

Many other opponents of Vladimir Putin have met similar fates. Let us consider just one more victim, Alexander Litvinenko (1962-2006). Litvinenko went to work following college graduation in the middle 1980s with the Russian internal security forces. He later joined the KGB and worked with counter-intelligence. In the 1990s, he was active both in

72. Id. at 187. He has ensured, Politkovskaya wrote, that it was impossible for anyone to arise within his circle “who could replace him in an emergency.” Id. His “entourage” is composed entirely of sycophants. Id.

73. ANNA POLITKOVSKAYA, PUTIN’S RUSSIA: LIFE IN A FAILING DEMOCRACY (2004).


75. Henry Porter, Voices From the Grave Tell a Tale of Freedom Betrayed: Two of Putin’s Fiercest Critics Were Murdered Recently. And We Must Take Seriously the Allegations Made by the Latest Victim OBSERVER, Nov. 26, 2006; Bridget Kendall, Chronicle of a Death Foretold, THE GUARDIAN, Apr. 7, 2007.


78. One list is found at Amy Knight, Russia: Another Dead Democrat, Mar. 2, 2015, available at http://nybooks.com/blogs/nyrblog/; another is found at The Putin Critics Who Have Been Assassinated, SKY NEWS Mar. 3, 2015.

79. OXFORD DICTIONARY OF NATIONAL BIOGRAPHY, 2005-2008 697-698(Lawrence Goldman, ed., 2013). His father was a physician to the Interior Ministry and Alexander served in the “élite Dzerzhinsky special designation division.” Id., at 697.

Chechnya and in the prosecution of organized crime.  

In the late 1990s, he revealed, he had been asked to assassinate the tycoon Boris Berezovksy, one of Russia’s wealthiest men and someone who had taken a strong interest in politics. Berezovsky took the allegations seriously enough to express publicly his belief that he had been made a target.

Criticizing him for his very public sensationalizing, Putin himself fired Litvinenko from the KGB. Faced with possible criminal prosecution if not something worse, Litvinenko fled with his family, eventually settling in London in 2001. He worked secretly on retainer for British intelligence but it is likely that he would soon have been forgotten. Had it not been for the spectacular way he was targeted for death there was every possibility that Litvinenko would have settled into a comfortable corner of the London café scene, where he could spin half-believable tales of derring do in far-off corners of the Caucasus.

Litvinenko was a gadfly. He was seen by many as a fabulist, whose stories were too far-fetched to be believable. At least until he became the target of one of the most elaborate, theatrically-staged assassinations of the post-Cold-War period. On November 1, 2006, Litvinenko became ill. His condition worsened dramatically over the course of the month and it soon became clear that he was poisoned by a rare radioactive isotope of

84. Roxburgh, The Strongman, supra note 81, at 174.
polonium.\textsuperscript{89} Who kills by such exotic means? On his deathbed, Litvinenko named Putin as the mastermind of this most difficult-to-achieve feat.\textsuperscript{90}

Polonium is a highly deadly nuclear toxin. National governments carefully control access to materials such as polonium. The cloak-and-dagger style execution of Alexander Litvinenko could only have been ordered by the highest levels of the Russian regime and had only one purpose:\textsuperscript{91} the terrorizing and silencing of those who would investigate that regime’s atrocities on the world stage.\textsuperscript{92}

B. Putin’s Culture of Domestic Terror

The long list of political killings, of which Yushenkov, Politkovskaya, and Litvinenko form a part, constitute a pattern. Opponents of Vladimir Putin, those who investigate him too closely, those who know too much and tell too much, are likely to die violent deaths.\textsuperscript{93} Do we have smoking guns? Not quite. But the inferences, the circumstantial evidence all point in one direction.\textsuperscript{94} After all, none of these crimes are ever investigated seriously,\textsuperscript{95} and Putin’s allies and friends never seem to fall prey to the same


\textsuperscript{91.} Luke Harding writes, based on diplomatic cables leaked by WikiLeaks: “The White House thinks that Putin would have known about, and probably approved, the operation to murder Litvinenko.” Harding, \textit{Expelled}, supra note 87 at 42.


\textsuperscript{93.} Thus Joshua Keating writes: “Many opponents of Putin’s government have been harassed, subjected to smear campaigns, or even jailed, but those who turn up dead tend to have revealed or were threatening to reveal embarrassing or incriminating information about those in power.” Joshua Keating, \textit{What Gets Critics Killed in Putin’s Russia}, \textit{Slate} Mar. 3, 2015.

\textsuperscript{94.} Within hours, Lynn Berry writes, the conspiracy theorists were out in force in Moscow, blaming everyone from Islamic terrorists to Western provocateurs. They all ignore the most obvious possibility: “That he was murdered for his relentless opposition to Putin.” Lynn Berry, \textit{Nemtsov a Possible ‘Sacrificial Victim’ Investigators Say}, \textit{ABC News}, Feb. 28, 2015.

\textsuperscript{95.} There is no reason to believe that the assassination of Nemtsov is being investigated seriously. To be sure, a half-dozen suspects, mostly ethnic Chechens, were rounded up. One committed suicide. Another confessed following torture and coercion. The trials, if the cases ever move to trials, will be risible. Elliott C. McLaughlin & Matthew Chance, \textit{6th Suspect in Boris Nemtsov’s Killing Dies in Suicide}, \textit{CNN}, Mar. 8, 2015; Nemstov Suspect ‘Forced to Confess,’ \textit{Belfast Telegraph}, Mar. 11, 2015; and Laura Mills, \textit{Suspect in Nemtsov Killing May Have Been Tortured}, \textit{Huffington Post}, Mar. 11, 2015.
unfortunate fates putting the lie to claims that these murders are nothing more than acts of random criminality.\textsuperscript{96}

The Boris Nemtsov assassination, however, gives every indication of being a turning point. Nemtsov, after all, was better known to the global community. In the middle 1990s, there was every reason to believe he stood an excellent chance of eventually becoming president of Russia.\textsuperscript{97}

But if the Nemtsov assassination represents a possible turning point in the West’s consciousness of political violence inside Putin’s Russia, the student of Russian and Soviet history will know that there are parallels to the Nemstov murder, and the one that comes most directly to mind is the killing of Sergei Kirov (1886-1934).\textsuperscript{98} In the 1920s, Kirov showed himself to be an energetic and promising party leader from Azerbaijan.\textsuperscript{99}

In the 1930s, he served in Leningrad, where his talents became obvious on a national stage.\textsuperscript{100} At the Party Congress of 1934, it was said he was elected to the Communist Central Committee with fewer negative votes than Joseph Stalin.\textsuperscript{101} Thus he became Stalin’s rival and was duly murdered inside Leningrad Party headquarters in December, 1934.\textsuperscript{102}

The Kirov assassination opened the gates to the instability and the terror of the middle and later 1930s.\textsuperscript{103} Two of Vladimir Lenin’s old boon companions, Lev Kamenev and Grigory Zinoviev, were tried and executed.\textsuperscript{104} The Great Purges soon followed, with their show trials and mass killings.\textsuperscript{105} Other members of the Bolshevik old guard—former Prime Minister Alexander Rykov, revolutionary theorist Nikolai Bukharin, even


Andrey Lugovoi, who helped to deliver the polonium that killed Litvinenko, “is now an elected member of the Russian Duma.” \textit{Id.} On Lugovoi’s involvement, see Bryan S. Judge, \textit{History of Criminal Poisoning, in Criminal Poisoning: Clinical and Forensic Perspectives} 3, 10–11 (Christopher P. Holstege, Thomas M. Neer, Gregory B. Saathoff, & R. Brent Furbee, eds., 2011).

\textsuperscript{97}. Supra notes 28 and 29, and accompanying text.


\textsuperscript{100}. Helen Rappaport, \textit{Joseph Stalin: A Biographical Companion} 149 (1999).

\textsuperscript{101}. 2 Walter G. Ross, \textit{A History of Russia, Since 1855}, 255 (2005).


\textsuperscript{103}. Oleg V. Khlevniuk, \textit{Master of the House: Stalin and His Inner Circle} 127–37 (2009).


the head of the secret police Genrikh Yagoda—were eventually found guilty of treason and duly executed.\textsuperscript{106} Stalin’s tentacles finally reached even into the Western Hemisphere with the murder, in August of 1940, of Leon Trotsky in Mexico City.\textsuperscript{107}

The atmosphere which these purges created, the attitudes which they fostered were fear and helplessness. What Stalin wanted to create—and he very much succeeded in this ambition—was a culture of terror.\textsuperscript{108} Vladimir Putin, it seems clear, has now brought down on Moscow the same climate of fear, the same culture of terror.\textsuperscript{109} He has mastered the Stalinist playbook.\textsuperscript{110} His apologists dissemble and dissimulate, seeking to blame anyone—Muslims, Ukrainians—for the murder, hoping that western media will focus on the shadows and ambiguities and give the strongman the benefit of the doubt one last time.\textsuperscript{111} He should know that there are many in the West who have grown weary of being played for chumps.\textsuperscript{112}

Still, it is worth exploring what this murder signifies. First, the Nemstov assassination represents not Vladimir Putin’s strength but his weakness.\textsuperscript{113} One does not authorize or condone the murder of one’s opponents if one is dealing from a position of strength. Nemtsov was among the organizers of protests against the Ukrainian war scheduled for the weekend he was murdered. Perhaps Putin feared that the protests might have got out of hand.\textsuperscript{114} Protests in places like Georgia (2003), Kyrgyzstan (2005), and Ukraine (2014), led ultimately to regime change in those places.


\textsuperscript{107} It was said that the Trotsky murder “was the most spectacular assassination since the death of Archduke Franz Ferdinand in 1914.” ROBERT SERVICE, TROTSKY: A BIOGRAPHY 492 (2009).


\textsuperscript{109} Maxine David, What Boris Nemtsov’s Assassination Says About Putin’s Climate of Fear, NEW REPUBLIC, Mar. 2, 2015.

\textsuperscript{110} Bill Powell, Boris Nemtsov’s Murder Is a Killing Stalin Would Appreciate, NEWSWEEK, Mar. 3, 2015; Steve Gutterman, Dead 60 Years, Stalin’s Influence Lingers in Putin’s Russia, REUTERS, Mar. 15, 2013.

\textsuperscript{111} Andrey Ostroukh & Alexander Kolyandr, Russia Probes Motives in Killing of Putin Critic Boris Nemtsov: Investigators Looking at Any Links to Ukraine Crisis, Islamic Extremism, or a Destabilization Plot, WALL STREET JOURNAL, Feb. 28, 2015.

\textsuperscript{112} Peter Eltsov, How Putin Killed Nemtsov: Even If He Didn’t Pull the Trigger, the Russian Leader Invited the Assassination, POLITICO MAGAZINE, Mar. 6, 2015.

\textsuperscript{113} Amanda Taub, The Terrifying Politics of Boris Nemtsov’s Murder, VOX Mar. 4, 2015; Mary Dejevsky, Boris Nemtsov Shot Dead: This Form of Political Lawlessness Appeared To Be In the Past: No Longer, THE INDEPENDENT, Mar. 1, 2015.

\textsuperscript{114} Putin’s election in 2012 was greeted by organized protests in Moscow and the groups that organized these protests seemed to show some degree of staying power. SAMUEL A. GREENE, MOSCOW IN MOVEMENT: POWER AND OPPOSITION IN PUTIN’S RUSSIA 214–16 (2014).
Perhaps, also, Putin feared that Nemtsov had proof, as if further proof were needed, of Moscow’s aggression in Ukraine.\textsuperscript{115} Publicly disseminating such proof, revealing to grieving Russian mothers that their sons are dying in Ukraine and that are being lied to about the cause and nature of their deaths, was something that had to be stopped.\textsuperscript{116} Putin, again, is a man acting not from strength but from weakness and fear.

Second, the assassination reflects a certain attitude of reckless disregard. As Putin builds his culture of terror at home, as he cultivates his climate of fear, he says to the world: “we don’t care. We don’t care what you think of our means and our methods. Life in Moscow is a Hobbesian world, nasty, brutish, and short, especially for those who dare to question those at the top, who are running the show.”\textsuperscript{117} More ominously, it may be evidence that Putin is living in a bubble, an alternative universe, where he genuinely believes that killings like Nemtsov’s will go unremembered.\textsuperscript{118}

Third, as with the killing of Kirov eighty years ago, we can expect that Nemtsov’s murder portends much greater instability.\textsuperscript{119} The word is circulating that Vladimir Putin has drawn up a hit list and means to target other prominent critics of the regime.\textsuperscript{120} Putin has enemies, both real and imaginary. They could be anywhere, hiding around any corner, in the military, in his general staff, in the Parliament, in the press, in the private sector, among the oligarchs, in the academy. The paranoia that this killing will unleash will extend across the fabric of elite Russian society and leave everybody looking over their shoulders.\textsuperscript{121} After all, you don’t have to be an

\textsuperscript{115} Indeed, this seems probable. See Samantha Payne, \textit{Boris Nemtsov Murder: Note Exposing ‘Putin’s Lies’ Over Russian Soldiers in Ukraine Revealed}, \textit{INVESTORS BUSINESS TIMES}, Mar. 6, 2015.

\textsuperscript{116} \textit{Id.}

\textsuperscript{117} “Putin has a different approach. Because he does not aspire to mold Russia’s political system into a Western-style democracy, he cares far less about Western opinions and Western conditions for membership into Western clubs. Instead, his framework for understanding the world has more in common with Khrushchev or Brezhnev than Gorbachev or Yeltsin.” \textit{Professor McFaul Testifies on ‘Russia: Rebuilding the Iron Curtain,’} U.S. \textit{FEDERAL NEWS,} May 17, 2007.


\textsuperscript{120} Howard Amos, \textit{Putin Critics Step Up Security Amid Reports of Boris Nemtsov Style ‘Hit List,’} \textit{TELEGRAPH (UK),} Mar. 14, 2005.

enemy to be on an enemy’s list.

III. PUTIN EXPORTS HIS CULTURE OF TERROR

There are two principles that have governed post-World War II relations among states. First, international borders are sacrosanct. Military invasions of other nations constitute violations of international law. \(^{122}\) Second, threats of the first use of nuclear weapons are becoming increasingly taboo. This nuclear taboo has gained particular strength in the years since the conclusion of the Cold War. This taboo is factual—since the horrors of Hiroshima and Nagasaki, no nation has seen fit to use nuclear weapons in a combat setting. But it has also come to take on normative dimensions, especially over the last two decades. Under the terms of this taboo, it might remain possible to employ nuclear weapons in worst-case scenarios where national survival is at stake, but their first use, or even the threat of their first use has come to be disapproved of by the international community. \(^{123}\) With his aggressions against Georgia and Ukraine, and his


\(^{123}\) The end of the Cold War is conventionally dated to the autumn of 1989, when the Berlin Wall fell. In 1996, a question was presented to the International Court of Justice as to whether it was permissible to use or threaten to use nuclear weapons in a first strike. The Court deadlocked on the question with Presiding Justice Muhammed Bedjaoui voting against the threatened first use of nuclear weapons. I shall focus on the opinion that criticizes first use and threatened first use of nuclear weapons. In this carefully drafted opinion, seven members of the Court wrote that the possession of nuclear weapons had not been outlawed and that their non-use since 1945 did not constitute generally accepted opinio juris. (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion 97, International Court of Justice, July 8, 1996). This opinion, however, went on to stress that States were bound by international humanitarian law to respect “the civilian population” and the “distinction between combatants and non-combatants” and that these principles constrained the use or threats of use that nuclear states might employ Id. Although the
increasingly irresponsible and belligerent nuclear threats, Putin is now applying in his dealings with the world the tactics he has used to intimidate and divide his domestic political opposition. He is, in other words, attempting to export his domestically-grown culture of terror to his relations with other states. Let us explore the scope and nature of the threat the global community now confronts.

A. Georgia

In 2003, the nation of Georgia had enjoyed twelve years of independence from the Soviet Union. Georgia had been an independent kingdom in the early modern period but was annexed into the Russian Empire in 1800. It enjoyed three brief years of freedom following the abdication of Czar Nicholas II (1918-1921), but it was then swallowed up...
once again by the Red Army. In the aftermath of the Soviet Union’s dissolution, it now aspired to a peaceful coexistence among its neighbors.

In 2003, Georgia was still governed by Eduard Shevardnadze (1928-2014), Mikhail Gorbachev’s former foreign minister and someone grudgingly but still predictably solicitous of Moscow’s interests. In that year, however, popular unrest culminated in the so-called “Rose Revolution,” which led to Shevardnadze’s voluntary relinquishment of office and the initial adoption of western-style parliamentary democracy.

Russia, however, was unwilling to acquiesce in this state of affairs and saw its opportunity to put pressure on Georgia through provoking unrest in two of Georgia’s more restive provinces—South Ossetia and Abkhazia. This was a natural pressure point for Russia to use. South Ossetia and Abkhazia sit on the border between the Russian Federation and the rest of Georgia. There was, furthermore, a deep history of conflict between South Ossetia and Abkhazia and Georgia traceable not only to the 1990s, but to the distant reaches of history.

South Ossetia comprises a distinctive ethnic group that traces its history to the medieval people known as Alans, and today speak a language

---

129. There was a strong democratic, popular component to this revolution. As one chronicler of events put it, immediately after Shevardnadze’s resignation, “massive crowds appeared in the streets,” and it was as if “the people themselves had been recreated or reconstituted as a totality, a whole, a unity. There had been a rebirth of the category of publicness and peopleness in a country that had for ten years or more known only private interests.” Paul Manning, Rose-Colored Glasses? Revolutions and Cartoon Chaos in Postsocialist Georgia, 22 CULTURAL ANTHROPOLOGY 171, 201 (2007). As the Manning excerpt suggests, there was also a strong anti-corruption element to the Rose Revolution. Londa Esadze, Georgia’s Rose Revolution: People’s Anti-Corruption Revolution? in Organized Crime and Corruption in Georgia 111, 113–15 (Louise Shelley, Erik R. Scott, & Anthony Latta, eds., 2007).
130. Writing from the perspective of 2012, Lincoln Mitchell takes a balanced view of the democratic accomplishments of the Rose Revolution. It did not succeed in establishing authentic democracy he argues. Rather, it has resulted in the triumph of a strongly centralized one party presidential rule with “restricted freedom of speech and assembly.” Lincoln A. Mitchell, The Color Revolutions 116 (2012).
with Iranian roots.\textsuperscript{132} The predominant religious faith is Orthodox Christianity.\textsuperscript{133} Abkhazia enjoyed intermittent periods of political independence in the medieval and early modern periods, although its fate was generally intertwined with that of Georgia.\textsuperscript{134} Religiously, Abkhazia is a mixture of Islam, Christianity, and pre-conversion, ancestral pagan traditions.\textsuperscript{135}

Georgia and Russia fought a proxy war in South Ossetia and Abkhazia in the early and middle 1990s, in the period just after the collapse of the Soviet Union.\textsuperscript{136} Regarding South Ossetia, the period 1991 and 1992 was particularly bloody, and also saw widespread population transfers and ethnic cleansing.\textsuperscript{137} By the middle 1990s, a condition of stalemate prevailed, which featured a de facto division of governance between ethnic Ossetians and Georgians.\textsuperscript{138}

Regarding Georgia and Abkhazia, a similar story unfolded in the early 1990s. War was fought between August 1992 and September 1993.\textsuperscript{139} Massive ethnic cleansing was one consequence of this conflict.\textsuperscript{140} Open

\begin{itemize}
\item \textsuperscript{132} JAMES B. MINAHAN, ONE EUROPE, MANY NATIONS: A HISTORICAL DICTIONARY OF EUROPEAN NATIONAL GROUPS 518–19 (2000).
\item \textsuperscript{133} Id. at 518. This statement is true for South Ossetians, but the Digor subdivision of the Ossetian people, which resides in North Ossetia, is predominantly Muslim and has been influenced by radical Islam. Id.
\item \textsuperscript{134} Graham Smith, Vivien Law, Andrew Wilson, Annette Bohr, & Edward Allworth, NATION-BUILDING IN THE POST-SOVIET BORDERLANDS: THE POLITICS OF NATIONAL IDENTITIES 56–58 (1998).
\item \textsuperscript{135} Id. at 58–59.
\item \textsuperscript{136} Lee Hockstader, Georgia's Bulldog: Shevardnadze Fights For Besieged City, WASHINGTON POST, Sept. 23, 1993; Georgian Troops, Rebels in Fierce Clash, WASHINGTON POST, Sept. 20, 1993; James Rupert, Civil Wars in Ex-Soviet Republics Draw Russia Into Troubled Morass, WASHINGTON POST July 15, 1993; Fred Hiatt, Russia Deploys Troops at Georgian Border: Joint Peace-Keeping Effort Is Intended to Halt Fighting By South Ossetian Separatists, WASHINGTON POST July 15, 1992; Brian Killen, Georgian Separatists Want to Merge With Russia, REUTERS, June 22, 1992; and James Rupert, Isolated South Ossetians Press War For Secession: Siege By Georgia Leads to Extreme Hardships, WASHINGTON POST, Feb. 16, 1992.
\item \textsuperscript{137} Charles King, The Benefits of Ethnic War: Understanding Eurasia's Unrecognized States, 53 WORLD POLITICS 524, 537 (2001); and Daniel Sneider, Georgia on the Brink as Shevardnadze Turns to Russia, CHRISTIAN SCIENCE MONITOR, November 1, 1993.
\item \textsuperscript{138} A United Nations' observer force was situated in South Ossetia beginning in 1993. See T.J.W. Sneek, The CSCE in the New Europe: From Process to Regional Arrangement, 5 INDIANA INT'L COMPARATIVE L. REV. 1, 65–66 (1994), and note 250.
\item \textsuperscript{139} Lee Hockstader, Rebels Retreating In Georgia; With Russian Help, Shevardnadze's Government Retakes Territory, WASHINGTON POST, Nov. 8, 1993; Juan J. Walte, Shevardnadze Back In Capital, USA TODAY, Sept. 29, 1993; Michael Dobbs, Russian Jet Downed In Georgia: Shevardnadze, At Scene, Implores Kremlin To Halt Conflict, WASHINGTON POST, Mar. 20, 1993; Shevardnadze Declares Martial Law in Abkhazia, ORLANDO SENTINEL, July 7, 1993; and Steve LeVine, Abkhazian Rebels Call Georgians Invaders, WASHINGTON POST Nov. 7, 1992.
\item \textsuperscript{140} Georgians Victimized By Purge in Abkhazia, ST. LOUIS POST-DISPATCH, Nov. 9, 1993; Candice Hughes, Georgians, the Dominant Ethnic Group, Flee Abkhazia, AP ONLINE, Nov. 7, 1993; Lee Hockstader, Atrocities Reported After Rebel Victory in Georgia, WASHINGTON POST,
hostilities again occurred in April and May of 1998, but a ceasefire was rapidly put in place.\textsuperscript{141} A fig leaf of Georgian sovereignty over both territories was ensured, but the regions in point of fact governed their own affairs.\textsuperscript{142}

Shevardnadze, with his diplomatic skills and his long-standing contacts in Moscow, succeeded in keeping the peace between Georgia and Russia, in part because he did not wish to disturb the status quo in South Ossetia and Abkhazia nor did he wish to move abruptly out of Moscow’s sphere of influence.\textsuperscript{143} Best to maintain a studied ambiguity on both matters.\textsuperscript{144}

But with his departure in late 2004, a confrontation between Russia and Georgia seemed almost inevitable and, given the history, the flashpoint of that conflict was bound to be South Ossetia and Abkhazia.

The French-and-American-educated Mikhail Saakashvili,\textsuperscript{145} who succeeded Shevardnadze in 2005, moved swiftly to pivot Georgia from a careful neutrality to a close alliance with the West.\textsuperscript{146} He sought Georgian


\textsuperscript{142} On the kind of \textit{de facto} governmental autonomy these regions enjoyed, see Viacheslav Chirikba, Geopolitical Aspects of the Abkhazian Statehood: Some Results and Perspectives, 8 IRAN AND THE CAUCASUS 341–49 (2004); Dov Lynch, Separatist States and Post-Soviet Conflicts, 78 INTERNATIONAL AFFAIRS 831, 834–84 (2002); and Svante E. Cornell, Autonomy as a Source of Conflict: Caucasian Conflicts in Theoretical Perspective, 54 WORLD POLITICS 245, 262–276 (2002).

\textsuperscript{143} Thomike Gordadze describes a slow, incremental process by which Shevardnadze gradually moved Georgia towards the West, but his movements were sufficiently calculated that Russia still tried to preserve his presidency during the Rose Revolution. See Thomike Gordadze, Georgian-Russian Relations in the 1990s, in THE GUNS OF AUGUST 2008: RUSSIA’S WAR IN GEORGIA 28, 35–47 (Svante E. Cornell & S. Frederick Starr eds., 2009).

\textsuperscript{144} MITCHELL, supra note at 129 at 40. (“Throughout his presidency, Shevardnadze realized the need to balance the United States and Russia. He was successful in doing this throughout most of his time in office, even seeming to play the two more powerful countries off against each other”). \textit{Id}.

\textsuperscript{145} Mikhail Saakashvili studied law at Columbia University. See Elizabeth Cullen Dunn & Austin Cowley, Capitalizing on Aid: Post-War Development and State-Building in Georgia, in STATE AND LEGAL PRACTICE IN THE CAUCASUS: ANTHROPOLOGICAL PERSPECTIVES ON LAW AND POLITICS 171, 173 (Stéphane Voell & Iwona Kaliszewska, eds., 2015).

\textsuperscript{146} Thus Saakashvili constructed a military base that complied with NATO specifications even though Georgia had not been admitted to NATO. \textit{A Military Base Complying With NATO Standards Put Into Operation in the West of Georgia}, DEFENCE AND SECURITY Sept. 4, 2006.
membership in NATO and in April, 2008, President George W. Bush of the United States took up the cause, requesting the other member states of NATO to consider Georgia’s application along with that of Ukraine. France and Germany, however, wishing to maintain good relations with Russia, rejected Bush’s request. Saakashvili also took steps to resolve the stand-off with Abkhazia by placing troops in the disputed Kodori Gorge in 2006, and by establishing the next year a government-in-exile for Abkhazia answerable to Georgia.

These events almost guaranteed a hostile Russian response. But no one expected Russia to launch all-out war on Georgia. On August 1, South Ossetian separatists began to shell Georgian positions in that territory. When Georgia responded with increased shelling and a troop incursion into South Ossetia on August 7, the Russian military the next day answered with overwhelming force. Although elements of the Georgian Army

147. Terence Hunt, Bush Backs NATO Bids By Ukraine, Georgia, AP ONLINE, Apr. 1, 2008; and Steven Erlanger & Steven Lee Myers, Bush Adds Drama To NATO Summit: He Lobbies To Make Georgia and Ukraine Members, A Move Strongly Opposed by Allies, HOUSTON CHRONICLE, Apr. 3, 2008.


150. Id. (“Tbilisi’s intent was clearly to provide an alternative to the Abkhaz separatist leadership in hope of reconciling Abkhazia as a whole to living under Georgian rule”). Id. He also prepared for more serious and sustained military action in Abkhazia. See Olga Allenova & Vladimir Novikov, Terrorist POWs: Georgia Brands Abkhazian POW’s as Terrorists: Tbilisi May Mount Military Operations, DEFENCE AND SECURITY, Aug. 28, 2007.


153. ROBERT MANDEL, COERCING COMPLIANCE: STATE-INITIATED BRUTE FORCE IN TODAY’S WORLD 100 (2015); Ed Harris, Battle For Rebels’ Capital: Russia Sends Tanks to Stop
acquitted themselves well and stood their ground for two days, they were finally defeated in South Ossetia. The Russian Army then entered other parts of Georgia, occupying the city of Gori and seizing major transport arteries. Supported by a naval blockade and air support, the Russian Army finally ceased its advance about twenty-five miles from the Georgian capital of Tbilisi.

After ten or so days in which Russia left the world guessing as to its intentions—did it mean to advance into Tbilisi? did it mean to overthrow Saakashvili?—Russia began a withdrawal from Georgian territory.
August 25, Russia declared unilaterally that South Ossetia and Abkhazia would henceforward no longer be provinces of Georgia. Rather, Russia now recognized them as independent nations, a diplomatic gesture almost no other nation has made. And in the years since, Russia has treated the two territories as virtually part of its own soil. Russia has established military bases in South Ossetia and Abkhazia and has used these regions for the purpose of military exercises. In its seizure and steady incorporation of South Ossetia and Abkhazia, there is a forming scholarly consensus that Russia violated prohibitions on the crossing of state boundaries and the use of force to effectuate territorial change.

(51x611)Russia declared unilaterally that South Ossetia and Abkhazia would henceforward no longer be provinces of Georgia. Rather, Russia now recognized them as independent nations, a diplomatic gesture almost no other nation has made. And in the years since, Russia has treated the two territories as virtually part of its own soil. Russia has established military bases in South Ossetia and Abkhazia and has used these regions for the purpose of military exercises. In its seizure and steady incorporation of South Ossetia and Abkhazia, there is a forming scholarly consensus that Russia violated prohibitions on the crossing of state boundaries and the use of force to effectuate territorial change.


161. ROBERT NALBANDOV, FOREIGN INTERVENTION IN ETHNIC CONFLICTS 96 (2009).

162. In 2013, it seems that four nations recognized the independence of South Ossetia and Abkhazia. South Ossetia Profile, BBC NEWS, Oct. 13, 2013; that number is now down to three—Venezuela, Nicaragua, and Nauru, following Tuvalu’s decision to withdraw recognition. Oliver Bullough, This Tiny Island Nation Just Gave Russia a Big Bruise, THE NEW REPUBLIC, Apr. 2, 2014.

163. In November, 2014, Russia signed a treaty of integration and cooperation with Abkhazia, which goes a long ways towards annexing that territory into Russia proper. Georgians Protest Planned Military Alliance Between Abkhazia and Russia, STATES NEWS SERVICE, Nov. 15, 2014; Vladimir Isachenkov, Russia Gets Greater Control Over Abkhazia, the Lush Breakaway Georgian Region on the Black Sea, THE CANADIAN PRESS, Nov. 24, 2014; and Treaty Ramps Up Russia’s Clout in Georgia Province, JOURNAL-GAZETTE (Fort Wayne, IN), Nov. 25, 2014. In January and March, 2015, Russia has taken similar steps with respect to South Ossetia. Thomas De Waal, Swallowing South Ossetia, CARNEGIE MOSCOW CENTER, Jan. 14, 2015; Reid Standish, With Obscure Treaties, Moscow Pulls Breakaway Regions Into Its Orbits, FOREIGN POLICY, Jan. 23, 2015; and Putin Endorses Draft Treaty On ‘Integration’ With South Ossetia, EURASIA REVIEW Mar. 7, 2015.


166. Scholarly analyses have been nuanced, balanced, and include Robert P. Chatham, Defense of Nationals Abroad: The Legitimacy of Russia’s Invasion of Georgia, 23 FLORIDA J. OF INT’L L. 75–102 (2011), (noting that Russia’s claims to defend the interests of its citizens living abroad was significant legally but that its conduct, but that its “us[e] of aggression to regain control of South Ossetia” still constituted a violation of international law). Id. at 77; Michael Toomey, The August 2008 Battle of South Ossetia: Does Russia Have a Legal Argument for Intervention? 23 TEMPLE INT’L AND COMPARATIVE L. J. 443–77 (2009) (concluding that “Russia’s actions in South Ossetian and Georgian territory exceed the boundaries of any acceptable form of the self-defense or humanitarian intervention”); Id. at 476–77. Hannes Hoffmeister, ‘Don’t Mess With Moscow:’ Legal Aspects of the 2008 Caucasian Conflict, 12 SAN DIEGO INT’L L. J. 147–73 (2010) (a balanced review of the legal claims, indicating that South Ossetia “as a stabilized de facto regime... enjoy[ed] at least partial international personality” (Id. at 152–153 but concluding that Russia’s intervention was unjustified given “its disproportional
There is no question that an honest review of these events show that Mikhail Saakashvili made a set of foolish calculations.\textsuperscript{167} His application to NATO was premature;\textsuperscript{168} his openness to a military alliance with the West was too threatening to Moscow;\textsuperscript{169} his assertions of jurisdiction over South Ossetia and Abkhazia were too destabilizing.\textsuperscript{170} True, also, he made a terrible legal and political mistake by trying to return South Ossetia to Georgian rule forcefully.\textsuperscript{171} Still, he was a duly-elected president of a sovereign nation, and nations are allowed to act in their own best interests.\textsuperscript{172} And this is all that Saakashvili was doing, however ham-handedly.

Russia’s response, however, was grossly disproportionate to the occasion. Vladimir Putin\textsuperscript{173} would make an abject lesson of Georgia to cow into submission the other nations of the Russian “near-abroad”—those former Soviet republics now trying to establish themselves as independent states. He would demonstrate to his neighbors a wanton disregard for rules of proportionality and restraint. He would destroy the Georgian military, and make it clear that he could reincorporate Georgia into Russia proper if it ever stepped out of line again. Putin, in other words, was taking an important step in exporting to neighboring nations the culture of terror by which he governed at home.


\textsuperscript{168} RICHARD WEITZ, GLOBAL SECURITY WATCH - RUSSIA: A REFERENCE HANDBOOK 145–47 (2010).


\textsuperscript{170} MIKE BOWKER, RUSSIA, AMERICA, AND THE ISLAMIC WORLD 150 (2007).


\textsuperscript{172} ROBERT JACKSON, SOVEREIGNTY: THE EVOLUTION OF AN IDEA 86 (2009); and JOHN AGNEW, GLOBALIZATION AND SOVEREIGNTY 104 (2009).

\textsuperscript{173} Vladimir Putin at the time of the war was prime minister of Russia, not president. He nevertheless took a leading role in the war’s planning and prosecution. In early August, he returned home to Russia from Beijing, where he was attending the opening ceremony of the Summer Olympics, met with military leadership, and apparently was instrumental in establishing the key military objectives in the forthcoming war. See ARIEL COHEN & ROBERT E. HAMILTON, THE RUSSIAN MILITARY AND THE GEORGIA WAR: LESSONS AND IMPLICATIONS 23 (2011).
B. Ukraine

1. The Poisoning of Viktor Yushchenko

In the fall of 2004, the nation of Ukraine, another former Republic of the Soviet Union, held presidential elections. Leonid Kuchma, the outgoing president, had spent ten years in office but was now sunk deep in scandal.\footnote{The most serious scandal involved the possible role Kuchma played in the murder of the investigative journalist Hyrhory Gongadze. Leaked tape recordings suggested that Kuchma may have played a central role in ordering his kidnapping and murder. See \textsc{Henry E. Hale}, \textit{Patronal Politics: Eurasian Regime Dynamics in Comparative Perspective} 183 (2015); and Louise Shelley, \textit{Civil Society Mobilized Against Corruption: Russia and Ukraine, in Civil Society and Corruption: Mobilizing for Reform} 1, 15 (Michael Johnston ed., 2005). By 2004, Kuchma was mired in more mundane forms of corruption as well, including “arms smuggling to Saddam Hussein’s Iraq.” \textsc{Mankoff}, supra note 149 at 225.} He was also favorably disposed to Moscow\footnote{Kuchma has been described as “a thuggish former \textit{apparatchik} who brutally repressed the press and political opposition.” \textsc{4 The Greenwood Encyclopedia of International Relations} 171 (Cathal J. Nolan, ed., 2002). Kuchma is married to a Russian woman and speaks Russian as his first language.} and had named as his chosen successor Viktor Yanukovich.\footnote{In 2004, Kuchma agreed to the formation of a Moscow-controlled “Single Economic Space” which was “intended to become the principal vehicle for the Kremlin’s effort to consolidate hegemony over the former Soviet space.” \textsc{Robert Horvath}, \textit{Putin’s Preventive Counter-Revolution: Post-Soviet Authoritarianism and the Spectre of Velvet Revolution} 23 (2013). Yanukovich supported the creation of the Single Economic Space, while Yushchenko opposed it. Vladimir Putin made plain his support for Yanukovich and his displeasure with Yushchenko as early as the summer of 2004. \textit{Id.}} Yanukovich was opposed by the reformist Viktor Yushchenko. Yushchenko was a trained economist who spent almost seven years as Governor of Ukraine’s Central Bank (1993-1999).\footnote{As central bank governor, Yushchenko received high marks for the way he tamed hyperinflation and for the general spirit of reform he brought to his position. \textsc{See Anders Åslund \& George De Ménil}, \textit{Economic Reform in Ukraine: The Unfinished Agenda} 17 (2000), (hyperinflation); and Lucio Vinhas de Souza, et al., \textit{Now So Near and Yet So Far Relations Between the Ukraine and the European Union}, in \textit{Return to Growth in CIS Countries: Monetary Policy and Macroeconomic Growth} 144, 148 (Lucio Vinhas de Souza \& Oleh Havrylyshyn, eds.,2006).} He had also served briefly as Kuchma’s prime minister (1999-2001) but was dismissed when he clashed with vested economic interests.\footnote{In 2001, Yushchenko defended Kuchma in the face of popular calls for his ouster following the revelations concerning his apparent involvement in the Gongadze murder. Tammy} He now

174. The most serious scandal involved the possible role Kuchma played in the murder of the investigative journalist Hyrhory Gongadze. Leaked tape recordings suggested that Kuchma may have played a central role in ordering his kidnapping and murder. See \textsc{Henry E. Hale}, \textit{Patronal Politics: Eurasian Regime Dynamics in Comparative Perspective} 183 (2015); and Louise Shelley, \textit{Civil Society Mobilized Against Corruption: Russia and Ukraine, in Civil Society and Corruption: Mobilizing for Reform} 1, 15 (Michael Johnston ed., 2005). By 2004, Kuchma was mired in more mundane forms of corruption as well, including “arms smuggling to Saddam Hussein’s Iraq.” \textsc{Mankoff}, supra note 149 at 225.

175. Kuchma has been described as “a thuggish former \textit{apparatchik} who brutally repressed the press and political opposition.” \textsc{4 The Greenwood Encyclopedia of International Relations} 171 (Cathal J. Nolan, ed., 2002). Kuchma is married to a Russian woman and speaks Russian as his first language. \textsc{Rocco M. Paone}, \textit{Evolving New World Order/Disorder: China-Russia-United States-NATO} 4 (2001). In 1997, Kuchma signed a treaty of friendship with Boris Yeltsin which also contained explicit promises of Ukraine’s territorial integrity and independence. \textsc{Tatiana Zhurzhenko}, \textit{Borderlands Into Bordered Lands: Geopolitics of Identity in Post-Soviet Ukraine} 134 (2014). Still, there was occasional friction between Kuchma and Moscow, such as in 2002, when Kuchma showed some openness to Ukrainian membership in NATO. This show of interest, even if slight, was sufficient to cause Vladimir Putin to choose to become involved in the Ukrainian presidential election of 2004. \textsc{Robert Donaldson}, \textit{Russia and the States of the Former Soviet Union, in Routledge Handbook of Russian Politics and Society} 432, 439 (Graeme Gill ed., 2012).

176. In 2004, Kuchma agreed to the formation of a Moscow-controlled “Single Economic Space” which was “intended to become the principal vehicle for the Kremlin’s effort to consolidate hegemony over the former Soviet space.” \textsc{Robert Horvath}, \textit{Putin’s Preventive Counter-Revolution: Post-Soviet Authoritarianism and the Spectre of Velvet Revolution} 23 (2013). Yanukovich supported the creation of the Single Economic Space, while Yushchenko opposed it. Vladimir Putin made plain his support for Yanukovich and his displeasure with Yushchenko as early as the summer of 2004. \textit{Id.}

177. As central bank governor, Yushchenko received high marks for the way he tamed hyperinflation and for the general spirit of reform he brought to his position. \textsc{See Anders Åslund \& George De Ménil}, \textit{Economic Reform in Ukraine: The Unfinished Agenda} 17 (2000), (hyperinflation); and Lucio Vinhas de Souza, et al., \textit{Now So Near and Yet So Far Relations Between the Ukraine and the European Union}, in \textit{Return to Growth in CIS Countries: Monetary Policy and Macroeconomic Growth} 144, 148 (Lucio Vinhas de Souza \& Oleh Havrylyshyn, eds.,2006).

178. In 2001, Yushchenko defended Kuchma in the face of popular calls for his ouster following the revelations concerning his apparent involvement in the Gongadze murder. Tammy
sought the top office at the head of a political party known as *Nasha Ukrayina* ("Our Ukraine").

Voting was scheduled for the end of October, 2004. Unexpectedly, however, in early September of that year, Yushchenko began violently ill. He had hitherto been in good health. He was hospitalized in Vienna, where he received the initial diagnosis of pancreatitis and other acute physical disorders. Soon, however, it was realized that he did not suffer from pancreatitis at all, but had been the victim of a sophisticated poisoning plot.

In fact, Yushchenko had been given a near-lethal dose of Tetrachlorodibenzodioxin (TCDD), the most potent known form of dioxin. He "had at least 1,000 times more dioxin in his system in September than normal." The poison had been specially manufactured to


179. Yushchenko made the decision to enter electoral politics following his dismissal as prime minister. “At the time, Yushchenko cut an image of a technocratic economist, not a revolutionary. Those who knew him best worried that he did not have the drive or temperament to become a national political leader. But he was a popular prime minister with a record of achievement, an image of not being corrupt, an appealing biography, and a handsome appearance. Michael McFaul & Richard Youngs, *Ukraine: External Actors and the Orange Revolution, in, Transitions to Democracy: A Comparative Perspective* 120, 122 (Kathryn Stoner & Michael McFaul eds., 2013).


182. The initial diagnosis included “acute pancreatitis, a viral skin disease, and nerve paralysis on the left side of his face.” *Ukraine’s Top Opposition Leader Vying For President Released From Vienna Hospital*, AP Worldstream, Sept. 18, 2004; and George Jahn, *Doctors: Cause of Ukrainian Opposition Leader’s Illness Still Unclear*, AP Worldstream, Sept. 29, 2004.


a laboratory-grade fineness. There was, in other words, little doubt that someone in a position to bring to bear significant resources—laboratory space, pharmaceutical skill, carefully-orchestrated delivery of the poison—stood behind this assassination attempt. And, just before becoming ill, Yushchenko had dined with two men in a position to have access to such sophisticated poisons and motive to use them—Ihor Smeshko, “the Chairman of the Ukrainian Security Service . . . and his deputy Volodymyr Satsiuk.”

Yushchenko, however, did not die. His health, however, suffered grievously although he now seems to be well-recovered. His face became bloated and pock-marked, scarring that is typical in cases of dioxin poisoning. But thanks to heroic, experimental treatments, he survived.

And not only did he survive. He helped to topple the old regime. In the first round of presidential voting, held at the end of October, Yushchenko and Yanukovich finished in a virtual tie with about 39 percent of the vote each. But because neither candidate received 50 percent, the election proceeded to a second round, held on November 21. The results were so heavily tilted towards Yanukovich that it became apparent the election was fraudulent. And this realization led to the protests that became known as

---

186. Tests conducted by the “British Defence and Science Technology Laboratory” have shown that the dioxin Yushchenko ingested was “a product of a special laboratory.” BORIS VOLODORSKY, THE KGB’S POISON FACTORY: FROM LENIN TO LIKVENKO 113 (2009). Cf., Bill Meyer, Dioxin That Poisoned Ukrainian Leader Viktor Yushchenko Was Very Pure, Made in Lab: Study, CLEVELAND PLAIN DEALER. Aug. 4, 2009 (providing further documentation and references to British studies of the quality of dioxin used against Yushchenko).

187. ANDREW WILSON, UKRAINE’S ORANGE REVOLUTION 98–99 (2005) explores some of the intricacies of this carefully-orchestrated plot, including the effort by parties unknown to issue false press releases in the name of the Austrian clinic that was treating Yushchenko denying the presence of dioxin in his system. These false press releases dominated early news coverage of the event and delayed public acceptance of true information for a matter of weeks. Id. at 98.


190. Glenn Kessler & Rob Stein, U.S. Doctors Treated Yushchenko: Secret Team Helped Find Dioxin Poisoning, WASHINGTON POST Mar. 11, 2005. At the time of the poisoning, Yushchenko granted permission for extensive data collection and has now also granted permission for publication of peer-reviewed studies based on his course of treatment. The first such study has recently appeared. See Jean-Hilaire Saurat, et al., The Cutaneous Lesions of Dioxin Exposure: Lessons From the Poisoning Of Victor Yushchenko, 125 TOXICOLOGICAL SCIENCES 310–17 (2012).


the “Orange Revolution.”

Anywhere between half a million to two million protestors took to the streets. Individual cities in western Ukraine—Kiev, Lviv—voted not to honor the results. Yushchenko took a simulated oath of inauguration and began to act as if he had been legally elected president. In eastern Ukraine, on the other hand, where Yanukovich’s support was strongest, protestors took to the streets to defend the electoral outcome. In the event, the Ukrainian Supreme Court ordered a third round of voting, which took place at the end of December, 2004. Yushchenko this time prevailed by approximately 52 percent to 44 percent.

The election returns, however, left open the most important question: who was responsible for poisoning the winning candidate? The answer should be obvious. The circumstantial evidence is overwhelming and points in only one direction. Putin understood the stakes in the 2004 Ukrainian election to be large—he visited that country seven times in the summer and

---


194. On the high end, Julia Gerlach estimates the protests to have numbered around one and a half million. JULIA GERLACH, COLOR REVOLUTIONS IN EURASIA 11 (2014). Olga Onuch has offered the highest estimate, at two million. OLGA ONUCH, MAPPING MASS MOBILIZATION: UNDERSTANDING REVOLUTIONARY MOMENTS IN ARGENTINA AND UKRAINE 4 (2014).

195. Kiev, Other Major Cities, Consider Ukraine’s Presidential Election Illegitimate, AP WORLDSTREAM, Nov. 22, 2004; Two More Ukrainian Cities Refuse To Recognize Disputed Vote Results, AGENCE FRANCE PRESSE, Nov. 23, 2004; C.J. Chivers, Pro-Russian Named Winner In Ukraine; But the Opposition Vows Not To Yield, INTERNATIONAL HERALD TRIBUNE, Nov. 25, 2004.


198. Oktay F. Tarnisever, Ukraine as a Cusp State: The Politics of Reform in the Borderland Between the EU and Russia, in THE ROLE, POSITION, AND AGENCY OF CUSP STATES IN INTERNATIONAL RELATIONS 60, 70 (Marc Herzog & Philip Robins, eds., 2014).

The poisoning was a sophisticated job that required the cooperation of Ukrainian security officials and Russian laboratories. Who was in a position to issue such orders? Who had the means and the motive?201

2. 2014/2015: The Russian War On Ukraine

a. Ukraine 2010-2014: From Yushchenko to the Maidan Revolution

Viktor Yushchenko served as president of Ukraine until 2010. By that time, the voting public had grown weary of him and he was soundly defeated in the election’s first round with about five percent of the vote, held in January, 2010.203

This first round of voting proved to be a precursor to the crisis that would envelop Ukraine over the next five years. Indeed, a survey of the major issues that confronted the candidates in the fall of 2009 reveals that perhaps the biggest issue on voters’ minds was the relationship with Russia.204 Yushchenko wished to stand strong for genuine Ukrainian

independence,\textsuperscript{205} even as Russia was pressuring Ukraine and making its desires known on a range of concerns—from naval basing rights in the Crimean Peninsula,\textsuperscript{206} to relations with NATO and the EU,\textsuperscript{207} to the use of Ukrainian pipelines to transport natural gas to other parts of Europe.\textsuperscript{208}

The two candidates who made it to the final run-off were Yulia Tymoshenko, Yushchenko's prime minister, and Viktor Yanukovich, Yushchenko's old opponent from 2010.\textsuperscript{209} The same ethnic divisions that plagued the 2004 election were in even sharper relief in the winter of 2009/2010 as the election unfolded.\textsuperscript{210} Eastern Ukraine continued to look to Moscow, while Western Ukraine gazed longingly at Europe.\textsuperscript{211}

\textsuperscript{205} Yushchenko Accuses Moscow Of Provoking Ukraine, DEUTSCHE PRESSE-AGENTUR, Sept. 5, 2009; Ukrainian President Looks at 'Tension' With Russia, Accuses Premier of Populism, BBC INTERNATIONAL REPORTS, Sept. 7, 2009; and President Describes Course For Democracy as Indispensable Pillar Of Ukraine's Sovereignty, INTERFAX RUSSIA AND CIS PRESIDENTIAL BULLETIN, Oct. 23, 2009; and Yushchenko Again Stresses Need To Strengthen Democracy in Ukraine, INTERFAX RUSSIA & CIS PRESIDENTIAL BULLETIN, Dec. 8, 2009.


\textsuperscript{208} Gregory Feifer, Experts Downplay Fears Over Ukraine-Russia Gas Crisis, RADIO FREE EUROPE DOCUMENTS, Nov. 4, 2009; Yushchenko’s Attempts To Scare Russia, Europe With Gas Transit Crisis Is Blackmail—Kremlin, INTERFAX RUSSIA & CIS BUSINESS AND FINANCE NEWSWIRE, Nov. 19, 2009; Ukrainian President Calls For Changes To Russian Gas Transit Policy, BBC INTERNATIONAL REPORTS, Nov. 28, 2009.


\textsuperscript{211} Philip P. Pan, Ukraine-Russia Tensions Evident in Crimea; Kremlin Asserting Its Influence in Region, WASHINGTON POST, Oct. 6, 2009; Group of Ukrainian MPs Challenging Ban on Russian Language at Schools, Inter-Tass, Oct. 12, 2009; Ukraine Election Result—A Balancing Act, CHRISTIAN SCIENCE MONITOR, Feb. 8, 2010; Kirill Nourzhanov, Bad Blood and Big Doubts Leave Ukraine in Limbo, CANBERRA TIMES, Feb. 12, 2010; Ukrainian Frontrunner Vows to Ensure Russian Spoken Freely, BBC INTERNATIONAL REPORTS, Feb. 12, 2010.
around, Vladimir Putin took a more balanced approach to the election, at different times expressing support for each of the candidates, although he was plainly pleased to see Yanukovich prevail.212

Viktor Yanukovich was in office for almost exactly four years, from February 2010 to February 2014. These four years witnessed an accelerating drift into ever greater levels of official corruption and an ever widening divide between the Western half of Ukraine, which was ethnically Ukrainian and looked to Europe, and the Eastern half of the nation, which spoke Russian and looked to Moscow.213

Regarding corruption, writing in the Kyiv Post, Viktor Tkachuck declared in 2012: “Corruption seems to have infected every corner of Ukrainian society.”214 Outside observers considered judicial corruption an endemic problem in Ukraine215 - a point of view that was generally shared by the public at large.216 The political process was seen to be corrupt.217 So

---


213. Yanukovich exacerbated the ethnic divisions. Thus Alexander Motyl wrote about Yanukovich’s minister for education and science: “He openly espouses anti-Ukrainian views. He claims that ethnic Ukrainians in the west of the country are too westernized to be true Ukrainians. He believes that Ukrainian culture flourished in Soviet times, when it was in fact suppressed in favor of the colonial power’s culture. He also insists that today the Russian language is discriminated against, even as Russian-language publications and broadcasts make up the overwhelming majority of media available in Ukraine.” Alexander J. Motyl, Ukrainian Blues: Yanukovich’s Rise, Democracy’s Fall, 98 FOREIGN AFFAIRS 125, 129 (2010).


215. Ukraine is Ranked Last Out of the 43 Countries in the Europe Region, in Bottom 20 % of Overall World Rankings, STATES NEWS SERVICE, Jan. 25, 2012 (“The judiciary is subject to executive branch and criminal pressure, and judicial corruption is significant. Contracts are not well enforced, and expropriation is a threat.”). Id. Cf., Proposals Regarding Next Steps in Judicial Reform in Ukraine, USAID, Ukraine Rule of Law Project, November 12, 2010 (report “based on the results of discussions at the conference on Judicial Reform in Ukraine and International Standards for Judicial Independence, in Kyiv”).

216. Alexei Trochev, Meddling With Justice: Competitive Politics, Impunity, and Distrusted Courts in Post-Orange Ukraine, DEMOKRATIZATSIYA Apr. 10, 2010 (The judiciary in post-Orange Ukraine is in deep crisis. By 2010, as Ukraine marked the fifth anniversary of the Orange Revolution, both domestic and foreign observers were decrying judicial dependence and corruption in the country). Id. Cf., Poll Reveals Ukrainians Have Little Trust in Judiciary, BBC INTERNATIONAL REPORTS, Oct. 17, 2013 (Only 2 percent of Ukrainians fully trust the courts). Id.

217. Ukrainian Gloom, 36 THE WILSON QUARTERLY 76–77 (Winter, 2012); EU Leaders
was the business world.218

One important report concluded: “The plague of corruption has penetrated all levels of government and public institutions, starting from the highest-level public officials. All formal and informal institutions have become used to corruption and adapted to it, including the law enforcement agencies that are heavily corrupted too.”219 Another important study judged Yanukovich to have been a failure and predicted disaster: “Ukraine’s crisis will only deepen and the country will become increasingly authoritarian, impoverished, polarized, and unstable.”220

Still, Ukraine might have muddled along a little while longer had Viktor Yanukovich in the fall of 2013 not killed Ukraine’s chances of closer integration with the European Union.221 Yushchenko, Yanukovich’s predecessor, was firmly committed to a plan of phased integration with Europe.222 Early in Yushchenko’s administration, he and representatives of the EU engaged in a broad range of negotiations which concluded in the EU-Ukraine Association Agenda.223 Also in 2009, the European Union


222. R.G. Gidadhubly, Presidential Elections In Ukraine: Conflicts and Challenges, ECONOMIC AND POLITICAL WEEKLY 106-107 (2005) (Yushchenko’s stated objectives included “establish[ing] close relations with the west and in particular with the European Union and NATO’). Id. at 106; Adam Alexi Solomon, Changing Colors: Ukraine’s Orange Revolution 27 HARVARD INT’L REV. 11–12 (2006), (Yushchenko’s goals included “shaping Ukraine’s identity in Europe and liberalizing the economy”). Id. at 12.

223. The European Union and Ukraine adopted an Action Plan in February, 2005, early in Yushchenko’s presidential term, which aimed to “define[] the specific political and economic priorities [needed] to pave the way for further economic integration and the establishment of an
invited Ukraine join the Eastern Partnership project, which had as its ambition the adoption of a broad range of joint initiatives with former Soviet republics—Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine—that aimed to forge tight economic bonds between these nations and Europe, but that side-stepped the question of full political and economic union.\textsuperscript{224}

Early on, Yanukovich pledged his support for these initiatives, but he failed to meet European demands for economic and political reforms.\textsuperscript{225} Matters came to a head in November, 2013. With a summit meeting of the Eastern Partnership Project scheduled at the end of November that would have seen Ukraine sign a broad range of agreements with the EU, Yanukovich scuttled the project. Vladimir Putin, it seems, had intervened at the last minute, and Yanukovich now sharply pivoted east, towards Moscow and away from the West.\textsuperscript{226}


\textsuperscript{225} Thus in February, 2013, Stratfor described Yanukovich’s negotiations with the West as close to stagnating. Ukraine’s Negotiations With the EU and Russia, Stratfor Global Intelligence, Feb. 25, 2013.

At first, the European Union leadership tried to cajole Yanukovich into changing his mind, and then berated him. Finally, they understood that he had now definitively cast his lot with Russia and they began to plan accordingly.

The Ukrainian people, too, especially the western half of Ukraine, now took matters into their own hands. Protestors grew furious at the hijacking of their future by forces hostile to their interests, and began to engage in spectacular shows of civil disobedience. Vladimir Putin promised to buy fifteen billion dollars worth of Ukrainian bonds and reduce gas prices, but the protestors only showed ever more resoluteness and continued to call for Yanukovich’s ouster.

In mid-January, the Parliament passed an anti-protest law but this only...

inflamed matters. The Maidan Revolution was now on, as protestors began seizing government office buildings in the western half the country. The anti-protest law was rescinded—it was doing no good anyways. This did not appease the protestors as occupations continued across the western half of the country. In mid-February, Yanukovich escalated matters. Unidentified snipers killed some eighty-eight protestors in a two-day slaughter. Again, the crowd was undeterred and seized the presidential palace. Yanukovich fled the country just as a warrant for his arrest was being issued. An interim government was chosen.

b. Putin Declares War

It was Vladimir Putin’s long history of interference in Ukrainian


238. ANDREW WILSON, UKRAINE CRISIS: WHAT IT MEANS FOR THE WEST, at 87–89. “Photographs later showed the snipers were based in nearby government buildings and in the presidential administration.” Id. at 89; Richard Balmforth & Giles Elgood, Snipers Sow Fear and Death in Kiev’s Urban Conflict, REUTERS NEWS, Feb. 21, 2014. A year after the mass killing, the Ukrainian government has accused a close associate of Vladimir Putin of ordering the sniper attack. Daniel McLaughlin, Kiev Blames Putin Aide For Maidan Square Killings By Snipers, IRISH TIMES, Feb. 21, 2015.


sovereignty that brought on this impasse. A wiser foreign leader would have realized that this was the time for letting go. Vladimir Putin, however, took this moment to wage war on Ukraine.

On the last two days of February, 2014, groups of armed men suddenly appeared in strategic places across the Crimean peninsula, where they seized government buildings and airports. On March 1, 2014, the Russian Parliament made it official, granting permission for the use of Russian troops in Ukraine. A year later, in March, 2015, Vladimir Putin admitted on Russian television that he first issued the orders to attack Crimea on February 22, 2014, when Yanukovich fled the country.

From the outset, Vladimir Putin made it clear that it was strategic objective to sever Ukraine in two. His ultimate strategic objective was the Crimean peninsula, that flat, low, windswept land extending southward into the Black Sea. Its climate is mild, its southern coast almost Mediterranean-like. But Putin’s objective did not involve the landscape or the weather. Rather, his interest was in maintaining access to the Russian naval base located there, the home of Russia’s Black Sea Fleet. The Fleet, for Putin, was a strategic necessity. It was his only practical means of reaching the Mediterranean and the only sure way of projecting power into that part of the world, and even if the fleet had grown dilapidated, the port itself possessed significance since the fleet might always be rebuilt.

---


244. *Putin Reveals Secrets of Russia’s Crimea Takeover Plot*, BBC NEWS, Mar. 9, 2015 (“Mr. Putin said on TV he had ordered work on ‘returning Crimea’ to begin at an all-night meeting on 22 February”). Id.


250. Jakob Hedenskog, *Filling the Gap: Russian Security Policy Towards Belarus, Ukraine,
But there is a strategic complication to simply seizing the Crimean Peninsula. It is not connected to Russia. It is, rather, connected to Ukraine proper by a land bridge. It is, in other words, subject to being choked off. To protect his new acquisition meant that Putin would need to develop a land corridor through Ukraine to the peninsula.251

Putin’s war unfolded in accord with this strategy. First, secure Crimea, next, secure a foothold in Eastern Ukraine, then search for transit routes to the peninsula. Crimea was the easiest objective to obtain. Putin moved some 150,000 Russian troops to the Ukrainian border as part of a “military exercise.”252 Shadowy armed men first seized the airports and other military facilities in Crimea,253 and then took over government buildings.254 Internet and telecommunications service between the peninsula and Ukraine was cut.255 The local Crimean government was replaced and the head of the new interim government expressed his desire to join the peninsula with Russia.256 Vladimir Putin expressed his openness to the suggestion.257
The United States and the European Union threatened the imposition of sanctions, but Putin was undeterred. A referendum was hastily organized and on March 16, 2014 and Crimean voters assented—overwhelmingly, of course—to an annexation by the Russian Federation.

Even before the voting on the referendum was complete, Russia was expanding its aggression into other parts of Ukraine. Its next main targets were the centers of Russian ethnicity in eastern Ukraine—the Donbass region and its numerous towns and cities, especially the major metropolitan centers of Luhansk and Donetsk.

The contest for the Donbass commenced with civil unrest, in early and mid-March, 2014. Rallies in Donetsk and other cities, denunciations of the European Union and the West, demands that eastern Ukraine put secession to a vote, the sudden emergence of armed gangs who sought to disrupt transportation. The common aim of all of these efforts was simple

---


261. Pro-Russian Rally Held in Front of Donetsk Regional Administration, INTERFAK RUSSIA AND CIS MILITARY NEWSWIRE, Mar. 3, 2014; About 7,000 People Attend Rally and March for Broader Autonomy in Kharkov, PHILIPPINES NEWS AGENCY, Mar. 9, 2014; Thousands of Pro-Russian Activists Rally in Eastern Ukrainian City, BBC NEWSFILE, Mar. 16, 2014.


enough to discern—destabilize Ukraine.  

By April and May, hostilities had broken out across much of eastern, ethnically Russian Ukraine. Russian-backed separatist fighters attacked municipalities throughout eastern Ukraine. A pitched battle broke out in Sloviansk on April 12, which led to extended military operations that stretched into summer. A Ukrainian armory was seized in Artemivsk in late April. Other towns and cities also became the scene of fighting.

The main prizes, however, were Donetsk and Luhansk. As early as April, Russian-backed separatists seized control of Donetsk's government buildings and proclaimed the new “Donetsk Peoples’ Republic.” A hasty,
mostly fraudulent referendum was then called for mid-May which “ratified” this outcome.\textsuperscript{272}

These events, however, were but a preliminary to the main battle for Donetsk and Luhansk, which would rage for much of the summer of 2014 and involved at different points massive incursions of Russian troops, tanks, and advanced weaponry.\textsuperscript{273} It would be tedious—and depressing—to review the many ebbs and flows of this series of bloody conflicts for control of the heart of the Donbass region.\textsuperscript{274} At the end of the day, in November, 2014, the inhabitants were allowed to vote for separation from Ukraine.\textsuperscript{275} They did so,\textsuperscript{276} and almost at once convoys of Russian soldiers arrived as grotesque guarantors of peace.\textsuperscript{277}

In early September, 2014, Ukraine and Russia agreed to a ceasefire.\textsuperscript{278} Vladimir Putin, however, did not yet have his land corridor to the Crimean peninsula. It should therefore be no surprise that fighting soon flared up

\textit{From Storming Another Symbol of Ukrainian State, INDEPENDENT ONLINE, May 2, 2014.}


\textsuperscript{274} The casualties were large-scale. See, for instance, Stepan Smyshliaev, U.N.: 3,700 Killed, 8,800 Wounded in Conflict in Donetsk and Luhansk Regions, UKRAINIAN NEWS, Oct. 8, 2014., The internal displacements numbered in six figures: Artem Danylenko Social Ministry: 86,000 Displaced to Return to Donetsk and Luhansk Regions, UKRAINIAN NEWS, Oct. 7, 2014; Artem Danylenko, Emergency Service Registers 121,600 Residents of Donetsk and Luhansk Regions Who Return Home, UKRAINIAN NEWS, Oct. 20, 2014. The economic impact was devastating: Dmytro Perepeltsia, 600 Companies Destroyed In Armed Hostilities In Luhansk, Donetsk Regions, UKRAINIAN NEWS, Sept. 9, 2014.

\textsuperscript{275} Valeriya Reva, Lavrov: Russia Likely To Acknowledge Results of Election Called By Self-Proclaimed Donetsk, Luhansk People’s Republics For November 2, UKRAINIAN NEWS, Oct. 28, 2014; Ukraine Crisis: Russia to Recognize Rebel Vote In Donetsk and Luhansk, BBC NEWS EUROPE, Oct. 28, 2014.


\textsuperscript{277} Christopher Harress, ‘Russian’ Troops Surge Into Ukraine As Donetsk and Luhansk Elections Reveal Winners, INTERNATIONAL BUSINESS TIMES, Nov. 3, 2014.

\textsuperscript{278} Sergei L. Loiko & Carol J. Williams, Cease-fire Takes Effect in Ukraine: Amid Skepticism, Government Fighters Hold Fire Against Pro-Russia Militants, L.A.TIMES, Sept. 6, 2014; Carlotta Gall & Neil MacFarquhar, In Uneasy Cease-fire, Ukrainians Look Warily at Russia; Many Skeptical of Negotiating With Separatists, BOSTON GLOBE, Sept. 7, 2014.
once again, including the area around Mariupol. Fighting continued intermittently for much of the fall and winter, 2014. A second cease-fire was agreed to in February, 2015, but that agreement has similarly had little luck in curbing the combat.

As I write this Article, in mid-March, 2015, skirmishing is even now taking place once again in and around Mariupol. There is little doubt that Putin means to take the city. It is possible, however, that his ambitions reach beyond the establishment of a land corridor to Crimea and aims at the destruction of western Ukraine as a functioning nation: “Putin’s main goal

279. The cease-fire in fact had begun to break down within days of its being signed. See Jim Heintz & Laura Mills, Blasts Reported In Ukraine Amid Cease-fire: Leaders Talk, Each Accusing the Other Nation of Violations, STAR-LEDGER (Newark, NJ), Sept. 7, 2014; Gareth Jones & Aleksander Vasovic, Artillery Attack Challenges Cease-Fire in East Ukraine, PITTSBURGH POST-GAZETTE, Sept. 7, 2014; Cathy Young, Don’t Reward Russian Aggression: A Cease-Fire Gives Ukraine aBreather, But Bigger Issue Is How To Keep Putin At Bay, NEWSDAY, Sept. 9, 2014; Gareth Jones & Anton Zverev, Ukraine’s Prime Minister Slams Putin; Cease-Fire Under Strain, WASHINGTON POST, Sept. 14, 2014; and Robert Burns, Breedlove: Ukraine Has a Cease-Fire ‘In Name Only,’ MILITARY TIMES, Sept. 20, 2014 (General Philip Breedlove is Supreme Allied Commander Europe and the commanding officer of NATO).


284. Ukraine Fighting Shifts To Mariupol Whose Capture Would Grant Russian Land Corridor to Crimea, ZERO HEDGE, Feb. 19, 2015; Alec Luhn, Mariupol Next In the Sights of Pro-Russia Rebels In Eastern Ukraine, THE GUARDIAN, Feb. 25, 2015; Ceasefire Holds in Eastern Ukraine Except For Mariupol Region, EURONEWS, February 27, 2015.

is not Debaltseve, Donetsk airport, or even Mariupol. They would like to destroy Ukraine from the inside using military, economic, and political pressure on the Ukrainian government,' Pavel Felgenhauer, an independent Russian military analyst told the Kyiv Post.\textsuperscript{286}

The war to date has had its share of atrocities. Ukraine has been accused of using cluster munitions both last summer and more recently this winter.\textsuperscript{287} While this is an unquestionably serious offense against the laws of war, the most outrageous atrocity, without doubt has been the shooting down of Malaysian Airlines Flight 17 on July 17, 2014.\textsuperscript{288} The plane was brought down, it seems, by Russian separatists making use of a sophisticated, Russian-supplied surface-to-air missile system, known as the Buk.\textsuperscript{289}

Regarding Russian responsibility for the war against Ukraine, Vladimir Putin has conducted a campaign of dissembling and disinformation.\textsuperscript{290} That campaign has been expertly countered by the United States Department of State.\textsuperscript{291} In testimony before the House Armed Services Committee, General

\begin{itemize}
\item \textsuperscript{286} Alyona Zhuk & Olena Goncharova, Ukraine’s Donbas Is Not Enough For Putin, KYIV POST, Mar. 12, 2015.
\item \textsuperscript{287} Allegations were made concerning the use of cluster munitions in the battles for Donetsk and Luhansk. See Ukraine: Widespread Use of Cluster Munitions, HUMAN RIGHTS WATCH, Oct. 20, 2014; Ukraine Crisis: Army Accused Of Using Cluster Bombs, BBC NEWS EUROPE, Oct. 21, 2014. Doubts were cast on these allegations. See Doubts Arise Over HRW Cluster Bomb Report In Ukraine, DEUTSCHE WELLE WORLD, Oct. 23, 2014. Fresh accusations have been made about the use of cluster munitions in Luhansk in late January, 2015. See Mark Hiznay, Dispatches: More Cluster Munition Use In Ukraine, HUMAN RIGHTS WATCH, Feb. 4, 2015; and Carol J. Williams, Cluster Bombs Reported In Ukraine Conflict as U.S. Rethinks Lethal Aid, L.A. TIMES, Feb. 4, 2015.
\item \textsuperscript{291} See, for instance, Russian Fiction the Sequel: 10 More False Claims About Ukraine, Fact Sheet, U.S. Department of State, Apr. 13, 2014; Evidence of Russian Support For Destabilization
Philip Breedlove Supreme Commander of NATO forces, described Russian aggression against Ukraine as part of a larger strategy of threat and intimidation. General Breedlove has also indicated that the scope of Russia's military resupply effort has been large: “Over 1,000 pieces of Russian military equipment including tanks, armored personnel carriers, heavy artillery pieces, and other military vehicles have already crossed the Ukrainian border.” Lt. General Ben Hodge, Commander of the U.S. Army in Europe, has estimated that Russia has 12,000 troops operating inside Ukraine.

It was left to Victoria Nuland, Assistant Secretary of State for European and Eurasian Affairs, to describe and denounce the scope of Russian aggression: “In eastern Ukraine, Russia and its separatist puppets unleashed unspeakable violence and pillage. This manufactured conflict—controlled by the Kremlin, fueled by Russian tanks and heavy weapons, financed at Russian taxpayers’ expense—has cost the lives of more than 6,000 Ukrainians but also of hundreds of young Russians sent to fight and die there by the Kremlin in a war their government denies.”

C. Dreams of a Greater Russia

Vladimir Putin may be an opportunistic adventurer, he may pounce when he senses vulnerability, but he is not inscrutable. He has given the world a roadmap of sorts by which to understand his ambitions. He has declared it his intention to revive Russian imperial pretensions. He wants to recreate the lost world of “Greater Russia.”


292. Statement of General Philip Breedlove, House Armed Services Committee, Feb. 25, 2015, p. 5 (“Russia views Ukraine as part of its sphere of influence, regardless of the views of the Ukrainian people. . . . Russia’s aggressive actions in Ukraine are the most current manifestation in a pattern of continuing behavior to coerce its neighbors in Central and Eastern Europe”). Id.


294. Mark Urban, How Many Russians Are Fighting Inside Ukraine, BBC NEWS EUROPE, Mar. 9, 2015. Urban indicates that a private analyst, Dr. Igor Sutyagin, has estimated that up to 90,000 Russian troops have been used in Ukraine, Crimea, or in their vicinity. Id.


296. Aurel Braun, Putin's Dangerous Misadventure: 'Greater Russia' or a 'Great Russia'? GLOBE & MAIL (Toronto), March 2, 2014; and John Cassidy, Is Vladimir Putin a Rational Actor? THE NEW YORKER, Apr. 28, 2014 (“Putin is a nationalist through and through, and, historically, an important part of Russian nationalism has been expansionism”). Id.
To speak of “Greater Russia” is to revive an imperialist ideology long thought dormant if not dead. The czars saw themselves as the inheritors of the universal civilizing mission of ancient Rome.297 Moscow, after all, it was said was the “Third Rome,” the first two having been the Rome of the Caesars and the second its eastern successor the Byzantine Empire.298 If the czars were moved by self-interest to expand across the vastness of the Eurasian landmass,299 they were also fueled by intense feelings of messianism and millenarianism.300 They were bringing light to the heathen and hastening the onset of a utopian golden age.301 The Soviets merely expropriated these ideas on empire in those decades from the 1920s to the 1980s.302

This set of ideas must serve as background to a series of speeches Vladimir Putin delivered in the nine years between 2005 and 2014. Ten years ago, Putin addressed the Russian Federal Assembly.303 He said many praiseworthy things. He declared that Russia must “become a free society of free people.”304 He denounced the inefficient rule of a corrupted bureaucracy and pledged to do better.305 He wished to see law reform sufficient to guarantee a stable “right to private property” and a free and fair

299. Where they encountered the British in what was called the “Great Game.” See David Fromkin, The Great Game in Asia, 58 FOREIGN AFF 936–51 (Spring, 1980). (a brisk history of British-Russian rivalry across the Eurasian landmass).
304. Id. at 2.
305. Id. at 4.
The sorts of bromides one might hear at any presidential State of the Union address. But then he declared: “Above all, we should acknowledge that the collapse of the Soviet Union was a major geopolitical disaster of the century. As for the Russian nation, it became a genuine drama. Tens of millions of our co-citizens and compatriots found themselves outside of Russian territory.”

What did he mean by this? The press thought it knew. Some understood the speech as a sign of evident or imminent Russian collapse. Others saw it as nostalgia, a disturbing reminiscence about a dark time in the Russian collective psyche, but not something that had great relevance for contemporary politics. Yet others struck a cautiously upbeat note—yes, the passages on the Soviet Union were horrible, but look at Putin’s endorsement of economic freedom.

But there were a few who perceived in it a threat to the present order. Andrew Kuchins almost clairvoyantly declared that the speech reflected an “anachronistic” concept of geopolitics and cautioned Putin: “I would . . . advise him, presumptuous as that may be, to clarify that geopolitics is an out-dated, inappropriate, and even dangerous framework for the formulation of foreign policy in the twenty-first century.”

Kuchins’ prescience has proven dead-on accurate. Putin has revealed himself over the past decade as an unrelenting expansionist and restorationist. He wants not only to protect and preserve Russian borders, but to add territory in sometimes novel and creative ways. Thus in 2007, a team of “50 Russian scientists . . . discovered that an underwater ridge

306. Id. at 5.
307. Id. at 2.
311. Back in the U.S.S.R., BALT. SUN, Apr. 26, 2005; and Helen Womack, President Fails to Persuade, SYDNEY MORNING HERALD, Apr. 30, 2005; and Mr. Putin’s Verdict, WASH. POST, Apr. 27, 2005; and Anne Applebaum, Avoid a Celebration of Stalinism, STAR-LEDGER (NEWARK, NJ), May 2, 2005; and Russia’s Dangerous Fantasy, STAR-LEDGER (NEWARK, NJ), May 5, 2005.
312. Andrew Kuchins, Europe’s Last Geopolitician, CARNEGIE ENDOWMENT FOR INT’L PEACE, May 9, 2005.
called the Lomonosov ridge directly links Russia’s Arctic coast to the North Pole. Putin immediately claimed the ridge and the ocean waters surrounding it as Russian sovereign territory.

Some in the West saw the humorous side to this claim. Others complained about both the quaintness and the threat implicit in it: ‘This isn’t the fifteenth century,’ Canadian Foreign Minister Peter MacKay told the CTV channel. ‘You can’t go around the world and just plant flags and say, ‘We’re claiming this territory.’’ Putin’s Russia, however, is undeterred. Thus we learn, in November, 2014: “Russia is rapidly building up its military forces in the Arctic in an effort to secure its claims in the frigid region.”

Putin’s 2005 speech, and the relentless thirst for expansion which the Lomonosov Ridge claim reveals, helps put in perspective the danger inherent in three addresses Putin delivered in 2014, one in March, following the Crimean annexation, and the second and third at the time of the annual Russian Victory Day celebrations in May.

Crimea, Putin asserted, was ancestrally Russian. It was transferred to Ukraine by the Bolsheviks “like a sack of potatoes,” but now the people of Crimea have spoken and chosen to return home. Putin pledged to

315. Thus Carl Bildt took a sanguine view: [F]or the time being, neither Santa Claus, nor anyone else, has reason to be worried. The nature of the Lomonosov Ridge will be debated for years to come, while his thoughts—and ours—are likely to be focused on more immediate issues. Carl Bildt, *The Battle for Santa Claus’s Home*, **PROJECT SYNDICATE**, Dec. 24, 2014; and Brett Snider, *Which Country Owns the North Pole, Eh?*, **LEGAL GROUNDS**, Dec. 11, 2013 (stating that it may take as long as twenty years for the United Nations to verify the science and in the meantime “Santa may have as good a claim as anyone”).
318. “Everything in Crimea speaks of our shared history and pride. This is the location of ancient Khersones, where Prince Vladimir was baptised. His spiritual feat of adopting Orthodoxy predetermined the overall basis of the culture, civilisation, and human values that unite the peoples of Russia, Ukraine, and Belarus…. In people’s hearts and minds, Crimea has always been an inseparable part of Russia.” Vladimir Putin, *Address by the President of the Russian Federation* (Mar. 18, 2014), http://eng.kremlin.ru/transcripts6889.
319. Id.
320. The Crimean people, Putin said, were given “for the first time in history” the ability to “peacefully express their free will regarding their own future.” Id.
defend the interests of native Russians wherever they lived, whether in Crimea or in Ukraine.  

He then turned belligerent. The so-called “color” revolutions were exploited by outside forces who acted against Russian interests. There are powerful forces conspiring against “Eurasian integration.” Containment, he warned the West, was a failed policy. “They are constantly trying to sweep us into a corner because we have an independent position, because we maintain it, and because we call things as they are and do not engage in hypocrisy. But there is a limit to everything.”

This speech has been understood by commentators as a statement of policy. Putin called into question the legitimacy of Ukraine’s separate national existence, raised questions about the independence of other former territories of the Soviet Union such as Kazakhstan and Moldova, and challenged the West’s, especially America’s role in the region.

Six weeks later, on May 9, Victory Day, the annual Russian celebration of victory over Nazism, Putin delivered not one but two speeches, one in Moscow, the other in Sevastopol, the port in Crimea that is home to Russia’s Black Sea fleet. Thousands of troops marched in Moscow’s parade, together with “about 150 items of military hardware.” There, Putin spoke of an “all-conquering patriotic force” and celebrated the “iron will of the Soviet people, their fearlessness and stamina” in triumphing over Nazi aggression.

Putin then headed South, to Sevastopol. He toured the Black Sea Fleet

---

321. Id.
322. Id.
323. Id. Later that day, Putin addressed a rally in Moscow entitled “We are Together!” He declared: “After a long, hard, and exhausting voyage, Crimea and Sevastopol are returning to their harbour, to their native shores, to their home port, to Russia!” Meeting in Support of Crimea’s Accession to the Russian Federation, ‘We are Together!’ http://eng.kremlin.ru/transcript/6892, Mar. 18, 2014.
325. Id. (“His starting premise is the denial of Ukrainian nationhood in its own right”). Id.
326. Id.
327. Paul D. Shinkman, Putin Slams U.S. Perceived ‘Exceptionalism’ in Crimea Speech, U.S. NEWS, Mar. 18, 2014; and Fred Weir, With a Speech and a Pen Stroke, Putin Takes Over Crimea, CHRISTIAN SCI. MONITOR, Mar. 18, 2014 (“[T]he result will not be accepted in the European Union and the US—and could bring a redefining of their relations with Russia. They call the Crimean referendum illegitimate and view Russia’s annexation of the territory as a dangerous precedent, since no major international player has bitten off and swallowed a piece of another country in the twenty-first century. Until now.”) Id.
329. Id.
by boat “while watching a flyby of 70 military aircraft.”331 “There were warships . . . and Soviet marching music. Crimea is Russia, the victor is Putin, was the message.”332

This steady ideological message, then, must serve as backdrop for the steady provocations and threats Putin has aimed at his neighbors. The record is long and goes back years. I shall be selective, and focus on only a few threats made within the last year or so.

Putin’s rapid annexation of Crimea and his expressed readiness to defend ethnic Russians wherever they might be found set off alarm bells in the Baltic States of Lithuania, Estonia, and Latvia. Estonia and Latvia each have Russian-speaking minorities that comprise somewhere between a fifth and a fourth of the entire population.333 (Lithuania, on the other hand, has an ethnic Russian population of between five and ten percent). 334

Each of these nations have a long history as well of being bullied and conquered by Russia. Estonia, Latvia, and Lithuania were all independent republics in the years between World War I and World War II but were swallowed up by the Soviet Union in accord with the secret pact made between Adolf Hitler and Joseph Stalin.335

Each of these nations also have a recent history of treating their Russian minorities shabbily.336 Latvian voters have rejected calls to make Russian a second language,337 while many ethnic Russians in Estonia are not


332. Commentary: Victory Party in the Midst of War, Deutsche Welle World, May 9, 2014; and John Batchelor, Putin Makes His Case for Greater Russia: While the US and EU Dither, Moscow Pushes Its Advantages, Al Jazeera Eng., May 13, 2014 (reviewing the disarray of European and American responses to this show of force); and Neil MacFarquhar, From Crimea, Putin Trumpets Mother Russia, N.Y. Times, May 9, 2014 (noting that the Secretary General of NATO, Anders Fogh Rasmussen “condemned Mr. Putin’s visit as ‘inappropriate’”). Id.


334. In 1993, the ethnic Russian population of Lithuania was estimated at 8.5 percent of the total. Kevin O’Connor, The History of the Baltic States 177 (Greenwood 2003).


automatically given citizenship even if born there and must apply as adults. Lithuania, on the other hand, has been relatively accommodating towards its Russian minority, perhaps because of its greater ethnic homogeneity.

In the spring of 2014, a spreading fear engulfed the Baltic states as the realization dawned that Putin had a strong pretext for invading these nations. Vladimir Putin played on these fears when he let it be known that he could easily conquer them: “If I wanted,” he is reported to have boasted, “Russian troops could not only be in Kiev in two days, but in Riga, Vilnius, Tallinn, Warsaw, or Bucharest too.” Riga, Vilnius, and Tallinn are the capitals respectively of Latvia, Lithuania, and Estonia. Early on, it was understood that Putin might also deliver a lethal blow to NATO by means of an attack on the Baltic States.

This realization has grown even more vivid in the months of February and March, 2015. Valdis Dombrovskis, Vice President of the European Commission and a former prime minister of Latvia declared in February, 2015, that “Russia’s aggression against Ukraine is very worrying for the Baltic states... It shows that Russia is looking to redraw Europe’s twenty-first century borders by force.” Linas Linkevicius, the Lithuanian foreign minister, echoed these concerns: “Russia is behaving aggressively now as we speak... I really do see threats to all countries... If we fail to

---


341. Justin Huggler, Putin Privately Threatened to Invade Poland, Romania, and the Baltic States, TELEGRAPH ONLINE, Sept. 18, 2014; and Putin Said He Could Invade Five Capitals, DAILY MAIL (UK), Sept. 19, 2014 (“Shockwaves reverberated through Eastern Europe last night after Vladimir Putin allegedly claimed that he could invade five NATO capitals in only two days”). Id.

342. Jason Pack & Brendan Simms, Europe’s Wake-Up Call: Two British Foreign Policy Experts Argue that Only a Truly Integrated State Can Withstand a Resurgent Russia, NAT’L POST, Mar. 31, 2014; This Is Not a Game Theory, FREE EXCHANGE (THE ECONOMIST), Apr. 15, 2014; and Spiegel: NATO Unprepared if Russia Moved into Baltic Members, DEUTSCHE WELLE EUR., May 18, 2014.


react properly to what’s happening in Ukraine, there will be a big temptation . . . to further instigate situations elsewhere.”

It was British Defence Secretary Michael Fallon who spoke out most strongly on this fear. On February 19, 2015, he compared Vladimir Putin to the Islamic State, pronouncing him just as big a threat to world order as that terrorist organization. He added that there was a “real and present danger” that Putin could commence attacks soon. Russia responded by buzzing the coast of Cornwall with strategic bombers. The Russian Foreign Ministry denounced Fallon’s words as a “breach of diplomatic ethics” and promised that “Russia will find an appropriate response.”

The Baltic States are not alone. Putin has threatened other neighbors as well. Kazakhstan is home to significant numbers of ethnic Russians who form a distinct and discriminated-against community. The Baikonur Cosmodrome, still a major hub in the Russian space program, is located there. And the Kazakh President, Nursultan Nazarbayev, is in his mid-seventies and without any clear successor.

Putin’s invasion of Ukraine caused panic in Kazakhstan, especially when he spoke in the spring of 2014 of “Eurasian integration.” In speaking to a Russian audience in late August, 2014, Putin declared that historically there had never been a Kazakh state, but associated its present success with the aging Nazarbayev. The on-going survival of Kazakhstan was, the implication was clear, tied to the continued good health of a septuagenarian ruler and that was about all. He went on to praise the

345. Id.
346. Id.
347. Mary Gearin, British Defence Secretary Likens Putin’s Russia to Islamic State, AM/ABC.NET.AU, Feb. 19, 2015.
importance of "Eurasian idea" and suggested that Kazakhs remain on their best behavior. The threat was not well received by Kazakhs.

Even Finland has not been immune from Putin’s belligerence and his threats. Finland was occupied by Russia for much of the nineteenth century. Finland gained independence from Russia following World War I, although Joseph Stalin invaded it from the East on the eve of World War II. Much of the Karelian Peninsula, which has strong ancestral ties to Finland, remains under the control of Russia today. During the Cold War, Finland prudently remained neutral, but relations with its large neighbor have often been tense.

Within the last several years, Putin has increased Finnish tensions considerably. As early as 2012, Putin threatened that Finnish sovereignty might be at an end of Finland should join NATO. At the end of March, 2014, Russia conducted war games on the Finnish border “involving more than 50 fighter pilots.” At the same time, a former Putin advisor mused that Putin might have an interest in an armed invasion of Finland. The

---

356. Id.
357. Ian Traynor, Kazakhstan Is Latest Russian Neighbour to Feel Putin’s Chilly Nationalist Rhetoric, GUARDIAN, Sept. 1, 2014.
358. Thus a Kazakh blogger wrote: “This, then, is the thanks Kazakhstan receives for remaining close to Russia over the past six months, and over the past two decades. Veiled threats about succession issues, and a reminder of the lack of Kazakhstan’s lack of historical legitimacy—with dark hints about a nationalistic threat that doesn’t exist, but could very well turn self-fulfilling,” Registan.net, Sept. 12, 2014. Cf., Kazakh Pundit Says Russia’s ‘New-Imperialist Rhetoric’ ‘Unacceptable’, BBC INTERNATIONAL REPORTS, Sept. 27, 2014 (Rasul Zhumaly declared that the attack on Ukraine “has given rise to anti-Russian sentiment in Kazakhstan”); Stephen Scourfield, Music of the Steppes, WEST AUSTRALIAN, Jan. 31, 2015 (“A well-educated young Kazakh tells me quite simply: ‘We don’t want to join the Russian Union.’”). Id.
359. For most of this period, 1809–1917, Finland was constitutionally termed the “Grand Duchy of Finland” and enjoyed substantial authority both politically and economically. For a history of this period, see JUHANI PAASIVIRTA, FINLAND AND EUROPE: THE PERIOD OF AUTONOMY AND THE INTERNATIONAL CRISIS, 1808–1914 (1981).
Russians allowed that news to circulate unrefuted in the Western press.\textsuperscript{367} Then in the summer of 2014, Putin invited the President of Finland to meet with him.\textsuperscript{368} Finland’s President promised that he would try to be helpful in bringing the Ukrainian crisis to a peaceful resolution\textsuperscript{369} while Putin reminded him that the Finnish economy was at risk because of its participation in EU sanctions against Russia.\textsuperscript{370} And in the fall of 2014, the military provocations resumed, with numerous “naval and airspace incursions” involving Finnish and Swedish territory.\textsuperscript{371}

Over the course of 2014, former Andrei Illarionov, who once served as an economist in the Putin administration but today has an appointment as a Senior Fellow at the Cato Institute, described Putin’s plans as amounting to a restoration of Greater Russia: ‘Putin’s view is that he protects what belongs to him and his predecessors.... Parts of Georgia, Ukraine, Belarus, the Baltic States, and Finland are states where Putin claims to have ownership.’\textsuperscript{372} Putin’s Deputy Prime Minister and former Russian Ambassador to NATO, Dmitry Rogozin, even proposed that the Russian sale of Alaska was invalid and that Alaska rightly belonged to Russia.\textsuperscript{373}

Talk about Alaska, of course, is meant as a sideshow, a little bit of burlesque in the midst of a serious crisis. Putin’s real goal, it is now clear, is the destruction of NATO.\textsuperscript{374} This objective became evident in the fall of

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
\end{flushleft}

\begin{flushleft}
374. \textit{Battle of the Bands: NATO vs. Putin: It’s Good to See the U.S.-European Defense
2014, as it became obvious Putin had serious designs on the Baltic States. The Baltic States are NATO’s most inviting targets. In Estonia, especially, there is a restive ethnic Russian minority, alienated from the mainstream of Estonian life, who might find reunification with Russia attractive. There is every reason to believe that this weakness will be exploited in the coming months. Article 5 of the NATO Charter declares that an attack against one member constitutes an attack against all and calls on all members to engage in common defense. If NATO does not rise to the challenge, it is finished as an effective defensive alliance and Putin would have a free hand to pursue his objectives across Europe. It is significant, therefore, that at end of 2014, Putin revised Russian military doctrine to declare NATO Russia’s principal enemy.


378. Anders Fogh Rasmussen, the former Secretary-General of NATO, has stated that he expects Putin to launch a “hybrid war” against Estonia in the coming months, involving provocateurs, insurgents, and the strategic use of protests and civic unrest, rising eventually to the level of armed conflict. Ambrose Evans-Pritchard, Putin Could Attack Baltic States Warns Former NATO Chief, TELEGRAPH, Feb. 5, 2015; Ian Traynor, Fear of Vladimir Putin Grows in EU Capitals Amid Speculation of Total War, GUARDIAN, Feb. 6, 2015; Dominic Sandbrook, Warmongering Putin, a Feeble West, and Chilling Echoes of the 1930s, DAILY MAIL, Feb. 11, 2015.


There are those who say that Vladimir Putin is inscrutable, unpredictable, erratic. These descriptions in fact seem meant to be somehow reassuring about Putin: his behavior is due to some temporary fit of weirdness and he will soon return to his senses.

In fact, Putin’s intentions are transparently clear. He has spent a decade-and-a-half building a domestic culture of terror. He has used all the tools of the assassin—bullets, poison, even radiation—to deal death to his enemies. He first began to export this culture of terror abroad in 2005 with the poisoning of Ukrainian presidential candidate Viktor Yushchenko and then with his seizure of Georgian territory in 2008.

His recent behavior is merely part of the same logical trajectory. His appetite for conquest is reinforced by mystical ideas of “Greater Russia.” What was Russia’s, will be Russia’s again, this motto seems to be his guiding light.

There is yet one more feature of Putin’s culture of terror that must be explored, and that is the most frightening element of all—his threat to make use of nuclear weapons to have his way.

IV. VLADIMIR PUTIN AND THE NUCLEAR TRIGGER

In the early 1990s, at the close of the Cold War, the greatest nuclear worry emanating from Russia was the fear of “loose nukes”—the possibility that poorly-protected nuclear arsenals, either in Russia or in the neighboring states of Ukraine, Kazakhstan, and Belarus—might be diverted.381 The fear, and it was a strong one, was that a separatist movement, or a terrorist gang, or organized crime might use bribery or other foul means to obtain nuclear material it could then use for illicit purposes.382

The “loose nuke” crisis and its resolution reflected a period of unprecedented Russian-American cooperation on the management of Russia’s nuclear arsenal.383 Funds were allocated by the American Congress to help support safety and arms-reduction goals in Russia, and in actual


fact, the program seems to have performed its essential tasks well.\textsuperscript{384} It seems that no nuclear material was diverted. Certainly, no nuclear material was ever used in act of terror or belligerence anywhere in the world.\textsuperscript{385}

On the question of nuclear doctrine itself, in 1987, Mikhail Gorbachev revised Soviet military policy to direct it towards the prevention of war.\textsuperscript{386} A principal goal of the new Soviet doctrine was the reduction of “the threat image perceived by the other side.”\textsuperscript{387} In 1985, Gorbachev and President Ronald Reagan “jointly affirmed that ‘a nuclear war cannot be won and must never be fought.’”\textsuperscript{388}

Russian nuclear doctrine did not vary greatly from this principle for much of the 1990s.\textsuperscript{389} By the end of 1999, however, with Vladimir Putin the rising power in the Kremlin, shifts were becoming discernible. Instead of viewing nuclear weapons as a last resort where national survival was at stake,\textsuperscript{390} nuclear doctrine was revised to reserve to Russia “[t]he use of all


\textsuperscript{386} An assessment of the successes of this program can be found in \textit{JASON D. ELLIS}, \textit{DEFENSE BY OTHER MEANS: THE POLITICS OF U.S.-N.I.S. THREAT REDUCTION AND NUCLEAR SECURITY COOPERATION} 162–177 (2001).


\textsuperscript{387} Id. at 206.

\textsuperscript{388} \textit{THOMAS M. NICHOLS, NO USE: NUCLEAR WEAPONS AND U.S. NATIONAL SECURITY} 41 (2014). Cf., Peter Zwick, \textit{New Thinking and New Foreign Policy Under Gorbachev}, PS: \textit{POLITICAL SCIENCE AND POLITICS QUARTERLY} (1989), at 215–217 (“There is,][Gorbachev] said, ‘evil inherent in the ideology and policy of nuclear deterrence,’ because ‘deterrence is a policy of blackmail and threats. . . . The logic of deterrence, i.e., the building and upgrading of weaponry, means, subordination of politics to the interests of militarism’”). \textit{Id.} (Quoting Mikhail Gorbachev).

\textsuperscript{389} In October, 1993, in a concession to hard-liners following the violent suppression of a coup attempt, Boris Yeltsin promised that he “would . . . rescind the unilateral ‘no first use’ nuclear weapons pledge from the Gorbachev era.” \textit{HALL GARDNER}, \textit{NATO EXPANSION AND U.S. STRATEGY IN ASIA: SURMOUNTING THE GLOBAL CRISIS} 39 (2013).

\textsuperscript{390} Nuclear doctrine in the last years of Boris Yeltsin can be charitably described as somewhat confused. In 1997, Yeltsin revised doctrine once again to permit the first use of nuclear weapons where the survival of Russia was at stake. David Hoffman, \textit{Yeltsin Approves Doctrine of Nuclear First Use If Attacked}, \textit{WASHINGTON POST}, May 10, 1997. At the same time, he proposed that Russia would no longer target NATO countries. Ann Scales, \textit{NATO, Russia Sign Pact With a Flourish Yeltsin Reveals Nuclear Weapons No Longer Target Treaty Members}, \textit{ROCKY MOUNTAIN NEWS}, May 28, 1997. Two years later, in 1999, Yeltsin in a moment of bluster threatened an upgrading of nuclear readiness when upset over NATO’s intervention in Kosovo. \textit{Yeltsin: Don’t Push Us Towards Military Action}, \textit{GUARDIAN}, Apr. 9, 1999. His generals denied the issuance of any such order.
forces and means at its disposal, including nuclear weapons, in case [Russia] needs to repel an armed aggression, if all other measures of resolving the crisis situation have been exhausted or proved ineffective."  

Commentators immediately noticed that the revised doctrine struck a far different nuclear posture from the Gorbachev/Yeltsin policy. Nikolai Sokov wrote that Putin’s doctrine now “allowed for the use of nuclear weapons as a deterrence to smaller-scale wars that do not necessarily threaten Russia’s existence and sovereignty.” Ian Traynor found something else to worry about in the Putin’s new pronouncement: He had in another part of his statement “unequivocally declar[ed] the West a hostile power that must be resisted.”

Furthermore, even while he said he would not increase his nuclear arsenal, Putin promised from his first days in office to modernize and upgrade it. And as if to underscore his altered focus, in 2001 Putin moved tactical nuclear weapons to Kaliningrad, the former East Prussian city of Königsberg, now a small Russian enclave set among the Baltic States and geographically separated from Russia proper.

In the years since, Putin has taken steps to build a nuclear arsenal with what is known as intermediate force capability. At law, there is an obstacle to such development. In 1987, Ronald Reagan and Mikhail Gorbachev agreed to the Intermediate Range Nuclear Forces Treaty, which called for the elimination of cruise missiles and ground-launched inter-continental ballistic missiles with a range between 500 and 5,500 kilometers (300 to 3,400 miles). In February, 2007, Putin indicated a desire to withdraw

393. Sokov, supra note 391.
397. LISA A. BAGLIONE, TO AGREE OR NOT TO AGREE: LEADERSHIP, BARGAINING, AND ARMS CONTROL, 85–110 (1999);
398. The Treaty’s text, terms, and an analysis of its provisions can be found in THOMAS GRAHAM, JR., & DAMIEN J. LAVIURA, CORNERSTONES OF SECURITY: ARMS CONTROL TREATIES IN THE NUCLEAR ERA 512–591 (2002).
from the Treaty.\textsuperscript{399} The Americans, he said, had taken actions inconsistent with its obligations by proposing to construct a missile defense in Eastern Europe\textsuperscript{400} and there was additionally a need to deter growing Chinese nuclear capability.\textsuperscript{401}

Putin did not formally withdraw from the intermediate forces treaty,\textsuperscript{402} although the evidence is compelling that he has now developed a modern and sophisticated arsenal of intermediate-range nuclear weapons. It was alleged in a letter to the Russian government in the summer of 2014 that as far back as 2008, Russia began testing “a prohibited ground-launched cruise missile.”\textsuperscript{403} Without providing supporting documentation, the United States Department of State subsequently declared categorically that “the Russian Federation is in violation of its obligations under the INF Treaty not to possess, produce, or flight-test a ground-launched cruise missile [within the prohibited range].”\textsuperscript{404}

There has been substantial speculation as to the types of missiles Putin has been testing.\textsuperscript{405} Some have suggested that the Russians might have modified the R-500 short-range cruise missile to a range that now falls within the Treaty’s prohibition.\textsuperscript{406} Others have guessed that Russia has modified a sea-launched cruise missile for land-based deployment.\textsuperscript{407} In

\begin{itemize}
\item \textsuperscript{399} Celeste A. Wallender, \textit{Russia: The Domestic Sources of a Less-Than-Grand-Strategy}, in \textit{DOMESTIC POLITICAL CHANGE AND GRAND STRATEGY} 139, 171 (Ashley J. Tellis \& Michael Wills eds., 2007).
\item \textsuperscript{400} In a speech delivered in Münich on Feb. 10, 2007, Putin denounced the proposed American missile shield in Eastern Europe as evidence of an American desire for global domination. “‘[T]he unipolar model is not only unacceptable but also impossible in today’s world.’” Debidatta Aurobinda Mahapatra, \textit{Russian Concerns on US Anti-Missile Shield, ECONOMIC AND POLITICAL WEEKLY,} 42, at 3698 (2007)(quoting Vladimir Putin). For sympathetic analyses of Putin’s position as articulated in 2007, consult Simon Jenkins, \textit{The West May Yet Come to Regret Its Bullying of Russia, GUARDIAN,} Feb. 21, 2007; and Ian Pryde, \textit{Russia and the West—Polar Opposites or Two Sides of the Same Coin? ORGANIZATION OF ASIA PACIFIC NEWS AGENCIES,} Mar. 10, 2007. For a negative Russian appraisal of Putin’s aims, see Alexei Arbatov, \textit{An Unnecessary and Dangerous Step: The Negative Consequences of Withdrawing From the INF Treaty, DEFENSE AND SECURITY,} Mar. 7, 2007.
\item \textsuperscript{401} See Wallender, supra note 399 at 171.
\item \textsuperscript{402} On the other hand, in July, 2007, Putin’s government did announce “its intention to suspend its obligations under the 1990 Treaty reducing conventional armaments in Europe.” MICHAEL KREPON, BETTER SAFE THAN SORRY: THE IRONIES OF LIVING WITH THE BOMB 153 (2009).
\item \textsuperscript{403} Michael R. Gordon, \textit{U.S. Says Russia Tested Cruise Missile, Violating Treaty, N.Y. TIMES,} July 28, 2014.
\item \textsuperscript{404} United States Department of State, \textit{ADHERENCE TO AND COMPLIANCE WITH ARMS CONTROL, NONPROLIFERATION, AND DISARMAMENT AGREEMENTS AND COMMITMENTS} 8 (July, 2014).
\item \textsuperscript{405} Jeffrey Lewis, \textit{The Problem With Russia’s Missiles, FOREIGN POLICY,} July 29, 2014.
\item \textsuperscript{406} Id. C\textit{f,} Alec Luhn, \textit{Moscow Violated Cold War Nuclear Treaty With R-500 Missile Test, Says US, THE GUARDIAN,} July 30, 2014.
\item \textsuperscript{407} Amy F. Woolf, \textit{RUSSIAN COMPLIANCE WITH THE INTERMEDIATE RANGE NUCLEAR}
\end{itemize}
response to the Department of State’s allegations, Russia threatened to withdraw from the Treaty.408

In September, 2014, Vladimir Putin issued a series of more direct challenges. He reminded the world that “Russia is one of the most powerful nuclear nations. This is a reality, not just words.”409 He test-fired an intercontinental ballistic missile.410 And he declared that Russia is, indeed, working on new generation of “nuclear and conventional weapons.”411

This brings us to the question of the uses to which a modified and updated nuclear missile force might be put. While there are those who suggest that Russia’s actions should be seen as essentially defensive in character,412 Vladimir Putin’s conduct and threats since 2008, however, are inconsistent with a benign interpretation of intentions.

In February of 2008, as Ukraine deliberated whether to seek NATO membership or to be included under the proposed American missile shield, Vladimir Putin issued a series of provocative nuclear threats.413 Using street slang,414 he promised to target Ukraine and other unspecified locations in Europe should Ukraine dare to take these steps.415 For good measure, he buzzed the American Pacific fleet with a strategic bomber.416

410. Mary Gearin, Putin Fires Nuclear Missile: Russia’s President Vladimir Putin Test-Fired an Intercontinental Nuclear Missile Overnight, WORLD TODAY, Sept. 11, 2014.
411. Vladimir Isachenkov, Putin: Russia Developing New Nuclear, Conventional Weapons in Response to Moves By U.S., NATO, CANADIAN PRESS, Sept. 10, 2014. Cf., Putin Takes Control of Russia’s Defence Industries and Calls For New Weapons, EURONEWS, Sept. 10, 2014 (“President Putin . . . has personally taken command of Russia’s defence industries and is calling for new weapons”), id; Russian Rearmament Grows, AVIATION WEEK AND SPACE TECHNOLOGY, Sept. 15, 2014 (Russia “is planning its next long-range rearmament effort through 2025, focusing on nuclear rearmament and long-range aviation platforms”). Id.

412. STEPHEN J. CIMBALA, THE NEW NUCLEAR DISORDER: CHALLENGES TO DETERRENT AND STRATEGY 45 (2015) (“The sensitivity in Russia toward NATO or US actions in their former Soviet space is not only political or military but it is based on the hard facts of geography. . . . Russia [is capable of noticing] that NATO’s air-land conventional deep-strike options are . . . impressive relative to Russia’s ability to trade space for time”). Id.
414. Russian President Putin Goes Ballistic Against the West: Threatens to Point Missiles at West, VANCOUVER PROVINCE (Canada), Feb. 15, 2008 (Putin used “invective [laced] with insults and threats often expressed in the argot of the Russian street”). Id.
In August, 2008, the nuclear threats were directed at Poland.417 "By deploying, Poland is exposing itself itself to a strike—100 percent," warned Colonel General Anatoly Nogovitsyn.418 Russia also let it be known that it would henceforth equip its Baltic fleet with nuclear weapons as a countermeasure.419 The Economist suggested that Russia was trying to replay the Cold War, but now looking for a different ending.420

The next year, in September, 2009, Russia and Belarus held a set of war games, called *zapad* ("West") on the Polish border. The premise was that Russia had been attacked by gangs of Lithuanian terrorists backed by NATO and a military response was urgent.421 The games involved a large array of Russian military assets—including new aircraft and computer systems.422 Russian television covered the highlights.423 A main feature of the games was a simulated nuclear attack by Russian forces on Warsaw.424 Poland, understandably, viewed the exercise as "another attempt at intimidation."425

In 2010, Russia once again modified its nuclear doctrine. It defined

---


420. *The West and Russia: Lights, Camera, and a Different Ending*, THE ECONOMIST, Feb. 16, 2008. Cf., *Out Of All Proportion: Russia’s Threat of a Nuclear Strike Against a U.S. Defense System in Poland Crosses a Dangerous Line*, HOUSTON CHRONICLE, Aug. 18, 2008 ("The Russian government’s position on the defensive missiles arises from something other than rational concern for national security. The missiles do not carry highly destructive warheads; they would not be effective against ground targets and are only good for shooting down incoming missiles. The only way they would affect Russia would be for Russia to engage in aggression and launch a missile strike against the United States or its allies"). Id.


NATO, including attempts to expand NATO eastward, as its principal external security threat.\textsuperscript{426} It declared that nuclear weapons remained an important feature of its war-fighting capability.\textsuperscript{427} Nuclear weapons might be employed, the document continued, in either a large-scale war or a regional war, especially where the existence of the state was “imperill[ed].”\textsuperscript{428} It stressed that “[t]he fielding of missile-defence systems, again in direct proximity to Russia, poses an undoubted danger.”\textsuperscript{429}

NATO struck a conciliatory tone. Anders Fogh Rasmussen declared that NATO had no hostile intentions.\textsuperscript{430} France, he pointed out, had “just sold a Mistral assault ship to Russia.”\textsuperscript{431} He insisted that NATO harbored no hostile intent against Russia and had, in fact, invited Russia to consult with it as NATO “prepar[ed] a new Strategic Concept.”\textsuperscript{432} He noted that the Obama Administration had been conciliatory on the subject of missile defense and he invited Russia to become a part of a common missile defense system.\textsuperscript{433}

Even though there is an air of unreality to the 2010 iteration of Russian military doctrine (Anders Fogh Rasmussen’s conciliatory remarks neatly captured the attitude of NATO, circa 2010), Russian nuclear saber-rattling became pronounced in 2013 and 2014, as it ramped up for its aggression in Ukraine.

Russia’s Zapad military exercises for 2013 were perhaps the largest since the end of the Cold War, involving maneuvers “from the Arctic to Veronezh [in far Southern Russia].”\textsuperscript{434} All branches of the service were

\begin{itemize}
\item \textsuperscript{426} (“The main external military dangers are: the desire to endow the force potential of the North Atlantic Treaty Organization (NATO) with global functions carried out in violation of the norms of international law and to move the military infrastructure of NATO members countries closer to the borders of the Russian Federation, including by expanding the bloc”). Russian Military Doctrine, February 5, 2010, Sec. II.8 (a), (English translation on the website of the Carnegie Endowment for World Peace).
\item \textsuperscript{427} Id. at Sec. II.16.
\item \textsuperscript{428} Id.
\item \textsuperscript{430} Anders Fogh Rasmussen, Reaching Out to Russia, Newsweek Int’l, Feb. 22, 2010.
\item \textsuperscript{431} Id.
\item \textsuperscript{432} Id.
\item \textsuperscript{433} Id. (“I would very much like to see Russia integrated in a common U.S.-NATO-Russia missile defense system”). Id. At least some Russian analysts disagreed with the premises of the doctrine. Dmitry Travin, a scientific director of St. Petersburg European University Centre for Modernization Studies gently mocked the doctrine’s premises—the “Georgian wolf” does not pose a threat, and neither does Estonia. Travin concluded: “There is no more dangerous and shortsighted policy for Russia than to see NATO as its principal enemy and for this reason rush into all kinds of dubious antiwestern alliances”). See Russia’s New Military Doctrine Looks For Enemies in Wrong Direction—Analyst, BBC Int’l Reports, Feb. 23, 2010.
\end{itemize}
involved – “land, sea, air, air defense and air borne - special forces (Spetsnaz).” Near-simultaneous war games occurred in Central Asia, Mongolia, and the Pacific. The next month, in October, Russia conducted nuclear exercises “involv[ing] launches of ballistic missiles [and] drills by air defense and missile defense units.”

In late March, 2014, shortly after launching its invasion of Ukraine, Russia conducted another nuclear exercise. In May, 2014, there was another nuclear drill, and yet another one in September. A Russian spokesman boasted that “the scale of air power involved was unprecedented for exercises of this kind.” The month of October, 2014, saw Russian strategic bombers making practice nuclear runs off the coast of Great Britain.

Russian leadership also began to engage in provocative and irresponsible nuclear threats. It was in the summer of 2014 that word began to leak out that Vladimir Putin believed that he could prevail in a nuclear war. Andrey Piontkovsky Russian mathematician and dissident described what he believed was Putin’s ultimate strategy: “‘[I]n a more volatile geopolitical situation, a nuclear power focused on changing the existing status quo, enjoying the advantage of political will and indifferent to the value of human lives (its own and others), and affected by a certain adventurism, could achieve serious foreign policy results by the threat of the application or the limited application of nuclear weapons.’”

Putin, Piontkovsky stressed, was not suicidal. He would not fight a nuclear war with the United States. “Instead, his goals are ‘significantly
more modest: the maximum extension of the Russian World, the destruction of NATO, and the discrediting and humiliation of the US as the guarantor of the security of the West.\textsuperscript{446} In waging such a limited war, furthermore, Putin would rely not on ICBMs but on “the first use of tactical nuclear weapons in war.”\textsuperscript{447} And that is where we stand, in mid-March, 2015, as I write this Article. We are witnessing, on the part of NATO, an awakening to exactly the gravity of this threat. Sir Adrian Bradshaw, NATO’s deputy commander of forces in Europe, has quite rightly stated that this crisis is an existential moment for the western alliance.\textsuperscript{448} And, it is a relief to note, the alliance is finally responding to the urgency of the moment. NATO has decided to expand its rapid reaction from 13,000 troops to 30,000.\textsuperscript{449} It has also chosen to create an elite “spearhead” unit of 5,000 troops for immediate deployment in a crisis.\textsuperscript{450} Jean-Claude Juncker, the head of the European Commission has raised the subject of a European Army.\textsuperscript{451} It is imperative for many reasons that Europe achieve a greater level of political integration\textsuperscript{452} and a European Army may serve that long-term goal as well as the more immediate matter of addressing Russian aggression.

The United States is also rising to the military challenge posed by Russian expansionism in Eastern Europe. A military convoy has been sent on a “show-the-flag tour” of six East European countries.\textsuperscript{453} Large numbers of soldiers and large quantities of supplies have now landed in Latvia to “participate in multinational training exercises with Latvia, Estonia, and

\textsuperscript{446} Id. (Quoting Andrey Piontkovsky).
\textsuperscript{447} Russ Wellen, FOREIGN POLICY IN FOCUS (fpif.org), Sept. 16, 2014.
\textsuperscript{448} Peter Walker, Russian Expansionism May Pose Existential Threat, Says NATO General, THE GUARDIAN, Feb. 20, 2015. U.S. General Ben Hodges has said much the same thing. See Justin Huggler, Vladimir Putin Wants to Destroy NATO, Says US Commander in Europe Ben Hodges, TELEGRAPH Mar. 4, 2015 (“‘I am sure Putin wants to destroy our alliance, not by attacking it but by splintering it,’ [Hodges] said in a speech to military and political leaders in Berlin”). Id.
\textsuperscript{449} NATO Rapid Response Force to Expand to 30,000 troops—Stoltenberg, LATVIA NAT’L NEWS AGENCY, February 5, 2015; NATO Due to More Than Double ‘Rapid Response’ Force in Reaction to Ukraine, DEUTSCHE WELLE WORLD, Feb. 5, 2015.
\textsuperscript{450} Defence Ministers Agree to Strengthen NATO’s Defences, Establish Spearhead Force, STATES NEWS SERVICE, Feb. 6, 2015; and NATO To Establish New Spearhead Force, PROGRESSIVE DIGITAL MEDIA NEWS Feb. 6, 2015.
\textsuperscript{451} Juncker Calls For Collective EU Army, DEUTSCHE WELLE EUROPE, Mar. 8, 2015; and Brooks Tigner, European President Calls For a European Army, JANES DEFENCE WEEKLY, Mar. 11, 2015.
\textsuperscript{453} Brad Lendon, U.S. Army Sending Armored Convoy 1,100 Miles through Europe, CNN, Mar. 14, 2015.
Lithuania." A Patriot anti-missile battery, together with the crew to man it, has been moved to Poland. Ashton Carter, President Obama's nominee to serve as Secretary of Defense, has declared his support for providing arms to the Ukrainian military. Victoria Nuland has called for the creation of NATO command-and-control centers in Bulgaria, Romania, and other nations of Eastern Europe.

And how has Putin responded? He destroyed the city of Debaltseve in Ukraine with a savagery and barbarity unknown in Europe since the days of World War II. Virtually every building in the city has been damaged or destroyed. Some 40,000 people (out of a population of 45,000) have been forced to flee. Dogs, it is said, have begun to eat the bodies of the unburied dead. Whole classes of persons—Tatar Muslims who might threaten the regime, and others who fall under suspicion of State Security—are being abducted, tortured, and being made to disappear at alarming rates.

454. Jon Harper, Troops and Hardware From 3rd Infantry Division Heading to Eastern Europe, STARS AND STRIPES, Mar. 9, 2015; Bill Neely, NATO's Exercises Counter Russia's Baltic Threat, NBC NEWS, Mar. 4, 2015.
455. U.S. Infantry Brigade Headed To Baltics, RADIO FREE EUROPE DOCUMENTS, Mar. 9, 2015; Armed Forces To Be Reinforced By Six Tanks and Six Armored Vehicles From United States, LATVIAN NAT'L NEWS AGENCY, Mar. 9, 2015; U.S. Tanks and Armored Vehicles To Arrive In Latvia Next Week, LATVIAN NAT'L NEWS AGENCY, Mar. 4, 2015; and Michael Birnbaum, U.S. Military Vehicles Paraded 300 Yards From the Russian Border, WASHINGTON POST, Feb. 24, 2015.
458. NATO Must Install Command and Control Centers in All Six Frontline States—Nuland, UKRAINE GENERAL NEWswire, Jan. 28, 2015; Bulgarian Defence Minister Details Plan to Set Up NATO Command Centre, BBC INT'L REPORTS, Feb. 10, 2015; NATO Will Set Up Two Command and Control Centers in Romania, ACT MEDIA NEWS, Feb. 6, 2015.
And Putin has renewed, once again, his threats against world order. He has dispatched nuclear-capable strategic bombers to Crimea. He has sent nuclear-capable cruise missiles to the Polish border. Dozens of aerial provocations have been occurring along the European, British, and North American coasts. Putin is conducting military exercises on a scale and with a sophistication “not seen since the end of the Cold War.” He has proclaimed his readiness to use nuclear weapons openly, on Russian television. When Denmark indicated a desire to be protected behind a future missile shield, Mikhail Vanin, Russian Ambassador to Denmark, threatened Danish shipping with tactical nuclear weapons. In a deliberate provocation that may open the door to further aggression, Putin’s forces abducted an Estonian military officer from Estonian territory.

Will there be a war between the superpowers, a large war, one with devastating consequences? Some sober-minded and experienced minds are beginning to contemplate that horrific thought. Michael Fallon, British Defence Minister has said that Vladimir Putin, with his reckless words and

463. Russia Scrambles Nuclear Bombers to Crimea in Anniversary Show of Might, AGENCE FRANCE PRESSE ENGLISH, Mar. 17, 2015; and Urgent: Crimea Bombers Transfer, ITAR-TASS, Mar. 17, 2015 (“Strategic missile carriers TU-22MS will be transferred to Crimea in the course of a surprise combat readiness inspection”). Id.

464. Vladimir Isachenkov, Russia Planning To Send Nuclear-Capable Bombers to Crimea, Missiles to Poland Border, POSTMEDIA NEWS, Mar. 17, 2015; Russia Deploying Strategic Bombers to Crimea, Missiles to Kaliningrad, RADIO FREE EUROPE/RADIO LIBERTY, Mar. 17, 2015.


466. Nikolas K. Gvosdev, The Bear Awakens: Russia’s Military Is Back, THE NATIONAL INTEREST, Nov. 12, 2014. Cf. Thomas K. Grose, Vladimir Putin’s Army Built To Reassert Russian Influence In a Modern World, U.S. NEWS & WORLD REPORT, Mar. 11, 2015 (Russia’s Army restructured “to fight so-called hybrid, or asymmetric wars that eschew full-scale assaults for sleight-of-hand tactics, including fomenting insurrections, covert and special-operations measures, terrorism, cyberattacks, and propaganda”). Id.


469. Liis Kangsepp & Juhana Rossi, Estonia Says Officer Abducted Near Border, WALL STREET JOURNAL, Sept. 5, 2014; and Julian Borger, Russians Open New Front After Estonian Officer Is Captured in ‘Cross-Border Raid,’ THE GUARDIAN, Sept. 7, 2014. Latvia has also announced that it has become the target of a propaganda campaign of the sort that has served as a prelude to aggression elsewhere in the region. Interview with Aija Krutaine, Anna Ringstrom, & Mark Heinrich, Latvia Minister Cites Threat From ‘Information War’ Over Russian Minority, REUTERS, Mar. 12, 2015.

deeds, has “‘lowered the threshold’ for using nuclear weapons.” Retired British commander of NATO forces Sir Richard Shirreff has warned that Putin’s conduct risks the “threat of total war.” And that great and wise man Mikhail Gorbachev, when asked whether “there could be another major war in Europe” responded: “Such a scenario shouldn’t even be considered. Such a war today would inevitably lead to a nuclear war. But the statements from both sides and the propaganda lead me to fear the worst. If one side loses its nerves in this inflamed atmosphere, then we won’t survive the coming years.”

Thus has Putin’s culture of terror brought us to the brink of the unthinkable, a nuclear standoff where the risk of miscalculation is large. International law, over the last two decades, has moved decisively in the direction of delegitimizing even the threat of the offensive use of nuclear weapons. Vladimir Putin’s loose talk and his aggressive military posturing are returning us to the dark days of an older generation, when nuclear threats hung heavy over the planet. We must make sure such threats do not emanate again from a world leader.

V. WHAT IS TO BE DONE?

A. Russian Autocracy

To know what must be done we must take the measure of Putin the man, for he is not only bringing the world to the brink of grave danger, he threatens the well-being of his own nation. As I have written in another context, he is a “radical, romantic conservative.” It is not surprising, therefore, that he is a Russian nationalist. He has presented himself as a nationalist for many years, but his commitment to what he perceives to be the spirit and the genius of the Russian people has recently taken on virulent overtones.

473. Interview with Mikhail Gorbachev, Former Leader of USSR, SPIEGEL ONLINE, (Jan. 16, 2015).
475. Writing as far back as the year 2000, Astrid Tuminez predicted that “it has become clear that Russian nationalism will be an important feature of [Putin’s] leadership.” ASTRID S. TUMINEZ, *RUSSIAN NATIONALISM SINCE 1856: IDEOLOGY AND THE MAKING OF FOREIGN POLICY* 297 (2000).
Historically, classically, in the age of the czars, Russian nationalism had three pillars: an abstract idealization of the Russian nation; a central role for the Orthodox Church; and the rule of one, the autocrat. Putin is now playing each of these chords. Kimberly Marten has called attention to shifts in the way Putin speaks of the Russian nation. Rossiski, in Russian, means inhabitants of the Russian state, regardless of ethnic origin. Russki, on the other hand, refers to ethnic Russians. Putin, Martin points out, has shifted his frame of reference from the capacious and inclusive Rossiski to the ethnically more dangerous and divisive Russki.

Putin has explained his aggression in Ukraine as being in accord with his vision of Russian nationalism. “Today, Russia’s opposition to the West has evolved as a purely nationalist project. Russia’s military response to the events in Ukraine is framed as a protection of ‘ours’—and ‘ours’ are Russian.” In his speech justifying his armed seizure and annexation of Crimea, Putin explained himself in terms of nationalism: Crimea “has always been an inseparable part of Russia” and it was thanks to the “will of millions of our people, our national unity . . . [and] this patriotic spirit” that Crimea has been brought back home. A year later, on the first anniversary of the takeover, Putin was playing the same tune, claiming that he could not abandon Russian Crimea “to be crushed” by its enemies.

More broadly, Putin has been playing the nationalist card for years. Through near-monopoly control of the media, he has been able to construct a whole historical narrative centered on the greatness of the Russian nation and its grievances against the outside world. He has aroused the hate and the chauvinism associated with the worst aspects of any form of nationalism. Chechens and other Muslim minority groups have been
singed out for hatred. Gays have become another target of the regime. So also has the West. An anti-western hysteria, it is safe to say, has swept over Russia. Indeed, Putin is surfing a swelling wave of grievance even now. Russia, credible observers testify, is veering perilously close to fascism.

Sadly, Putin has enlisted the Russian Orthodox Church in the ignoble cause of Russian nationalism. And, tragically for the cause of Christianity in Russia, the Church’s hierarchy has joined the movement. Thus Patriarch Kirill has lent support for Putin’s actions in Ukraine and “[has] stood shoulder-to-shoulder [with Putin] on other foreign issues.” Rod Dreher, the perceptive American Orthodox writer, rightly fears for his Church as it embraces “uncompromising faith and patriotism” and endorses something
akin to “Holy War.” This unfortunate development, however, is entirely in keeping with the ancient Russian nationalism of the czars which was always predicated on a close unity between Church and State.

The final element to the nationalist edifice Vladimir Putin is working so hard to erect is “autocracy,” the rule of the one. This component of Russian nationalism dates officially to the reign of Nicholas I (1796-1855). Putin has emphasized his autocratic rule in at least two different ways. First, he has spent years developing an outsized cult of personality. There are all the pictures and poses of course—hunting, and hang-gliding, and riding bare-chested on horseback. His birthday celebrations have also become the stuff of legend. His most recent birthday, commemorated last October, featured “[p]ro-Putin street murals in seven cities” and “[a]n exhibition called ‘The Twelve Labors of Putin... modeled on the myth of Hercules.”

He has constructed around his rule a kind of royal court of climbers and sycophants seeking to enrich themselves. The independent oligarchs, those with money who might have challenged Putin’s primacy, have all been jailed or murdered or exiled, and all channels of wealth distribution...
now run through his office.\textsuperscript{503} His is a court of “mass corruption.”\textsuperscript{504} Putin is now accounted one of the wealthiest men in the world.\textsuperscript{505} But those closest to him profit handsomely also.\textsuperscript{506}

But even while he has cornered the market on graft in Russia,\textsuperscript{507} Putin has made himself publicly an indispensable figure.\textsuperscript{508} He has no successor.\textsuperscript{509} When, in March 2015 he disappeared from public view for ten days, it touched off a storm of speculation.\textsuperscript{510} What happens should he be removed from office, or becomes ill, or is disabled? No one knows.\textsuperscript{511} After all, he is the autocrat.\textsuperscript{512}

\textbf{B. Support For Liberal Democracy}

Armed with this knowledge, we can start to outline an answer to the question, “What is to be done?” We should begin with the premise that liberal democracy represents the only way forward for Russia.\textsuperscript{513} Liberal democracy may not thrill the passions like romantic nationalism, but in the end it is a political order much closer to human nature.\textsuperscript{514} The simple

\begin{flushright}
\footnotesize
503. BEN JUDAH, FRAGILE EMPIRE: HOW RUSSIA FELL IN AND OUT OF LOVE WITH VLADIMIR PUTIN 115 (2013).
504. Id. at 134.
505. Matthew Holehouse, Britain May Broadcast Putin’s Financial Secrets to Russian People, TELEGRAPH (UK), Mar. 10, 2015; Leonid Bershidsky, Vladimir Putin, the Richest Man on Earth, BLOOMBERG VIEW, Sept. 17, 2013.
507. LUKE HARDING, EXPULLED: A JOURNALIST’S DESCENT INTO THE RUSSIAN MAFIA STATE 146 (2012). (“Corruption has increased sixfold under Putin’s rule”). Id.
512. Julia Ioffe, This Is Why It’s Impossible For the Kremlin To Lie About Putin’s Weird Disappearance; The President’s Carefully Cultivated Image Rests on Never Showing Weakness, WASHINGTON POST, Mar. 14, 2015.
513. Writing in 2001, Michael McFaul identified the many pitfalls that might be encountered on the path towards a liberal democratic order in Russia, from a rudimentary rule of law to a concentration of power in the chief executive. MICHAEL MCFaul, RUSSIA’S UNFINISHED REVOLUTION: POLITICAL CHANGE FROM GORBACHEV TO PUTIN 309–31(2001). All that notwithstanding, what is a more viable alternative? We are even now in the midst of a failed experiment in nationalist absolutism.
\end{flushright}
Jeffersonian ideal, “life, liberty, and the pursuit of happiness,” has captured imaginations around the world, and would find a welcome place in Russia too.515

It was for this ideal that Boris Nemstov stood and for this dream that he gave his life.516 He died so that others might have the freedom to speak openly, to criticize their government, and to choose their leaders freely, without fear of death or reprisal.517 It was the same ideal of human rights that moved the dissidents of the late-Soviet period.518 Thus Andrei Sakharov stood for free speech and free elections,519 and when Boris Yeltsin faced down the coup that threatened to roll back the Gorbachev reforms, he did so in the name of Russian liberty.520

A liberal democratic order has never really been tried in Russia.521 Boris Yeltsin pledged to uphold such an order but he encountered insuperable difficulties.522 His own grave shortcomings contributed to his administration’s failure.523 He drank too much,524 he was visibly out of touch,525 and he was never able to exercise full control of his own


521. Under the George W. Bush Administration, the United States largely dropped support for democracy in exchange for the apparent stability and predictability the Putin regime represented. LILIA SHEVTSTOVA, LONELY POWER: WHY RUSSIA FAILED TO BECOME THE WEST AND THE WEST IS WEARY OF RUSSIA 47–51 (2010).


523. Peter Rutland, The Boris Yeltsin of History, 6 DEMOCRATIZATION 692, 701 (1998), ("Yeltsin is a pivotal historical figure who knows not what he does"). Id.


government. The rise of the Russian kleptocracy also dealt a crippling blow to the frail democracy that was beginning to take hold.

Still, Russia has some of the main ingredients that might give rise to a democratic order. It has a small and irrepressible civil society and an exciting, daring creative class. It has an educated public, and a citizenry that is not afraid to express itself. It was, after all, a spontaneous mothers' movement, spilling its grief about the waste of life in Afghanistan, that helped bring that war to a close. Russia is also a multi-ethnic society. It is a nation of many peoples, who might yet find common purpose in a government that respects their traditions and their freedoms. Many

529. Matthew Kaminski, Vladimir Putin’s Unhappy New Year, WALL STREET JOURNAL, Dec. 30, 2014; Daniel Trilling, Pussy Riot and the New Age of Dissident Art, NEW STATESMAN, Feb. 19, 2014; and CLIFFORD G. GADDY & BARRY ICKES, BEAR TRAPS ON RUSSIA’S ROAD TO MODERNIZATION 97 (2013) (“In Putin’s eyes, a Moscow that grows by expanding its creative class is a threat in itself”). Id. at 97.
530. The OECD (Organization for Economic Cooperation and Development) Country Note on Russia states: “In 2010, a large proportion of adults in the Russian Federation had attained at least upper secondary education (88 % compared to 74 % on average among OECD countries and 56 % on average among G20 countries), and a high proportion of adults had attained tertiary education (54 % compared to 31 % on average among OECD countries and 26 % on average among G20 countries).” OECD Country Note, Russia (2012).
532. “Russian mothers established Committees of Soldiers’ Mothers that took direct action to save their sons’ lives by supporting draft evasion.” Richard Lachmann, Mercenary, Citizen, Victim: The Rise and Fall of Conscription in the West, in NATIONALISM AND WAR 44, 63 (John A. Hall & Sinisa Malesevi eds., 2013).
533. Ten years ago, Robert Kaplan looked to the Russian experience to argue that Russia moved too fast from authoritarianism to democracy and that it might be governed best under the sort of “mixed regime” Vladimir Putin, he hoped, would bring about. See Slow Is Fast 'When it Comes to Multiethnic States Transitioning to Democracy, Says International Journalist Robert D. Kaplan, COUNCIL ON FOREIGN RELATIONS, Nov. 30, 2005, available at www.cfr.org. On the other hand, properly managed and understood, a multiethnic democracy might work in Russia. Thus Ildus Ilishev has written: “A successful state, especially as large as Russia, must turn its
groups, pursuing their projects privately and peacefully—work and family, love of hearth and home—Russians of whatever ethnic heritage can embrace this vision.\footnote{534}

The United States, however, should be careful in being too obvious in supporting democracy in Russia for at least two reasons.\footnote{535} First, given the present anti-western hysteria, American efforts might be discredited simply because they emanate from the United States.\footnote{536} Secondly, however, and more important, given the climate of murder and assassination that is found at the highest levels of Russian society, the United States needs to ensure that highly-motivated, highly-principled Russian citizens are not exposed to the possibility of deadly retaliation.\footnote{537}

Still, there are positive ways the United States might contribute to shaping the course of events. Simply providing access to information unfiltered by Russian media would be a good start.\footnote{538} Putin has expressed his fear of a Maidan-style revolution in Russia.\footnote{539} And I frankly think that
such a revolution is possible. It is certainly desirable. We saw a protest movement briefly flourish during the 2012 Russian presidential election. Why, in the last resort, not support democracy, given the obvious failure of every other form of government in Russia, including most recently Putinism?

C. Economic Sanctions

Related to these efforts at the promotion of democratic institution-building, the United States should tighten the circle around Vladimir Putin’s wealthy associates. Thus far, the United States has imposed sanctions on approximately 140 or so named individuals and a significant number of businesses while the EU has acted against slightly more than 150 named persons and more than 30 businesses and other joint ventures. Many of the affected individuals constitute Putin’s closest advisers and persons who have been greatly enriched during their time in office. Other sanctions have targeted specific types of economic activity, such access to international credit markets.
We should hold firm in this sanctions regime. Economists and international lawyers have often debated the effectiveness of sanctions. Many dispute their utility. Still, it appears that these sanctions have had an impact on the Russian bottom line. Thus, since Russia has found it very difficult to obtain international finance, business ventures are struggling. One of the biggest threats to the current round of sanctions, however, is the opposition found to them in some corners of the European Union. Only a unified front can make sanctions work, and it would be preferable to employ only those sanctions for whose application general agreement can be obtained. Fortunately, a united front seems to be coalescing.

But this may not be the end of the story. The great question about sanctions concerns the next step to take in the event of future Russian aggression. Consider: If Putin, for instance, moves against a member-state of NATO, it would seem that Russia must be subjected to the severest forms of sanctions. And I would include among those sanctions the

547. See, for instance, DAVID ROBERTSON, INTERNATIONAL ECONOMICS AND CONFUSING POLITICS 92 (2006) (citing research indicating the frequent failure of sanctions regimes only to offer a qualification: “Trade sanctions are only an effective instrument for very large economies, such as the US or EU, where to deny access can cause pain”). Id.


551. Viktor Orban, the Prime Minister of Hungary, has not only criticized the sanctions, he has taken steps to enter into trade deals with Russia. See, for instance, Hungary Eyes Closer Ties With Russia, DEUTSCHE WELLE WORLD, Feb. 2, 2015; Hungary Seals Gas Deal With Russia on Putin Visit, ENERGY MONITOR WORLDWIDE, Feb. 18, 2015; and Putin Shows He Still Has A Friend in Europe With Visit to Ally In Hungary, DAILY TELEGRAPH (UK), Feb. 18, 2015. Czech Republic President Milos Zeman has also criticized European sanctions. Sanctions Are Not Good For EU, Russia, Zeman Says, CZECH NEWS AGENCY, Feb. 13, 2015. Zeman, however, has encountered substantial domestic opposition in this view. Over 10,000 People Sign Petition Against Zeman, CZECH NEWS AGENCY, Feb. 4, 2015 (reporting on a popular petition drive to force Zeman to resign or to have him impeached for his support of Vladimir Putin).

552. It seems, it should be added, that even in the face of some internal pressure, the European Union has resolved to remain firm in its sanctions policy. See Adrian Croft & Elizabeth Pineau, EU Agrees Russia Sanctions to Stay Until Ukraine Peace Terms Met, REUTERS, Mar. 19, 2015.
comprehensive expropriation of Russian assets in the West.\textsuperscript{553}

\textbf{D. Diplomacy: China and India}

The Western alliance should also be active in building the largest international united front possible. It is in the interest of the world not to permit aggression to stand, and this must become the message the United States and European powers should take the world.

For a variety of reasons, the most important international player yet to commit itself on the Russian crisis is China.\textsuperscript{554} An historical analogy might help in recommending a diplomatic course to follow where China is concerned. Granted, no historical comparison is perfect, nevertheless, this one may be instructive. The Chinese ruling class in the early twenty-first century bears resemblance to the British ruling class of the mid-nineteenth century. Like the British ruling class, the Chinese leadership is faced with a restive population.\textsuperscript{555} Like England in the mid-nineteenth century, China has experienced explosive economic growth but the benefits of that growth have been felt very unevenly.\textsuperscript{556} Chinese leadership recognizes that their prime concern must be economic well-being and prosperity\textsuperscript{557} and it keenly appreciates that its economic success is intimately connected with internal stability and trade abroad.\textsuperscript{558}

\begin{itemize}
  \item \textsuperscript{553} It would be comparable to the American freezing of Iranian assets in the aftermath of the seizure of the American Embassy in Tehran, Iran. ALLAHYAR MOURI, \textsc{The International Law of Expropriation as Reflected in the Work of the Iran-U.S. Claims Tribunal} 1-3 (1994).
  \item \textsuperscript{554} See, for example, Leslie H. Gelb \& Dimitri K. Simes, \textit{Beware Collusion of China, Russia}, \textsc{The Nat'l Interest} (July/August 2013); Virginia Marantido \& Ralph A. Cossa, \textit{China and Russia’s Great Game in Central Asia}, \textsc{National Interest}, Oct. 1, 2014; and Artyom Lukin, \textit{Why the Russian Far East Is So Important to China}, \textsc{Huffington Post}, Jan. 12, 2015, for a sense of the range of issues implicated in the China-Russia relationship.
  \item \textsuperscript{556} See, for example, Li Wenpu \& Gong Min, \textit{China’s Growth Model and Structural Imbalance in the Open Economy}, \textsc{77 Social and Behavioral Sciences} 37-54 (2013); Damian Tobin, \textit{Inequality in China: Rural Poverty Persists as Urban Wealth Balloons}, \textsc{BBC News Business}, June 29, 2011; Michael Sainsbury, \textit{After 90 Years, the Party Struggles to Keep Control}, \textsc{Australian}, July 2, 2011; Kevin Voigt, \textit{New Leaders Face China Wealth Divide}, \textsc{CNN}, Nov. 15, 2012; and \textit{The Chinese Dream For Higher Education and the Dilemma It Presents}, \textsc{Education Monitor Worldwide}, Dec. 17, 2014.
  \item \textsuperscript{558} Weixing Chen, \textit{Political Leadership in China in the Twenty-First Century}, in \textsc{The Ashgate Research Companion to Political Leadership} 259, 262–63 (Joseph Masciulli,
We can continue the historical comparisons. What was British strategy in the nineteenth century? Primarily, it seems, Britain assumed the role of the globally responsible enforcer of order. It committed itself diplomatically to maintaining a balance of power on the European Continent. It employed its navy to keep sea lanes open and to perform the occasional morally good deed, like suppressing the slave trade. It grounded its economic policy on global free trade. And while Britain fought its share of small wars and was as immersed in colonialism as any of the other European powers, Britain succeeded in keeping the world safe from catastrophic war, such as was fought by Napoleon and his opponents for most of a century.

How, then, will China see its global responsibility? So far, it seems, China is taking a rather too narrow and opportunistic view of the crisis brought on by Vladimir Putin. China is sensing the chance to do business. Thus China has purchased large quantities of natural gas and petroleum from Russia. China and Russia have signed long-term purchase agreements for future delivery of natural gas. The two nations may soon start construction on a natural gas pipeline between the two states. Russia

Mikhail A. Molchanov, & W. Andy Knight eds., 2009); Jian Yang, China’s Security Strategy and Policy, in ASIAN SECURITY REASSESSED 86, 101-02 (Stephen Hoadley & Jürgen Rüland eds., 2006).


has also begun work on a high-speed bullet train that will allow passengers to travel between Beijing and Moscow in just forty-eight hours.\textsuperscript{570} On a different note, China has signed currency agreements with China that have helped stall the precipitous decline in the value of the Russian ruble.\textsuperscript{571} China has purchased military hardware from Russia\textsuperscript{572} and have engaged in joint military exercises.\textsuperscript{573}

It is said that President Xi Jinping of China has a fondness for Vladimir Putin’s authoritarianism.\textsuperscript{574} President Xi, it is further asserted, is troubled by western-style freedom of expression and the messiness of doing business in such an environment.\textsuperscript{575} Putin, in contrast, to Western leaders, is someone whose style he recognizes and understands.\textsuperscript{576} But perhaps President Xi has ulterior motives in building a relationship with Russia. He may, in fact, see Russia as approaching failed-state status and he could well foresee China developing an increasingly hegemonic position over the Eurasian landmass.\textsuperscript{577} Doubtless, an awareness of China’s large territorial claims over

\begin{flushright}


\textsuperscript{573} Jamil Anderlini, China and Russia in Naval Co-operation Vow, FINANCIAL TIMES, Nov. 19, 2014; Fred Weir, Russia, China Plan War Games, Arms Sales. Could Alliance Be in the Cards? CHRISTIAN SCIENCE MONITOR, Nov. 21, 2014; and Matthew Bodner, Russia-China Military Ties Deepen Amid Western Pressure Over Ukraine, THE MOSCOW TIMES, Dec. 1, 2014.


\end{flushright}
Siberia is lodged firmly the backs of both men’s minds.578

This would be opportunism on a grand scale, to be sure, but it would be preferable for China if it acted as a responsible partner in the larger world community and began to trim its economic contacts with Russia for the duration. Vladimir Putin, with his reckless nuclear threats and cross-border aggression is destabilizing the international order. By helping to curb violations of the global order, China might become a force for stability on the world stage and thereby become the West’s co-equal partner. This is an opportunity China should not want to miss.

Next, there is the matter of India. At the moment, India has continued to do business with Russia and seems unconcerned with Russian aggression in the West.579 India’s new president, Narendra Modi, has been compared to Vladimir Putin.580 Aside from matters of personality, there are strong historical reasons to explain India’s close ties with Russia. During the Cold War, even though India was officially nonaligned, it tilted towards Moscow in its diplomacy and politics.581 Even today, Russia remains a principal arms supplier to the Indian military.582

Still, there are strong reasons India why should now consider a pivot towards the West where Russia is concerned. The Indian leadership is well aware that theirs is a dangerous neighborhood.583 Pakistan, which is not only a neighboring state but a nation that has gone to war with India several times since the 1940s, is a nuclear power.584 Russia has now begun to sell

---


579. Ahmad Masood, India To Negotiate Free Trade Zone With Russia-Led Customs Union, RT BUSINESS, Feb. 26, 2015; and Carol J. Williams, Outcast Russia Turns to Cold War Ally India For New Billions In Trade, L.A. TIMES, Dec. 11, 2014.


582. Douglas Busvine & Denis Dyomkin, Modi To Putin: Russia To Stay India’s Top Defence Partner, REUTERS, Dec. 11, 2014; Allan Smith & Armin Rosen, Here’s Why Russia Has Sent $13 Billion Worth of Weaponry to India In Recent Years, BUSINESS INSIDER, Aug. 14, 2014; and Harsh V. Pant, India’s Arms Acquisition: Devoid of a Strategic Orientation, in THE GLOBAL ARMS TRADE: A HANDBOOK 65, 68–69 (Andrew T.H. Tan ed., 2010).


advanced weaponry to Pakistan. Russia, in other words, is flailing, turning everywhere it can to find ready cash. That alone should be reason enough for India to consider pivoting Westward. But there is yet another, stronger reason. India is at particular risk should Putin succeed in lowering the nuclear threshold given its unreliable next-door neighbor, Pakistan. It is in India’s compelling interest to maintain the strongest possible taboo on even loose talk about nuclear war. And restraining Vladimir Putin is a good place to start.

E. European Economic Integration

If Vladimir Putin can be said to have a strategy where Ukraine is concerned, it has been to cripple that state politically and economically. He has waged war against it, dismembered it, and means to keep it engaged in an expensive, draining state of low-level hostilities. He intends, in other words, to wreck that nation. It is a strategy that one can well imagine Putin might repeat in other eastern European nations, such as the Baltic states, or Georgia.

It is therefore imperative that these nations be made into economically thriving, western-oriented success stories. In the spring and summer of 2014, it appeared as if the economy of Ukraine might have been irretrievably damaged. Today, the International Monetary Fund predicts that Ukraine might enter economic recovery in 2016 although it has cautioned that much depends on whether Russia resumes its hostilities. We should assume the worst: IMF predictions of recovery have proven notoriously unreliable in many places and Putin is likely to do his best to

592. An IMF self-study concluded that IMF predictions of economic recovery “have tended to be consistently over-optimistic in times of country-specific, regional, and global recessions.”
frustrate any return to normalcy in Ukraine.593

The West should therefore be aggressive in providing financial assistance to Ukraine. The International Monetary Fund has pledged assistance,594 although it is likely the assistance is inadequate to the task.595 The United States has now also agreed to guarantee a new Ukrainian bond issuance.596 George Soros has made the case for greater aggressiveness in tackling Ukraine’s economic crisis.597 Soros has pointed out that democratic reforms have taken firm hold in Ukraine and that a spontaneous volunteer movement is hard at work trying to rebuild the country.598 Financial support is required for the success of this project. For Soros, “[n]ot only the future of Ukraine but also the future of the EU itself is at stake.”599

I fully agree with Soros and stress that the frontline states of Eastern Europe require the kind of assistance that was once provided war-devastated Europe in the wake of World War II. Something akin to the Marshall Plan would not be out of place.600 The historical moment is right for such boldness. Politically, these nations now know that their future lies with the West.601 The West should use the cement of generous financial aid to make that bond permanent.

Today, what is remembered about the Marshall Plan is its success. But


595. Ukraine’s finance minister has warned that IMF assistance alone will be insufficient to restore economic growth. IMF $17.5 Billion Package Not Enough to Revive Economy—Ukrainian Finance Minister, Mar. 17, 2015, available at http://www.RT.com


598. Id.

599. Id. Cf., Alyona Getmanchuk, Doomsday In Ukraine? Think Again, CARNEGIE MOSCOW CENTER, Mar. 6, 2015 (stating the case for a “Western trajectory” in Ukraine).


at the time, it was met with all the usual objections—it was too costly, it would lead to higher taxes, it would stifle American growth, and it would in the end fail to stimulate European recovery. Of course, we now know the opposite to have been true and that the Marshall Plan was indispensable to economic recovery in Western Europe.

West Germany in particular experienced an economic recovery that came to be called the “German miracle.” The time has come for Germany to “pay it forward.” Fortunately, Angela Merkel has now taken the measure of Vladimir Putin and she seems ready to confront the aggression that is being waged against another European nation. The United States, Germany, and the wealthy states of Western Europe, Britain, France, the Scandinavian nations, should form a coalition of the generous and put together an economic rescue package equal to the one that saved Post-World-War II Europe.

Moving beyond the urgent matters of the moment, Europe must act quickly to integrate Ukraine and the other frontline states within the great European umbrella organizations. Some welcome first steps have, it must be noted, been taken in this regard. In March, 2014, Ukraine and the European Union executed the political portion of an Association Agreement between the two entities. On June 27, 2014, Ukraine and the European Union executed the economic part of this Agreement. The Agreement has


609. Ukraine Takes One Step Closer to EU, Deutsche Welle Europe, June 26, 2014; A Landmark Day For Ukraine, Euronews, June 27, 2014; Kelly McParland, Ukraine President’s Courage In Signing Trade Deal Deserves Even Greater Material Support From the West, Postmedia News (Canada), June 27, 2014. Moldova and Georgia executed free-trade agreements with the European on the same day. See Ukraine, Moldova, Georgia and EU Sign Free Trade
been speedily ratified by the European Parliament and individually by most of the Union’s members.\textsuperscript{610} Russia raised a number of objections to the ratification and also threatened Ukraine with loss of access to natural gas supplies.\textsuperscript{611} To accommodate Russia, implementation of Title IV, which deals with the sale of goods, was delayed until the end of 2015.\textsuperscript{612} In light of continuing Russian aggression against Ukraine, however, I believe that the EU should move promptly to implement this Title today.\textsuperscript{613} Russian bad faith is palpable. The European Union and Ukraine did, however, act to implement immediately the first three titles, which deal with questions like political liberty, administration of justice, and cooperation in national security.\textsuperscript{614}

Moldova and the European Union have also taken steps towards achieving a greater integration. Moldova and the European Union executed an Association Agreement in late June, 2014, at the same time as Ukraine.\textsuperscript{615} The European Parliament ratified the Agreement in mid-November, 2014, two weeks before Moldovan national elections.\textsuperscript{616} In those elections, a pro-European party narrowly defeated a well-funded Russia-sponsored party.\textsuperscript{617} Despite the closeness of the election and the contentiousness of the issue,\textsuperscript{618} Moldova’s new Prime Minister, Chiril Zone Agreement With EU, YEREPOUNI DAILY NEWS (Lebanon), June 27, 2014.

\textsuperscript{610} Tom Parfitt, Ukraine Approves Historic EU Deal, Breaking Ties With Moscow, TELEGRAPH (UK), Sept. 16, 2014; Roman Olearchyk, EU and Ukraine Ratify Trade Agreement In Historic Vote, FINANCIAL TIMES, Sept. 16, 2014.


\textsuperscript{612} EU, Ukraine Delay Introduction Of Free Trade Deal Until End-2015, DEUTSCHE PRESSE AGENTUR, Sept. 12, 2014; and EU-Ukraine Trade Deal Delayed as Concession to Russia, DEUTSCHE WELLE, Sept. 12, 2014.

\textsuperscript{613} I share the view of Ulrich Speck that this delay was a mistake since it gives Russia much-needed time to disrupt implementation. This error should be remedied at once. Ulrich Speck, Postponing the Trade Agreement With Ukraine: Bad Move, EU, CARNEGIE EUROPE, Sept. 30, 2014.


\textsuperscript{615} Europe Stands By Its Values, DEUTSCHE WELLE WORLD, June 26, 2014; Moldovan Cabinet Approves Draft Bill On Ratification of EU Association Agreement, BBC INTERNATIONAL REPORTS, June 30, 2014; and Moldova and the EU: Mixed Feelings, THE ECONOMIST, July 9, 2014.

\textsuperscript{616} Colin Freeman, Moldova on Cusp of the EU Club, TELEGRAPH (UK), Nov. 10, 2014; and EU Parliament Ratifies Deal With Moldova, DEUTSCHE WELLE, Nov. 13, 2014.


\textsuperscript{618} Moldova at Crossroads Between EU and Russia, DEUTSCHE WELLE WORLD, Nov. 28, 2014; Judy Dempsey, Moldova Is Next Battleground For Russia and EU, THE MOSCOW TIMES,
Gaburici, a thirty-eight-year old businessman, has declared his intention to move swiftly to bring Moldova into EU compliance. The European Union should reciprocate and move speedily to ensure that Moldova is safely ensconced within Europe because Moldova is very much at risk.

The European Union, finally, is taking a similar set of steps with Georgia. As with Ukraine, as with Moldova, so also with Georgia: the sooner integration can be achieved, the better, both for the sake of achieving economic progress and prosperity, but also for ensuring that Georgia is not once again victimized by Russia.

F. Military Responses

We should be honest in our language. Vladimir Putin has launched a war against the West. He invaded and dismembered a sovereign nation, he is threatening to invade other nations, and he is even now flexing nuclear muscles. He has broken international law, he has made himself a menace to the security and peace of the world, and he must be contained. In analyzing the appropriate response, I should like to distinguish among three separate issues: the immediate arming of frontline states; the expansion and extension of NATO to the Russian border; and deployment of a robust missile defense. I shall discuss each issue in turn.

619. Alexander Tanas, Moldovan Parliament Set To Install New Pro-EU Prime Minister, REUTERS, Feb. 18, 2015; and Azercell’s Ex-Head Candidate for Moldovan PM’s Position, TREND BUSINESS NEWS, Feb. 14, 2015 (discussing Gaburici’s background as director of Azercell, an Azerbaijani telephone company).
622. The European Institute warns that Putin’s Russia has imposed trade embargos on goods and produce from each of these nations in retaliation for their westward move. Kelsey Fraser, The EU’s Newest Association Agreements—Georgia, Moldova, and Ukraine, Aug. 5, 2014, available at http://www.europeaninstitute.org
I. Arming Ukraine

In his confirmation hearing in February, 2015, Ashton Carter defended the idea of arming Ukraine. Without committing himself on the type of arms to be furnished, he testified: “I incline in the direction of providing them with arms, including, to get to what I’m sure your question is, lethal arms.”  

He was blunt in describing the nature of Russian aggression and declared that no one should any longer keep up the pretense that “it isn’t [Putin], it isn’t Russia” that has invaded Ukraine.  

A month later, General Martin Dempsey, Chairman of the Joint Chiefs of Staff, testified even more firmly on the subject of Russian aggression and lethal aid to Ukraine. Russia, he declared has engaged in “coercive and destabilizing actions [that] have threatened NATO’s eastern flank.” General Dempsey continued: “I think we should absolutely consider lethal aid and it ought to be in the context of NATO allies because [Russian President Vladimir] Putin’s ultimate objective is to fracture NATO.”

These statements, and others like them, have set off a vigorous policy debate the likes of which has probably not been seen since the Cold War. A group of Washington DC policy advisers—including Ivo Daalder, Strobe Talbott, Michele Flournoy, and others who have filled senior positions in government—made the case in a paper published in February, 2015 by the Atlantic Council that arming Ukraine was the necessary next step. Russia is no longer even bothering to conceal its aggression in Ukraine, the authors warn, and is flooding Ukraine with heavy weaponry in preparation, it seems, for a future offensive. “Russia,” they declare, “has broken the cardinal rule of post-war European security, i.e., states must not use military force to change international borders.”

The group described a Ukrainian Army that has shown a willingness to fight and to fight hard, but that lacks the sophisticated weaponry to turn the tide of battle against further Russian aggression. The risk of not

628. *Id.* at 2–3.
629. *Id.* at 3.
630. *Id.*
supplying weapons, they added, went well beyond Ukraine. There is no reason to believe that Putin would halt his aggression with Ukraine. His own self-proclaimed motive for invasion and annexation was the protection of the Russian-speaking population. A similar justification might be used for the launching of aggressive war against Estonia, Latvia, or other independent nations.

Daalder, Talbott, Flournoy, and their co-authors recommended the provision of particular defensive weapons systems: sophisticated radars “that can detect and locate the origin of multiple launch rocket systems.” They urged the provision of drone aircraft to be used for surveillance purposes. They proposed “[e]lectronic counter-measures for use against opposing [drone aircraft].” They stressed the need to make available “[s]ecure communications capabilities” and “[a]rmored Humvees.” In addition to these weapons, however, the group advocated for “light anti-armor missiles.” A future Russian offensive will likely “make heavy use of tanks and armored personnel carriers” and only anti-tank missiles offered the chance of stopping their advance. And, to reduce Russian air superiority, they suggested that NATO members “provide equipment and weapons from their stocks.”

Ashton Carter and General Dempsey spoke only in generalities about the types of weapons to be provided. Daalder and his associates made explicit exactly what was required.

These recommendations, and others like them, have been subjected to substantial criticism. Kimberly Marten and Rajan Menon have contended that sanctions have not proven effective in stopping Putin’s aggression even though they have caused a general collapse of economic conditions. Why, therefore, expect a different result where the supply of military hardware is concerned? Both Marten and Menon premise their argument on a set of propositions they take for granted: Putin’s position at the top of the Russian political structure is secure, his policies continue to enjoy wide public support, and popular Russian support for military confrontation with the

631. Id.
632. Id.
634. Id.
635. Id.
636. Id. at 3–4.
637. Id. at 4.
639. Id.
West would only grow should the West introduce lethal military aid.\footnote{641. Thus Marten asserts: [Putin] has built his reputation on standing up to Western pressure while stoking an increasingly ugly form of anti-Western nationalism.” Marten, \textit{supra} note 640. Menon asserts: “The Russian people would approve.” Menon, \textit{supra} note 640.}

These beliefs, however, are open to question. From March 5 to March 16 Vladimir Putin disappeared from public view. There has been much speculation as to why, but it is certainly credible to think that it was because he had to deal with threats to his position at the top of the political order.\footnote{642. Thus George Voloshin wrote with a matter-of-fact tone: “Russian President Vladimir Putin’s unexpected ten-day disappearance … naturally drew much attention from Moscow-watchers as his regime is rumored to be in the midst of power struggles.” George Voloshin, \textit{Power Struggles in Moscow Prompt Corruption Scandals in Russian Far East}, Mar. 20, 2015, available at www.jamestown.org. See also, for a flavor of the speculation, some less informed than others: Tom Porter, \textit{Nemtsov Murder Exposes Brutal Power Struggle at the Heart of Russia’s Security State}, INT’L BUSINESS TIMES (UK), Mar. 19, 2015; Neil Thompson, \textit{Vladimir Putin’s Disappearance Is Only Strange If You’re Used to the Prying Eyes of the Western Media}, \textit{THE INDEPENDENT} (UK), Mar. 17, 2015; Howard Amos and Nick Squires, \textit{Mystery of Putin’s Disappearance Deepens With Russian State Media’s ‘Mistake},’ \textit{TELEGRAPH} (UK), Mar. 14, 2015; and \textit{Russia Update: Is There a Slow-Motion Coup Under Way?} Mar. 14, 2015, available at http://www.Interpretermag.com}

And regarding public support for Putin, one need only note the wide and spontaneous outpouring of relief, even joy, on the part of many ordinary Russians that greeted his disappearance.\footnote{643. A collection of some of the best of these spontaneous expressions of joy can be found in Nick Robins-Early, \textit{Where In the World Is Vladimir Putin?} \textit{HUFFINGTON POST}, Mar. 15, 2015.} Residents of Eastern Ukraine and Crimea, furthermore, in the year since Putin’s forces took over their lands, have come to regret the support they gave to Russia.\footnote{644. Oren Dorell, \textit{Residents in Rebel-Held Ukraine Regret Separatist Drive}, \textit{USA TODAY}, Mar. 22, 2015; and Daniel Schearf, \textit{One Year Later, Crimea Adjusts to New Realities}, \textit{VOICE OF AMERICA}, Mar. 20, 2015.} It is even the case that some Russians have chosen to take up arms and fight for Ukraine.\footnote{645. Maria Antonova, \textit{In Ukraine, Some Russians Take Up Arms Against Putin}, \textit{AGENCE FRANCE PRESSE}, Mar. 22, 2015.} In such circumstances, a show of strength might be enough to drain Putin’s power while timidity or acquiescence would only allow him to crush whatever internal opposition he might be facing.

The editors of Bloomberg View argued that lethal assistance should not be provided because “the U.S. and its NATO allies don’t have sufficient interests at stake to go all the way.”\footnote{646. \textit{Why Arming Ukraine Will Backfire}, \textit{BLOOMBERG VIEW}, Feb. 3, 2015.} In response one might ask, what is there to stop Vladimir Putin from going all the way? His interests seem to include at least this much: the creation of a corridor connecting Crimea and Russia; the retaking of further territory where ethnic Russians comprise a significant minority and he can win a victory without much resistance; and the final fracturing of NATO, probably through aggressive action against Latvia or Estonia. Are we prepared for those consequences?
Dmitry Gorenburg maintained that all Putin is really interested in is reestablishing a Russian sphere of influence: “Putin has for years been offering a deal in the old realpolitik tradition—let’s draw a line, you run the world on that side, and I’ll run it on this side.” The response to this reasoning is this: the entire thrust of international law has been to relegate realpolitik to the pages of history. We have spent more than half a century trying to escape those archaic rules of power politics, so why do we want to return to them now?

General Ben Hodges, for his part, proposed reliance on diplomacy “to protect Ukraine’s sovereignty, and ensure that the NATO alliance doesn’t splinter, while at the same time leaving Russia a path to eventually rejoining the international community.” What makes General Hodges believe that diplomacy will be successful, given the situation? And what would a reintegration of Russia back into the international community look like? Although General Hodges did not say so, it seems he had in mind a conference of the warring parties that would allow for the dismemberment of Ukraine. Such an outcome would confer legal status on territorial gains won by force of arms.

Congressional support for providing lethal assistance is rising. NATO military commander General Philip Breedlove has stressed that the failure to deliver weapons to Ukraine might itself be destabilizing. And while I appreciate the risks—NATO must remain united in the face of possible adversity, the nation must commit itself for the duration, the allies must be on board—it seems like military aid is the least bad option.

2. Expansion and Extension of NATO

Vladimir Putin has accomplished something entirely unintended. He has brought new life to NATO, and has caused nations, such as Ukraine and Moldova, which were formerly wavering, to move decisively westward. As part of that westward move, NATO should act quickly to incorporate those two states, in addition to Georgia, within its protective shield.

651. Michael Birnbaum, Confronting a New, Unstable Reality, TORONTO STAR, Jan. 1, 2015 (“[A]fter the most tumultuous stretch of President Vladimir Putin’s 15 years in power, Russia is confronting a new reality. Ukraine—the part not held by rebels—has turned firmly toward Europe”). Id.
Two or three years ago, both Ukrainians and Europeans were lukewarm at best over whether Ukraine should join NATO. Both parties have now changed their views dramatically in light of the Russian invasion of Ukraine. Ukraine is even now the subject of Russian aggression. Russian-backed separatists have been launching artillery barrages against Ukrainian positions in Donetsk in violation of the Minsk ceasefire. Even now, Russian war games provocatively threaten Ukraine. The Ukrainian government has now asked all military and law-enforcement personnel “to be in full [combat] readiness.” Jens Stoltenberg, the Secretary-General of NATO, has accused Russian troops of fighting without proper insignia or identification and engaging in the tactics “of a terrorist State.” The fighting has fouled the water supply in much of eastern Ukraine, posing public-health risks. Corey Flintoff, reporting from the front line, predicts that more fighting is imminent.

Until the present moment, there was little sense of urgency to resolve the question of Ukraine’s admission to NATO. Now, however, time is of the essence. In November, 2014, Vladimir Putin’s spokesman Dmitry Peskov “accus[ed] NATO of breaking a historic promise by gradually approaching Russia’s borders.” Such a promise has been invalidated not

---

653. Adrian Croft, Most Europeans In Poll Think EU Should Offer Ukraine Membership, REUTERS, Sept. 10, 2014 (results of European polling); and Ukraine’s Complicated Path to NATO Membership, EUREONEWS, Dec. 23, 2014 (reviewing Ukrainian polling).
659. Gabriela Baczynska, Foul Stench In Rebel-Held East Ukraine as War Hits Water Treatment, REUTERSCANADA, Mar. 18, 2015.
662. Ukraine Crisis: Russia Demands Guarantees From NATO, BBC NEWS EUROPE, Nov. 18, 2014.
by NATO, but by Russian misconduct.

The same argument holds for Moldova. Moldova’s situation has been complicated because of the confused relationship it presently has with a small breakaway region known as Transnistria.\textsuperscript{663} In 1990, as the Soviet Union was cracking up, one of its provinces, Transnistria, declared independence and fought a two-year war with Moldova.\textsuperscript{664} This war ended in a ceasefire, but the legal relationship between this tiny territory and Moldova proper has never been resolved.\textsuperscript{665}

Moldova remains constitutionally a neutral state.\textsuperscript{666} As such, there is a growing consensus that Putin’s Russia could target Moldova for mischief.\textsuperscript{667} Moldovan voters have made it clear that they see their future is with the West. As with Ukraine, so with Moldova. If Moldova wishes to amend its constitution and drop its neutral stance, NATO membership should be expedited. And even if Moldova chooses to remain officially neutral, its territorial integrity must be defended against possible Russian aggression.\textsuperscript{668}

Finally, there is the question of Georgia. Georgia was the first victim of Russian cross-border aggression, when South Ossetia and Abkhazia were violently removed from Georgian jurisdiction in the summer of 2008. In the spring and early summer of 2014, however, there was still substantial opposition in Western circles to the admission of Georgia into NATO.\textsuperscript{669} With increased Russian aggression in the late summer and fall of 2014, came a greater willingness to admit NATO.\textsuperscript{670} In February, 2015, NATO

\[\textsuperscript{663} \text{Transnistria’s population consists largely of ethnic Ukrainians and Russians, unlike the remainder of Moldova, which is largely Romanian in ethnic composition. Steven D. Roper,} \textit{From Frozen Conflict to Frozen Agreement: The Unrecognized State of Transnistria, in De Facto States: The Quest for Sovereignty} 102, 107 (Tozun Bahcheli, Barry Bartmann, & Henry Srebnik eds., 2004).\]

\[\textsuperscript{664} \text{Steven D. Roper,} \textit{Regionalism in Moldova: The Case of Transnistria and Gagauzia, in Ethnicity and Territory in the Former Soviet Union} 101, 106–09 (John Hughes & Gwendolyn Sasse, eds., 2014) (reprint of 2002 edition).\]

\[\textsuperscript{665} \text{“[R]esolving the status of Transnistria is one of the key dilemmas facing Moldova as the country integrates into European institutions.” Steven D. Roper,} \textit{Moldova Since 1989, in Central and Southeast European Politics Since 1989} 473, 476 (Sabrina P. Ramet ed., 2010).\]

\[\textsuperscript{666} \text{STEVEN WOEHREL,} \textit{Moldova: Background and U.S. Policy} 7 (2014).\]

\[\textsuperscript{667} \text{Adrian Croft & Aleksandar Vasovic,} \textit{NATO Commander Warns of Russian Threat to Separatist Moldova Region,} Reuters, Mar. 23, 2014; Thomas Burrows, Russia Issues Thinly-Veiled Threat Not To Forge Closer Ties With EU, DAILY MAIL, Dec. 1, 2014; and Defense Minister Says Moldova Must Be Ready to Counter ‘Hybrid War,’ \textit{Radio Free Europe,} Mar. 19, 2015.\]

\[\textsuperscript{668} \text{ATO Says Supports Moldova’s Independence,} \textit{Radio Free Europe,} Mar. 15, 2015.\]

\[\textsuperscript{669} \text{Adrian Croft,} \textit{NATO Will Not Offer Georgia Membership Step, Avoiding Russia Clash,} Reuters, June 25, 2014.\]

\[\textsuperscript{670} \text{Edward P. Joseph & Mamuka Tsereteli,} \textit{Here’s How NATO Can Open a Path to Membership: Amid Ukraine Crisis, US Should Push To Remove an Obstacle,} Atlantic Council, July 2, 2014; David Stout, \textit{The U.S. Will Help Georgia Join NATO In Face of Putin’s ‘Dangerous Actions,’} TIME, Sept. 8, 2014; and Bolstering a Vulnerable Russian Neighbor:}
and Georgia issued a joint statement noting that the two entities had approved a “Package” which “aim[ed] to strengthen Georgia’s defence and interoperability capabilities with the Alliance, which will help Georgia in its preparations towards membership in the Alliance.”

3. Missile Defense

Since the early and middle 2000s, NATO and the United States have been engaged in constructing a missile defense system for Europe.\(^{672}\) Ostensibly, the missile shield was not directed at Russia but at security threat emanating from the Middle East.\(^{673}\)

In 2010, at Lisbon, Russia and NATO agreed on ways “to cooperate on a Europe-wide missile interceptor system.”\(^{674}\) NATO extended assurances to Russia that Moscow’s missiles would not be targeted by the system it was then developing and deploying.\(^{675}\) The United States, however, refused to enter into a legally-binding guarantee on this question.\(^{676}\)

In 2012, NATO announced at a summit meeting in Chicago that it had achieved “an Interim Capability for NATO ballistic missile defense.”\(^{677}\) Russian representatives present at the summit meeting objected and declared that the system “undermines the Russian Federation’s defence capabilities.”\(^{678}\) Independent observers attending the Summit expressed a fear that there was a possibility of future confrontation between Russia and NATO on missile defense and urged the “creat[ion of] a framework for a constructive process that takes into account opinion from across the

---

Note:

- Georgia Is Making a Case For NATO Membership, N.Y. TIMES, Sept. 11, 2014.
- Tom Z. Collina, NATO To Declare Missile System Ready, 42 ARMS CONTROL TODAY 38, 38 (April, 2012).
Two major scientific studies of the feasibility of missile defense in Europe, however, returned highly critical verdicts, the first in September 2011, and the second one year later. Laudably, under the circumstances President Obama continued to negotiate with the Russians and dialogue continued for much of the spring and summer of 2013, but by the end of summer negotiations had broken down.

Russian aggression and, in particular, reckless Russian nuclear threats, make future collaboration on missile defense impossible. At this juncture, NATO must move as expeditiously as possible towards implementing a comprehensive missile defense system over the European Continent.

Indeed, Russian bellicosity opens the door to ask whether the time has come to build a strategic nuclear defense for the United States proper. For many years, the United States was constrained by the terms of the Anti-Ballistic Missile Treaty of 1972. This Treaty was designed to force the major nuclear powers of that era, the United States and the Soviet Union, to rely on the strategy of mutually assured destruction (MAD). It has been plausibly argued that it was the sheer folly of relying on MAD that provided incentives for the nuclear arms-control and arms-reduction treaties that were entered into in the latter stages of the Cold War. In 2002, however, with the Cold War relegated to history, the United States withdrew from the ABM Treaty.

The United States has begun to put in place a missile defense system to


680. The first report was issued by the Defense Science Board, the second report was done by the National Academy of Sciences. Tom Z. Collina, Report Critiques U.S. Missile Defense, 42 ARMS CONTROL TODAY, 30–32 (October 2012); and Philip E. Coyle, Back to the Drawing Board: The Need For Sound Science in U.S. Missile Defense, 43 ARMS CONTROL TODAY 8–14 (January/February, 2013).


protect the homeland, but it is directed primarily against the small-scale arsenals of countries like North Korea and Iran.\footnote{Jonathan Masters, \textit{Ballistic Missile Defense}, COUNCIL ON FOREIGN RELATIONS, Aug. 15, 2014.} The system would seem to require major expansion to provide effective defense against Russia’s dangerous atomic posturing.

\textbf{G. Vladimir Putin: Constraining Boldness Born of Weakness}

“Freedom’s just another word for nothing left to lose”

---Kris Kristofferson

Vladimir Putin’s greatest strength is, paradoxically, his very weakness. He has freedom other political leaders lack. His nation is a shambles, and he has taken advantage of the circumstances to strike boldly.

Still, Russia is a nation-state, the largest country by geographic size on the planet, and in the end, even a reckless autocrat like Putin will be constrained by the rules and social realities that govern nation-states.

Consider three areas of profound weakness Putin’s Russia presently confronts. The first is economic. In December, 2014, British economics writer Ambrose Evans-Pritchard described the parlous state of the Russian economy.\footnote{Ambrose Evans-Pritchard, \textit{Capital Controls Feared as Russian Rouble Collapses}, TELEGRAPH, Dec. 1, 2014.} Thanks to declining oil prices and economic sanctions, the Russian economy had shrunk “in just nine months from a $2.1 trillion petro-giant to a mid-size player comparable with Korea or Spain.”\footnote{Id.} But even when its gross domestic product was at its height, at $2.1 trillion, it trailed badly the European Union ($17.3 trillion) or the United States ($16.8 trillion).\footnote{Jim Edwards, \textit{Russia’s Economy Has Shrunk So Much It’s Now Almost the Same Size As Spain}, BUSINESS INSIDER, Dec. 2, 2014.} In other words, even in flush times, Russia does not have the wherewithal to oppose the combined strength of America and Europe.

sanctions as “economic war.”\textsuperscript{693}

They might or might not be war, but they are having their intended effect. Russia’s GDP continued to shrink for most of the fall of 2014\textsuperscript{694} and is continuing to show signs of shrinkage in March of 2015.\textsuperscript{695} Even though the Russian ruble is no longer in free fall, as it was in December, 2014,\textsuperscript{696} inflation rates are predicted to remain in the ten to eleven percent range, if they do not range higher.\textsuperscript{697} Western investors are being advised to avoid Russia.\textsuperscript{698} And the Russian budget deficit is large and widening.\textsuperscript{699}

Furthermore, while the sanctions regime that has been imposed is substantial,\textsuperscript{700} there are additional steps the Alliance might yet undertake to devastating effect. In particular, Russia could yet be blocked from employing the SWIFT (Society for Worldwide Interbank Financial Telecommunication) banking network.\textsuperscript{701} If Russia were blocked from SWIFT, “Russian banks and their customers [would be prevented from] readily send[ing] or receiv[ing] money across the country’s borders which would wreak havoc with trade, investment, and millions of routine financial transactions.”\textsuperscript{702} Such a move would cripple Russia’s ability to sell oil

\textsuperscript{693}Holly Ellyatt, Sanctions on Russia Are ’Economic War,’ CNBC, Jan. 30, 2015.


\textsuperscript{696}Olga Tanas, Russian Inflation Exceeds 10 % in December on Ruble’s Decline, BLOOMBERG BUSINESS, Dec. 24, 2014; Jon Hartley, Online Prices Indicate Russian Inflation Spike After Ruble Decline, FORBES, Jan. 1, 2015.

\textsuperscript{697}Finance Ministry: Russia Inflation To Reach 11 or 12 Percent in 2015, LA PRENSA, Mar. 19, 2015; Vladimir Tikhomirov, Russia’s Inflation Dilemma, FINANCIAL TIMES, Jan. 29, 2015.

\textsuperscript{698}Elvis Picardo, How US and European Union Sanctions Are Crippling Russia, INVESTOPEDIA STOCK ANALYSIS, January 15, 2015 (“Given the number of risks facing the Russian economy in 2015, investors would be well advised to avoid the region and look elsewhere for investment opportunities”). Id.

\textsuperscript{699}Anna Andrianova, Russia Braces For Wider Deficit as Oil Cuts Revenue, BLOOMBERG BUSINESS, Jan. 19, 2015; and Russian Finance Ministry Ups 2015 Budget Deficit Forecast to 3.8 Percent/GDP Document, REUTERS, Mar. 2, 2015.

\textsuperscript{700}Michelle Linderman, James Rose, Carlijn Ruers, Russia and Crimea Sanctions—Where Are We At The Start Of 2015? MONDAQ, Feb. 16, 2015; Russia and the West Are Now Firmly Locked In a War of Economic Attrition, FINANCIAL SERVICES MONITOR WORLDWIDE, Nov. 11, 2014; and How Far Do EU-US Sanctions On Russia Go? BBC NEWS EUROPE, Sept. 15, 2014.

\textsuperscript{701}Ian Wishart & Robert Hatton, U.K. Wants EU To Block Russia From SWIFT Banking Network, BLOOMBERG, Aug. 29, 2014.

\textsuperscript{702}Carol Matlack, Choking Russia’s Banks Would Be the Ultimate Sanction, BLOOMBERG, Sept. 1, 2014.
denominated in dollars and would damage its debt-servicing capacity.\footnote{Sanctions On SWIFT Could Hit Russia Where It Hurts Most, February 23, 2015, available at http://www.investopedia.com}

Also threatening to push the economy further into the doldrums are declining oil prices. Russia is a nation that came to depend crucially on high petroleum prices.\footnote{MICHAEL KLARE, BLOOD AND OIL: THE DANGERS AND CONSEQUENCES OF AMERICA’S GROWING DEPENDENCY ON IMPORTED PETROLEUM 154 (2004); and Danny Vinik, Chart: Russia Is Insanely Dependent On Oil and Gas Money, THE NEW REPUBLIC, July 23, 2014.} Official numbers in 2012 indicated that Russia met 60 percent of its budget needs from the sale of commodities.\footnote{Al Fin, Putin Plays Down Russia’s Deadly Dependence on Oil and Gas Revenues, Oct. 30, 2012, available at http://www.oilprice.com} Indeed, Russia built its global position and military renewal on the strength of high prices.\footnote{JANUSZ BUGALSKI, DISMANTLING THE WEST: RUSSIA’S ATLANTIC AGENDA 124 (2009).} But oil prices are depressed and are expected to remain depressed for the foreseeable future.\footnote{Graeme Wearden, Oil Price Slides After Goldman Sachs Slashes Forecasts—Business Live, THE GUARDIAN, Jan. 12, 2015; A. Gary Shilling, Get Ready For $10 Oil, BLOOMBERG VIEW, Feb. 16, 2015; Oil Plunges to Six-Year Low. Is $30 a Barrel Next? Mar. 16, 2015, available at http://www.Money.cnn.com; Jake Rudnitsky, Here’s the Next Big Threat to Global Crude Prices—And It Isn’t OPEC, NATIONAL POST, Mar. 20, 2015.} The Russian economy, in other words, is in a circling vortex of disaster.\footnote{Maria Snegovaya, Think of Russia as an Ordinary Petrostate, Not an Extraordinary Superpower, THE MOSCOW TIMES, Mar. 15, 2015; Raushan Nurshaeva, Denis Dymkin, & Timothy Heritage, Ex-Soviet States Battle Challenge of Low Prices, REUTERS, Mar. 20, 2015; Darya Korsunskaya, Lidia Kelly, Lower Oil Prices To Have Long-Lasting Impact—Russian Central Bank, REUTERS, Mar. 23, 2015.}

Military spending, however, continues to represent a large and growing part of the Russian budget.\footnote{Grigory Dukor, Russian Defense Budget To Hit Record $81 Billion in 2015, THE MOSCOW TIMES, Oct. 16, 2014; Vladimir Isachenkov, Russia Continues Massive Military Modernization Despite Economic Woes, BUSINESS INSIDER, Feb. 4, 2015 available at http://www.businessinsider.com/russia-continues-massive-military-modernization-despite-economic-woes-2015-2; and Mike Bird, Here Are the High-Tech Weapons Russia Is Buying With Its Record Military Budget, BUSINESS INSIDER, Feb. 13, 2015.} This circumstance cannot continue. With or without further declines in commodities prices or the pressure of additional sanctions, I would guess that Putin’s military may soon encounter some hard economic truths.\footnote{Daniel Gros, The Russian Threat Runs Out of Fuel, PROJECT SYNDICATE, Jan. 14, 2015.}

was rampant,715 and the simple process of human reproduction proved difficult.716 Because of rampant drug and alcohol abuse, birth defects were commonplace.717 Because of inadequacies in public health, dread epidemics such as AIDS spread catastrophically through the population.718

What is less well appreciated is that Russia has not come close to recovering from this demographic nightmare. While life expectancy has recovered somewhat from the depths of the 1990s, it still remains shockingly low.719 Public health services continue to be crude and rudimentary.720 Birth rates remain well below replacement rates721 and the level of birth defects continues to be elevated.722 Also widespread, with sad

713. A study published by the Journal of the American Medical Association indicated that male life expectancy declined from 63.8 to 57.7 years from 1990 to 1994. Women’s life expectancy also fell, but not as dramatically. The report’s authors concluded that the “[s]triking rise in Russian mortality is beyond the peacetime experience of industrialized countries.” Francis C. Notzon, et al., Causes of Declining Life Expectancy in Russia, 279 JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, note 10 (Mar. 11, 1998).

714. ALLEN C. LYNCH, HOW RUSSIA IS NOT RULED: REFLECTIONS ON RUSSIAN POLITICAL DEVELOPMENT 104–6 (2005).


and dire consequences is alcohol abuse\textsuperscript{723} and the abuse of narcotics.\textsuperscript{724} And, just as sadly, Russia’s rate of HIV/AIDS infections is still among the highest in the world.\textsuperscript{725}

Nicholas Eberstadt has written movingly and worryingly of the “Dying Bear.”\textsuperscript{726} Eberstadt notes: “In 2009, overall life expectancy at age 15 was estimated to be lower in Russia than in Bangladesh, East Timor, Eritrea, Madagascar, Niger, and Yemen; even worse, Russia’s adult male life expectancy was estimated to be lower than Sudan’s, Rwanda’s, and even AIDS-ravaged Botswana’s.”\textsuperscript{727}

The demographic crisis is manifesting itself also in other, subtler ways. Thus increasing numbers of Russians are seeking ways to emigrate from Russia. Russia’s official statistics service, Rosstat, states that 186,382 Russians left the country in 2013 and 122,751 in 2012. These numbers represent a significant increase over the 36,774 that left in 2011 and the 33,578 in 2010.\textsuperscript{728} It is thought, furthermore, that Rosstat understates the true numbers.\textsuperscript{729} It seems as well that emigration numbers for 2014 and 2015 will be even higher as Russians grow disenchanted with war.\textsuperscript{730} It is estimated that over 200,000 Russians emigrated in the first nine months of 2014, and that many of these were the well-trained and highly-skilled.\textsuperscript{731}
Indeed, western commentators are now speaking bluntly of a Russian “brain drain as men and women with financial resources and transferable skills make new lives for themselves in the West.”

Russia’s demographic woes are genuinely tragic. They reflect a slow-motion human disaster that no one would want to witness, let alone experience. That said, Russia’s demographic disaster represents a second limitation on Vladimir Putin’s power to make war. Not only is Russia in the midst of an economic catastrophe that Western powers can yet make much worse, but Russia would likely face serious manpower shortages should sustained military operations continue much longer. Indeed, Russia’s military personnel currently number “700,000 instead of the envisioned 1,000,000.” Indeed, Russia has now found itself having to recruit foreigners to serve in its army.

Finally, a third reality that constrains Putin’s freedom of action is the political situation in Russia. He presides over what has been called a “mafia state.” Wikileaks in fact confirmed the total entanglement of the Russian state and Russian criminal elements. High-ranking government officials see their positions as vehicles for self-enrichment. Putin’s inner circle consists of men of staggering wealth, and such men are likely to want to...
call a stop to foreign adventures that directly threaten their sources of wealth.

And this leads into a second source of political instability Putin must contend with—his autocracy, his "rule of one," breeds its own opposition. Autocracy breeds paranoia, and there is now a significant body of evidence suggesting that Putin has now descended into a debilitating paranoia that poses risks not only to others but to his own continued rule. Autocracy is also especially prone to ridicule, mocking, and satire. The guffaw, the exaggerated tone of voice, even sexual innuendo can help to subvert the regime or arouse it to murderous anger.

Putin now seems likely to lash out in self-defeating ways. There are now reports that he plans to target opposition leaders living abroad. Putin, imagine...
it is said, is "driven by a paranoid fear of encirclement." It is further alleged that, thanks to his massive mistrust, it is becoming impossible to work with him on a diplomatic level. Vladimir Ryzhkov, former Speaker of the Russian Parliament and still a stirring voice for liberal reform, summed it up well: "[T]he country’s leaders believe that Russia is a besieged fortress. . . . Their objective [has become] to fend off the external enemy and identify and eliminate all enemies within Russia's borders." And therein lies the self-destruction that destroys autocracies.

A final source of political instability comes from the nationalist forces Putin has either unleashed or has allowed to flourish. He used the Sochi Winter Olympics as a showcase for Russian nationalism, adapting themes that would have been instantly recognizable to a Russian audience, even if lost on foreign observers. Thus the opening ceremony made use of Gogol’s famous Russian troika—a Russian viewer would instinctively grasp, as Western observers did not, that in the literary work referenced "all nations and states ‘step aside,’ giving Russia-troika ‘the right of way.’"

But there is compelling evidence now that Putin has lost control of nationalist sentiments and that, in fact, they are turning extraordinarily, dangerously toxic. On the one hand, Russian nationalism poses the danger of unleashing centrifugal forces that might tear apart Russia, or even rend the whole Eurasian region. Vladimir Ryzhkov, indeed, predicts that the

754. Gideon Rachman, The Strange Survival of Nationalism In Global Politics, FINANCIAL
entirety of what was once the Soviet Union could be engulfed in a series of nationalistic wars uglier than the conflicts fought over the bones of 1990s Yugoslavia.\footnote{Times, Sept. 22, 2014; Hannah Alberts, Putin’s Eurasian Union Could Inflame Nationalism at Home, IISS (International Institute For Strategic Studies), www.iiss.org, Sept. 2, 2014.}

But nationalism poses a second risk, and that is its very extremism. Skinheads, who do not always shave their heads, have made life wretched for immigrants for some years.\footnote{Tom Esslemont, Meeting the Ultra-Nationalist Skinheads of Russia, BBC NEWS, RUSSIA, Sept. 1, 2012; Shaun Walker, The Rise and Rise of Russian Nationalism, THE INDEPENDENT (UK), May 3, 2009; and Michael Schwirtz, Moscow’s Immigrants Face Wave of Skinhead Violence, N.Y. Times (THE LEDE, the New York Times News Blog), Feb. 19, 2008.} Cossacks, inhabitants of the Russian/Ukrainian steppes, famous for their martial bravery and their loyalty to the czars,\footnote{On the Cossacks, see generally, Hege Toje, Cossacks, in ETHNIC GROUPS OF EUROPE: AN ENCYCLOPEDIA 80-84 (Jeffrey E. Cole ed., 2011); and James S. Olson, AN ETHNOHISTORICAL DICTIONARY OF THE RUSSIAN AND SOVIET EMPIRES 171-82 (1994) (“Cossacks”).} have, some of them, become shock troops for ultranationalism.\footnote{Ellen Barry, The Cossacks Are Back. May the Hills Tremble, N.Y. TIMES, Mar. 16, 2013; Courtney Weaver, Cossacks Ride Again as Russia Seeks to Fill Ideological Void, FINANCIAL TIMES, Aug. 4, 2013; Corey Flintoft, Russia’s Cossacks Ride Back From History as ‘Patriots,’ NATIONAL PUBLIC RADIO, Feb. 22, 2014; and Catherine A. Fitzpatrick, Russia This Week: ‘Anti-Maiden’ Launched by Nationalists, Cossacks, Veterans, Bikers, January 23, 2015, available at http://www.interpretermag.com} “Rodina, the Russian National Patriotic Union,” has been attempting to build close ties with European far-right movements, like Greece’s Golden Dawn, and the extremist German politician Udo Voigt.\footnote{Polina Garaev, Russian Conference On Ukraine To Be Attended By Far Right EU Parties, i24news.com, Mar. 22, 2015; and Alan Cullison, Far-Right Flocks to Russia to Berate the West, WALL STREET JOURNAL, Mar. 22, 2015.} Politically, furthermore, this alliance seems to be paying some dividends as Europe’s far-right political parties are now calling for detente with Russia.\footnote{Conor Gaffey, European Far-Right Parties Call for End to ‘Cold War’ Against Russia, NEWSWEEK, Mar. 23, 2015; George Jahn & Elaine Ganley, Russia Reaches Out to Europe’s Far-Right Parties, ASSOCIATED PRESS, Dec. 13, 2014; Alina Polyakova, Strange Bedfellows: Putin and Europe’s Far Right, September/October 2014, available at http://www.worldaffairsjournal.org} Most distressing of all, in a nation that was first devastated and then defeated Nazi Germany, one finds in Russia today elements of Neo-Nazism making an appearance.\footnote{Mansur Mirovalev, Russia: Far Right Nationalists and Neo-Nazis March in Moscow, HUFFINGTON POST, Nov. 4, 2011; Peter Leonard, Meet Igor Strelkov, the Face of the Insurgency in Eastern Ukraine, HUFFINGTON POST, Ap. 29, 2014; Richard Arnold, The Involvement of Russian Ultra-Nationalists in the Donbas Conflict, June 11, 2014, available at http://www.jamestown.org; Lucian Kim, Should Putin Fear the Man Who ‘Pulled the Trigger’ In Ukraine? THE MOSCOW TIMES, Nov. 27, 2014.} This truly is profoundly saddening.
Thus, while Putin might have greater freedom of action than many Western leaders if only because of the weakness of his position, his freedom is not absolute. Economics, demographics, and his nation’s divided and extremist politics all put constraints on the range of actions he might take.

CONCLUSION: SADNESS AND HOPE

Julia Smirnova has written about new Moscow, the hip Moscow, the Moscow that was created by “the efforts of people who lived according to the motto, ‘act as if.’ They imagined that they lived in the ‘90s—not in Moscow, but in Berlin or New York.” This Moscow has now been shattered. Smirnova uses striking language to describe the current situation: “Moscow resembles a room in which there is a corpse. And everybody is trying not to notice it. The corpse, of course, is the war with Ukraine.” It is smelling, it is festering, it is rotting and could yet bring death. Yet, people try to get on with their daily business, afraid to speak up, or to call attention to the obvious and ugly truth. Pointing to the weakening economy, to internal political oppression, to the uncertain geopolitical situation, Anna Nemtsova asked bleakly, “Can Russia Survive After Ukraine?”

Clearly, a mood of pessimism surrounds Russia’s future. One has the sense that if Russia does not explode into a supernova of international bloodletting, it may yet collapse in on itself by the own gravitational weight of its own contradictions. And yet I have hope. Vladimir Putin is sealing his own fate. We should, as a matter of policy, at his removal from the international stage, but factors internal to Russia may resolve the crisis for us.

And then we must bear in mind that Russia is and always will be a continental great power. It possesses the strength of culture to be a powerful force of good in the world. It is the nation that gave us Leo Tolstoy and a host of literary and religious thinkers. It is a land of great scientists and mathematicians, authentic world-class thinkers like Alexander Friedmann and Andrei Linde. It has been the home and motherland of such musical geniuses as Pyotr Ilyich Tchaikovsky and Alexander Borodin. Russia can yet realize its true destiny—a great culture, a great civilization, a place of learning and creativity, and a nation always willing to generously share its wisdom and insights with the world, while peacefully doing business with its neighbors.

763. Id.
764. Id.