

CANADIAN GLOBAL AFFAIRS INSTITUTE
INSTITUT CANADIEN DES AFFAIRES MONDIALES

Mediating an Impasse: The Way Forward in Ukraine

by David Carment, Milana Nikolko and Dani Belo

February 2018

POLICY UPDATE

MEDIATING AN IMPASSE: THE WAY FORWARD IN UKRAINE

by David Carment, Milana Nikolko and Dani Belo

February 2018



CANADIAN GLOBAL AFFAIRS INSTITUTE
INSTITUT CANADIEN DES AFFAIRES MONDIALES

Prepared for the Canadian Global Affairs Institute
1800, 421 – 7th Avenue S.W., Calgary, AB T2P 4K9
www.cgai.ca

©2018 Canadian Global Affairs Institute
ISBN: 978-1-988493-97-8

The conflict in Eastern Ukraine has been exceptionally resistant to resolution, with numerous mediation attempts resulting in broken agreements which have at best de-escalated the most intense fighting while failing to address underlying issues. Major obstacles to resolution are those core elements of grey-zone conflict that we identified in our previous policy commentary. These include situational ambiguity regarding the techniques that belligerents use against each other, as well as the uncertainty associated with the perception of the point of victory.

A second obstacle is resistance to implementing the main provisions under the Minsk agreements. For example, a recent law passed by Ukraine's parliament serves as an impediment to multilateral negotiations because it makes no provision for granting autonomy or holding elections in the Donbass region, both of which are part of the Minsk agreements. The law unilaterally redraws Ukraine's position on Russia's involvement, the status of the two separatist territories and discounts previous mediation efforts and agreements that the OSCE, Germany and France have facilitated.

The complexity of this grey-zone conflict is reflected in a number of important ways. Both the West and Russia have personnel on the ground. By some estimates there are 1,500-3,000 Russian advisors in Eastern Ukraine, compared to the estimated 35,000 separatist forces representing the LNR and DNR. Alongside the 200 Canadian forces in Ukraine proper, there are an estimated 400 American soldiers. Thirteen hundred British advisors have also been deployed in support of Operation ORBITAL since 2015. There are an estimated 300 foreign fighters on each side of the conflict. An increasingly active organized criminal network controls trafficking and smuggling along the line of separation as a result of the blockade Kyiv has imposed on the Donbass. Regularized paramilitary forces such as the notorious right-wing Azov Battalion, intermittently funded by the Americans, fight alongside the Ukrainian army.

In addition to war by proxy, both sides are engaged in cyber and information warfare to undermine the opponent's political narrative. These techniques are difficult to attribute to specific actors as they rarely cause immediate damage. Their purpose is to gradually and fundamentally revise the regional and, ultimately, the global system of alliances and norms of international conduct. This transformation is clear when we consider Russia's efforts to form exclusive relationships with states within the EU.

Concurrently, NATO is attempting to pull Ukraine from Russia's traditional sphere of influence, an approach that is consistent with the U.S. administration's national security strategy (NSS) that puts geopolitics ahead of terrorist threats as the number one security issue facing America. Given the NSS's concerns regarding the challenge of great power rivals including China and Russia, it makes sense why the U.S. would be concerned about a more unified Europe.

On the one hand, a Europe that is on good terms with Russia would be a significant challenge to American influence there and elsewhere. On the other hand, it is difficult to predict Kyiv's long-term future. For weak leaders such as President Petro Poroshenko, who is desperately trying to

avoid political loss, there are domestic benefits associated with intransigent behaviour and strategic bargaining. A major constraint on compromise includes outbidding among a broad spectrum of political parties, pushing Poroshenko's government to more extreme positions. In other words, there are benefits for Kyiv to ensure a long, low-intensity conflict as it maximizes Western interests, ensures continued pressure on Russia and helps keep political extremism at bay.



Figure 1: *President Trump and Russia's President Vladimir Putin talk during the family photo session at the APEC Summit in Danang, Vietnam. (Jonathan Ernst/Reuters)*

In a conflict driven by the machinations of great power rivalry, geopolitics and domestic pressures, it would seem that mediation does not stand much of a chance. One way to boost the prospects of resolution is to reduce the number of veto actors by excluding them from a final settlement. We have seen this exemplified by recent direct talks between Russia and the U.S., essentially circumventing Ukraine and the separatists. It is likely that bilateral negotiations like this will become an increasingly dominant strategy as the conflict enters its fourth year. Most recently, a channel between the U.S. and Russia on UN peacekeeping options has opened.

This shift to bilateral dialogue is consistent with what we know about mediating complex and protracted conflict. The conflict in Eastern Ukraine with its multiplicity of veto actors could be moved to the verge of settlement by removing chains of intermediaries, with track-two diplomacy often preceding track-one diplomacy. As time progresses, the chains that produce

results become shorter as intermediaries are dropped from the negotiation. Key among the players in this dialogue are France and Germany, who were instrumental in initiating the OSCE Minsk agreements and who have a stake in Ukraine's future, not only as a European nation but as a potential EU member. The Normandy format which they lead remains a crucial part of the mediation process.

In sum, grey-zone cases such as the one in Eastern Ukraine pose a challenge to mediation because of the difficulty in assigning culpability to specific acts, discerning belligerent intentions and enforcing agreements. We argue that, lacking full information regarding belligerent intent and resolve, the U.S. and Russia are augmenting mediation through alternative strategies consisting of positive and negative incentives that strengthen their broader strategic objectives (for example, supplying weapons, training and personnel as well as imposing economic sanctions). All this makes mediation success less likely and increases the prospects for frozen protracted conflict.

We envision three possible scenarios for Ukraine.

Scenario One: Frozen Conflict

In this scenario, Ukraine joins the club of former Soviet republics with unsolved territorial issues, such as Moldova (Transnisteria) and Georgia (South Ossetia and Abkhazia). Both tilted towards European integration initiatives and both ended up in similar situations as de facto uncontrolled territories. In all of these cases, Russia became the geopolitical beneficiary. The prolongation of the Eastern Ukraine conflict, as opposed to the return of Eastern Ukraine to Kyiv, would be the best possible solution for Russia, notwithstanding the burden of sanctions and the court of public opinion in Russia. The Russian public continues to support the Donbass separatists, but much less vigorously than at the beginning. Mitigating circumstances include upcoming elections in Russia in advance of which President Vladimir Putin may extend an olive branch to Ukraine in exchange for the dropping of sanctions or, less likely, political pressure from within.

Scenario Two: Separation

With prolongation of the negotiations and Kyiv's unwillingness to consider decentralization and autonomy, Donbass will continue to build up its pseudo-state structures, drifting away from Ukraine with its "russkiy mir" ("Russian world") ideology. Our previous commentary noted the extent to which Eastern Ukraine's economy is dependent on Russia, given the Kyiv blockade. Recent developments in Luhansk, where LNR leader Igor Plotnitsky resigned in favour of leaders more loyal to Moscow, could be interpreted as a unification of the two republics under one leader. Potentially, this will provide Donbass with more leverage in ongoing negotiations, with a large unified territory and a population around 3.5 million people. The end goal could be

the formation of an independent breakaway state (and possibly its eventual incorporation into Russia).

Peaceful partitions have conflict-management potential. By separating the belligerent groups, partition provides security and a decrease in the need for interaction among groups that do not get along. When domestic and international violence is considered, a partition's consequences largely depend on its timing. It must be done quickly rather than dragged out. Partition of a state is not the only solution to protracted ethnic wars, but it is often preferable to intense fighting. Over 10,000 people have died in this conflict. The UN estimates 24,000 casualties on both sides since the conflict started.

Unfortunately, for a partition settlement to succeed, it is not enough for the opposing sides to resolve the underlying issues behind a protracted war. They must also meet the much more difficult challenge of mutually designing (and enforcing) credible institutionalized guarantees to a long-term agreement to end the violence. Mutual agreement is difficult without outside pressure that is applied equally on both sides. Settlements that are highly institutionalized; that is, they provide long and abiding guarantees for the security, economic and political wellbeing of all parties, are most likely to be enduring.

For the partition scenario to unfold, both the West and Russia must be supportive of providing credible assurances to the people of Eastern Ukraine and in return obtain assurances that fighting on both sides will stop. Given what we now know about Kyiv's interest in strengthening its military capacity, its willingness to impose martial law if necessary and the U.S.'s stated goal of arming Kyiv with lethal aid, any kind of separation is more likely to be de facto than de jure. In today's geopolitical climate any perceived win by Russia has a lower probability of success. This scenario would certainly be unpalatable for many in the West.

Scenario Three: A Return to Ukraine with Peacekeeping and Autonomy

A third option would see the deployment of peacekeepers beyond the unarmed OSCE observers scattered throughout the country already. Such a mission would be large, expensive and fraught with political roadblocks, notwithstanding the obvious veto that UNSC permanent member states can exercise over missions they don't agree with. Using an accepted ratio of 20 peacekeepers per 1,000 residents, an estimated 60,000 peacekeepers would be needed to stabilize the region. The major impediment to peacekeepers is the disagreement between Russia and the U.S. over the deployment location of the peacekeeping force.

The U.S. wants peacekeepers throughout the separatist territories, thereby having the ability to intercept war material which Russia has purportedly been supplying to them. Russia argues that peacekeepers should only be deployed on the border between Ukraine and the Donbass region where the fighting takes place. For its part, the OSCE's primary responsibility is to monitor the line of separation between the two sides. In 2017 alone, the OSCE recorded almost 400,000 ceasefire violations and close to 4,000 instances of proscribed weapons in violation of the

agreed withdrawal lines. The scattering of peacekeepers throughout the Donbass would likely make them more targets rather than intermediaries. That is why on Jan. 26, 2018 in Dubai, the U.S. and Russia discussed a possible multi-phased approach to peacekeeping deployment which could reconcile their individual positions.

An armed (or "robust" as some would call it) peacekeeping capability helps ensure a level of third-party credibility and commitment to a peace process currently absent. However, as Russia and the U.S. have now discovered, that peace process needs to be sequenced out with a clear and mutually supported political objective foremost in the minds of its implementers. The crucial next step is to look beyond the cessation of violence toward political compromise by placing the burden of implementation on the conflicting parties themselves. To that end, a UN-supported peace process must consider Eastern Ukraine's long-term political prospects as an autonomous entity free to choose its own political path through free and fair elections.

So far, Kyiv has shown it is not open to that option until it has regained complete control from the separatists. If Poroshenko hopes that the people of Donbass will return to Ukraine with open arms, he is sadly mistaken. The conditions for the peaceful reintegration of Eastern Ukraine's Russian-speaking people into Ukraine simply do not exist at this time. Not only is Eastern Ukraine exercising more independence, Kyiv does not have the resources to match those of Russia. Kyiv's political and economic capacity is below any acceptable level necessary for governing a hostile breakaway region and its refusal to transfer social benefits to the residents of Luhansk and Donetsk has only made matters worse. Without access to health care and social benefits the region is beset by a massive humanitarian crisis largely ignored by the West.

Apart from the implications for Canada's halted efforts to reinvigorate its peacekeeping agenda and its multilateralist credentials, there are important lessons here. For Canada, a country caught up in the geopolitical manoeuvrings of its neighbour to the south, mediation presents itself as a useful, cost-effective alternative to expensive military missions. Given that close to 50 per cent of crises in the post-Cold War era are mediated, it seems likely that strategies for mediating grey-zone conflict will be needed even if the probability of success is lower than desired. Canada's best strategy in contributing to resolving the Ukraine conflict is to be both forewarned and forearmed.

About the Author

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

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

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

Dani Belo *is a doctoral student at Carleton University's Norman Paterson School of International Affairs. He specializes in conflict analysis, defence and security studies and Russian foreign policy.*

Canadian Global Affairs Institute

The Canadian Global Affairs Institute focuses on the entire range of Canada's international relations in all its forms including (in partnership with the University of Calgary's School of Public Policy), trade investment and international capacity building. Successor to the Canadian Defence and Foreign Affairs Institute (CDFAI, which was established in 2001), the Institute works to inform Canadians about the importance of having a respected and influential voice in those parts of the globe where Canada has significant interests due to trade and investment, origins of Canada's population, geographic security (and especially security of North America in conjunction with the United States), social development, or the peace and freedom of allied nations. The Institute aims to demonstrate to Canadians the importance of comprehensive foreign, defence and trade policies which both express our values and represent our interests.

The Institute was created to bridge the gap between what Canadians need to know about Canadian international activities and what they do know. Historically Canadians have tended to look abroad out of a search for markets because Canada depends heavily on foreign trade. In the modern post-Cold War world, however, global security and stability have become the bedrocks of global commerce and the free movement of people, goods and ideas across international boundaries. Canada has striven to open the world since the 1930s and was a driving factor behind the adoption of the main structures which underpin globalization such as the International Monetary Fund, the World Bank, the World Trade Organization and emerging free trade networks connecting dozens of international economies. The Canadian Global Affairs Institute recognizes Canada's contribution to a globalized world and aims to inform Canadians about Canada's role in that process and the connection between globalization and security.

In all its activities the Institute is a charitable, non-partisan, non-advocacy organization that provides a platform for a variety of viewpoints. It is supported financially by the contributions of individuals, foundations, and corporations. Conclusions or opinions expressed in Institute publications and programs are those of the author(s) and do not necessarily reflect the views of Institute staff, fellows, directors, advisors or any individuals or organizations that provide financial support to, or collaborate with, the Institute.