

Statelessness and governance in the absence of recognition: The case of the ‘Donetsk People’s Republic’

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The Euromaidan revolution that engulfed Ukraine in the winter of 2013–2014 marked the beginning of hostilities in the Donbas region. Local rebel groups took over government buildings and made calls for independence from Ukraine. They denounced the Euromaidan revolution and called on local residents of the Donbas to support the creation of two self-proclaimed states, the ‘Donetsk People’s Republic’ (DPR) and the ‘Luhansk People’s Republic’ (LPR).¹ These calls for separatism transformed into a bloody conflict between rebel forces and the Ukrainian military in the spring of 2014 (Zadorozhny and Korotkiy, 2015). At the time of writing, the war in the Donbas continues despite multiple attempts to end the conflict through international agreements and ceasefires. Since 2014, more than 13,000 people have died in the war with over 1.5 million residents of the region displaced (United Nations, 2019). The two ‘people’s republics’ have become politically, economically, and ideologically isolated from Ukraine. According to survey data, most of the residents of the DPR/LPR trust local authorities and hope to be integrated into Russia (Kudelia, 2014; Giuliano, 2018). The Russian government has been supporting the separatist entities without officially recognising them as states or extending promises of future integration (Sasse and Lackner, 2018). Although the leaders of both ‘republics’ seem to enjoy the internal domestic support of the Donbas residents, they remain heavily dependent on Russian assistance. Therefore, the sources of legitimacy are important, particularly as Ukrainian President Volodymyr Zelensky hopes to end the Donbas conflict and reintegrate the region through a new deal called the ‘Steinmeier formula’ (BBC, 2019).

This chapter examines the connection between statelessness and governance in the self-proclaimed state of the DPR. Specifically, I highlight how the rebel authorities can contribute to statelessness through their governance in pursuit of internal legitimacy. Using original data from the region – including social media accounts, local newspapers, and official websites for ‘state’ institutions of the DPR – I identify strategic tools that leaders

in self-proclaimed states use to gain domestic support and recognition. These main tools involve the use of citizenship laws, support of an external patron, and provision of public goods. Governance in pursuit of domestic support further exacerbates the issue of statelessness in the ‘republic.’ While most of the residents of the occupied Donbas have retained their Ukrainian citizenship, many have taken citizenship of the DPR. Adding to this complexity, in April 2019 the Russian government simplified the process of obtaining Russian citizenship for the residents of the ‘republic’ (President of Russia, 2019).

Legitimacy and statelessness in the absence of recognition

The literature on self-proclaimed states highlights multiple definitions of these political entities. Scholars frequently use terms such as ‘quasi-states’ (Kolsto, 2006), ‘de facto states’ (O’Loughlin et al., 2014; Lennon and Adams, 2019), ‘unrecognized states’ (Markedonov, 2012), ‘contested states’ (Geldenhyus, 2009), ‘informal states’ (Isachenko, 2012), and ‘separatist states’ (Chirikba, 2004).² Generally, academic literature views self-proclaimed states as political entities that possess neither sovereignty nor legitimacy. While sovereignty is associated with independence and external recognition, legitimacy is understood as acceptance of political authority (Weber, 1978). In conceptualising legitimacy, the normative approach highlights the moral rightfulness of political authority, while the empirical or descriptive approach is associated with the perceptions and manifestations of public consent to political authority (Duyvesteyn, 2017). Most studies of legitimacy focus on sovereign states with legitimacy being treated as a binary concept.

More recently, scholars started to examine legitimacy in the context of self-proclaimed states and rebel groups and proposed thinking of degrees or types of legitimacy (Clapham, 1998; Caspersen, 2012). In her work, Nina Caspersen (2015) distinguishes between external legitimacy as international recognition, and internal legitimacy as acceptance of the political regime domestically. In the case of self-proclaimed states, a regime might lack external legitimacy yet enjoy internal legitimacy due to domestic support of the local population. This domestic support is essential for rebel leaders and needs to be established early on (Schneckener, 2017).

Legitimacy has also been tied to the ability of a government to provide vital public goods for the population, primarily security and social welfare (Lipset, 1960; Linz and Stepan, 1996; Berg, 2012). Rebel governments may be effective at governance, especially when the state is absent. Rebels can maintain a form of social contract with the public. Beyond effective

policy-making, internal legitimacy can also be established through public perception of democratic rule, legitimacy of a rebel group leader, coercion that evolves into the perception of order, and the imitation of state symbols and state performance (Duyvesteyn, 2017). Even in the absence of external recognition, political elites create political institutions, pass legislation, and organise local elections. In addition, every unrecognised entity (e.g., Abkhazia, Northern Cyprus, Somaliland, etc.) relies on political and financial support of an outside state, which might not necessarily translate into statehood, yet contributes to internal legitimacy (Berg and Toomla, 2009; Ker-Lindsay, 2012). This external support also prevents complete isolation of a self-proclaimed state from the international community.

In the case of the two ‘republics’ in the occupied Donbas, the quest for gaining legitimacy translated into new citizenship policies, which allowed the Donbas residents to obtain passports of the self-proclaimed DPR/LPR. Remaining in the occupied Donbas and taking on citizenship of these *de facto* states have translated into statelessness. Statelessness of this sort has been widely discussed in the academic literature (Batchelor, 1998; Weissbrodt and Collins, 2006; Tucker, 2014; Fazal, this volume) and largely implies the holding of citizenship that is ineffective to the point that the state is unable or unwilling to provide benefits or protections for its citizens. While the Ukrainian government does not formally strip the newly minted citizens of the ‘republics’ of their Ukrainian citizenship, the citizens of the DPR/LPR residing in the occupied Donbas are unable to receive protections or public goods from Ukraine.

Citizenship and statelessness in the DPR

Despite the lack of international recognition, the self-proclaimed leaders of the DPR quickly established new government institutions and set up legislative and judicial agencies (Matveeva, 2016). The Ministry of Internal Affairs (MIA) of the DPR began issuing passports of the ‘Donetsk People’s Republic’ in 2016 as a foundation for gaining internal legitimacy and deepening the alienation of Donbas residents from Ukraine. Since 2016, more than 415,000 people have received passports of the DPR (DNR Live, 2020). Yet, no country formally recognises the ‘republic’ as a state. In essence, having a passport that is not recognised around the world and which blocks any other citizenship from functioning is akin to statelessness. As a result, the conflict in the Donbas has not only led to thousands of people dead, injured, or displaced, it has also contributed to a growing number of stateless persons among the residents of the region (Babko, 2019). The most vulnerable groups for statelessness in the DPR include

individuals who have lost their Ukrainian passports and children born in the DPR since 2014.

The residents of the DPR who have lost their Ukrainian passports are often unable to renew them, thus facing the risk of statelessness. In order to reinstate the passport of a Ukrainian citizen, these individuals need to confirm their identity with the Migration Service of Ukraine (MSU). The mere fact that residents of the occupied Donbas who are not migrants have to work with the MSU to regain their citizenship undermines the legitimacy of the Ukrainian government in the region. In addition, the MSU does not have a national electronic database. Thus, to confirm citizenship based on residency, the agency needs to obtain documents located in the territory of the DPR, which the Ukrainian government no longer controls.³ In rare cases, the Ukrainian government may allow individuals to nominate their family members or neighbours to be interviewed to confirm identity and citizenship (VRU, 2015). However, travelling to Ukraine-controlled territory is difficult and expensive for residents of the DPR. Individuals without passports or other identity documents find it nearly impossible to cross checkpoints between the DPR and Ukraine-controlled territories without the risk of detention. This procedure of regaining citizenship based on residency contradicts the right to Ukrainian citizenship by birth through at least one parent being a Ukrainian citizen (VRU, 2001).

The risk of statelessness is particularly high for children in the DPR. Ukrainian citizenship is formally granted to residents of Ukraine once they are 14 and confirm their residency through a birth certificate issued by the Ukrainian government (VRU, 2016). According to local non-governmental organisations (NGOs), over 40,000 children born in the occupied Donbas from 2015 to 2016 did not receive Ukrainian birth certificates and registration (ADC, 2019). To avoid the prospect of statelessness, some pregnant women temporarily leave the DPR to give birth to their children in Ukraine-controlled territories. This allows the newborns to be registered by the Ukrainian authorities. The children who are born in the DPR and only obtain birth registration from the local authorities are formally stateless since they are only registered with a self-proclaimed state. These children are restricted in their ability to travel outside of the 'republic'. The DPR-issued documents only allow them to travel to Russia and the self-proclaimed states of Abkhazia and South Ossetia (Serdyuk, 2018). The same limitation on travel also technically applies to the residents of the DPR who have obtained new passports issued by the DPR authorities, although many of these individuals have kept their Ukrainian passports as well.

In 2018, the Ukrainian government adopted a law that extended formal recognition to birth certificates and death certificates issued in the occupied Donbas (VRU, 2018). However, the law lacks proper implementation. Thus,

to receive a birth certificate issued by the Ukrainian government, the parents of a child who was born in the DPR need to travel to Ukraine-controlled territory and request this document from the civil registration authorities. Once the parents receive a formal written rejection (since the Ukrainian authorities do not recognise birth certificates issued by the self-proclaimed 'republics'), they can initiate a court procedure to register the birth. The complicated nature of the process discourages many families from acquiring birth certificates issued by the Ukrainian government. As a result, only 43% of children born in the occupied Donbas since the start of the conflict in 2014 have received this registration (UNHCR, 2019).

Individuals who have fled the conflict zone and moved out of Ukraine, but then lost their Ukrainian passports, also face legal complications. They cannot return to Ukraine without evidence of their entitlement to Ukrainian citizenship (ADC, 2019). Overall, the attempts of the self-proclaimed government in the DPR to gain legitimacy through new citizenship laws are contributing to statelessness and a growing humanitarian crisis in the region.

Russia as the external patron of the DPR

The internal legitimacy of the DPR largely rests on the external support of the Russian government. Although leaders and residents of the occupied Donbas have long expressed their hope to be integrated into Russia along 'the Crimean scenario', Russia refused to formally annex the 'republic' (Sakwa, 2015). Still, the Russian government has played a major role in supporting the leaders of the DPR politically, militarily, and financially. In April of 2019, a few days after Ukrainians elected President Zelensky, the Russian President signed a new law simplifying the procedures for obtaining Russian citizenship for the residents of the 'republics'. Russian President Vladimir Putin claimed this decision was a necessary solution to a growing humanitarian problem in the Donbas (President of Russia, 2019). He also discussed the possibility of simplifying the acquisition of Russian citizenship for all residents of Ukraine (RIA News, 2019).

Currently, the new procedure for obtaining Russian citizenship involves two decrees. One of them applies to the citizens of Ukraine and stateless people who are residing in the territory of the occupied Donbas. The second decree applies to former residents of the Donbas who fled to Russia as refugees before 27 April 2014. The fact that both decrees apply to either former or current residents of the DPR complicates the application of these rules and enables discrimination against the Donbas refugees who currently reside in Russia. The list of documents required for former residents of the DPR/LPR who have fled to Russia is much longer and includes a medical

certificate confirming that an applicant does not have infectious diseases, drug addiction, or HIV/AIDS (Kirillov, 2019). Another group of people excluded from obtaining Russian citizenship is that made up of current residents of the DPR who have not obtained passports from the unrecognised 'republic'. Therefore, the new procedure encourages residents of the occupied Donbas to make a conscious choice of obtaining the passport of a self-proclaimed state and risk losing their Ukrainian citizenship (since Ukraine's Constitution does not allow dual/multiple citizenships) to become citizens of Russia in the future.⁴

The Ukrainian authorities have criticised the new decrees as an act of aggression against Ukraine. The government in Kyiv declared the new Russian passports issued to the residents of the 'republic' as invalid and encouraged other countries to boycott the 'fake documents' (CMU, 2019). According to the Russian government, close to 200,000 residents of the occupied Donbas obtained Russian citizenship in 2019 (TASS, 2020). The process of obtaining citizenship involves paying a substantial fee along with the requirement to travel to the territory of Russia to take the oath of the Russian Federation. Interviews with the Donbas residents who obtained the Russian passports suggest that they prefer to keep all three passports (the Russian, the Ukrainian, and the passport of the 'republic') in order to maximise the opportunities for travel and social benefits (Kohan and Tohmahchi, 2019).

The extension of Russian citizenship to the residents of the Donbas may potentially help alleviate the issue of statelessness in the region, but currently the acquisition of a Russian passport does not translate into entitlements to social benefits for the residents of the DPR. The new citizens of Russia who reside in the DPR do not receive unemployment benefits, child support, or pensions from Russia. There are grounds to suspect that the new decrees provide little benefits for the residents of the DPR and instead primarily serve the interests of the Russian government. The citizenship laws provide an opportunity for Russia to justify a future intervention in the Donbas under the guise of protecting Russian citizens (Peters, 2019). These laws also help delegitimise Ukraine's government in Kyiv (Lennon and Adams, 2019). Beyond the external support from Russia, local political elites in the DPR have made strides to obtain internal legitimacy through different elements of governance in the 'republic'.

Governance in the DPR

Despite the lack of international recognition and substantial dependence on Russian support, the leadership of the DPR used the results of the May

2014 referendum to declare the independence of the ‘republic’. Shortly after, the DPR adopted its own constitution (Zadorozhny and Korotkiy, 2015). To enhance their internal legitimacy and centralise political power, rebel leaders organised local elections in late 2014 (Matveeva, 2016). These elections were not transparent and lacked external recognition. Nevertheless, they have helped advance members of local civil society organisations in the DPR to the new legislative body, People’s Council of the DPR. Beyond the creation of new political institutions, effective policy-making has been key to maintaining internal legitimacy in the ‘republic’.

Maintaining security has been a major priority for rebel leaders in the Donbas since the early spring of 2014. Once the rebels gained control over local government buildings, they set up volunteer paramilitary units to keep rebel-controlled territories secure (Sakwa, 2015). The military of the ‘republics’ has expanded over the years by recruiting thousands of local residents (Ria News Ukraine, 2017). The rebel leaders have also set up local patrol units to enhance security in areas away from the direct line of conflict (Grigoryuk, 2015). As a result, by 2016, relative peace and stability have returned to the large cities in the Donbas region while the conflict has shifted to the borders of the DPR/LPR (Matveeva, 2016). The ongoing violence contributes to the rally round the flag effect and helps promote the ideological narrative of victimhood and nationalism to further advance the position of local elites in the self-proclaimed state. At the same time, residents of the self-proclaimed DPR increasingly view the Ukrainian government and the Ukrainian state as a foreign adversary and an external enemy responsible for the bloody conflict in the Donbas.

Economic development remains a central concern for the leadership of the ‘republic’. The ongoing conflict with Ukraine has led to a significant economic downturn. Many businesses have either left the region or completely shut down. In 2014, the Ukrainian government imposed an economic blockade on the occupied Donbas, which has further exacerbated the region’s economic decline (Matveeva, 2016). As major banks closed their branches in the DPR, the residents of the ‘republic’ were unable to access their accounts and obtain cash (Silchenko, 2015). With the help of the Russian government, local authorities in the DPR made significant efforts to reduce the economic crisis. They created a new electronic banking system and a network of central banks (Beroyeva, 2016). The leadership of the ‘republic’ also took control over some coal mines in the region and announced rising levels of coal production (DONi News Agency, 2016). Yet significant issues remain. The 2016 nationalisation law allowed the DPR leaders to impose temporary authority over local businesses, which was met with suspicion by Donbas residents (Beroyeva, 2016). Despite the economic blockade, some businesses in the DPR continue paying taxes to the

Ukrainian government (Skorik, 2017). Trade volumes are consistently low since the ‘republic’ primarily trades with the LPR and Russia. Slow trade contributes to the shortage of consumer goods in the region and reliance on contraband trade with Ukraine (Beroyeva, 2016).

While there is a shortage of reliable data regarding the budget of the DPR, existing estimates suggest that the Russian government covers about 70% of the budget of the ‘republic’ (Matveeva, 2016). Other estimates point to an even bigger reliance on Moscow (82% of the DPR’s budget) (Skorik, 2017). Despite the lack of official data, there is little doubt that the DPR is completely financially dependent on Russia (Donbass News, 2017). Consequently, Russia’s political and economic involvement in the region is expanding. The Kremlin is directly involved in policy-making in the republic, while Russian goods are dominating the markets in the DPR (Lennon and Adams, 2019).

In 2014, citing its inability to exercise political control in the DPR/LPR, the Ukrainian government has, for example, ceased sending pension payments to the occupied territories. Pensions are still available for the residents of the ‘republic’ if they are able to leave the occupied region and register with the government authorities in Ukraine-controlled territory. As such, obtaining pensions from Ukraine requires crossing frequently into Ukraine-controlled territory, which can be both costly and dangerous. However, many retirees are either unwilling or unable to permanently leave their homes and move out of the DPR. As a result, retirees feel abandoned and betrayed by the Ukrainian politicians who claim that ‘Donbas is Ukrainian’, yet do not support the residents of the Donbas financially (Khomenko, 2014). The inability of the Ukrainian state to provide public goods for the residents of the occupied ‘republic’ further eroded the legitimacy of the government in Kyiv and contributed to statelessness. The financial dependency of the DPR residents on the self-proclaimed government in the ‘republic’ and the authorities in Moscow helps promote the idea that the residents of the occupied Donbas are not Ukrainian.

Conclusion

The leadership of the DPR has used a combination of citizenship policies, external support, and the provision of public goods as sources of obtaining internal legitimacy in the ‘republic’. Yet, the ability of rebel authorities to maintain this legitimacy is under question as the DPR continues to rely on the government of Russia to maintain the budget of the ‘republic’ and provide socio-economic benefits for its residents. Until the status of the DPR is formally resolved, the prospect of statelessness looms large over thousands

of residents of the occupied Donbas. The financial dependence on Russia presents a growing challenge for cultivating the DPR's legitimacy, particularly as the Russian government started reducing its economic support to the region to encourage the DPR to be more independent (Skorik, 2017). Overall, the 'republic' is currently unable to solve the issue of statelessness and provide social welfare for the residents of the DPR without any external assistance. This weakness could present an opportunity for the Ukrainian government in its efforts to regain influence and legitimacy in the Donbas.

The case of the DPR highlights the powerful link between governance, statelessness, and citizenship. For established states, the inability to govern within a particular territory may contribute to statelessness (both *de jure* and *de facto*). For self-proclaimed states, governance in pursuit of internal legitimacy may involve manipulation of citizenship policies, which enhances the risk of statelessness. The ability of self-proclaimed states to gain internal legitimacy and extend citizenship to residents despite the absence of international recognition has important implications for the future of these political entities. One implication is that resolving separatist conflicts and attempting to reintegrate *de facto* states using military force or international law could be ineffective and even counterproductive. These conventional tools do not erode the internal legitimacy of *de facto* states. The second implication attests to the power of citizenship as a tool of geopolitics. The cases of Ukraine's Crimea and the Donbas suggest that violations of state sovereignty and foreign military interventions are increasingly justified on the basis of protecting the citizens of an intervening state or helping a stateless group.

Notes

- 1 Throughout the chapter, I refer to the occupied regions of the Donbas as 'polities', 'republics', *de facto* states, and self-proclaimed states.
- 2 I treat self-proclaimed states as 'separatist entities that display trappings of statehood but lack universal recognition' (Florea, 2014: 789).
- 3 Ukraine's Migration Service mandates that the residents of the DPR need to reestablish their citizenship by showing evidence of residency in Ukraine in August 1991.
- 4 Ukraine's government currently has no ability to identify the residents of the Donbas who hold the passport of the 'republic' and/or the passport of the Russian Federation. Therefore, there is no mechanism in place to actively strip the 'citizens' of the DPR of Ukrainian citizenship by confiscating their Ukrainian passports. The threat of statelessness becomes more serious for the residents of the DPR who lose their Ukrainian passports or let them expire.

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