

Andrei Illarionov: Annexation of Crimea is a litmus test for Russian opposition

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Russian journalist Aider Muzhdabayev once said “Tell me to whom Crimea belongs, and I’ll tell you who you are.” This phrase is like a test in the main issue in Russia’s most important discussion at least since the collapse of the Soviet Union.

The discussion he started is one not only about Crimea and not even about Crimea per se. Not only about Ukraine. And not about Russian-Ukrainian relations. This is a discussion about Russia. About what it should be.

This is about the rules under which contemporary Russian society should live and the principles according to which the new Russian state should act – both abroad and within the country.

Three legal principles and three major political forces in contemporary Russia

Based on their responses to the Crimea test, Russian politicians and public figures have fallen into three distinct groups based on different beliefs.

The first belief is that force not limited by any law or morality, or “Might makes right.” This is a Mafia principle. This is a principle that has been repeatedly demonstrated by Vladimir Putin and his Kremlin entourage, a principle widely popularized by the regime’s propagandists.

The second principle is one of bashful populism hiding behind unlimited (non-liberal) democracy. “Whatever the majority desires is right.” People who hold these beliefs might admit that all possible laws and norms have been violated, that a crime has been committed, and even condemn the crime; but if the majority wants the crime’s results to be preserved, they will not do anything to stop it, protect the victim, return what was stolen, punish the criminal.

This is the principle of recognizing the *fait accompli* resulting from the crime, the principle of subordinating one’s actions to the mob’s instincts. This principle is being promoted by opposition figures Alexei Navalny, Mikhail Khodorkovsky and columnist Yulia Latynina and has been supported by their supporters and construed by them in many ways.

The third principle is the rule of law and liberal democracy. “You can only do what doesn’t violate the legitimate rights of others, both people and states.” Basically, if a crime was committed, one needs to do their best to stop the crime, protect the victim and punish the criminal. If necessary, one should spend a lot of effort and time or even sacrifice one’s life for that.

This is the principle of the rule of law. It is supported, for example, by journalists and politicians Arkady Babchenko, Vitaly Portnikov, Boris Vishnevsky, Andrei Piontkovsky, Garry Kasparov and many others, including this author.

What follows falls into three categories of responses: crime and encouragement, crime and bashful recognition and crime and punishment.

Three European (and universal) development paths

Given that Putin, Navalny and Khodorkovsky have proclaimed and regularly emphasized their allegiance to the European way of life, it’s worth mentioning that all these principles are absolutely European and quite modern. Sicilian Mafia, the totalitarian mobilization of Mussolini and Hitler and the rule of law in Anglo-Saxon, Scandinavian and continental traditions – all of them are exclusively European phenomena. That is why a solemn proclamation of the European choice does not rule out a subsequent Mafia state or totalitarian development path, which are quite European in their origin.

In response to the crimes that have been committed or are being committed by the Kremlin – stealing Crimea, invading Donbas, raping Ukraine, Navalny, Khodorkovsky and Latynina have proposed labeling these as crimes but at the same time recognizing their results, as well as simultaneously refusing to resist these crimes and to punish those who committed them.

How can one explain the position of those who refuse to return Crimea?

There are three explanations possible.

The first one is claiming to be a realist. Khodorkovsky said: “I know quite well what is real in Russia and what is not.” Of course, this is not the approach of aggressors and Mafiosi. This is the position of underdogs. This is the attitude of slaves and serfs.

This is the position of peasants kneeling before bandits and giving them their rice, barley, wives and daughters.

This is one’s attempt to persuade himself and others to recognize the new reality.

Crimea has been annexed – it can’t be returned. Yukos has been confiscated – it can’t be returned. Someone is under house arrest, his freedom has been taken away – it can’t be returned. This is the philosophy of appeasing aggressors, Mafiosi, bandits and terrorists. This is a political point of no return for former opposition leaders.

The second explanation is that such a position is based on imperialist and chauvinist views. If people who refuse to return Crimea instead insist that Yukos cannot be confiscated but Crimea can, that one person's liberty and property cannot be seized but another person's can, and that burning Jews is unacceptable but cracking down on Central Asian immigrants is natural, this is evidence of pure imperial chauvinism.

This is acknowledgment of a fundamental, deep spiritual affinity between those who refuse to return Crimea and those who supported Russia's aggression in Crimea. The only difference between them is the degree of hypocrisy that they demonstrate.

The third explanation may be that those who support legalization of Crimea's annexation also support "democratic tyranny", i.e. allowing the majority to solve any issues by a vote. According to this view, not only public issues but also private ones can be solved by those who don't have a right to solve them.

If neighbors decide to register a new resident at an apartment despite the owner's objections, if a Communist Party committee does not authorize a divorce, if a majority votes that property stolen by the government should not be returned, one should follow those decisions made by democratic tyranny.

Regardless of the form it takes, refusal to return Crimea has nothing to do with liberalism, rule of law and a strategic program for introducing rule of law and liberal democracy in Russia.

Should Crimea be returned?

It is beyond any doubt that Russia should return Crimea to Ukraine? All arguments used by enemies of such a return are not only easily refutable but also irrelevant.

The way of Crimea's transfer from the Russian Soviet Socialist Republic to the Ukrainian Soviet Socialist Republic in 1954 does not matter at all.

The past economic failures (real or imaginary) of Ukraine and Crimea do not have any relevance whatsoever for the Anschluss of Crimea, and its return can't depend on Ukraine's possible economic successes or Russian economic failures in the future.

For justifications of the Crimean Anschluss, the fact that most of the peninsula's population are ethnic Russians does not matter either. Nor does the presence of a German speaking majority in Austria and Switzerland give Germany any grounds for annexing those territories.

The issue of Crimea's jurisdiction is not a subject of negotiations between Russia, Ukraine and the E.U. because neither Russia nor the E.U. have any legal rights to Crimea. Moreover, talks between a robber and its victim before the triumph of justice are absolutely absurd – any talks can only be started after everything stolen is returned to the victim.

The issue of Crimea's jurisdiction is within the competence of only one subject of international law – the owner of that territory, namely Ukraine. Only this subject, and no one else, has necessary legal rights to change this territory's jurisdiction.

The only case allowing a Russian political or public figure to support refusal to return Crimea to Ukraine would be the Ukrainian state's clear and unequivocal renunciation of its rights to Crimea.

When and how will Crimea be returned to Ukraine?

Khodorkovsky believes that “only a dictator can return Crimea to Ukraine in the upcoming decades.” History says otherwise.

Kuwait, which was annexed by Iraq, was freed seven months after the annexation. Kuwait's sovereignty was recognized by post-Saddam Hussein Iraq (not a dictatorship).

The 1938 Anschluss of Austria was declared null and void in five years in the Allies' Moscow Declaration of Oct. 30, 1943. Austria's sovereignty was re-established in 1945.

Sudetenland, which was annexed by Germany, was returned to Czechoslovakia as a result of the Potsdam conference seven years after the annexation. It was democratic, not authoritarian, Germany that renounced its rights to Austria and Sudetenland.

When a free democratic state with the rule of law is created in Russia, such a relatively minor problem as the return of Crimea to its legal owner can be resolved relatively quickly and easily.

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