

# Crossing the Line in Ukraine

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**WHY UKRAINE MATTERS?**

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My unvarnished thoughts on the deadliest events in Ukraine since the end of the UPA insurrection sixty-five years ago:

1. There is a clear political pattern to the violence unleashed by Maidan demonstrators. The January 19 violence on Hrushevskoho St. erupted in the wake of the adoption by parliament of a law essentially criminalizing political speech in Ukraine, blocking political channels to resolve the conflict. The violence yesterday occurred moments after the news that parliament would not even put on the agenda the question of constitutional reforms. When Western leaders, almost in unison, tell Yanukovich that he bears responsibility to de-escalate tensions and negotiate a settlement, this is what they mean: while some demonstrators bear individual responsibility for engaging in violence, it is Yanukovich that bears political responsibility for creating conditions inciting violence. Three months into the conflict, Yanukovich has not initiated any substantive negotiations, other than offering the post of Prime Minister to Yatsenyuk, under conditions where he could remove him at any moment.
2. Violence is ethically distressing and corrosive of the social fabric. There were repeated signs yesterday of a breakdown of civil order. Government-hired mercenaries, the so-called *titushki* given a license to harm civilians, were literally beating demonstrators to death. Maidan demonstrators stormed

the offices of the Party of Regions, killing an employee in the process. There were even reports of traffic cops being shot, perhaps by people having nothing to do with Maidan. All of these acts are unconscionable and breaking legal norms, including when done in the name of Maidan. Yet these acts, and the lethal violence perpetrated by demonstrators – such as firebombing armored vehicles and, apparently in some cases, resorting to firearms – were part of an escalation and the primary responsibility for the escalation lies with the government. Some will argue that Maidan front-line extremists provoked the violence yesterday by marching towards parliament and pelting the police with stones and cocktail molotovs. We can dispute which side threw the first cocktail, but the important point is that the police reacted with not merely disproportionate, but lethal force. This breaks international, and certainly European, norms in the police management of civil unrest. Demonstrators in the West are quick in their denunciations of “police brutality” – a trope we hear repeatedly in G8 or G20 demonstrations– but the fact is that the killing of demonstrators by the police has become a rare occurrence in the West in the past decades. There have been hundreds of encounters between violent demonstrators and the police in Greece these past years, but no one has ever been killed. In resorting to all-out violence, Yanukovych crossed the line and figuratively put himself out of Europe.

3. The Yanukovych government is now calling the violent demonstrators “terrorists”, giving legal cover for an army intervention in an alleged “anti-terrorist” operation. Governments of all stripes, authoritarian and democratic alike, tend to have an elastic conception of “terrorism”. In the Ukrainian context, the charge is ludicrous. If terrorism has any meaning, it is to denote the indiscriminate killing of civilians. Had the Maidan radicals exploded a bomb in the Party of Region office yesterday, this would have been straight-out terrorism. Storming government buildings or attacking the police is political violence, to be sure, but it is targeting sites or armed agents of state power. There have been exceptions, but Maidan activists resorting to violence have not been attacking civilians. Government forces have been doing it from the start, since the attempted “clean-up” of the square on November 30, and in a crescendo of brutal tactics, which have included kidnappings and torture. The mere existence of these thugs-

for-hire, these titushki, is the most blatant symbol of the contempt of the Yanukovych government towards civilians. To have police forces resort to undisciplined toughs to intimate and assault people, and doing so with legal immunity, tells you everything you need to know about why people have been on Maidan for three months.

4. Political conflicts are battles over legitimacy. Yanukovych and his underlings are cognitively incapable of seeing the Maidan demonstrators as anything else than fifth columnists, paid agents of external forces – essentially the Putin perspective on social mobilization. That the abductors of Automaidan leader Bulatov were only interested to know, through torture, about who is financing the movement was revealing enough. Yanukovych comes from a political culture where opposition – whether of a business or political nature – is dealt with by intimidation or worse and where motives other than personal material interests remain incomprehensible. A resilient opposition, in this conception of the world, can only be “criminal” in nature and must be repulsed through force (the terminology, in fact, comes straight out of the Soviet narrative). With this mindset, engaging in any kind of substantive negotiations with Yanukovych appear at this point to be futile, as he appears to be incapable of grasping the meaning of Maidan. Under tremendous pressure from Russia, whose understanding of “non-interference” amounts to dictating the nature of the regime that must rule Ukraine, Yanukovych is down to reading from a Russian script: Putin referred to the first clashes in December as a “pogrom”, Yanukovych used the word yesterday, as if a pogrom had anything to do with insurgents attacking the police.
5. A more credible argument questioning the legitimacy of the Maidan movement can be heard in academia. It is the point that Maidan represents the aspirations of only half of the country, that the polls show almost an even split, largely geographical (east-west) in support or against Maidan and that it is problematic for one half of the country, especially when front-line activists use violence, to force political changes. I would argue, however, that the fixation over the Maidan tactics themselves (for or against Maidan) misses a tectonic political change under way in Ukraine. The latest poll by the Kiev International Institute of Sociology – the same

institute that predicted the Yushchenko victory in 2004 before the fraud, and that predicted a Yanukovych victory in 2010 –shows that even though Ukraine is divided in its support of Maidan, Klitschko would win a run-off presidential election over Yanukovych in a landslide, 65% to 35%. While the regional breakdown was not provided, this could only mean that at a minimum Klitschko would poll 45% in Eastern and Southern Ukraine, which is three times what an opposition figure has ever achieved in the kingdom of the Party of Regions. The same poll showed that a strong majority, both in the East and West, rejected the violent tactics of the police against demonstrators. What we've been hearing from Maidan since early December is that Maidan is no longer over Europe, but against state brutality. Eastern Ukrainians, who have always reliably voted for the Party of Regions (inasmuch as they were voting: their turnout has not been very high) are also increasingly disgusted by state brutality, to the point of ditching Yanukovych in favor of Klitschko, or even Yatsenyuk, who scored very high in the same poll. Eastern Ukrainians don't like Maidan, presumably because of the symbolism of its far-right elements (brandishing the portrait of Bandera is a sure way of dividing the country), but they appear to increasingly share its most fundamental tenet: a civic rejection of state brutality. This, to me, makes it much harder to call into question the legitimacy of Maidan.

6. There is the nagging issue of the far right. Back in January, with the rise of both Pravyi sector and Spilna sprava, both hard left and hard right activists seem to be the initiators of violence, with Svoboda playing a supporting role. The far right seems more prominent now. The sociologist Volodymyr Ishchenko, a respected expert on civil disturbances in Ukraine, says that the far right has hijacked the protest, and this cannot be easily dismissed. Why are we labelling Pravyi sector, or its constellations, or even Svoboda as the far right? Because, under certain conditions, spelled out above, these movements are ready to engage in violence, and also because their Bandera symbolism is read in many parts as a glorification of violence. Bandera remains a problem because Ukrainian society has not owned up to the mass violence perpetrated by the OUN against Jewish and Polish civilians (and yes, Russia has not owned up to mass violence perpetrated against Ukrainian civilians). Nationalist groups like Svoboda or Pravyi sector are

at best oblivious to this issue and are incapable of grasping that this kind of symbolism divides the country and always will. Svoboda, where Ishchenko teaches (Mohyla University), has disrupted public lectures before and engaged in fisticuffs, meaning that he knows what he is talking about. That being said, it is abundantly clear to me that the Maidan phenomenon is much broader than the far right, that many regular folks on Maidan, while not desiring violence, have come to support it as necessary (which is unsettling, but understandable), and that the far right, whenever there was a political opening, remained supportive of a political process (read: fundamental constitutional changes and early elections) and ready to engage in compromise. After all, just last Sunday, they agreed to evacuate City Hall and the Trade Union Building, which had been occupied for two months, in return for a real amnesty for demonstrators facing criminal charges. The far right will remain a problem in Ukrainian society, as it is everywhere in Europe to an increasing degree, but to reduce Maidan to the far right is missing the larger point.

7. It is hard to think of a political solution while anti-riot troops are encircling Maidan and the army is agitating for an intervention against “terrorists”, although a truce has apparently been agreed to for now as I write these lines. There has been talk for a long time of economic sanctions. It seems to me that if Europe does not use the tool of economic sanctions now, it never will. For all the posture of a pro-Russian orientation, we now know with greater clarity that the Ukrainian elite, from Yanukovich down, places its millions, builds its property and send their children to be educated in Europe, not in Russia. Azarov, who will go down in history as the prime minister who ran the Ukrainian economy to the ground in a mere three years, flew to Austria the minute he was dismissed so he could rest in his palatial residence in Vienna. This is where Ukrainian elites are most vulnerable, in their pocketbook and their ability to travel to Europe, the same Europe that is apparently fueling the protests on Maidan, in their mindset. The EU, however, has been reluctant to resort to these sanctions, in part due to the ambivalence that European elites have developed towards tax havens a la Cyprus, Lichtenstein or Gibraltar, Europe facing its own scandals over tax evasion. The ultimate end game is whether the Party of Regions will crack from the inside. Defections have been announced for

three months and, except for Iryna Bohoslovksa and a few minor ones, it has not happened and the oligarchs, in their carefully-worded and risk-averse statements condemning violence, continue to hedge their bets. European sanctions could nudge them towards defection, but they live in a world where opposition to the regime means immediate economic, if not physical, costs to their standing. This is a dynamics we understand little about, since the Party of Regions remains on the whole a non-transparent organization, but the fateful murderous violence of yesterday may have altered the internal picture.

8. Ukraine is right up to the wall. The Tianamen scenario, with or without the army, could happen, but it would isolate Ukraine, strangling it economically, Russian lifeline or not, and a lingering insurrection, certainly in Galicia, most likely in Kiev, and in pockets of many other oblasts, would be the result. Yanukovych would retain power, but in permanent fear. When everything is said and done, only a political settlement can bring Ukraine back from the edge. We have to remember some basic things: terminating the 2004 Constitution through a neutralization of the Court can be seen as politically illegitimate; creating a Yanukovych majority in parliament, as a result of this constitutional coup, can be seen as politically illegitimate; using fraud at the margin and intimidation in parliament to re-build a Yanukovych majority in parliament last year following an election that the three opposition parties actually won, can be seen as politically illegitimate. Imprisoning Tymoshenko, who almost beat Yanukovych in 2010, can certainly be seen as politically illegitimate. Stealing billions of dollars from state coffers, as authoritatively documented by economist Anders Aslund, is not exactly legitimate. The same goes for using the tax authorities to intimidate opponents and the police to beat up opponents (let alone shoot at them). These are exactly the kind of issues that the opposition, far right included, wish to re-negotiate. And, at the very least regarding the last two points – corruption and police brutality – a constitutional majority of Ukrainians is now supportive of profound changes.