
10. Gray zone mediation in the Ukraine crisis: comparing Crimea and Donbas

David Carment, Milana Nikolko, and Dani Belo

This chapter examines mediation efforts in the Crimea and Donbas (Eastern Ukraine) conflicts that occurred following the onset of the Ukraine crisis on February 22, 2014. The Ukraine crisis captures the essence of gray zone conflicts in which parties and strategies are not easily identified and mediation efforts prove difficult, given the complexity and number of competing stakeholders.¹ The Ukraine crisis exhibits vertical and horizontal escalation leading to a rapid weakening of state integrity and regime collapse, through processes of contagion and diffusion (Carment, James, and Taydas 2006). We see this most clearly at crisis onset with the spread of protests and demonstrations from Kyiv to L'viv and Odesa, and from there to Crimea, eventually culminating in outright rebellion in Donbas.

Irredentist and separatist elements are also clearly identified (Carment, James, and Taydas 2006). Geographic contiguity and ethnic affinities are present (Carment and James 1995). In the case of Crimea, we observe first a declaration of independence, and then its integration into Russia, thus moving from separation to irredentist conflict. The outcome was both decisive and unambiguous.² Donbas, in contrast, is a separatist conflict. Russia has made no formal declaration to annex the territory. Though Putin has declared his intent of protecting the Russian-speaking peoples of the region, he has also stated no interest in reclaiming Eastern Ukraine.³ Not surprisingly it is the latter conflict in Eastern Ukraine which exhibits ongoing gray zone techniques since Russia's ultimate goal is undeclared.⁴

¹ An international crisis as defined by the International Crisis Behavior (ICB) Project is a disruption in process and a challenge to the structure of the international system. The Ukraine case also fulfills the requirements for a foreign policy crisis for Ukraine, a situation with three individually and collectively sufficient conditions, deriving from changes in a state's internal or external environment. All three perceptions – a threat to basic values, an awareness of a finite time for response to the value threat, and a high probability of involvement in military hostilities – are held by the highest-level decision-makers of the actor concerned. See ICB Project website and Wilkenfeld and Brecher, Chapter 2 in this *Research Handbook*.

² Mediation efforts in Crimea, though attempted by the US and the EU, were largely moot due to the rapid and conclusive pre-emptive nature of Russia's intervention. Contrast this outcome with mediated protracted ethnic conflicts where termination is ambiguous and often informal (see Carment, Samy, and El Achkar 2009).

³ Francois Hollande commented that "Mr. Putin does not want to annex eastern Ukraine, I am sure – he told me so." <https://www.nytimes.com/2015/01/06/world/europe/francois-hollande-says-destabilizing-sanctions-on-russia-must-stop-now.html>, accessed July 15, 2017.

⁴ According to Carment, James, and Taydas (2006), an irredentist conflict can produce an irredentist interstate ethnic crisis in three overlapping ways: (1) by triggering a foreign policy crisis for one or more states through an internal challenge supported by the redeeming state; (2) through external threats made by one or both states; and (1) and (2) can trigger (3), that is, foreign policy crises for allies of the two states. According to the same authors, a separatist interstate ethnic crisis consists of the formal and informal aspects of political alienation in which one or more ethnic groups seek, through political means, reduced control by a central authority (this is not necessarily a formal or declared secession) leading to an interstate ethnic crisis in four non-mutually exclusive instances: when an ethnic group refuses to recognize existing political authorities, they can (1) trigger a foreign policy crisis for the state in question (i.e. internal challenge leading to external

Russia's actions in Donbas are undertaken in such a way so as to not provoke full-scale intervention by the US and its allies.⁵

Thus, a key reason mediation has proved ineffective in gray zone crises like this is that actors on both sides anticipate being able to use mediation to control the actions of their opponents within reasonable limits and thus engage in hostile interactions with bearable costs. The conflict in Eastern Ukraine is more enduring and the mediation process more complex for the simple fact that the two main geopolitical players in this conflict are Russia and the US, who are engaged in war through proxy. For example, as of March 2018, there are between 1500–3000 Russian “military advisors” compared to the estimated 30000 separatist fighters (among them about one-third being “Russian volunteers”) representing the Donetsk People’s Republic (DNR) and the Luhansk People’s Republic (LNR) (Lapaev 2018). There is an estimated total of 2000 Canadian, American, and British advisors deployed in Ukraine proper. There are an estimated 300 foreign fighters on each side of the conflict. Furthermore, there is an increasingly active organized criminal network controlling trafficking and smuggling along the line of separation. Regularized paramilitary forces, such as the notorious right-wing Azov Battalion, fight alongside the Ukrainian army.

Having chosen to take the diplomatic lead in challenging Moscow, the US has focused most of its efforts towards threatening Russia, or punishing it, specifically targeting its leader, Vladimir Putin. Concurrently, the US has implemented a strict sanctions regime against Russia hoping to minimize Russia’s assistance to the separatists. Similarly, Russia is taking action with an eye towards its foreign policy crisis with the US.⁶

To illustrate these points our chapter unfolds in four sections. First, we examine the gray zone literature and its relevance to those factors that hinder the success of mediation in the mitigation of violence and resolution of conflict. In the second section, we identify historical characteristics and sources of the recent conflict as well as the key actors and the issues which have shaped and influenced the course of events in the context of gray zone conflict in Ukraine. Third, we look at mediation efforts in light of the relevant literature on mediation strategies. We consider both state-based (UK, US, Germany) and multilateral (United Nations, Organization for Security and Co-operation in Europe, and the European Union) mediation efforts. We conclude by highlighting implications for both theory and policy and identify three scenarios for managing and resolving the conflict.

involvement); (2) trigger foreign policy crises for the state’s allies, which leads to an international crisis; (3) invite external involvement based on transnational ethnic affinities (including threats of involvement) of one or more state interlocutors that support the separatist group, which in turn triggers an international crisis; or (4) invite external involvement by one or more states based on ethnic affinities that support the state-center, which triggers an international crisis.

⁵ Recognizing it would be extremely costly to compel Russia to leave Crimea, the US and its allies made it very clear during the early stages of the Ukraine crisis that they would not intervene militarily to prop up Kyiv. However, in anticipation that the crisis could spread horizontally and diffuse across the region, NATO assets were deployed in forward bases among NATO member states in Eastern Europe and the Baltics, alongside a train and equip strategy for the Ukraine army spearheaded by Canada, the UK and the US.

⁶ This inference is consistent with (2) in our above definition of a separatist interstate ethnic crisis, though technically the US was not an ally of Ukraine in the formal sense and therefore had no obligation to defend it. Ukraine is not a member of NATO. This absence of a formalized alliance structure and security guarantees provides a permissive environment for gray zone conflict to take root.

WHAT IS GRAY ZONE CONFLICT?

In gray zone conflict, state actors use a combination of strategic and operational-level techniques, making this form of warfare exceptionally resistant to resolution. Onset and termination are ambiguous because many of the techniques utilized in gray zone conflicts are largely contingent upon a highly globalized and interconnected international economic and political world order and the substantial permeability of international borders. There are several reasons why gray zone conflict is difficult to resolve. First, conventional conflicts are generally characterized by overtness at the tactical level, with hybrid techniques as support. In gray zone conflict, states rely primarily on covert operations which never pass the threshold of war. Second, there is an overarching ambiguity regarding long-term victory by participants and stakeholders. Finally, there is a desire by one or more parties to gradually, but fundamentally, revise the regional or global system of alliances and norms of international conduct to a degree not even seen during the Cold War era. A goal of this magnitude adds complexity by drawing in many parties and stakeholders into the conflict, the individual interests of which must be considered during resolution attempts. Such states are characterized as “measured revisionist” and/or “opportunistic predators.” (Mazarr 2015b: 20). Even though the majority of current literature describes gray zone as a synonym for covert tactics and actions by Russia and China, in reality, NATO has also adopted many of the tools associated with this form of conflict (Bryant 2016).

One definitional inaccuracy regarding gray zone conflicts is their conflation with hybrid warfare, which is treated as a type of conflict (Hoffman 2016: 25–36). Rather, hybrid warfare techniques are utilized within the broader gray zone conflict category. Parties engaged in gray zone conflicts use unconventional hybrid warfare tactics such as political and information warfare, propaganda appealing to ethnic diasporas, provision of equipment and training to non-state actors, state-level economic pressures, and “unconventional” operations by the security apparatus. These tools and tactics, however, are utilized gradually in the achievement of a victory point that is entirely ambiguous to the opponent – an element unique to gray zone conflicts.

Political warfare by states can be defined as the dissemination of misleading information in the form of propaganda and a strong appeal to diaspora and ethnic ties across international borders to erode the societal unity and peace within an opponent’s domestic political environment. Adversaries may invest in media campaigns through television, online social media, non-governmental organizations, and activist groups to discredit the political narratives of the opponent. However, it is impossible to quantify the success or failure of these tools as no deaths or infrastructural damage directly result from their utilization. Information warfare, however, is only one segment of the “soft power” arsenal available to states in gray zone conflicts.

Even though its effectiveness remains uncertain, economic pressure is frequently utilized by states against their opponents in gray zone conflicts. The inducement of economic pressure, through methods such as sanctions, is intended to erode the opponents’ economies, especially in situations of asymmetric economic interdependence, to facilitate a change in policy direction. It is a method of leverage which cannot be categorized as an overt declaration of war, but also escapes the absolute state of peace. This form of warfare, however, is also ambiguous because attributing economic damage decisively to

sanctions, as opposed to exogenous variables such as global market forces, is difficult. Often, however, states may utilize tools more proximate to other elements of “hard power” which nonetheless maintain the conflict in a state short of war.

For example, cyber warfare has become especially elaborate as software and hardware has become increasingly sophisticated. Cyber-attacks remain below the threshold of overt warfare because they can rarely inflict immediate damage or cause casualties. Moreover, most cyber operations can only be probabilistically attributed to specific state actors and sponsors do not acknowledge their involvement. Within gray zone conflicts, however, states themselves might not utilize all the aforementioned techniques, leaving the execution of the tactics and operations to sub-state actors and proxies.

States may provide direct material support to organized crime, militant elements, separatist factions, and local elites within the territories of the opponent to fight on behalf of one or more of the conflicting parties. This is important as states backing these actors desire to insulate themselves from responsibility and potential political backlash domestically and internationally. This method not only increases the overall number of actors and stakeholders in the conflict but creates problems with attribution of actions to specific entities when attempting to reach conflict resolution. All of the aforementioned tools utilized by states, and sub-state actors, will not achieve any rapid results but a prolongation of the conflict.

Gradualism towards an ambiguous point of victory is one of the unique characteristics of gray zone conflicts and is closely associated with the previously discussed element of revisionism (Mazarr 2015b: 21–22). As the global financial, alliance, and military order is highly rigid, states understand that structural revisions may not be expedient.⁷ What is the long-term point of victory for Russia in Eastern Ukraine? From NATO’s side, in the early stages of the conflict, representatives claimed that Russia wants to invade the entirety of Ukraine. Leaders from Russia claimed they wanted to counter NATO’s expansion closer to Russia’s borders. Concurrently, “hardliners” from the US, such as John McCain, claimed that Russia would invade the Baltics and continue into central Europe. Any of the aforementioned options are plausible, but highly uncertain. The same dilemma is true from the NATO perspective. Is there a clear point of victory for NATO in its confrontation with Russia? Considering that commitments to gray zone conflicts inherently mean that a country would be signing on to a costly prolonged conflict, the incentives to engage in such a form of confrontation must be clear.

We argue that two major incentives exist for engagement in gray zones by states: cost and regime type. Based on the experience of the US, conventional military operations have become increasingly expensive to the point of being cost-prohibitive. Furthermore, conventional tools of warfare have become increasingly sophisticated and deadly over the past thirty years, making their utilization less likely due to the potential human costs. Also, it is unlikely that nuclear-armed parties would be willing to engage in a direct military confrontation because the potential destruction experienced by any of the parties would be unacceptable. When considering incentives for engagement in gray zone conflict, however, it is also important to note regime type.

⁷ Hybrid warfare techniques have been utilized in fast-paced and short conflicts such as the 2006 Israel–Hezbollah War, but in such conflicts the final objective is not to achieve a structural change to any system-level element, but a military victory.

Table 10.1 *Gray zone techniques and examples*

Gray zone technique	Details	Purpose	Example(s)
Information warfare	Dissemination of misleading information and propaganda; appeal to diaspora and ethnic ties.	Erosion of political peace and unity within an opponent's domestic political environment.	Conflicting representations of the Maidan activists by Russian and Ukrainian media.
Economic pressure	State-level economic sanctions and blackmail; significant in cases of asymmetric economic interdependence.	Erosion of the opponent's key economic sectors.	Sanctions regimes between Russia and West; breakdown of Russian–Ukrainian energy sector ties.
Material support to sub-state entities	Material and political support for rebels and local elites through supplies of war materiel.	States' desire to insulate themselves from responsibility domestically and internationally; insulation from war casualties.	Russia's material support for the rebels of Luhansk and Donetsk; Ukrainian support for volunteer battalions.
Gradualism	States utilize hybrid warfare techniques in a gradual manner with only short-term tactical objectives being relatively overt.	Making the final point of victory in the conflict by all parties ambiguous for the opponent; revision of the order of alliances and international norms.	Use of cyber space by Russia to gradually erode the integrity of military and civilian infrastructure in Ukraine; "special" bilateral relations between Russia and individual EU states and policymakers (i.e. Italy and Hungary).

One significant challenge for democracies involved in gray zone conflicts is that actions on the strategic and operational levels are far easier to carry out by less constrained and more centralized decision-making structures than by democratic, consensus-building governments and coalitions (Pahlavi 2017). Thus for Russia's government, which possesses fewer internal checks and balances, it is less costly to support criminal organizations, separatists, and local elites than for the EU and the US to back similar sub-state actors as a counterweight. In Table 10.1, we summarize the main techniques utilized by states in gray zone conflicts, with examples that are detailed in the next section.

BACKGROUND, ISSUES, AND GRAY ZONE EVIDENCE

Moving now to evidence of gray zone conflict in the Ukraine crisis, we focus on the rapidity of events coupled with a complexity of actors and the rise of new gray zone techniques to illustrate core gray zone elements during the crisis. In examining key events,

we see how ambiguity and uncertainty lent themselves to lack of action on the part of the Ukrainian government and its Western supporters. In November 2013, Ukraine, led by the Yanukovich administration, was poised to sign the Ukraine–European Union (EU) Association Agreement. Russia formally requested a delay in signing in order to better assess the impact of the agreement on Russian–Ukrainian–EU relations. President Yanukovich responded favorably to Russia’s requests in late November 2013, thus stalling the association agreement and effectively diminishing the country’s commitment to the deal. On November 29, 2013, the largest organized demonstration since the Orange Revolution of 2004 began in central Kyiv, where protestors rallied against the government’s decision. A foreign policy crisis for Ukraine began on February 22, 2014, when Yanukovich fled to Russia following violent clashes between protestors and government forces.

The overthrow of Yanukovich’s government created substantial uncertainty over the future of Ukraine’s integrity. The leaders of a number of regions including Donbas, L’viv, Odesa, and Crimea all expressed concerns about their willingness to remain part of Ukraine. Popular protests and the occupation and seizure of municipal buildings and regional state administrations (RSAs) became major protest techniques, used by both pro-Euromaidan protestors and those who opposed them. Starting in Western Ukraine, mass activism diffused across the country moving quickly into Eastern Ukraine. By February 26, protestors controlled the RSA in Kharkiv, Poltava, and Dnipropetrovsk. Following Yanukovich’s removal from power, the mayors of some of the largest cities resigned. Both central and local powers simultaneously struggled to restore public safety.

In Crimea, the local leaders of the autonomous republic were caught between opposing interests. From one side, the Speaker of the regional parliament, Sergey Konstantinov, remained a strong supporter of President Yanukovich. As leader of the Crimea branch of the Party of Regions, Konstantinov was deeply involved in Yanukovich’s business connections. As an expression of political support, on February 22 Konstantinov initiated a letter of parliamentary loyalty to Yanukovich. From the other side there were ongoing negotiations between representatives of Crimea’s pro-Russian parties and Crimea’s intelligentsia. With the situation uncertain, Konstantinov established an alliance with little known pro-Russian Crimean MP Sergey Aksyonov, the leader of a micro-faction in the Crimean parliament, who soon presented himself as the new leader of Crimea. Massive pro-Russian rallies in Simferopol and Sevastopol soon followed, accompanied by patrols by Cossacks, local militia, and unidentified soldiers. Street clashes between pro-Russian protestors and pro-Ukrainian activists and Crimean Tatar Mejlis left three people dead. Soon after, armed militia began surrounding and seizing strategic buildings.

For Russia, the security and integrity of its large Black Sea Fleet in the Crimean Peninsula was paramount. Working with the 25 000 Russian forces already stationed in Crimea (under a basing agreement), Russia deployed a covert military operation, utilizing special unmarked military units to capture and disarm Ukrainian soldiers located at strategic government and military sites. On February 27, Crimea’s parliament was seized by unidentified soldiers. Nevertheless, parliament remained functional and by the end of that day issued a statement declaring that a new premier, Minister Sergey Aksyonov, would be appointed. Crimea’s status referendum would take place on May 25, 2014 (subsequently moved to March 16, 2014). The Ukrainian flag was removed from the

Crimean parliament.⁸ At that same time, in Kyiv, an emergency meeting of the Council for National Safety and Defense was held. Minutes from that meeting show that only acting president Oleksandr Turchinov voted to impose martial law on Crimea, with the remainder abstaining or preferring diplomatic negotiations with Russia.

We now know that Ukraine's leaders were taken by surprise at the speed of events. The government in Kyiv seemed unable or unwilling to engage in negotiations with Russia, even as a way of thwarting the latter in the pursuit of its strategic goals. Few, if any, of the politicians in Kyiv or the West were prepared to entertain alternative scenarios for resolving the crisis, refusing even to contemplate the notion of increased autonomy for Crimea, never mind the possibility of its secession. When proposals for greater autonomy finally made it onto the table, it was too late. On March 16, 2014, about 96 percent of voters supported the idea of joining the Russian Federation. Three days later the lower chamber of Russia's State Duma voted in support of the results of the Crimean referendum.⁹

In parallel to events in Crimea, the East, South, and Center regions of Ukraine witnessed amplified pro-Russian protests and massive rallies as the main stage of the conflict shifted to Eastern Ukraine. Russia maintained the narrative that the Russian-speaking people living in Eastern Ukraine were de facto oppressed by the Kyiv government, supporting activists initially at least through diplomatic pronouncements followed by humanitarian assistance. By adopting this position, Russia effectively promoted the local uprisings.¹⁰

Less than two months after crisis onset, Crimean separatists including Russian Cossack brigades mobilized in the Donbas region starting in April 2014. Events unfolded rapidly. Municipal and regional authorities with strong pro-Russian positions declared their own status referendum for early May.¹¹ Anticipating that separatist sentiment would grow in advance of the referendum, Ukraine's acting president Oleksandr Turchinov announced the beginning of an anti-terrorist operation (ATO) in Donbas to restore order. Given growing civilian protest movements in the Eastern regions, coupled with the extremely low legitimacy of the interim central government and an army in decay after years of neglect and stagnation, Kyiv's military response was ineffective and inconsequential. Volunteer Ukrainian battalions were quickly formed, funded by public and diaspora donations together with oligarchs with commercial interests in the region (Karpyak 2014).

Between April and June 2014, municipalities, businesses, and state factories and warehouses holding ammunition and military equipment fell under the control of pro-separatist factions. By the beginning of June, the territory under separatist military control was relatively limited, consisting of a 15–20 km zone of uncontrolled border

⁸ With the paralysis of the Ukrainian army in Crimea, and a decision-making vacuum in Kyiv, the only loyal and active institution in Crimea was the regional organization of the Crimean Tatars or "Mejlis." The organization had been advocating for moderate levels of self-determination for regional Tatars as well as respect for indigenous special status within Ukraine. Once the annexation of Crimea took place, the organization was outlawed by the Russian authorities thus undermining the status as well as role of Tatars in regional politics.

⁹ The referendum consisted of two questions: (1) should Crimea be part of the Russian Federation and (2) should Crimea restore Crimea's Constitution of 1992 that gave the region more autonomy and remain as part of Ukraine? The first question regarding membership in the Russian Federation was important. The Russian Federation is recognized in international law as the successor state of the Soviet Union. The question asked Crimeans to decide if they should return to the status quo ante before the break-up of the Soviet Union. In January 1991, through a referendum, Crimea regained its status as an Autonomous Soviet Socialist Republic, which gave extended rights to the peninsula.

¹⁰ See, for example, Walker and Salem (2014).

¹¹ Both referendums took place in May and resulted in a declaration of independence for DNR and LNR.

with Russia. Casualties numbered a few hundred on both sides.¹² With separatist control over the border, the situation changed dramatically, starting with mass shelling from the Russian side. The Ukraine army was forced into retreat. By September 19, separatists controlled the entire stretch of territory along the Russian border in Eastern Ukraine to the coast of the Azov Sea. By this time there was an estimated 15 000–20 000 separatist forces in Donbas with a sizeable number recruited from Russia along with Russian regular forces (liga News 2014; Informnapalm 2016). With both sides using heavy artillery, tanks, and aircraft, civilian casualties continued to grow, including the shooting down of a Malaysian aircraft killing all 298 aboard.¹³

The bloody battle of Illovaivsk, in August 2014, pushed the Ukrainian army back even further, giving the separatists almost complete control over the region. Over the fall of 2014, and into the winter of 2015, the separatists further improved their positions and re-captured a few major cities in the region previously under Ukrainian control. In Debaltseve, Ukrainian army and volunteer battalions surrounded by separatists were yet again forced into retreat. Fearful of a separatist offensive into Central Ukraine, Kyiv sought and obtained immediate peace talks. On February 12, the Organization for Security and Co-operation in Europe (OSCE) facilitated a meeting of the leaders of Russia, Ukraine, Germany, France, DNR, and LNR where the parties agreed to a ceasefire that would commence on February 15, 2015. Under the agreement (known as Minsk II), the OSCE would be responsible for the facilitation of the withdrawal of heavy military equipment and fighters on all sides and subsequent continuous monitoring of the situation.

By this time, the separatist leadership had become firmly established in Eastern Ukraine, though other actors were instrumental in influencing the uncertainty of the situation. For example, the successful “marriage” between Renat Akhmetov’s business group and Yanukovych’s Party of Regions had provided for mutual control over the Donbas for at least a decade prior. But pro-separatist rallies threatened Akhmetov’s business empire in the Donbas. As a result, Akhmetov adopted a relatively neutral position calling for peaceful resolution through negotiation. Being the wealthiest and most influential oligarch in Ukraine, his relative inaction was a key factor in the eventual takeover of Donetsk and Luhansk by separatist forces (Olearchyk 2014). This contrasted the position taken by another oligarch, Ihor Kolomoyskyi, whose PrivatBank conducted business in Central Ukraine while relying on its strong ties with European financial institutions. Kolomoyskyi invested substantial funds in volunteer battalions which would later be utilized by the Ukrainian authorities as a reliable force against separatist forces in Donetsk and Luhansk (Taub 2015).

In terms of social media and non-traditional techniques of influence, we see that even prior to the conflict, Russian-language television solidified existing social networks

¹² Leadership in Donbas region went through a few stages of sporadic leadership in the first months. Those political leaders who led the uprising in the early stages (like Borodai, Gubarev, and Tsarev) were eventually moved aside and replaced by military commanders. By the summer of 2014, Alexander Zakharchenko became the leader of DNR in and Igor Plotnitsky leader LNR. In November 2017, Plotnitsky resigned and was replaced by Leonid Pasechnik.

¹³ According to the United Nation High Commissioner for Refugees (UNHCR), between April 6, 2014 and February 15, 2015 at least 5665 people were killed (including 298 from flight MH-17) and 13961 were wounded in the east of Ukraine (Office of the United Nations High Commissioner for Human Rights 2015).

within the Russian-speaking diaspora in Eastern Ukraine, thereby contributing to the region's social cohesion.¹⁴ Starting with the Euromaidan demonstrations in 2014, Russian media identified the forces opposed to Yanukovich as fascist extremists and criminals (Channel One Russia 2016). This description lay in stark contrast to Ukrainian television channels and online media, which presented the same individuals as heroic and glorious (OnePlusOne Ukraine 2014). This propaganda war ultimately facilitated the fracturing of the Ukrainian population along ethno-linguistic lines, with a big portion of the Russian-speaking population of Eastern Ukraine becoming markedly sympathetic to Russia's point of view, while the ethnic Ukrainian population in the rest of the country largely accepted the narrative presented by the opposition to Yanukovich.¹⁵ Few remember that around 1 million civilians from Eastern Ukraine instinctively fled the conflict to Russia instead of Ukraine (Mukomel 2017).

These points illustrate that the loyalty of many in Eastern Ukraine remained on the side of Russia. Information warfare tools, however, are not the only element of "soft power" states utilize in gray zone conflicts. Economic pressure is a substantial element of gray zone conflicts as it erodes opponents' economy in hope of changing their policy direction. Even though NATO utilized economic tools against Russia, such as sanctions, pressure by Russia against Ukraine has been more finely tuned. Russia utilized its energy sector to choke the Ukrainian economy during the ongoing conflict in Eastern Ukraine. Prior to the events in 2014, Russia and Ukraine engaged in substantial cooperation in the energy sector. Ukraine had been purchasing Russian natural gas at discounted prices; pipelines between Russia and the EU had been constructed through Ukraine, which gained revenues from transit fees. Most importantly, however, Russia had been the single largest supplier of Ukrainian oil and gas for domestic consumption.

In 2015, Russia ceased the export of its gas to Ukraine claiming it would be demanding upfront payments for natural gas. Even though this scenario between Russia and Ukraine appears as an energy dispute, the timing and magnitude of this energy-related crisis seems convenient for Russia. Russia held Ukrainian energy debt for decades without entering substantial disputes over it. Ultimately neither Western sanctions vis-à-vis Russia nor the manipulation of gas deals by Russia in relation to Ukraine can be classified as a conventional tool in conflict or a declaration of war, thus falling within the essential toolkit available to states in gray zone conflicts. The successful exploitation of economic and political pressure points against the opponent, however, is difficult to achieve without the incorporation of cyber space.

In December 2015, Russia was accused of attacking Ukraine's power grid through cyber space. This event, even though attributed to Russia by the Kyiv government and some NATO officials, can only be probabilistically attributed to Russia. Cyber space,

¹⁴ In Eastern Ukraine social networks are primarily based on ties with Russia and/or Russian-language events, religious practices, and television programs.

¹⁵ Consider that a Pew Research Center (2009) poll showed that most Ukrainians believed they were better off under communist rule. And to reinforce the point, a 2008 survey asked "Can we trust people in general?" According to that survey, 67 percent of Ukrainians believed that trust is "not necessary" for Ukrainian politics. As another indicator of low national cohesion, the survey results showed that most citizens did not even consider themselves close to their neighbors within their own country, but they did feel closeness to people in neighboring states. In Western Ukraine, people felt closer to Hungary and Poland, but not neighboring regions within Ukraine. The same tendency existed in the East, where people felt closer to Russia and Belarus.

however, is not the sole purview of Russia. The US is said to have utilized cyber-attacks against Russia – as it claims, in retaliation with much remaining unknown about specifics (RBC 2016).

Another important and less ambiguous element of a gray zone conflict is the direct support for sub-state criminal and militant elements that fight on behalf of conflicting parties. Considering that even prior to the conflict 35 percent of the Ukrainian economy was operating “in the shadows,” the environment is set up perfectly for covert supplying of underground and separatist groups and factions (Vynnychuk and Ziukov 2013: 141–144). For example, in August 2014, a T-72 main battle tank with particular specifications was identified in the possession of the separatists in Eastern Ukraine. This tank has never been exported outside of Russia nor utilized by Ukrainian Armed Forces (Marcus 2014). This means only Russia could have exported the tank to the separatists (Garamone 2014; Copley 2015).

Despite the indirect evidence, it remains unclear how much control Russia has over actions taken by the LNR and DNR separatists. There is some evidence to suggest sustainable strong influence by Russia. For example, on November 17, 2017, Victor Medvechuk of the pro-Russia organization Ukrainian Choice requested that Putin speak with the leaders of Luhansk to facilitate the exchange of prisoners of war with Ukraine (Channel 24 Ukraine 2017). Within two weeks of the request, on November 30, 2017, the exact number of prisoners Medvechuk requested were ready to be exchanged between the separatists and Ukraine (Unian 2017).

MEDIATION STRATEGIES

We now turn to an evaluation of mediation strategies in the two regions. Formally defined, mediation is typically a voluntary, non-binding process designed to bring disputing parties together with the help of a third party at both an official and an unofficial level (Bercovitch and Gartner 2009). However, in the international domain, a combination of techniques involving coercive manipulation and non-coercive incentives are applied. Bercovitch and Houston (2000) have noted a mediator’s choice of strategy is most strongly influenced by the conditions of the mediation environment and the identities of the parties in conflict. Drawing on the work of Beardsley et al. (2006) and *International Crises Behavior (ICB)* interpretations of mediation success and failure, Carment, Samy, and El Achkar note that mediation success in protracted ethnic conflict is dependent on the technique used (2009). Their research based on ICB data finds that the use of mixed strategies involving some elements of manipulation are more likely to generate formal outcomes.

In comparing the two cases of Crimea and Eastern Ukraine, we see evidence of a scaling up (e.g. more coercive techniques) of mediation efforts as the conflict shifted from the first arena to the second and as the conflict became more intense, complex, and bloody. Whereas mediators in the former case remained relatively aloof and facilitative, in the latter case we see clear evidence of mixed and far more manipulative strategies. At the same time, identity-based differences acted as a clear driver in both cases; identity has influenced the intensity and endurance of the Ukraine crisis. Gleditsch and Beardsley (2004) as well as Carment, James, and Taydas (2006) show that the presence of transnational ethnic actors, such as diasporas, alter levels of cooperation among domestic adversaries, making resolution more difficult.

Mediation in Crimea

The conflict in Crimea saw limited mediation in advance of formal Russian annexation, in part because of the limited resistance given by Kyiv, because Russian forces were already present in Crimea through a basing agreement, and because Crimea had experience in negotiating autonomy through previous referendums.¹⁶ On March 14, just a few days before the referendum, US Secretary of State John Kerry and Russian Foreign Minister Sergey Lavrov spent six hours discussing the situation around Crimea with no results. Kerry argued that the whole of Ukraine should have been given the opportunity to vote on the issues involved. Kerry's response was inadequate, given the lack of mechanisms for enforcing corresponding solutions on all the parties concerned.

On the ground, there were a few informal efforts. For example, Petro Poroshenko, a Ukrainian MP at that time, visited Crimea on February 28, 2014 but was escorted out of Crimea the same day. A delegation from the OSCE, including envoy Tim Guldemann and OSCE High Commissioner on National Minorities Astrid Thors, visited Crimea the following day. By the time of their arrival, Simferopol airport was already controlled by pro-Russian activists and unidentified military personnel, and no mediation took place.

German chancellor Angela Merkel was actively involved in negotiations with Russia at the end of February and the beginning of March, but all her efforts had very little effect on Russian president Vladimir Putin. Kyiv declared the 2014 referendum illegal on the grounds that the Ukrainian constitution made no provision for it. The Russian framing of the conflict consisted of questioning the legitimacy of the Kyiv government's claim to Crimea, based on precedent, experience, and Crimean sentiment. The results of surveys, after annexation, showing strong Crimean support for remaining within Russia, suggest this was a strategy that found favor with the majority on the peninsula (Sasse 2017).¹⁷

Another reason for the lack of mediation was an unwillingness to address Russia's geopolitical security concerns. A compromise might have been possible, for example, whereby Sevastopol was annexed, but Crimea resumed its 1992 constitution and remained an autonomous part of Ukraine. Even when part of Ukraine, Sevastopol was a "city with special status," and the area in which it was included was a distinct municipality, separate from Crimea. The majority (over 70 percent) of the city's residents are ethnic Russians. In addition, it is home to Russia's Black Sea Fleet (and formerly also to the Ukrainian Naval Forces), the naval facilities having previously been leased to Russia by Ukraine. An independent Sevastopol might have been enough to satisfy Russia's strategic needs – and the Sevastopol city council in fact held a referendum of its own on accession to Russia.

Finally, there were Crimea's Ukrainian and Tatar minorities, amounting to around 24 percent and 12 percent respectively of the region's overall population (State Statistics Committee of Ukraine 2001). Most members of these minorities live in four sub-regions in the north of Crimea. Historically, they have sought the union of Kherson oblast with the adjoining oblasts in Ukraine proper. A second possible territorial compromise could

¹⁶ In reality the majority of Ukrainian forces joined the Russian side in Crimea (Business Insider 2017).

¹⁷ Had there been meaningful mediation efforts, attention might instead have focused on the long-term political and economic viability of Crimea remaining within Ukraine. Conversely, Western mediators could have spelled out the costs of Crimea's absorption into Russia. There were bailouts and aid packages for Kyiv, but the economic and political benefits that would accrue to the Crimeans by staying in a unified Ukraine were never properly explained to them.

have been to allow these four oblasts to remain in Ukraine, with the rest of Crimea and the city of Sevastopol coming under Russian control.

None of the solutions mentioned were easy choices, and it may be that none of them was obvious to the parties in conflict, who were acting under immense pressure to avoid a full-blown war. Even in the absence of meaningful diplomacy, Crimea managed to come away from the crisis without significant violence. There is little doubt that Crimea would have sought independence from Ukraine anyway – and a good chance that it would have done so through force, meaning Crimea could easily now be a bloody battleground.

Mediation in Eastern Ukraine

Turning to the conflict in Eastern Ukraine, we have shown how it captures key elements of gray zone conflict given the fact that Russia and the US are involved in supporting opposing sides. This obviously raises the stakes, but it also influences mediator techniques, the likelihood of success, and the level of commitment from the opposing parties, necessary to ensure a lasting peace. The earliest and most concerted mediation attempt to facilitate a peaceful resolution to the war in Donbas was the meeting of the Trilateral Contact Group on Ukraine. This framework was developed by the OSCE as an attempt to facilitate a dialogue between Russia and Ukraine through the mediation of an impartial actor, and eventually this dialogue resumed in Minsk I (September 2014) and then Minsk II (February 2015) agreements.¹⁸

On June 6, 2014, the leaders of Germany, France, Russia, and Ukraine met for a memorial D-Day service in France, where they also discussed the possibilities for a settlement of the Donbas crisis. The active role of German and French parties initially produced a few rounds of negotiation, which became formally recognized as the Minsk agreements. This process, called the Normandy Format, did not directly involve the EU and consisted for the most part of phone conversations among the four counterparts.

In addition, there have been several efforts at negotiation by the US Special Representatives for Ukraine, first Victoria Nuland and more recently Kurt Volker and their counterpart Russian presidential advisor Vladislav Surkov. These conversations, based on private talks, have the American side ostensibly negotiating on behalf of Ukraine. In 2017 itself there were five meetings between Volker and Surkov, showing an increasing pace compared to previous rounds. The aforementioned agreement on military prisoner exchange was a result of these talks.

Beyond these three state-level processes most of the mediation has been supported through the good offices of the OSCE, which gives an opportunity for separatist leaders and representatives of Kyiv to consider options put forward by the Contact Group. In Table 10.2 we identify key mediation efforts along with the parties involved, their outcome, and the impact.

In examining the shift from Minsk I to Minsk II, as specified in Table 10.2, we see that the bulk of the differences between the two are content related. The Minsk I protocol

¹⁸ “OSCE Special Monitoring Mission to Ukraine (SMM) was deployed on 21 March 2014 . . . The SMM is an unarmed, civilian mission, present on the ground 24/7 in all regions of Ukraine. Its main tasks are to observe and report in an impartial and objective way on the situation in Ukraine; and to facilitate dialogue among all parties to the crisis” (OSCE 2018).

Table 10.2 Key mediation efforts in the conflict in Eastern Ukraine

Date and location	Mediator	Format	Parties	Outcome	Impact
June 20, 2014 Donetsk	OSCE	Trilateral Contact Group and separatists	Russia, Ukraine, separatists from Luhansk and Donetsk	The negotiations collapsed; separatist and Ukrainian representatives were unable to make progress on Poroshenko's proposal.	June 24, 2014 address at the UN Security Council by Russia drawing attention to the humanitarian crisis in Eastern Ukraine.
July 17, 2014 Kiev	OSCE	Trilateral Contact Group and separatists	Russia, Ukraine, separatists from Luhansk and Donetsk	Agreement to allow OSCE monitoring, international investigators access and local authorities to recover bodies.	OSCE monitors and Dutch-led Joint Investigation Team (JIT) gained access to MH-17 crash site.
September 4, 2014 Minsk	OSCE	Trilateral Contact Group and separatists	Russia, Ukraine, separatists from Luhansk and Donetsk	Minsk protocol (Minsk I) signed.	Temporary ceasefire; improvement in humanitarian situation and granting separatists more autonomy.
September 22, 2014 Minsk	OSCE	Trilateral Contact Group and separatists	Russia, Ukraine, separatists from Luhansk and Donetsk	Minsk Memorandum signed.	Heavy weaponry moved back by all belligerents.
January 31, 2015 Minsk	OSCE	Trilateral Contact Group and separatists	Russia, Ukraine, separatists from Luhansk and Donetsk	Multilateral dialogue collapsed.	Unknown
February 11, 2015 Minsk	OSCE	Normandy Format	Luhansk and Donetsk Ukraine, Russia, France and Germany	Attempts at reviving Minsk I and Memorandum failed.	Attention drawn to Ukrainian stalling of elections in separatist territories; temporary de-escalation of fighting.
August 26, 2016 Minsk	OSCE	Trilateral Contact Group and separatists	Russia, Ukraine, separatists from Luhansk and Donetsk	Report on a successful agreement between utilities companies on supply of water and electricity to separatist territories	Alleviation of water and electricity shortages in separatist territories.
December 12, 2016 Vienna	OSCE	Trilateral Contact Group	Russia and Ukraine	OSCE highlighted that casualties in conflict declined.	Perceived conflict stabilization.
January 19, 2017 Vienna	OSCE	Trilateral Contact Group	Russia and Ukraine	OSCE confirmation that the water supplies agreement remains in force.	Signaled the stabilization of conflict; perceived decline in severity of humanitarian crisis.
February 1, 2017 Minsk	OSCE	Trilateral Contact Group	Russia and Ukraine	Reaffirmation of commitment to Minsk II provisions	Decline in fighting. Signaled the stabilization of conflict.

Note: This is a list of key meetings. Not all OSCE-mediated meetings and informal dialogue are public knowledge.

focused solely on acceptance of the conditions of a ceasefire without a clear understanding of how to move from a line of separation and control to a politically sustainable outcome. For example, Russian president Vladimir Putin interpreted Minsk I as requesting that both sides implement a ceasefire, but that only the Ukrainians would withdraw, thus effectively enabling the separatists to maintain *de facto* control over Donbas. After these talks failed it was subsequently agreed all heavy weapons were to be moved back by all belligerents to 15 km from the front lines, which formed the territory claimed and controlled by the separatists.

When the parties failed to uphold that agreement by again violating the terms of the ceasefire, a subsequent meeting on February 11 and 12, 2015 that included the OSCE, the leaders of the Normandy Format, and representatives of LNR (Zakharchenko) and DNR (Plotnitsky) produced a 13-point peace plan. That plan covered a much wider spectrum: from an immediate ceasefire, and an amnesty and prisoner exchange, to democratic elections, and changes in the Ukrainian constitution focused on decentralization of the Ukrainian political system. Known as Minsk II, the agreement also specified support for the restoration of the Ukrainian–Russian border. While the implementation of the military portions of the Minsk II protocol were finalized within three months of signing, the political and security portions remained unresolved and to a large extent remain unaddressed.

Though the ceasefire has not been honored since the signing of Minsk I, the line of separation has not changed significantly since Minsk II. Territorial claims are stable while violence has slightly declined (perhaps even plateauing in 2017). By late fall of 2017 casualties had reached a total of 10 225 of which more than 2500 were civilians (UNHCR 2018a). The Trilateral Contact Group meets regularly to obtain commitments from all parties to maintain the ceasefire, withdraw all weapons regulated by Minsk II, allow the SMM unfettered access to disputed territories, and to commit to the restoration of basic utilities and critical infrastructure for the population directly affected by the conflict. By the end of 2017, the OSCE recorded almost 400 000 ceasefire violations and close to 4000 instances of proscribed weapons in violation of the agreed withdrawal lines. In December 2017 alone there were an estimated 1700 violations.¹⁹

There are a number of reasons why these multiple mediation efforts have not proven successful. A key element in the conflict is the mixed motives and interests of third parties, a situation which Russia has worked hard to exploit to ensure a diffusion of efforts and focus from the West. Though some members of the EU, such as Germany, France, and Britain have been involved in the conflict due to their proximity to the epicenter, other European states remain aloof or more supportive of the Russian position. As a result, even though the conflict is ongoing, and the situation has remained static since the Minsk agreements, solidarity within the West has deteriorated since about 2016, with some EU policymakers calling for an easing of Russian sanctions. Russia has also shown some success in developing strong bilateral relations with individual EU states, such as Hungary and Italy. Italy's then prime minister Matteo Renzi was eventually persuaded to oppose the majority of EU policymakers, who proposed implementing an even stricter sanctions regime against Russia. These efforts have helped erode the bloc's cohesiveness. Gray zone

¹⁹ See <http://uacrisis.org/63399-osce-75>, accessed July 20, 2017.

ambiguities have clearly contributed to dysfunctions in the Western alliances, and have thus make mediation by actors from that alliance less cohesive if not less effective.

A second problem facing mediators in Donbas is the lack of a hurting stalemate in which the institutionalized process offers a better option than continued fighting. Third parties can, in theory, induce settlements through the creation of hurting stalemates, as well as speed up the movement towards a settlement through the imposition of deadlines and other crisis-related strategies. Under these circumstances, Wall and Druckman argue, manipulative mediation is more likely to result in settlements, shorten crises, and result in greater satisfaction compared to more restrictive mediation styles (2003). Similarly, Balch-Lindsay and Enterline (2000) show that long civil wars typically correspond to the equitable distribution of third-party interventions. This is similar to findings from Carment, Samy, and El Achkar, who note that large power discrepancies between crisis actors is more likely to result in quicker termination of a conflict (2009). In essence, external involvement has the effect of prolongation, with its power tipping in favor of Ukraine. Conversely, when third parties raise the stakes by engaging in the use of force and favoring one side, the duration of civil conflicts is significantly reduced.²⁰

However, in this conflict, third parties are already actively supporting the belligerents with the West focusing its efforts on buttressing Kyiv and Russia supporting the armed separatist groups. Simply put, there are risks beyond the higher probability of war and long conflict endurance. In effect, Russia and the West are subsidizing the belligerents' capacity to absorb the supplementary costs of conflict and to inflict damage on their rivals (Carment and Rowlands 2003). Such support increases both the number of parties who can veto a settlement and the amount of time required to reach a settlement (Cetinyan 2002).²¹ As we have shown above for example, the conflict includes informally organized paramilitary forces, funded by private interests over which Kyiv does not exercise full control. This makes enforcement of a settlement even more difficult to reach.

In sum, gray 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. Our evidence shows that, lacking full information regarding belligerent intent and resolve, third parties on both sides are augmenting mediation through alternative strategies consisting of positive and negative incentives that strengthen their broader strategic objectives (e.g. supplying weapons, training, and personnel as well as imposing economic sanctions). This point is consistent with Pruitt's (2000) argument that heavy-handed mediation strategies occur more often when faced with intransigent belligerents. However, such efforts increase both the number of parties who can veto a settlement and the amount of time required to reach a settlement. Combined, they diminish the probability of a settlement ever being reached (see Hoffman and Bercovitch 2011 and Shrivastava and Agarwal 2003 for contending arguments).

²⁰ For contending arguments see Schrodtt and Gerner (2004) and Regan and Rodwan (2002).

²¹ The presence of biased third parties supporting opposing sides creates problems of moral hazard including the costs associated with expending resources and risking lives, as well as the potential loss of territory and negotiating advantage at the bargaining table (Carment and Rowlands 1998). As Smith and Stam show, veto actors calculate the costs of fighting against gains in the bargaining process (2003).

CONCLUSION

In a conflict driven by the machinations of great power rivalry, geopolitics, and domestic pressures, mediation, it would seem, does not stand much of a chance.²² Yet, given that 46 percent of crises in the post-Cold War era are mediated, it seems likely that such strategies for mediating gray zone conflict will be needed even if the probability of success is lower than desired (Beardsley et al. 2006). 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 direct talks between Russia and the US, essentially circumventing Ukraine and the separatists.

A 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 (Pruitt 2000). 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 member of the EU. With this information in hand, 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 (Transnistria) and Georgia (South Ossetia and Abkhazia). Both tilted towards European integration initiatives and both ended up in similar situations as de facto uncontrolled territories. Russia became the geopolitical beneficiary.

Scenario Two: Partition

With prolongation of the negotiations and Kyiv's unwillingness to consider decentralization and autonomy, Donbas will continue to build up its pseudo-state structures, drifting away from Ukraine with its "russkiy mir" ("Russian world") ideology. The end goal would be the formation of an independent breakaway state (and possibly its eventual incorporation into Russia). For the separation 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.²³

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

²² Oliver Richmond's (1998) argument about devious mediation objectives in which a combatant uses a peace process to simply stall is applicable to gray zone crises in general and Donbas in particular.

²³ Walter and Snyder (1999); Hartzell (1999).

UN Security Council permanent member states exercise over missions they do not agree with. Using an accepted ratio of 20 peacekeepers per 1000 residents, an estimated 60 000 peacekeepers would be needed to stabilize the region (Quinliven 2003). The major impediment to peacekeepers is the disagreement between Russia and the US over the deployment location of the peacekeeping force.

The US wants peacekeepers throughout the separatist territories, thereby having the ability to intercept war materiel which Russia has purportedly been supplying the separatists. Russia argues that peacekeepers should only be deployed on the border between Ukraine and the Donbas region where the fighting takes place. The scattering of peacekeepers throughout the Donbas would likely make them more targets rather than intermediaries. That is why on January 26, 2018 in Dubai, the US and Russia discussed a possible multi-phased approach to peacekeeping deployment which could reconcile their individual positions. An armed peacekeeping capability would help ensure a level of third-party credibility and commitment to a peace process currently absent. However, as Russia and the US 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 towards 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.