

Terrorist or Insurgent? Labeling and its Connection to Effective Strategy and Outcomes in  
Combating the Pro-Russian Rebel Groups in Eastern Ukraine

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Recently the Ukrainian Government (UA) called on the United Nations to formally recognize Russia as a state sponsor of terrorism and classify the pro-Russian rebel groups in Ukraine as terrorist organizations.<sup>1</sup> The Ukrainian Parliament has already made this classification internally and is actively pursuing their Anti-Terrorism Operation (ATO) against the rebel groups.”<sup>2</sup> However, is the classification of “terrorist” the correct one in this context? Is the current ATO strategy effective in defeating these rebel groups? What are the implications of receiving a “terrorist” classification in Ukraine for the rebel groups and for the UA? And if these rebel groups should not be labeled as terrorist organizations, which labels, and subsequently which strategies, will be most effective in unifying the country once again?

In this paper I will take a critical stance against the UA’s current definition of terrorism and their current ATO. I will argue that the UA is focusing its efforts on labeling the rebel groups as “terrorist organizations” and launching counterterrorism operations, a decision which is both misguided and ineffective. A counterinsurgency strategy, including an emphasis on political means over military strategy in Eastern Ukraine, would be more effective than the current ATO in defeating these rebel groups.

“Part 1: The Current Conflict and the Ukrainian Government Response” will briefly profile the current rebel groups in Eastern Ukraine and discuss their aims and tactics. Then, the recent UA response to these groups will be outlined, focusing on the ATO law and recent political activities. “Part 2: Defining Terrorism and Insurgency in the Ukrainian Context” will begin with a discussion of the scholarly definitions of “terrorism” and “insurgency” as compared to the definitions outlined by the Ukrainian Parliament. This section will then move into a

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<sup>1</sup> “Ukraine to ask U.N. to call Russia a Terrorism Sponsor,” *USA Today*, last modified January 30, 2015. (For the brevity of footnotes, links can be found in the Bibliography.)

<sup>2</sup> Ibid.

discussion on instead classifying the rebel groups in Ukraine as insurgencies. Finally, “Part 3: The Implications of Labels and An Analysis of the Ukrainian ATO” will analyze the current ATO in effectiveness and contextual appropriateness, ultimately concluding that the operation is ineffective. The implications of classifying the rebel groups as “terrorist organizations” or “insurgencies” for the UA will be examined. Recommendations will be made on how to build an effective counterinsurgency strategy and reform the vague terrorism laws. The conclusion will discuss the limitations of the current study, including reliance on unverified and biased information, as well as the generalizability of the findings to terrorism studies as a whole.

### **Part 1: The Current Conflict and the Ukrainian Government Response**

#### *Novorossiya: Pro-Russian Separatists in Eastern Ukraine*

One of the major informational challenges relating to the current conflict in Ukraine, especially in regards to many major western media outlets, is that little media attention is given to the makeup and organization of the Pro-Russian rebel groups. Who exactly are the rebel groups operating in Eastern Ukraine? What are their aims and goals in this conflict, and by what means will they accomplish these goals? Understanding these groups will aid in correctly defining them as terrorist organizations or insurgencies.

Much of the conflict appears to center around the word “Novorossiya,” though defining all the different aspects of this collective group term is a massive challenge. Historically, Novorossiya (or New Russia) refers to the section of modern day Ukraine that Russia annexed from the Ottoman Empire in the 18th century.<sup>3</sup> Recently the term was “revived” after public comments by Russian President Vladimir Putin in April 2014 coupled with a focus on the term

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<sup>3</sup> Adam Taylor, “‘Novorossiya,’ The Latest Historical Concept to Worry about in Ukraine,” *The Washington Post*, last modified April 18, 2014.

by the Pro-Russian rebel groups operating at the time.<sup>4</sup> Now “Novorossiia” has morphed into a network of constantly evolving and elusive organizations and entities.<sup>5</sup> There is Novorossiia the confederation or Union of People’s Republics (Союз Народных Республик), a union of the Donetsk People’s Republic (DPR) and Lugansk People’s Republic (LPR).<sup>6</sup> There is Novorossiia the humanitarian battalion (Гуманитарный Батальон “Новороссия”), a non-combatant people’s movement providing humanitarian aid to the rebel-held areas of Ukraine.<sup>7</sup> There is the United Armed Forces of Novorossiia (Объединённые Вооружённые Силы Новороссии), a military merger of the DPR and LPR militias.<sup>8</sup> The European Union and the United States have sanctioned and blacklisted some key leaders of Novorossiia for their roles in the conflict, including Igor Strelkov, a former commander of the DPR troops.<sup>9</sup>

Overall, the aims of the collective Novorossiia are to secure the independent republics of Donetsk and Lugansk. Pavel Gubarev, the former (self-declared) “People’s Governor” of Donetsk, stated on his Facebook page during the creation of the People’s Republic of Novorossiia the following (translated from Russian): “...we will only recognize the government and elected President [of Ukraine] if they are willing to recognize the independence of the Donbass Republics.<sup>10</sup> Secondly, they should immediately withdraw military forces from our People’s Republics and cease all hostilities.”<sup>11</sup> In the *Novorossian Herald*, a quarterly publication from the media branch of the organization, the rebels demand that the UA hold a

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<sup>4</sup> Ibid.

<sup>5</sup> Before continuing this discussion, it is important to note that the Novorossiia movement has been declared “finished” by some leaders, and it is unsure if the rebel groups are currently still working together. However, for the sake of clarity, Novorossiia will be referred to in this section as currently active and encompassing the major rebel groups in Eastern Ukraine.

<sup>6</sup> Павел Губарев, Facebook Post on May 24, 2014 from Donetsk, Ukraine.

<sup>7</sup> “Благотворительный фонд «Гуманитарный батальон Новороссия»,” accessed March 31, 2015.

<sup>8</sup> “ДНР и ЛНР приступили к созданию Армии Новороссии,” *Новороссия Информационное Агентство*, last modified September 16, 2014.

<sup>9</sup> Dina Newman, “Ukraine Crisis: What is Novorossiia role?” *BBC Europe*, last modified February 16, 2015.

<sup>10</sup> Donbass refers to the Donetsk and Lugansk territories.

<sup>11</sup> See Translation Appendix, I.

referendum of self-determination for the Novorossiysk lands.<sup>12</sup> The territorial extent of “Novorossiysk lands” varies depending on the source, but in the *Novorossian Herald* the group outlines territory as seen in the map below:<sup>13</sup>



This imagined post-armistice territorial divide reduces “proper Ukraine” to a fraction of its current territory, delegating large chunks of territory to autonomous colonies and historical regions (such as Malorossia, or Little Russia).<sup>14</sup>

In addition, Novorossiya discussed in their *Novorossian Herald* asserting the following legislative initiatives: “the real equality of all the citizens before the law; the guarantees of equitable opportunities for all people of Novorossiya; the rigorous compliance with the mass media freedom by stiffening the journalist responsibilities for violation of the rules of law; the creation of the independent national public TV broadcast.”<sup>15</sup>

<sup>12</sup> “Novorossian Herald,” *Novorossiya*, December 2014 Edition, p.6.

<sup>13</sup> John R. Haines, “Ukraine: The Violent Contraries,” *Foreign Policy Research Institute*, last modified January 2015.

<sup>14</sup> *Ibid.*

<sup>15</sup> “Novorossian Herald,” p.7.

In order to accomplish these goals against the will of the UA, Novorossiia has resorted to a variety of terroristic and military tactics. Most notably on an international scale was the crash of Malaysian Airline Flight 17 in July of 2014.<sup>16</sup> Footage from the crash site has linked the rebel groups to the cause of plane crash, and in addition, the rebels were reported to have delayed international aid workers and monitors from entering the crash site.<sup>17</sup> The handling of this operation was decidedly not as polished as an army should handle conflict, since not only was the plane mistakenly shot down, but rebels were noted as stealing passports, credit cards, jewelry, and generally looting the crash site.<sup>18</sup>

Other tactics used by Novorossiia are more on the military side of the spectrum, such as the abduction / arrest of Nadiya Savchenko, a Ukrainian pilot captured by rebels in June 2014.<sup>19</sup> Savchenko was transported across the Ukrainian-Russian border and charged with the deaths of two Russian journalists in Eastern Ukraine.<sup>20</sup> Despite international urging and protests, Savchenko is still in custody, and a date for



<sup>16</sup> The United States House of Representatives, “The Shootdown of Malaysian Flight 17 and the Escalating Crisis in Ukraine,” *Joint Hearing before the Subcommittee on Europe, Eurasia, and Emerging Threats and the Subcommittee on Terrorism, Nonproliferation, and Trade of the Committee on Foreign Affairs, One Hundred Thirteenth Congress, Second Session*, July 29, 2014, p. 1.

<sup>17</sup> *Ibid.*, p. 3.

<sup>18</sup> *Ibid.*, p. 4.

<sup>19</sup> Sarah Rainsford, “Nadiya Savchenko: Ukrainian Resistance Symbol in Russia.” *BBC*, last modified March 6, 2015.

<sup>20</sup> *Ibid.*

her trial has not been set.<sup>21</sup> In addition, throughout the conflict the rebel groups have captured and held varying amounts of territory in Eastern Ukraine. A recent, post-ceasefire estimate of rebel-held territory can be seen in the map on the previous page.<sup>22</sup>

### *Ukrainian State Response*

The Ukrainian ATO response officially began in April 2014, with the Ukrainian Special Forces beginning to crack down on demonstrators in Donetsk before officially declaring the ATO from April 14-15th.<sup>23</sup> <sup>24</sup> Ukraine's General Prosecutor's Office released a statement on May 16, 2014 classifying the DPR and the LPR as terrorist organizations and filing criminal charges against the groups.<sup>25</sup> The Ukrainian Parliament has also made a number of updates to the current legal documents on terrorism in response to internal legal criticism about the law's vague language and lack of an effective legal framework for anti-terrorism operations.<sup>26</sup> Changes include the legitimization of the use of the Ukrainian military in the ATO and new legislation allowing commanders to temporarily restrict the rights of the population and shut down businesses in the ATO zone.<sup>27</sup>

The general powers of the entities involved in the ATO are outlined in the Ukrainian Parliament Law "On the Fight Against Terrorism." The actual details of the ATO are largely kept secret from the public and media, but the general outline coupled with first-hand accounts by citizens and journalists can help to fill in the informational gaps. The UA defines an anti-terrorist operation as follows (translated from Ukrainian):

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<sup>21</sup> Ibid.

<sup>22</sup> Renee Rigdon, Stuart A. Thompson, and Taylor Umlauf, "Shifting Lines: Russia-Backed Rebels Claim New Territory in Ukraine," *Wall Street Journal*, last modified February 18, 2015.

<sup>23</sup> It is possible that the ATO began as early as February 2014, from insider commentary.

<sup>24</sup> CNN Library, "Ukraine Fast Facts," *CNN Wire*, last modified February 16, 2015.

<sup>25</sup> Interfax-Ukraine, "Ukraine's Prosecutor General Classifies Self-declared Donetsk and Luhansk Republics as Terrorist Organizations," *Kyiv Post*, last modified May 16, 2014.

<sup>26</sup> "Changes to Terrorism Law give Ukraine Forces Fighting Chance to Defeat Eastern Insurgency," *Legal Monitor Worldwide*, last modified June 20, 2014.

<sup>27</sup> Ibid.

...a complex of coordinated special measures aimed at the detection, prevention and deterrence of terrorist activity, hostage release, ensuring public safety, neutralization of terrorists, minimizing the consequences of terrorist activity...<sup>28</sup>

The document then goes on to list the specific functions of each unit involved in general anti-terrorist operations. The Security Service of Ukraine, with operations such as the Ukrainian Special Forces, focuses on gathering intelligence, working at the rear of the enemy to avoid detection.<sup>29</sup> The Special Forces also have started focusing on implementing diversion and sabotage operations, as well as operations for the “demoralization of the enemy” through leadership decapitation, enemy raids, and covert targeted shelling.<sup>30</sup> The Ministry of Defense focuses on counterterrorism military operations, using available Ukrainian forces to expel “illegal paramilitary or armed formations, terrorist organizations, organized groups and criminal organizations...<sup>31</sup> Overall, the main components of Ukraine’s current ATO encompass general intelligence operations, clandestine targeted attacks (shellings, decapitation), and direct military force.

## **Part 2: Defining Terrorism and Insurgency in the Ukrainian Context**

### *Scholarly Definitions of Terrorism and Insurgency*

The challenge of defining terrorism and insurgency lies in the fact that the line between these two terms has become increasingly blurred. According to Bruce Hoffman, terrorism can be defined as...

...the deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change.<sup>32</sup>

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<sup>28</sup> See Translation Appendix, I.

<sup>29</sup> InformNapalm, “Український спецназ в зоні АТО (відео),” last modified December 25, 2014, (3:05).

<sup>30</sup> Ibid, (5:45).

<sup>31</sup> See Translation Appendix, III.

<sup>32</sup> Bruce Hoffman, *Inside Terrorism*, (New York: Columbia University Press, 2006), p. 40.



To highlight the confusion between the terms, Hoffman states that insurgents “often employ the same tactics (assassination, kidnapping, hit-and-run attacks, bombings of public gathering places, hostage taking, etc.) for the same purposes (to intimidate or coerce, thereby affecting behavior through the arousal of fear) as terrorists.”<sup>33</sup> However, Hoffman says that unlike insurgencies, terrorist organizations do not function in the open as armed units, do not seize and hold territory, and avoid engaging enemy military forces.

The difference with insurgencies is although they use similar tactics and have similar reasons for violence as terrorists; they operate much closer to a military unit by engaging in military operations and controlling territory and resources. This distinction, for example, is illustrated in the Central Intelligence Agency of the United States’ use of the following definitions:

Terrorism - premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents.<sup>34</sup>

Insurgency - a protracted political-military struggle directed toward subverting or displacing the legitimacy of a constituted government or occupying power and completely or partially controlling the resources of a territory through the use of irregular military forces and illegal political organizations. The common denominator for most insurgent groups is their objective of gaining control of a population or a particular territory, including its resources. This objective differentiates insurgent groups from purely terrorist organizations.<sup>35</sup>

The CIA’s definition of insurgency is a useful one because it addresses the difference between insurgency and terrorism directly in its text - controlling a population or a territory and its resources as a main objective of insurgents, and a main distinction from terrorists.

In these definitions, terrorism and insurgency can be seen less as two separate terms and more so as two poles on a spectrum. Terrorism is often a strategy used by insurgencies to varying

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<sup>33</sup> Hoffman, p. 35.

<sup>34</sup> Central Intelligence Agency, “Terrorism FAQs,” last modified April 19, 2013.

<sup>35</sup> Central Intelligence Agency, *Guide to the Analysis of Insurgency*, 2012, p. 1.

degrees, moving various groups closer or farther away from the label of terrorist. Many groups lie somewhere along the “spectrum” in between terrorist organization and insurgency, often starting out as a terrorist organization and slowly moving into a more militarized insurgency.<sup>36</sup> For example, between terrorism and insurgency lies the term “proto-insurgency,” referring to the following:

...a small, violent group that seeks to gain the size necessary to more effectively achieve its goals and use tools such as political mobilization and guerilla warfare as well as terrorism.<sup>37</sup>

In order to transition from a terrorist group to a potential insurgency, the proto-insurgency has to accomplish the following steps: “create a politically relevant identity and attach it to a cause that has wide appeal, manage relations with rival groups, and find a sanctuary and outside support.”<sup>38</sup>

Proto-insurgencies seem to share many characteristics with guerilla groups, placing these groups in a category with the proto-insurgents.

This spectrum from terrorist organization to proto-insurgency to insurgency will be used in order to label and categorize the rebel groups in Eastern Ukraine. A visualization of this spectrum can be seen below:



<sup>36</sup> It is important to note that not all violent groups move from terrorist organization to insurgency in a progression.

<sup>37</sup> Daniel Byman, “Understanding Proto-Insurgencies,” *National Defense Research Institute: RAND*, 2007, p. 5.

<sup>38</sup> Byman, pp. 11-18.

*Ukraine's Legal Definitions*

Ukraine's legal definitions of terrorism and terrorist organizations have a much different focus than the previously discussed definitions. The Ukrainian government defines terrorism and a terrorist organization as follows (translated from Ukrainian):

Terrorism - a socially dangerous activity that constitutes conscious, deliberate use of violence by means of hostage-taking, arson, murder, torture, intimidation of the public and the authorities or commission of any other encroachment on the life or health of any innocent people or threat of committing criminal acts to with the purpose of achieving criminal purposes...<sup>39</sup>

Terrorist organization - a stable association of three or more persons, which was established for the purpose of terrorist activity, with internal distribution of function, set certain rules of conduct mandatory for these individuals in preparing and committing terrorist acts. The organization is recognized as a terrorist organization if at least one of its structural units commits terrorist activities with the knowledge of at least one of the leaders (governing bodies) of the organization...<sup>40</sup>

This definition of terrorism is much more broad and encompassing as compared to scholarly definitions. Terrorism is defined as a “socially dangerous activity” without specific mention of political motives or the intent to produce fear; this definition focuses on the acts of terrorism, many of which may have a political motive or the intent to produce fear, such as the intimidation of the public. Also in this definition, the focus is on “criminals” and “criminal activity,” a very general criminal charge that could be used in countless different violent, non-terroristic circumstances. In Ukraine's legal document there is no stated definition of insurgency, so the majority of violent groups would fall under the definition of terrorism and terrorist organizations.<sup>41</sup> The ATO law includes action against “illegal paramilitary or armed formations” in their text, but no definition of this phrase is included in the definitions section of the law.<sup>42</sup>

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<sup>39</sup> See Translation Appendix, II.

<sup>40</sup> See Translation Appendix, III.

<sup>41</sup> See Translation Appendix, III.

<sup>42</sup> Ibid.

*Classifying the Rebel Groups in Ukraine*

According to most scholarly definitions, Novorossiia and the rebel groups in Eastern Ukraine would be considered somewhere on the side of an insurgency. While it is obvious that these groups use terroristic tactics for political motives, the groups operate similarly to military units - wearing identifiable insignia and uniforms, capturing and holding territory and resources, and engaging with enemy military units. After the introduction of Russian financial and military support, these groups became much more organized and guided, moving them from their early 2014 position as a proto-insurgency to a more formalized insurgency today. It is important to note why these groups should be classified as insurgencies rather than belligerents in a civil war. To this day, the UA has not declared a war against Russia and has been avoiding the declaration of martial law (to be discussed in the next section). In addition, despite the fact that Russian aid has positively influenced the organization and military abilities of the rebel groups, the majority of members still lack the experience and tact of a legitimate military unit. As can be seen with the accidental shooting of a civilian airline and the looting of casualties from this crash, the rebels associated with these groups do not follow normal military protocol and do not have the specialized training of an army.

According to the UA, however, Novorossiia and the rebel groups would fall under the law as terrorist organizations. The UA could argue that the activities that constitute terrorism in Ukrainian law (hostage-taking, arson, murder, torture, intimidation of the public and the authorities, etc) have been committed by these groups, and an argument could also be made that these groups were formed for the purpose of these terroristic activities. The fact that these rebel groups use political-military tactics has no influence over their categorization since there is no definition of insurgency in the law.

### **Part 3: The Implications of Labels and An Analysis of the Ukrainian ATO**

#### *The Current Ukrainian ATO versus Classical Counterinsurgency Strategy*

Since the categorization of the rebel groups as terrorist organizations has been called into question, how effective has the current ATO been in defeating these rebel groups? As stated previously, the current ATO strategy in Ukraine focuses on the following: intelligence operations, targeted attacks (shellings, decapitation), and direct military force. However, classical counterinsurgency strategy differs in its focus from the current Ukrainian strategy. Classical counterinsurgency strategy focuses on conflict within one state with the possibility of a sanctuary in a neighboring country.<sup>43</sup> This situational aspect fits the description of the current Ukrainian conflict - confined in a single country, with a safe-haven in neighboring Russia - and because of this, classical counterinsurgency strategy has the potential to be effective in the fight against the rebel groups in Eastern Ukraine.

In David Galula's classic book *Counterinsurgency Warfare: Theory and Practice* he outlines an eight step procedure in fighting "hot" insurgencies, or insurgencies that are openly illegal and violent.<sup>44</sup> These steps begin with the concentration of military force in an area to expel insurgents and prevent a comeback of the insurgency, followed by contact with the population of the area and the destruction of local political organizations set up by the insurgents.<sup>45</sup> Then, new elections should be held in the area and leaders should be educated in and tested for competence in governance.<sup>46</sup> Finally, the remaining insurgents should be expelled or won over.<sup>47</sup>

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<sup>43</sup> Jason Rineheart, "Counterterrorism and Counterinsurgency," *Perspectives on Terrorism*, 2010.

<sup>44</sup> David Galula, *Counterinsurgency Warfare: Theory and Practice*, (New York: Frederick A. Praeger Publishers, 1964), pp. 63, 80.

<sup>45</sup> *Ibid*, p. 80.

<sup>46</sup> *Ibid*, p. 80.

<sup>47</sup> *Ibid*, p. 80.

Strategically, Galula emphasizes political action over military action - “Essential though it is, the military action is secondary to the political one, its primary purpose being to afford the political power enough freedom to work safely with the population.”<sup>48</sup> In the current Ukrainian ATO strategy, the emphasis is clearly on direct military action in Eastern Ukraine. There are too many disjointed and incohesive rebel groups in Eastern Ukraine to attempt to “encircle and annihilate” the groups, as presented in Galula’s work.<sup>49</sup> Furthermore, clandestinity does not fit into many counterinsurgency operations, as the Ukrainian Special Forces have attempted to implement, since history has shown that attempting to introduce multiple clandestine movements into an area has a weak chance of success.<sup>50</sup> Galula focuses on winning over the population in counterinsurgency, defining a victory as the isolation of the insurgent permanently from the population, a separation maintained by the population.<sup>51</sup>

Seth Jones builds on this classical strategy, criticizing the reliance on “winning over the population,” stating that Galula and other classical scholars ignore the role of the indigenous government and its security forces.<sup>52</sup> He identifies three key variables for defeating insurgencies through “an indigenous lead” in strategy by (1) training local police and security forces to combat the insurgency, (2) improving the quality of local government, and (3) cutting off external support for the insurgency.<sup>53</sup> Galula reliance on political and population tactics along with Jones’ research on indigenous security forces forms the foundation for an effective strategy in Eastern Ukraine. The population in the Donbass region has been cut off from much of Ukraine

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<sup>48</sup> Ibid, p. 89.

<sup>49</sup> Ibid, p. 72.

<sup>50</sup> Ibid, pp. 73-74.

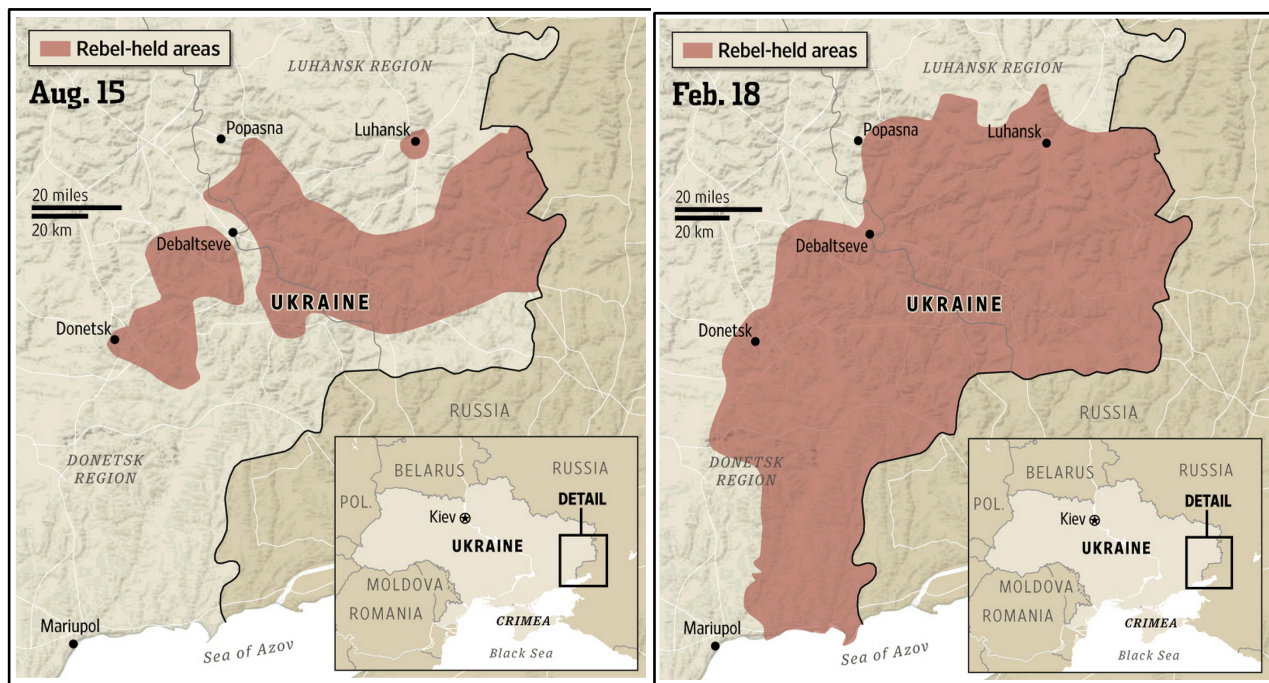
<sup>51</sup> Ibid, p. 77.

<sup>52</sup> Seth Jones, “Counterinsurgency in Afghanistan,” RAND Counterinsurgency Study, Volume 4, p. 7-8.

<sup>53</sup> Ibid, p. 15.

by the conflict, exposed only to Novorossiia media and leadership.<sup>54</sup> Many police officers and security forces that formerly lead these towns have fled.<sup>55</sup> Reaching out to the isolated and suffering local population while reinstating traditional security forces in the region could have a largely successful effect in countering the insurgents.

Moreover, questioning the effectiveness and legitimacy of the Ukrainian ATO operation is just - currently it has been over a year since the illegal annexation of Crimea and the beginning of the ATO; yet, little progress has been made by Ukrainian forces. Overall, Ukraine is rapidly losing territory to the rebel groups, despite two separate ceasefires (maps below comparing August 2014 to February 2015).<sup>56</sup> It seems imperative that in order to regain control of the territory, the UA must implement a new strategy directly linked to defeating insurgencies, rather than focusing on defeating “terrorists.”



<sup>54</sup> Kristina Jovanovski, “In War-Torn East Ukraine: Donetsk Faces Starvation as as City is Isolated,” *International Business Times*, last modified January 24, 2015.

<sup>55</sup> Simon Denyer, “Ukrainian Riot Police Humiliated as Separatist Mob Storms Donetsk Office,” *The Washington Post*, last modified May 1, 2014.

<sup>56</sup> Renee Rigdon, Stuart A. Thompson, and Taylor Umlauf.

*Implications of Labeling in this Context*

Now the question arises, if Novorossiia and the rebel groups in Ukraine are not terrorist organizations, then why is the UA fighting a counterterrorism war? The simple answer is that labeling these groups as terrorist organizations was and still is in the interest of the UA. While recently the UA appeared to be considering declaring martial law (speculation from recent changes to the legal document of martial law), the UA has the incentive to continue the current ATO for several reasons:<sup>57</sup>

*The Legitimacy of Belligerents.* The UA could have chosen to declare martial law instead of their ATO last year; martial law, however, would require that the UA define, and more importantly recognize, the rebel groups as belligerents that have rights under international law.<sup>58</sup> This would grant the rebel groups their desired status as the Union of People's Republics, which the UA would consider a "micro-defeat." Because of this, the UA has been firm in refusing to recognize the rebel organizations.

*Political Punch.* The labels of "terrorist" and "terrorist organization" have much more political significance than labels such as "insurgent" or "insurgency." The politicization of terror and terrorism has made labeling an enemy as a terrorist a huge foreign policy and political strategy, as seen with U.S. President George Bush's "war on terror."<sup>59</sup> The UA wants to capitalize on this labeling in order to influence international aid and inspire sympathy for the conflict.

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<sup>57</sup> Святослав Хоменко, "Чому Порошенко не запроваджує воєнний стан?" *BBC Ukraine*, last modified January 26, 2015.

<sup>58</sup> *Ibid.*

<sup>59</sup> Hoffman, p. 19.



*Escalation with Russia.* In addition, the Ukrainian government fears retaliation from Russia for escalating the crisis through declaration of martial law or war.<sup>60</sup> Though Russia has covertly supported the rebel groups up to this point, they have not come out in direct military support as they did with Crimea.<sup>61</sup> The UA does not want another Crimea, so they are taking care to handle the Pro-Russian rebel groups in a way that will not provoke a Russian response.

*Distraction and Scapegoating.* Most importantly, Ukraine is one of the most corrupt states in the world, ranked 142 out of 175 countries with a score of 26/100 on Transparency International's 2014 Corruption Perceptions Index.<sup>62</sup> Focusing the public on an outside enemy is a distraction technique to shift focus away from the rampant internal corruption in Ukraine. For example, Ukrainian President Petro Poroshenko has stated that if Ukraine declares itself in a war, it will no longer be eligible for financial assistance from the International Monetary Fund and other western organizations - despite the fact that this claim is not backed by any factual evidence or historical precedence.<sup>63</sup>

#### *Failures of the Ukrainian Government*

From the beginning, the UA failed to respond in an effective manner when the rebel groups were still in the category of incohesive proto-insurgencies. As stated by RAND's Daniel Byman, "the reaction of the state is often the most important factor in the movement's [an insurgency's] overall success or failure."<sup>64</sup> Overly strong state repression can alienate the population, create support for proto-insurgencies, further politicize communities, and push

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<sup>60</sup> Ibid.

<sup>61</sup> Anna Dolgov, "Russia's Igor Strelkov: I am Responsible for War in Eastern Ukraine," *The Moscow Times*, last modified November 21, 2014.

<sup>62</sup> Transparency International, "Corruption in Ukraine," accessed on April 10, 2015.

<sup>63</sup> Ibid.

<sup>64</sup> Byman, p. 21.

individuals who were previously “on the fence” to taking sides.<sup>65</sup> In-group policing is the recommended strategy in defeating proto-insurgencies, echoing recommendations from Seth Jones, offering a means of control without alienating or pushing the population to further violence.<sup>66</sup> The UA, however, launched an extremely heavy crackdown in early 2014 against at the time peaceful demonstrators.<sup>67</sup> This, along with Russian aid, propelled the proto-insurgencies into full-blown insurgencies, deepening the conflict and adding fuel to the fire. Heavy crackdown.

The UA is also currently failing to respond in an effective manner to the now full-blown insurgency in the east. Over-concentration on military action and an inability to cut off outside support from Russia greatly weakens Ukraine’s ability to fight effectively. According to the account of Igor Strelkov, the rebel groups in Eastern Ukraine were expecting Russia to absorb their republics, much like they did with Crimea.<sup>68</sup> The rebel groups were not expecting to have to create a republic on their own.<sup>69</sup> This, in addition to the worsening public conditions in the east, could be used to exploit the weaknesses of the rebel groups through classical counterinsurgency strategy.

### *Recommendations*

*Law Reform.* The broad definition of terrorism and terrorist organizations currently in Ukrainian law does not only impede effective implementation of counterterrorism strategy, but it also risks misuse in such a corrupt country. When a government can define a terrorist as any individual who commits criminal acts that are “socially dangerous,” this can easily be applied to political opponents and civilian protesters. The law “On the Fight Against Terrorism” needs to

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<sup>65</sup> Ibid, p. 21-22.

<sup>66</sup> Ibid, p. 25-26.

<sup>67</sup> CNN Library.

<sup>68</sup> Anna Dolgov.

<sup>69</sup> Ibid.

be reformed to include a more refined definition of terrorism and terrorist organization that excludes common criminals, peaceful protesters, and political opponents. In addition, the mentioned “illegal paramilitary or armed forces” referenced in the law need to be formally defined as insurgencies and insurgents.

*Counterinsurgency Strategy.* In order to defeat the rebel groups and unify Ukraine once again, the UA needs to implement an effective counterinsurgency strategy (COIN). Specific to the current conflict and drawing from the counterinsurgency theory examined in this paper, the UA should focus on political means over military operations. Reaching out to the population and establishing good governance and policing in the affected regions should take precedence over direct military confrontations. In addition, focus should also be given to cutting off outside support and sanctuary from Russia. Of course, this will be easier said than done; however, after making necessary reforms and expelling some of the insurgent forces, the International Community may be more likely to aid in this respect.

*Fight Against Corruption.* Conspiracy theories state that Russian and Ukrainian officials have the incentive to keep this conflict ongoing as a distraction from corruption and state embezzlement (no verifiable source). Whether this is true or not, it is certain that the level of corruption in Ukraine is far too high, and this level of corruption definitely has a negative effect on Ukraine’s ability to effectively handle the rebel groups in the east. Reform will only come through elections and possibly a second Maidan, though the possibility of protesting civilians being charged with terrorism is high in this circumstance, as seen with the 2014 Maidan when the UA launched an anti-terrorism operation against protesters.<sup>70</sup>

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<sup>70</sup> Sabra Ayres, “Are Ukraine’s Maidan Protesters ‘Terrorists’ and ‘Radicals’?” *The Christian Science Monitor*, last modified February 19, 2014.

## Conclusions

In summary, the current ATO strategy utilized by the UA is ineffective in handling the rebel groups in Eastern Ukraine. These groups are actually insurgent groups and should be dealt with using a counterinsurgency strategy. The UA made mistakes in their first crackdown on these groups when they were still weak and disjointed; the UA also currently fails to address and defeat the more organized insurgent groups in an effective manner. Law reform and the adoption of a counterinsurgency strategy are necessary, along with addressing the ongoing and rampant corruption in the UA itself.

This study is limited in its information sources - the current conflict is filled with biased, incomplete, and often-fictional information about atrocities committed on all sides. Without an inside look into the Donbass region, it is hard to really understand what is going on in Eastern Ukraine. Translating articles and laws from Ukrainian and Russian provide better information than English-language sources do; however, this information is almost always subject to some degree of bias on both sides. Sifting through this information and using scholarly judgment is the best option with the current information provided.

Finally, when looking at how to generalize these findings to terrorism studies and the world as a whole, it is important to consider the impact of the politicization of terror and terrorism on the effectiveness of counterterrorism and counterinsurgency operations. When there is a great incentive to label an organization as a “terrorist organization” in order to accomplish political aims, the effectiveness of fighting these organizations shrinks immensely. In addition, there seems to be a rise in groups like the Islamic State, who blur the lines between terrorist group and insurgency. This calls into question the usefulness and effectiveness of our current

views and definitions of terrorist organizations and insurgencies, and if reform is necessary to accurately address the current threats of today.

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## Translations Appendix

- I. Facebook post of Pavel Gubarev, former “People’s Leader” of Novorossiya, May 24, 2014, Translated from Russian

The Donetsk and Lugansk People's Republics have signed a document merging into the single nation ‘Novorossiya.’

On behalf of the DPR association document, signed by the DPR Prime Minister Aleksandr Borodai, and from the LPR side - Head of the Republic Aleksei Karyakin:

We do not recognize the President and Parliament of Ukraine. The Donetsk and Lugansk People's Republics have become independent nations.

This is my position.

Therefore we will only recognize the government and elected President if they are willing to recognize the independence of the Donbass Republics. Secondly, they should immediately withdraw military forces from our People’s Republics and cease all hostilities.



**Павел Губарев**  
May 24, 2014 · Donetsk, Ukraine · 🌐

Донецкая и Луганская народные республики подписали документ об объединении в составе единого государства Новороссия.

От имени ДНР документ об объединении подписал премьер-министр ДНР Александр Бородай, со стороны ЛНР – глава республики Алексей Карякин.

Мы не признаем Президента и парламент Украины. Донецкая и Луганская народные республики являются независимыми государствами.

Это моя позиция.

Поэтому признавать правительство и избранного Президента мы будем только с позиции, если они готовы признавать независимость республик Донбасса. И второе, они должны немедленно вывести войска за пределы наших народных республик и прекратить любые боевые действия

II. The Verkhovna Rada of Ukraine, “On the Fight Against Terrorism,” Article 1:  
 Definitions of Key Terms  
 Translated from Ukrainian

Terrorism - a socially dangerous activity that constitutes conscious, deliberate use of violence by means of hostage-taking, arson, murder, torture, intimidation of the public and the authorities or commission of any other encroachment on the life or health of any innocent people or threat of committing criminal acts to with the purpose of achieving criminal purposes...

тероризм - суспільно небезпечна діяльність, яка полягає у свідомому, цілеспрямованому застосуванні насильства шляхом захоплення заручників, підпалів, убивств, тортур, залякування населення та органів влади або вчинення інших посягань на життя чи здоров'я ні в чому не винних людей або погрози вчинення злочинних дій з метою досягнення злочинних цілей...

Terrorist organization - a stable association of three or more persons, which was established for the purpose of terrorist activity, with internal distribution of function, set certain rules of conduct mandatory for these individuals in preparing and committing terrorist acts. The organization is recognized as a terrorist organization if at least one of its structural units commits terrorist activities with the knowledge of at least one of the leaders (governing bodies) of the organization...

терористична організація - стійке об'єднання трьох і більше осіб, яке створене з метою здійснення терористичної діяльності, у межах якого здійснено розподіл функцій, встановлено певні правила поведінки, обов'язкові для цих осіб під час підготовки і вчинення терористичних актів. Організація визнається терористичною, якщо хоч один з її структурних підрозділів здійснює терористичну діяльність з відома хоча б одного з керівників (керівних органів) усієї організації...

Antiterrorist operation - a complex of coordinated special measures aimed at the detection, prevention and deterrence of terrorist activity, hostage release, ensuring public safety, neutralization of terrorists, minimizing the consequences of terrorist activity...

антитерористична операція - комплекс скоординованих спеціальних заходів, спрямованих на попередження, запобігання та припинення терористичної діяльності, звільнення заручників, забезпечення безпеки населення, знешкодження терористів, мінімізацію наслідків терористичної діяльності...

III. ---, Article 5: The Powers of Entities Directly Engaged in the Fight against Terrorism  
Translated from Ukrainian, Including Texts Amended in 2014

The Security Service of Ukraine carries out the fight against terrorism by conducting investigative and counterintelligence measures to prevent, detect, and suppress terrorist activities, including international; collects information on the activities of foreign and international terrorist organizations; conducts where permitted under applicable law solely in order to obtain proactive information in case of the threat of a terrorist attack or during anti-terrorist operations operational and technical investigative activities in systems and telecommunication channels that can be used by terrorists; ensures through the Security Service of Ukraine's Anti-Terrorism Center organization and conduct of counterterrorism activities, coordination of the entities on the combat against terrorism in accordance with the competence defined by the legislation of Ukraine; performs pre-trial investigations of crimes connected with terrorist activity; initiates the question of imposing an indefinite detention of assets connected with the financing of terrorism and related to the financial transactions stopped in accordance with the decision made on the basis of the UN Security Council resolutions, the removal of the seizure of such assets and grant of access to them upon an application of the person who can document the need for coverage of basic and extraordinary

Служба безпеки України здійснює боротьбу з тероризмом шляхом проведення оперативно-розшукових та контррозвідувальних заходів, спрямованих на запобігання, виявлення та припинення терористичної діяльності, у тому числі міжнародної; збирає інформацію про діяльність іноземних та міжнародних терористичних організацій; провадить у межах визначених чинним законодавством повноважень виключно з метою отримання упереджувальної інформації у разі загрози вчинення терористичного акту або при проведенні антитерористичної операції оперативно-технічні пошукові заходи у системах і каналах телекомунікацій, які можуть використовуватися терористами; забезпечує через Антитерористичний центр при Службі безпеки України організацію і проведення антитерористичних заходів, координацію діяльності суб'єктів боротьби з тероризмом відповідно до визначеної законодавством України компетенції; здійснює досудове розслідування злочинів, пов'язаних з терористичною діяльністю; ініціює питання накладення на невизначений строк арешту на активи, що пов'язані з фінансуванням тероризму та стосуються фінансових операцій, зупинених відповідно до рішення, прийнятого на підставі резолюцій Ради Безпеки ООН, зняття арешту з таких активів та надання доступу до них за зверненням особи, яка може документально підтвердити потреби в покритті основних та надзвичайних витрат; забезпечує у взаємодії з

expenses; ensures in cooperation with the intelligence agencies of Ukraine security of institutions of Ukraine outside its territory, their employees and their families from terrorist attacks.

*Last amended 05/06/2014*

The Ministry of Defence of Ukraine, the bodies of military administration, formations, military units and the Armed Forces of Ukraine ensure protection against terrorist attacks on facilities and assets of the Armed Forces of Ukraine, weapons of mass destruction, missile armament and firearms, ammunition, explosives and toxic substances that are dislocated in the army units or are stored in designated areas; organizes the preparation and application of capabilities of the Army, Air Force, Naval Force Forces of Ukraine in case of a terrorist attack in the airspace or territorial waters of Ukraine; participate in conducting counterterrorism activities at the military units in the event of a terrorist threat to the state from outside Ukraine; in case of involvement in the antiterrorist operation - ensure with the use of available forces and means performance of tasks aimed on abortion of activities of illegal paramilitary or armed formations (groups), terrorist organizations, organized groups and criminal organizations; participate in the detention of persons, and where their actions pose an immediate threat to life and

розвідувальними органами України безпеку від терористичних посягань установ України за межами її території, їх співробітників та членів їхніх сімей.

Міністерство оборони України, органи військового управління, з'єднання, військові частини і підрозділи Збройних Сил України забезпечують захист від терористичних посягань об'єктів та майна Збройних Сил України, зброї масового ураження, ракетної і стрілецької зброї, боєприпасів, вибухових та отруйних речовин, що перебувають у військових частинах або зберігаються у визначених місцях; організують підготовку та застосування сил і засобів Сухопутних військ, Повітряних Сил, Військово-Морських Сил Збройних Сил України в разі вчинення терористичного акту у повітряному просторі, у територіальних водах України; беруть участь у проведенні антитерористичних операцій на військових об'єктах та в разі виникнення терористичних загроз безпеці держави із-за меж України; в разі залучення до проведення антитерористичної операції - забезпечують із застосуванням наявних сил та засобів виконання завдань щодо припинення діяльності незаконних воєнізованих або збройних формувань (груп), терористичних організацій, організованих груп та злочинних організацій; беруть участь у затриманні осіб, а у випадках, коли їх дії реально загрожують життю та здоров'ю заручників,

health of the hostages, members of the anti-terrorist operations or others  
- neutralize them.

учасників антитерористичної операції або інших осіб - їх знешкоджують.

*Last amended 06/05/2014*

The central executive body responsible for implementing state policy for the sphere of protection of the state border and the bodies of the state border protection conduct combat against terrorism through prevention, detection and suppression of attempts by terrorists to cross the state border of Ukraine, the illegal movement across the state border of Ukraine of weapons, explosives, toxic, radioactive substances and other items that can be used as a means of committing terrorist acts; ensure the safety of maritime navigation in territorial waters and the exclusive (maritime) economic zone of Ukraine during anti-terrorist operations; provide the Anti-terrorist Center of the Security Service of Ukraine with necessary capabilities to ensure their effective use at the time of anti-terrorist operations.

Центральний орган виконавчої влади, що реалізує державну політику у сфері захисту державного кордону та органи охорони державного кордону здійснюють боротьбу з тероризмом шляхом запобігання, виявлення та припинення спроб перетинання терористами державного кордону України, незаконного переміщення через державний кордон України зброї, вибухових, отруйних, радіоактивних речовин та інших предметів, що можуть бути використані як засоби вчинення терористичних актів; забезпечують безпеку морського судноплавства в межах територіальних вод та виключної (морської) економічної зони України під час проведення антитерористичних операцій; надають Антитерористичному центру при Службі безпеки України необхідні сили і засоби, забезпечують їх ефективне використання під час проведення антитерористичних операцій.

*Last amended 06/05/2014*

The Agency of the State Guard of Ukraine takes part in operations to stop terrorist attacks directed against officials and facilities, the security of which is delegated to the Agency units,

Управління державної охорони України бере участь в операціях з припинення терористичних актів, спрямованих проти посадових осіб та об'єктів, охорону яких доручено підпорядкованим цьому

provides the Anti-Terrorism Center of the Security Service of Ukraine's with necessary security capabilities; ensures their effective use during the anti-terrorist operations.

Управлінню підрозділам, надає Антитерористичному центру при Службі безпеки України необхідні сили і засоби; забезпечує їх ефективне використання під час проведення антитерористичних операцій.

*Last amended 06/05/2014*