Review Essay
Aggression Against Ukraine

Andriy Tyushka
Department of Political and Strategic Studies, Baltic Defence College

Thomas D. Grant. *Aggression Against Ukraine: Territory, Responsibility, and International Law.* Palgrave Macmillan, 2015. xxx, 283 pp. Treaties and Other International Texts. Cases. Municipal Instruments and Other State Documents. Abbreviations. Notes. Bibliography. Index. $105.50, cloth.

Sometimes books on policy are written faster than state decisions are made. Thomas D. Grant's recent work *Aggression Against Ukraine: Territory, Responsibility, and International Law* is a case in point. It addresses the act of a recent "*Blitzanschluss,*" that is, the seizure of Ukrainian territory—the Crimea—by the Russian Federation in early 2014, against the backdrop of legal scholarship's emerging, if not sluggish, response to date.

Thus, the book addresses a truly topical and complex matter of the highest international importance, in which international law and politics are inherently intertwined. Understandably, Grant's study is framed by a focus that is narrower than the problem itself—territory and responsibility in international law. Notably, the study represents a scholar-practitioner's view who, in addition to combining these "two worlds," by virtue of his professional activity has also witnessed "how political decision-makers, as well as their jurisconsults, reconcile the law and other considerations that sometimes conflict with law" (viii). An interdisciplinary (strictly legal but also socio-legal, and legal-political) approach to this multi-faceted law-and-politics matter seems to be his default approach.

The starting point of the author's deliberations is reflected in the book's preface: "The final word on events in Ukraine is yet to come, and it remains too early to say where Russia's territorial claims will lead" (ix). This notwithstanding, Russian actions in Ukraine should be given due and instant qualification and attention, and the international community's response to them must follow.

With his book *Aggression Against Ukraine*, Grant counters the prevalent (no matter if apologetic, hesitant, opportunistic-inertial, or simply indifferent) view that a Russian act of aggression in Ukraine is just another example of one great power's unlawful and unaccountable use of force

Volume IV, No. 1 (2017) DOI: http://dx.doi.org/10.21226/T22G62

against a smaller power. Even more, he challenges the "dormant" field to react to this far from ordinary breach of *jus cogens*. He asserts: "It comes at no surprise that there are apologists for annexation. The surprise is that the response to date in the mainstream of the field would be resigned in the face of an act so at odds with the modern law" (6). Thus, Grant's book takes a different stance from the mainstream:

> It does not accept that the invasion and putative partition of Ukraine in 2014 is an event to which the door was opened by interventions in Kosovo and Iraq. It considers instead that aggression against Ukraine marks a potential turning point; that international law therefore must respond to it as strongly as possible to reject or to isolate its effects; and that, for the law to do so, those who interpret and apply the law must recognize the fundamental discontinuity between the recent past and the present act of aggression, however controversial the recent past may be. (6)

Guided by such a research perspective, the book's main argument is that "aggression in 2014 against Ukraine is not a continuation of an existing trend, but, instead, a possible turning point." The author goes on to say: "That is to say, aggression against Ukraine *will be* a turning point—if we let it" (8).

With this in mind, Grant's study aims "to address what we know about the situation—and to do so before the damage is beyond repair" (x). Dealing with the issue of "precedents" in the context of the Russian act of aggression, the book essentially aims, as well, "to judge comparisons" (8), as the "[q]uestions of precedent are questions of comparison" (7). In so doing, it draws on an extensive base of sources (nearly twenty pages long): treaties and other international texts; relevant case law, and municipal instruments and other (predominantly Ukrainian and Russian) state documents. The secondary literature in the book also constitutes a substantial research base.

The book's narrative unfolds from an introductory part through eight chapters, structured in three parts, followed by a concluding section. Part one, "Aggression Against Ukraine," outlines the facts on the ground relating to the act of aggression against Ukraine; it also preliminarily addresses the seizure of territory in Ukraine by the Russian Federation in conjunction with emerging (or sluggish) international response. Part two, "The Territorial Settlement and International Law," places the events of external aggression, that is, intervention followed by a territorial seizure, within a wider context. The concepts of boundaries and territorial regimes and their change, including in situations where the use of force is manifested, are meticulously described here. Part three, "Domestic Order, International Order, and Mechanisms for Change," assesses and deliberates on politicized Western interventionist "templates" and the patterns of Russian (ab)use of the latter in Ukraine and—possibly—beyond.

The analysis of Kosovo and other "precedents" invoked by Russia to justify its interventionism shows substantial intellectual courage and shapes the "battlefield" for this investigation. However, Grant goes a step further and, in an original way, enters what for many observers and, especially, policymakers today is *terra non desiderata*—the debate on the responsibility both to reckon the, thus far, "unanswered need" (6) to address the challenge and to enforce the challenger's "responsibility beyond the ordinary breach" (134) of international law.

In the following four thematic sections, I shall attempt to contextualize and frame the author's deliberations.

UNDERSTANDING *AGGRESSION* IN THE AGE OF *"LAWFARE"*[1]

Much of what Russia has been doing in international forums in order to justify and sustain its recent land grab, that is the seizure of sovereign territory from another state, has little to do with the establishment of truth and lawfulness (not to mention justice) but, rather, with the creation of frustration and the supplanting of legality with mere legitimacy—a consistent manifestation of what I choose to call "lawfare." "Lawfare," as one might sense, has little to do with lawfulness, and it essentially denotes situations where law is used as a weapon in a multi-faceted (armed) conflict that includes, among other things, a legal battlefield. To put it briefly: "lawfare" is the process and consequence of the "weaponization of law" in support of political agendas. Given this, Grant's book can also be seen as a handbook on how to identify, resist, and revert the acts of "lawfare" that Russia is using to justify the *fait accompli* of its seizure of Ukrainian sovereign territory, to sustain the de facto annexation of it, and to bolster its expectation of turning it, at some point, into a de jure territorial settlement.

The fact that, today, many place the events that have occurred in Ukraine since 2014 within the discourse, and under the generalization, of internal (armed) conflict and do not consider it a matter of external aggression proves how effective "lawfare" can be in blurring the very point of departure in the critical analysis of a situation and in shifting (if not blatantly distorting) the perspective cast on developments. Any legal account on aggression against Ukraine can hardly neglect this salient point. And, indeed, Grant's book does not neglect the issue and is concerned with the factual question of "whether

[1] The notion of "lawfare" used here draws on the original idea of USAF Maj. Gen. Charles J. Dunlap, Jr. I am grateful to NATO LANDCOM officer Mark Voyger for this terminological guidance.

Volume IV, No. 1 (2017) DOI: http://dx.doi.org/10.21226/T22G62

internal armed conflict is a proper rubric under which to consider these events at all" (x).

The Russian "lawfare" that is currently being waged to provide *ex post* justifications for Russia's intervention in Ukraine and to sustain and legalize its annexation of the Crimea extends beyond manipulations of the perspective (domestic conflict versus external aggression) assessing events in Ukraine. It also involves the "weaponization" (in the form of excessive and abusive legal interpretations underpinned by political objectives) of a series of international legal dogmas. The arguments pertaining to these dogmas, which Russia put forward in 2014 as "putative bases" for its armed intervention, are given reasoned evaluation in the book (43-61). As summarized by the author, there are eight aspects to this Russian argument, as follows:

> [a] the Black Sea Fleet agreements furnished a basis for Russia's presence in Ukraine;
>
> [b] dangers faced by Russians abroad justified intervention;
>
> [c] events in Ukraine threatened regional stability;
>
> [d] humanitarian principles or the "responsibility to protect" was applicable in Ukraine;
>
> [e] Ukraine invited Russia to intervene;
>
> [f] the self-determination of Russians in [the] Crimea was under threat and could only be protected with external assistance;
>
> [g] Western powers had intervened and so counter-intervention was lawful;
>
> [h] Russia had a right to resort to reprisals for breaches by Ukraine. (44)

The aforementioned eight-pronged "argument" essentially outlines, but surely does not limit, the scope of current Russian "lawfare" regarding Russian aggression in Ukraine. These matters are given particular attention in the book.

USE OF FORCE AND "SELF-DETERMINATION IN THE AGE OF PUTIN"[2]

Grant commences his examination with a comparative legal analysis of developments and the acts of two municipal legal orders, that is, of Ukraine and the Russian Federation (21-23), connecting them—through the concepts of "self-determination" and "unilateral secession"—with acts of the international legal order (23-35). He also extensively engages in an analysis of the "remedial secession" concept (26-33), which denotes the act of secession as the last resort for ending oppression—an argument highly politicized in Russian public discourse when describing the position of Russian ethnic minorities in Ukraine. After considering both the procedural and substantive aspects of the claim and the events to which it pertains, Grant arrives at the conclusion that the Crimean secession is to be regarded as an unlawful act of "unilateral secession" with no legitimate justification for the application of "remedial secession," as steadfastly held by the Russian authorities. With regard to the latter point, the book's author refers to the informative PACE (Parliamentary Assembly of the Council of Europe) statement, which concludes that "there did not exist any imminent threat to the rights of the ethnic Russian minority in the country, including, or especially, in [the] Crimea" (33).

Thus, as with many other aspects of Russian engagement in Ukraine, the alleged Crimean self-determination and secession have nothing to do with lawfulness. As I mentioned earlier, they should be seen, rather, as part of the "lawfare" tool kit, that is, as seemingly legal acts that implement a broader (geo)political agenda. Thus, a wider, and not exclusively legalistic, analytic framework is needed—that of law and politics. Just as with the earlier installed proxy regime of Transdnistria and the Russia-recognized independence of South Ossetia and Abkhazia following the Russo-Georgian war of 2008, Russian "self-determination" projects in Ukraine to support its invasion in the country's east—the failed "*Novorossiia*" project as well as the currently nurtured "People's Republics" projects in certain areas of the Donetsk and Luhansk regions—all point to the obvious: "[T]erritorial seizure under the cover of self-determination now belongs to the operational code of Russian foreign policy" (x).

More than a handful of both legal and political analysts, as well as a decent share of politicians, still erroneously prefer to see the acts of Russian intervention in Ukraine and Crimean secession as different (if not unconnected) developments. Grant is not among them. He clearly and

[2] Part of this heading is borrowed from Brad Simpson's article in *Foreign Policy* magazine.

Volume IV, No. 1 (2017) DOI: http://dx.doi.org/10.21226/T22G62

resolutely claims that Russian aggression against Ukraine is "the first formal act of *annexation following use and threat of force* against a State in Europe since 1945" (vii; emphasis added). The author explains why these issues should not be viewed as separate: "There is a degree of artificiality in assessing the use of force here in isolation from its result. Intervention and annexation were closely connected" (43) and, thus, must be seen in causal conjuncture. Grant takes up this analytic challenge and not only examines the two developments in all of their complexity but also addresses the main eight arguments that Russia put forward in 2014 as "putative bases" for its armed intervention in Ukraine (44-61).

Besides this, the author tries to incorporate into his analysis, and dismantle, acts and phenomena that would not necessarily hold up legally. This includes, for example, the matter of alleged "counter-intervention" (58-59), a narrative that Russia uses to justify its intervention in Ukraine and that, basically, postulates (for possible future use in court) that the "West" (individual states or as a collective entity) had already intervened in the internal affairs of Ukraine with their support of the 2014 regime change. Thus, Russia (self-deludingly) had the "right" to "counter-intervene" and, in turn, to defend its own interests. Whatever the plausibility of this claim, it is fundamentally an effort on the part of Russia to distort credible situational analysis and, again, has nothing to do with lawfulness. The use of force for territorial seizure is at extreme odds with international law, no matter what grounds of "legitimacy" are put forward and, certainly, is not valid on the basis of some historical considerations or principles (such as ethnic affinity), which form the true core of the Russian argument. Grant explains the pitfalls of invoking such grounds for changing inter-state borders, including by force:

> If such an argument becomes entrenched, then the scope for future aggression is vast. It would open the door to annexations at the expense of other States. Estonia and Kazakhstan have reason to believe that threats have already been made. It would be naïve to think that the problem would affect only the Eurasian borderlands of Russia. (ix)

Thus, Grant unequivocally maintains in this regard: "The prohibition against threat or use of force in relations among States forms a foundation of the modern international order" (15). Any departure from this dogma is fraught with nasty consequences for the future of relations between states.

The Marriage of Non-Recognition and Sanctions; and the Nascent Doctrine of *"Responsibility to Respond" (R2R)*[3]

Given the complexity of the Russian act of aggression and its implications not only for further emboldened behaviour by Russia but also in the context of setting "standards" that are intrinsically at odds with the current legal order, the importance of community response to this international wrongful act can hardly be overestimated. As I mentioned earlier, Grant's main argument in his book is, basically, that "aggression in 2014 against Ukraine is not a continuation of an existing trend, but, instead, a possible turning point"; he further clarifies this claim: "That is to say, aggression against Ukraine *will be* a turning point—if we let it" (8). Although this idea runs through the book's entire narrative, several chapters (chapters one to three and, especially, five and six) truly focus on the argument. This comes as no surprise given the central nature of the principle prohibiting the use or threat of force within the current international legal order and for the peaceful coexistence of states within that order. Thus, the breach of this principle implies not only the aggressor's responsibility and obligation to make reparation but, no less importantly, both the responsibility and legal obligation of the international community to respond to the grave breach of the peremptory norm. Although far from being a full doctrine per se, one may think of this universal legal and moral obligation as the notion of *"responsibility to respond" (R2R)*. Not literally in these words but certainly within such a framework, Grant does treat the violation of the peremptory norms and other core values of the legal order as a matter that requires responsibility on the part of both the aggressor and the international community: "When a state attempts to change a boundary by force, the wrongful act triggers not only the responsibility of the aggressor to make reparation to the victim of aggression, but also an obligation on the part of all States not to recognize the putative change" (10). Grant's thinking regarding response to an internationally wrongful act is, thus, guided by pure (or narrow) legalistic theory, as only the principle of non-recognition is being invoked. He substantiates this non-recognition as "the mechanism that international law has developed to respond to the unlawful acquisition of territory" (10). This principle as well as a much wider array of legal and political instruments, which can be deployed to respond to grave breaches of international law and

[3] I developed the concept of *"responsibility to respond" (R2R)* within the framework of the Second Annual Baltic Defence College Conference on Russia—Countering Russian Revisionism (2016).

Volume IV, No. 1 (2017) DOI: http://dx.doi.org/10.21226/T22G62

order, are at the heart of what I prefer to call the nascent doctrine of "responsibility to respond" (R2R).

As noted in the book, events in Ukraine, indeed, sparked wide international response (sufficient enough, though?)—that is, non-recognition, which is the focus of a separate chapter in the book (63-99). Grant considers the phenomenon of non-recognition on multiple levels and in various aspects:

- state practices (formal non-recognition; positions other than non-recognition, including recognition practices), including China's ambiguous (68) and India's reserved (70) positions, both of which have been (mis)interpreted as acts in support of the Russian annexation of the Crimea (64-71);
- practices of relevant international organizations, including United Nations (UN) political organs (UN General Assembly sessions and Resolution 68/262; the UN Security Council Draft Resolution; UN human rights bodies), the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE), and other organizations (71-83);
- cases and proceedings of international judiciaries and arbitral forums, including the European Court for Human Rights, the International Court of Justice, and different arbitral tribunals (83-88).

Sharing a view with renowned international legal scholar Christian Tomuschat, Grant treats these practices of the non-recognition of the Russian annexation of the Crimea as a valid legal instrument: "Non-recognition by the international community as a whole . . . is an essential legal weapon in the fight against grave breaches of the basic rules of international law" (71).

As a companion to this "default" legal instrument, the legal-political instrument of sanctions has come to play an additional role in the effort of the international community to respond to the grave breaches of international law in the wake of Russian intervention in Ukraine. As one of the important targets of the Russian "lawfare" campaign, sanctions against Russia—introduced individually by a number of states as well as by international institutions, such as the European Union and the Council of Europe—are, at present, the subject of highly politicized and instrumentalized debates. The Russian "lawfare" machine makes every effort to confuse the international community by wrongfully (though, with necessary awareness) placing the installed sanctions regime within the World Trade Organization (WTO) framework when the latter is not applicable in this context. Grant tries hard to make things clear: "Sanctions against the economic interests of a State are conceptually distinct from non-

recognition of the unlawful situation that might attract sanctions. Yet sanctions would seem to be a natural correlate to non-recognition" (97). Hence, the alleged WTO framework (98) is inappropriate a priori for guiding the perspective on the sanctions regime installed against Russia for its internationally wrongful act of aggression. The general non-recognition of an unlawful situation should be considered a necessary "validator" for the introduction and maintenance of international anti-annexation sanctions.

Looking Backwards, Looking Forward: Boundaries and Territorial Regimes, Precedents and (Un)Certainty

If there were a most-sacred-theme contest in international law, boundaries and territorial regimes would, evidently, be among the strongest candidates for the prize. This is not only because of the sheer number of international treaties that broadly address these matters but also owing to the core value shared within the international community that territory is central to national jurisdiction and sovereignty. Thus, they warrant certainty and special guarantees under international law and within the current international—the quintessentially *legal*—order. Grant engages in an extensive analysis of current case law and international practices that establish the privileged character of boundaries and territorial regimes, and he does this by applying what we know about them to what we see in the context of the Russian intervention, and seizure of territory, in Ukraine. Among specific guarantees—that is, legal instruments establishing boundaries and territorial regimes in a given context—he scrutinizes the Friendly Relations Declaration of 1970 (104), the Helsinki Final Act of 1975 (106), instruments relating to the independence of states of the former USSR from 1991 (107), the infamous Budapest Memorandum of 1994 (108-10), and others. With regard to the Budapest Memorandum, which is the subject of heated public and scholarly debates as to whether it represents an instrument of political or legal obligations, Grant states plainly:

> whether intended to create legal obligations or only political commitments, the Budapest Memorandum is another instrument reflecting the integral relation between finality of borders and international security. In respect of a decision having profound consequences for international security—the relinquishment of nuclear armament—Ukraine and the other parties recalled the finality of borders. The linkage between security at the global level and the settlement of boundaries in a particular place thus was brought into sharp relief. (110)

Volume IV, No. 1 (2017) DOI: http://dx.doi.org/10.21226/T22G62

The author further outlines the central nature and privileged character of boundaries from the very fact of their codification and from general lawmaking practice, with the law of treaties being the core example (116-31). Not surprisingly, he arrives at the point at which all debates on boundaries tend to start and end: the inadmissibility of the forcible claim (127-28) in any practice of changing boundaries.

The Russian territorial seizure in Ukraine, indeed, sets a different trend. Not a precedent or principle as yet (!), this trend is inherently dangerous to the entire system of international rules and the international legal order itself. The degree of danger should such a precedent become established could realistically be assessed against the backdrop of the recently voiced, or already enacted, territorial claims of the president of the Republika Srpska, China, Iran, and the self-fashioned Islamic State, all of which came after the act of Russian aggression in Ukraine. But the scope of potential danger extends far beyond this. Grant points to the reasonable concern of Poland, Estonia, Kazakhstan, and also Belarus and the United States (the latter in the context of the Russian deputy prime minister's statement regarding the Russian right to annex Alaska) in wondering "where Russia's *irredenta* will end" (7).

The precedent that Russian "lawfare" purports to enshrine as the "norm" of international law for the future is, thus, to be given serious consideration by those making international law and those warranting the legal order. Ultimately, as Grant puts it, precedents are both "backward looking and forward looking" (8). Casting a look backwards, the author surveys the legal nature and effects of the West's interventions in Kosovo (1999) and Iraq (2003)—both situations are being heavily invoked by Russia today to justify its ongoing (since 2014) intervention in Ukraine, which resulted in the annexation of the Crimea and still continues in the eastern parts of Ukraine. In Russia's widespread and officially communicated understanding, "a series of putative breaches of international law by Western States since the end of the Cold War [mainly those in Kosovo and Iraq] either excuse a new breach or change the law in favour of the revision that Russia seeks" (171). The comparison of all three cases is, thus, necessary for establishing whether the former two can be regarded as precedents for the recent one. After studying the subject matter, Grant maintains not only that these cases are beyond comparison (171-79, 183-93) but also that Russia's "*volte-face*"—that is, its complete change of international attitude on the matter in question following its intervention in Ukraine, as compared to its prior position—needs to be considered an inconsistent and highly politicized position on legal matters of great international significance (172, 179-82). The obvious massive "lawfare" waged by Russia in this context also distorts the focus of all three cases by engaging in a process of supplantation—that is, supplanting the

basis of its own recent act of aggression (forcible secession and annexation) with the principles of self-determination and secession by agreement established in earlier precedents. Historical references, richly featured in the Russian president's addresses since March 2014, can also be seen here as parts of the waged "lawfare," which seek to imply a rationale for annexation (in principle, an admissible political instrument) and, even more perilously, to substitute legality with claims of legitimacy (a legally inadmissible act). The nature of the annexation and the way that it was pursued give the impression of a (neo)medieval-style land grab within a modern order based on rules rather than of a modern territorial (re)settlement. Grant comments on the legality of invoking historical ideas and principles as part of legal reasoning for action: "[The Russian aggression in Ukraine] was not a modern legal act but, rather, an invocation of historical principles as justification for overturning the modern law" (173).

Paradoxically, however, Russian intervention and the subsequent annexation of the Crimea and the current destabilization of parts of Ukraine's east reveal state behavioural patterns of both *premodern times* (that is, the Middle Ages, as mentioned above) and *postmodernity*. The latter largely relates to the Russian extraterritorial human rights program, often referred to as the policy of "compatriots" or "coethnics" or the "Russian world" (*Russkii mir*) project—all of these geared toward "moving boundaries" in a system of "law without territory." As observed by Grant, "Human rights treaties diminished the relevance of boundaries" (155). Chapter seven of his book is devoted to the socio-legal analysis of the role of human rights doctrine in the conditional relativization of boundaries and territorial regimes, that is, in "decoupling the modern law from territory" (156). As part of this puzzle, Russia's "human rights program in a new territorial age" (160-65), thus, receives special attention in Grant's book. The aggressor's view on the law itself and the law in context (that is, how the law relates to Russia's extralegal goals and values) is central to this effort. Grant judiciously postulates in this regard:

> Detectable in the annexation claims are overlapping shadows of a seemingly distant history on the one hand and of modern human rights project on the other. To say that rights of Russian minorities in Ukraine are to be protected by the annexation of Ukrainian territory is an interpolation of the principle that makes human rights general, and not just a national, concern. It is to harness the proposition that borders are relative in service to other propositions antithetical to what the [Russian] human rights project was intended to achieve. (161)

A "paradox," or a "contradiction *in se*," would, perhaps, be the most succinct way of describing such self-sabotaging efforts of the Russian

Volume IV, No. 1 (2017) DOI: http://dx.doi.org/10.21226/T22G62

Federation to engage in a discourse based on its own multiple, overlapping propositions. If taken as part of a judicial process, these efforts could easily be dismantled and would tend to be nullified before judiciaries. As part of waged "warfare," however, they serve their function quite well—they distort, disorient, and simply frustrate all of those concerned. Perhaps because of this, Grant admits, after a thorough consideration of the matter (155-67), that international law "might seem to have little or nothing to say in response" (164) to such postmodernist, and quintessentially extralegal, claims of the Russian Federation. It may be for this reason, as well, that Grant, in discussing this situation, brings forth arguments advanced by the renowned scholar of international relations and political theory John J. Mearsheimer (164) rather than relying on strictly legal scholarship. All in all, this shows, yet again, how thin the line is between international law and politics in the context of the subject matter addressed in the book. And precisely because of the intertwined nature of law and (geo)politics in the context of Russian aggression in Ukraine, the matter will hardly lose its topicality in the decade(s) to come, especially if the use of force based on an exquisite use of "lawfare" becomes a precedent, and the "new normal," in relations among nations.

Concluding Assessment

For those who are hoping for a resolution of the Russo-Ukrainian territorial conflict and, particularly, for the reestablishment of the status quo ante, there is not much that Grant can offer with his book. His pragmatic and professionally guided assessment is as follows: "Events in Ukraine no doubt will reach some closure at some later date—but that remains an indefinite prospect. If it is closure we want, then we might have to wait a very long time. Too much has happened already to refrain from responding" (x).

However, in his *Aggression Against Ukraine*, Grant does succeed in establishing the meanings of invoked legal concepts and facts. He also excels in originally addressing what I call "responsibility to respond" (R2R) in the face of aggression while criticizing what is, thus far, a noticeable "escape" from such a response by the community. He states (or, rather, warns) that one should not narrowly view the act of Russian aggression against Ukraine as pertaining to the annexation of the Crimea alone. The Crimea is only the tip of the iceberg—many more international peremptory norms have been violated and are still being threatened today. Coarse Russian behaviour vis-à-vis neighbouring Ukraine has opened a Pandora's box of issues that go beyond seizure of sovereign territory as such. This coarse-power behaviour has threatened the future of peacekeeping and monitoring missions (in the

wake of international observers being taken hostage by Russia-backed "separatists" in Ukraine's east); the protection of civilians in armed conflicts (in the context of casualties among the civilian population of a country that is a party to the conflict or of third-party nationals; and especially in the context of impeding related reparations, for example, in air catastrophes, such as the downing of the Malaysia Airlines Flight 17 [MH17] passenger plane); the applicability of humanitarian rules to conflicts that have mixed characteristics of internal armed conflict and external aggression; and so on. In treating all of these, and other, legal matters, it is crucial to clearly distinguish between, on the one hand, legal arguments or instruments and, on the other hand, seemingly legal (paralegal) instruments forming part of Russia's current "lawfare" program. Replacing judgments of *lawfulness* with judgments of *legitimacy* (200) should be consistently treated as inadmissible, no matter how hard Russian "lawfare" pushes a contrary view in a given context. Grant's book excels in making this most important, and revealing, point. It does so with requisite professionalism, both in terms of the legal analysis and with regard to the writing itself, which is well-balanced and adheres to high academic writing standards.

At the same time, the book has some minor deficiencies. Grant does not fully flesh out some subject matter in the book—for instance, the representation and role of international observers during the so-called self-determination referendum in the Crimea. It also would have been beneficial if the author could have provided substantiation of the Ukrainian case within the context of his deliberations regarding the use of force in conjunction with other values (chapter six). Also, the book was, apparently, already in publication when further significant contributions to similar topics came out, so, unfortunately, it does not incorporate them. One of these works is the one-thousand-page-long Ukrainian edited volume, published by K.I.S., *Ukrains'ka revoliutsiia hidnosti, ahresiia RF i mizhnarodne pravo* (*The Ukrainian Revolution of Dignity, Aggression of the Russian Federation, and International Law*, edited by A. V. Zadorozhnyi, 2014). Grant's account also omits, for technical reasons, valuable insights from the *German Law Journal*'s special issue *The Crisis in Ukraine* (vol.16, no.3, 2015).

These deficiencies notwithstanding, Grant's book provides a well-written account that is worthwhile reading for all of those—whether fellow scholars or students of international law—who seek to understand the crux of the legal rationale behind Russian engagement in Ukraine in 2014 and beyond. Moreover, the book could be considered worthwhile and credible preparatory material for Ukrainian authorities in their effort to contest unlawful Russian actions before international judiciaries and in international forums—first and foremost at the International Court of Justice, the European Court of Human Rights, and the International Criminal Court, but

Volume IV, No. 1 (2017) DOI: http://dx.doi.org/10.21226/T22G62

also before various arbitral bodies. In the English-speaking market, Grant's book-length contribution to the interdisciplinary legal academic debate has no competition.

Works Cited

Dunlap, Charles J., Jr. "Lawfare Today: A Perspective." *Yale Journal of International Affairs,* vol. 3, no. 1, Winter 2008, pp. 146-54.

Simpson, Brad. "Self-Determination in the Age of Putin." *Foreign Policy,* 21 March 2014, www.foreignpolicy.com/2014/03/21/self-determination-in-the-age-of-putin. Accessed 3 Mar. 2017.

Tyushka, Andriy. "Countering Russian Revisionism." Countering Russian Revisionism. Second Annual Baltic Defence College Conference on Russia, 18-19 Feb. 2016, Dorpat Conference Centre, Tartu. Address.