

The international law gaze: the domestic roots of Russia's unlawful invasion

Dr Alberto Alvarez-Jimenez, University of Waikato, with a book review of Svetlana Alexievich's *Second-Hand Time*

Few books help us understand Russia's invasion of Ukraine and what may come next as *Second-Hand Time*, authored by the Ukrainian-born Belarusian writer Svetlana Alexievich (London, Fitzcarraldo Editions 2016). Based on hundreds of interviews, it collects the voices of many individuals on the impact of the Soviet Union's collapse on multiple segments of Russian society, from the powerful to the anonymous, in Moscow and in the periphery of the Union, for the old and the young, from generals to civilians. The book was published in 2013; months before Russia occupied Crimea. In 2015, Alexievich was awarded the Nobel Prize in Literature. *Second-Hand Time* presents only the voices and leaves the analysis entirely to the reader. On this structure, she says "I'm piecing the history of 'domestic', 'interior' socialism ... I've always been drawn to this miniature expanse: one person, the individual. It's where everything really happens" (at 24).

What is the connection between understanding the present and recent past of Russia and international law? It is trite to say that States' international decisions are intimately connected with domestic politics, as Robert Putnam illustrated years ago (Robert Putnam "Diplomacy and domestic politics: the logic of the two-level games" (1998) 42 *International Organization* 427). Putnam's analysis referred to well-functioning democracies, but it still applies to autocratic systems in imperfect democracies.

Thus, the Russian internal context shaped the decision to go to war and contravene directly or through its commanders and soldiers key tenets of the international law order: the United Nations Charter, international humanitarian law, and the Rome Statute, to mention but a few. Both the International Court of Justice and the International Criminal Court have already begun to investigate Russia's and its army's ongoing actions in *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v Russian Federation)* Request for Indication of Provisional Measures Order 16 March 2022, and *Decision Assigning the Situation of Ukraine to Pre-Trial Chamber II* (2 March 2022), respectively.

Second-Hand Time reveals certain segments of Russian society that were relevant decades before the invasion and may play a role in subsequent phases, contributing to determine the tempo and terms of peace negotiations at some point in the future. This article presents some of these facets in Alexievich's own words and a brief analysis. The facets include the supposed uniqueness of a Russian civilization; their deep war mentality; a Tsarist tradition, and the fear of change despite capitalism's limitations to deliver.

To be sure, the said facets also have their antitheses within Russian society, and the latter may even become fundamental in the future.

RUSSIA IS UNIQUE

Many Russians continue to perceive their nation as a global superpower. Its actions in Georgia, Syria, and Ukraine reveal that this view stands internally. In seeking to hoard territory in stark violation of international law, Russia is another “conqueror who sees in every new country annexed, only a new boundary”, as Marx said in another context. The following quotes are examples (at 435, 40):

Russia is, has always been, and will always be an empire. We’re not just a big country, we’re the Russian civilization. We have our own path.

We consider ourselves a special, exceptional people ... Russia always seems to be on the verge of giving rise to something important.

This idea is not limited to those who lived through the Cold War. A young Russian told Alexievich (at 66):

I’m so envious of the people who had an ideal to live up to. ... I want a great Russia. I don’t remember it, but I know it existed.

RUSSIA & WAR, IN GENERAL

In her interviews, Alexievich found that the collapse of the Soviet Union did not eradicate Russia’s close relation with armed conflict.

At heart, we’re built for war. We were always fighting or preparing to fight ... Even in civilian life, everything was always militarized” (at 25).

My father lived to the age of ninety. He said that ... he was always at war. That’s all we’re capable of” (at 66).

The disregard for international humanitarian law that the world has seen in Chechnya in 2000, Syria and now Ukraine was openly disclosed to Alexievich (at 638):

Boys like their fun ... killing, drinking, fucking – the three joys of war.

ON DEMOCRACY

Alexievich explored the prospects of democracy in Russia in the post-Soviet years. Putin's subsequent consolidation of power merely confirmed what she was told in her conversations (at 195, 434, 567, 29):

Our country has a Tsarist mentality, it's subconsciously Tsarist ... we need a Tsar. The Tsar the Father of the Russian people. Whether it's a general secretary or a president, it has to be a Tsar.

Democracy! That's a funny word in Russia. 'Putin the Democrat' is our shortest joke.

[Y]ou can't buy democracy with oil and gas. You need free people, and we didn't have them.

We thought that freedom was a very simple thing No one had taught us how to be free.

This is not to suggest that democracy has no hope in Russia. Anna Politkovskaya, Boris Nemtsov, Pussy Riot, and Alexander Navalny among many others, represent an important segment of Russian society pressuring for a real democracy. However, the point to be inferred from the above quotes is that the anti-democratic sentiment remains present.

PUTIN IS NOT ALONE

It is an oversimplification to say that this is Putin's war. A whole apparatus operates under his direction. Tolstoy reminds us in *War and Peace*:

The cause of such an event, in which millions of people fought one another and killed half a million men, cannot be the will of one man.

The echo of these words resonates today (at 684):

There are thousands of people like him (a Russian interrogator) – officials, detectives, judges. Some do the beating, others spread lies to the press. Others arrest people, pass sentences. You need so little to start up the Stalinist machine.

FAILED CAPITALISM

Capitalism has struggled in Russia. Multiple statements in this regard exist in *Second-Hand Time* (at 436, 267, 693, 490):

Capitalism isn't taking root here. The spirit of capitalism is foreign to us. It never made it out of Moscow. The Russian man isn't rational or mercantile ... Accumulating money isn't for him ... He has a more acute sense of fairness.

We believed in a beautiful life. Utopia ... and how about you? You have your own utopia: the market. Market heaven. The market will make everyone happy! Pure fantasy! – A farce! Instead of the dictatorship of the proletariat, it's the law of the jungle ... The oldest law in the world.

I have always lived in the same little house without any amenities ... I still do today. My whole life, I've done honest work. I toiled and toiled, got used to back-breaking labour. All I had to eat was macaroni and potatoes, and that's all I eat today.

In the West, capitalism is old, an established fact; here it's fresh, with brand-new fangs ... While the government remains purely Byzantine.

FEAR OF CHANGE

The chaos following the turbulent experience of the Soviet Union's collapse left deep wounds; many citizens associate change with disorder (at 180, 686):

[G]etting rid of an incompetent leader isn't our biggest problem. The question is what happens next.

When the Communists were in power, I was an engineer- now I'm a cabbie. We chased out a group of bastards, and another group of bastards took their place.

SOME REFLECTIONS

Second-Hand Time offers a comprehensive perspective of Russian society(ies) from within. In my view, several inferences could be made. They confirm what we are witnessing, and none are positive for the international legal order. They assume that Ukraine and the members of the North Atlantic Treaty Organization will continue to act in self-defence under art 51 of the UN Charter in response to the invasion. A war in Russian and European territories would be a different scenario.

First, Putin's invasion of Ukraine is backed by long-term domestic support in some segments of the Russian population. Second, given this reality and the impossibility of meaningful domestic opposition, there is little reason to trust Russia's offers of negotiation absent major military defeats. Third, expecting Russians to remove Putin seems difficult, considering the reinstating of Boris Yeltsin in 1992 after widespread protest upon his removal. Putin will likely be part of any post-war scenario based on a prospective peace agreement. Fourth, one question that arises is how the agreement will mitigate the risk of a new incursion in Ukraine ordered by him and how far NATO and its members will continue to adjust their defence policy in light of this risk.

IN A NUTSHELL

Readers will find *Second-Hand Time* transformative in understanding Russia's dynamic behind its past and ongoing violations of international law, the prospects and challenges of any peace negotiations, and what may happen in the aftermath.