



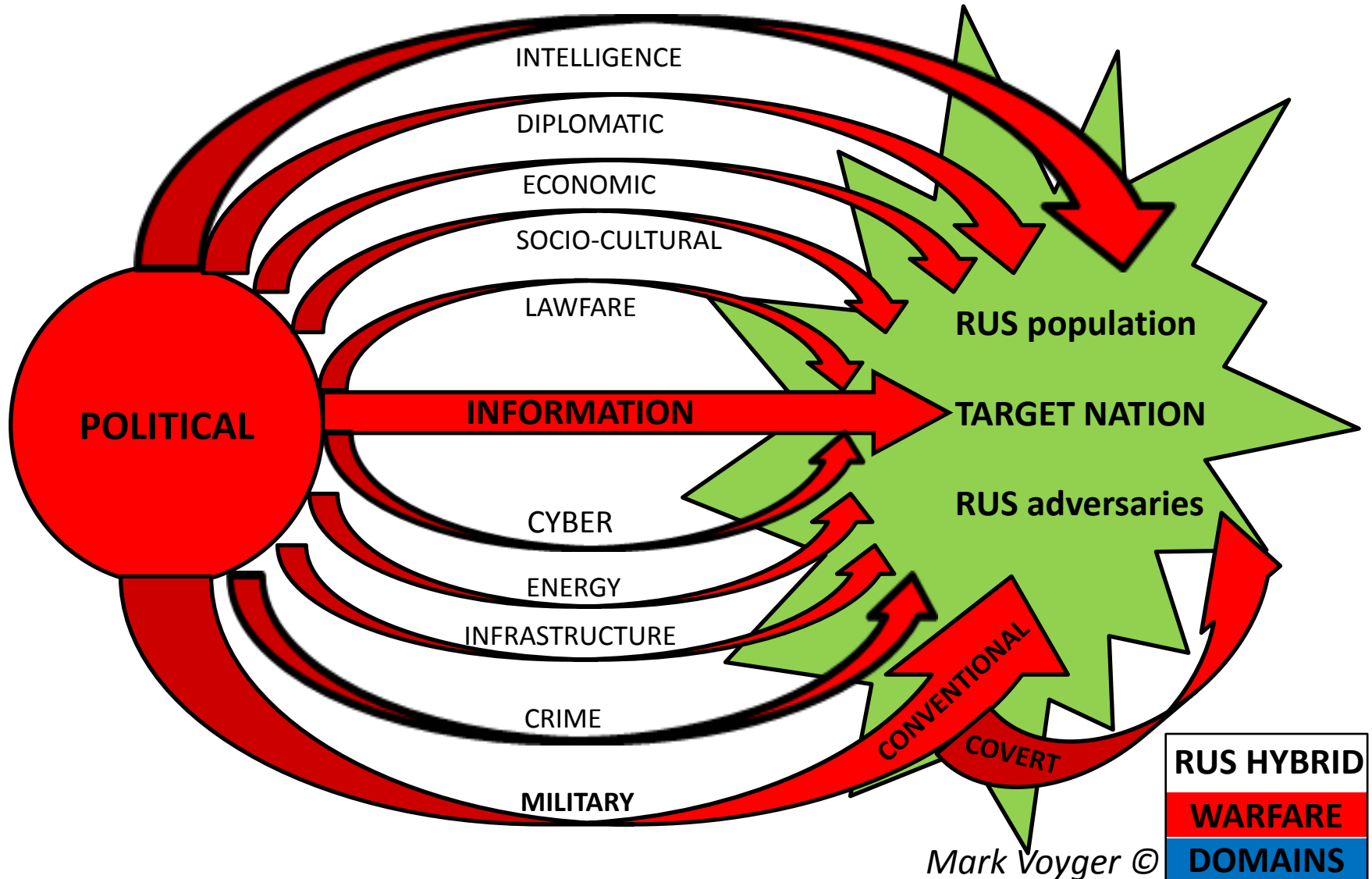
# **RUSSIAN LAWFARE**

## **Russia's Use of the Law as a Hybrid Warfare Weapon against Ukraine and the West (1654 – 2018)**

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# RUS HYBRID WARFARE 'HYDRA': DEPLOYABLE ABROAD AND INSIDE RUSSIA



# MAPPING RUS LAWFARE©: HYBRID WARFARE DOMAINS/AREAS OF LAW

LAW AREAS:	HYBRID WARFARE DOMAINS:								
	Political	Diplomatic	Socio-Cultural	Information	Economic/Financial	Energy/Infrastructure	Cyber	Intelligence	Military
<b>Legal Theory</b>	Uphold ethnic self-determination over state sovereignty in target states	Assert Russia's right to 'spheres of interest'; blur boundaries between peace and war	Use history to legalise interventions and annexations	Claim Russia's status as USSR legal successor when beneficial	Set the legal groundwork to dominate Eurasian economic integration	Assert Russian State sovereignty over energy resources	Assert Russian State sovereignty over the cyber domain	Define Western legal concepts as foreign and subversive to Russia	Assert the Russia's right of pre-emptive actions abroad
<b>Customary International Law</b>	Emphasise the fluidity of international law over peremptory legal norms	De-recognise neighbouring states' governments to justify Russian invasions and annexations	Assert Russian 'cultural values' over individual rights	Portray existing international order as West-centric and unfair toward Russia	Expropriate foreign assets to compensate for assets frozen by the West	Oppose Western sanctions against Russian energy infrastructure	Oppose U.S. sanctions for meddling in U.S. elections	Oppose Western sanctions for chemical attacks on UK soil	Assert right to military exercises within Russia's borders
<b>Humanitarian Law</b>	Assert Russian 'responsibility to protect' its compatriots in "Near Abroad"	Create new ethnic realities on the ground through Russian passports	Provide Russian citizenship on historical grounds	Claim Russian minorities' oppression and violation of language rights	Exert pressure on EU through migration flows	Destroy energy infrastructure to justify humanitarian convoys	Target Western humanitarian organisations	Collect intelligence during reconciliation campaigns	Target civilians to trigger humanitarian crises
<b>Constitutional Law</b>	Assert supremacy of Russian constitution over international law	Claim the transfer of Crimea to Ukraine contradicted Soviet constitution	Close ethnic minorities institutions accusing them of separatist propaganda	Claim USSR dissolution was 'unconstitutional' under Soviet law	Subject economic entities to state interests in wartime	Vest the Russian National Guard with the rights to protect infrastructure	Launch cyber attacks on Western electoral systems	Legalise the supremacy of Russian security apparatus over individual rights	Define Russian military as a pillar of Russia's domestic order
<b>Criminal Law</b>	Justify domestic repressions to preempt 'Colour Revolutions'	Abuse Interpol arrest warrants to target critics sentence foreign "war criminals"	Criminalise the offence of religious feelings of believers	Force hostages to admit to 'terrorist' activities	Tax evasion charges against opposition leaders	Fabricating infrastructure attack plots to arrest foreign citizens	Criminalise Internet criticism as 'terrorism' and 'extremism'	Legalise intelligence services control over the Internet	Define 'Colour Revolutions' as a domestic military threat
<b>Maritime Law</b>	Cancel Ukrainian State licenses to expropriate natural shelf resources in the Black and Azov Seas	Oppose the presence of U.S. navy in the Black Sea	Exploit history to assert warm ports access	Portray Azov and Black Seas as "Russian Seas"	Impede maritime traffic to Ukrainian ports	Obstruct access to Ukraine by building the Kerch bridge	Use cyber tools to target Western ports or naval assets	Compromise Western underwater cables claiming 're-search' activities	Support extended Russian claims on Arctic shelf by more bases
<b>International Organisations</b>	Abuse UN Security Council veto to obstruct UN resolutions	Create Russian-dominated regional organisations	Accuse neighbours of 'Nazism' at UN bodies	Portray Russian international organisations membership as stabilising	Leverage Russian membership in World Trade Organisation	Oppose EU energy infrastructure rules in Europe	Use cyber to target international organisations	Exploit international organisations to collect intelligence	Use Russian OSCE observers for intel on Ukrainian military
<b>International Treaties</b>	Uphold the principle of 'Rebus sic stantibus' over 'Pacta sunt servanda'	Use ceasefire negotiations to delay response and divide public opinion	Use zero-sum game culture while negotiating treaties	Exploit legal loopholes to claim non-performance of other signatories	Use Russian loans to keep neighbouring states within Russian orbit	Use Russian infrastructure to 'hardwire' countries to Russian energy supplies	Enlist international support for greater Internet control	Collect intelligence during treaty negotiations	Abuse 'snap' exercises by exploiting the Vienna Document's loopholes
<b>Law of Armed Conflict</b>	Assert that Russian aggression against Ukraine is "civil war within Ukraine"	Sign SOFA with Syria assuming no liability for war crimes	Use Russian fears of encirclement by NATO	Accuse Ukraine and West of war crimes in Donbas and Syria	Hire private military companies to fight overseas	Destroy civilian infrastructure to justify humanitarian intervention	Oppose NATO attempts to define cyber attacks as Art. 5 events	Use cyber for intelligence acquisition and influence operations	Claim that Russian military in Ukrainian are on leave or retired

# RUS USE OF INTERNATIONAL LAW: 'HYBRID HEGEMONY' © AND EXPANSIONISM

## **Customary International Law and Law of Armed Conflict:**

- Prevent war through negotiations and agreements
- Regulate the right to go to war (jus ad bellum);
- Set the rules of engagement and the laws of war (jus in bello)
- Normalize post-war relations through ceasefires, armistices and peace treaties.

## **International law is NOT carved in stone:**

- “International law is what states make of it”
- Based on fundamental legal principles but also derives from state practices

## **RUS Bending of International Law:**

- RUS unable to change international legal system on its own 'de jure'
- Attempts to change it 'de facto' (legal revisionism)

## **RUS Exploitation of Legal Loopholes:**

- Minsk 2 Provisions: on RUS-UKR border and on foreign formations and units in UKR
- Manipulations of the Vienna Document 2011: 'no notice' exercises, troop numbers

## **RUS Decision-makers: legal background!**



# RUS AND SOVIET LAWFARE (1654-1991)

## RUS and Soviet Experience with Nation-State System (18<sup>th</sup>–20<sup>th</sup> c.)

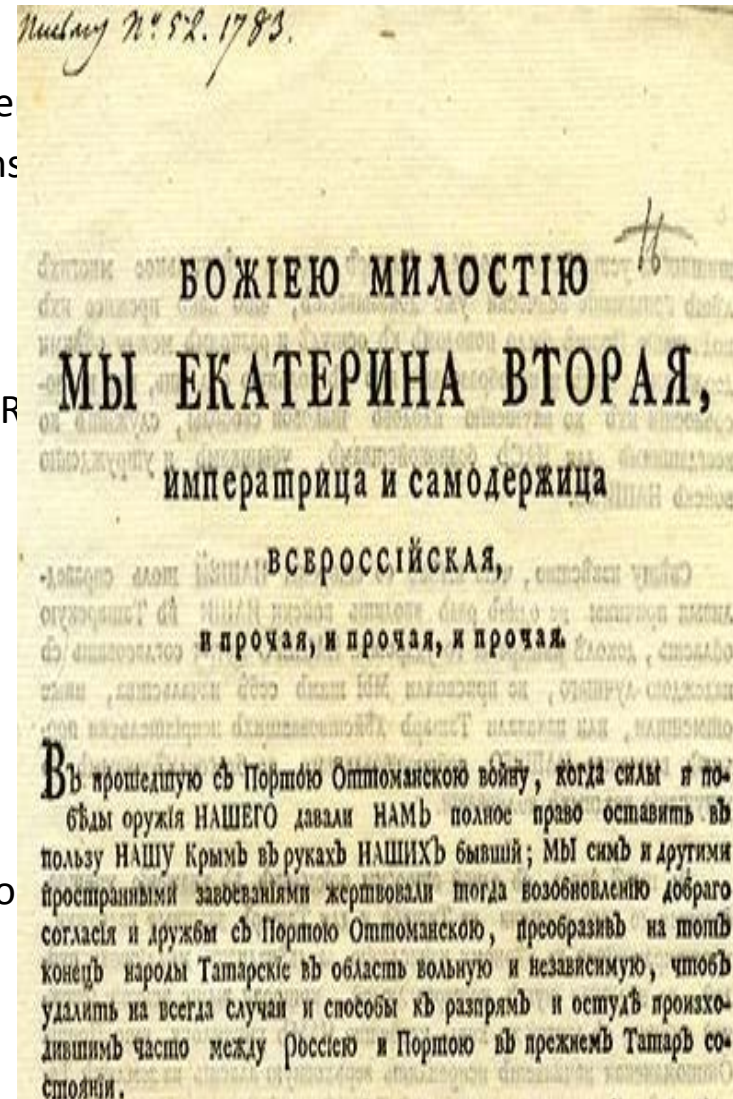
- **Partition of sovereign states** (POL – 3 times in 18<sup>th</sup> c.)
- **Suppression of nationalist movements** (POL, HUN)
- **Division of spheres of influence** (along with other Great Powers)
- **Use of ethno-religious rifts** to destabilize neighbors (Ottomans)
- **Limited sovereignty** of Soviet satellites (HUN, CZE, POL)

## RUS Empire Lawfare: Skipping the Lessons of Westphalia (1648)

- The Pereyaslav Treaty of 1645: The Occupation of Eastern UKR
- Kucuk-Kaynarca Treaty of 1774: RUS as the protector of the Balkan Christians
- Catherine the Great: 1783 Manifesto of Crimea's Annexation
- RUS Expansionism in 19<sup>th</sup> c.: Legal Justifications

## Soviet Lawfare:

- “We can and we must!”: Lenin's 1919 Speech on Probing POL
- Ribbentrop-Molotov Pact 1939: Nullity of Soviet guarantees to POL
- Formal declarations of war: extracting contributions legally
- Export of Bolshevik revolution (POL, HUN, DEU, BGR, SPA)
- Third World Decolonization and Soviet Exploitation of the UN



# RUS LAWFARE: THE ACTORS

## **Vladimir Putin, President of the Russian Federation**

- ‘Making it all legal’

## **Valentina Matvienko, Federation Council [RUS Senate] Chair**

- Authorizing use of RUS troops abroad

## **Sergey Naryshkin, RUS Duma [RUS House] Speaker (until 2016)**

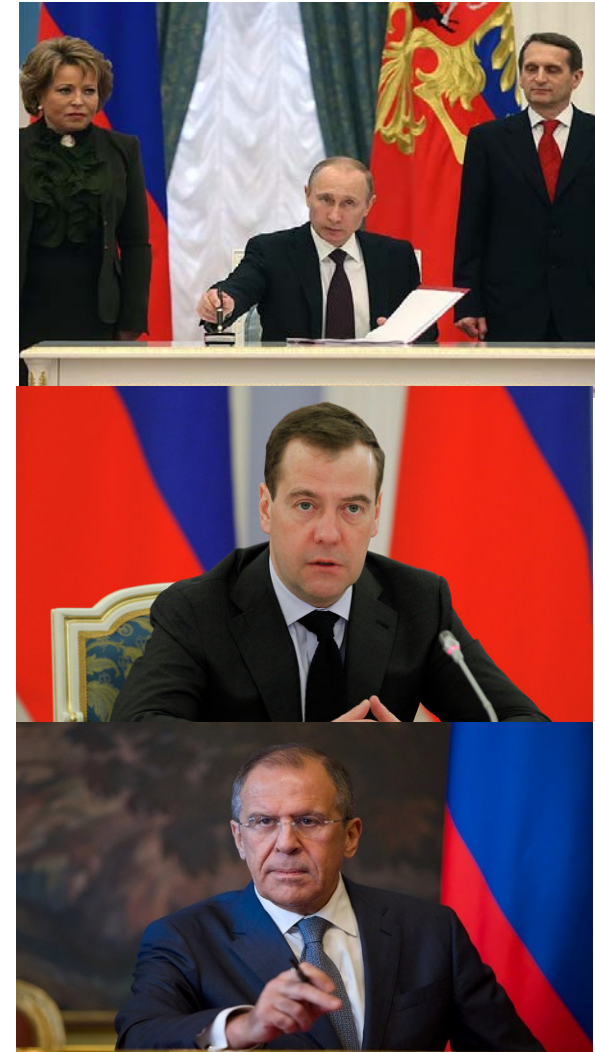
- Statements on RUS encirclement by NATO ‘beachheads’

## **Dmitriy Medvedev, Prime Minister of the Russian Federation**

- RUS government’s rubberstamping of Presidential policies

## **Sergey Lavrov, Foreign Minister of the Russian Federation**

- RUS Foreign Policy and Status in the World: Polycentric World
- Expanded use of RUS compatriots abroad
- RUS MOFA’s “White Book on Human Rights Abuses in UKR”
- RUS MOFA representatives: from human rights to nuclear treaties



# RUS LAWFARE AGAINST THE PEOPLES OF RUS

## A. Bastrykin, RF Investigative Committee Chairman:

- International law as tool of Western Hybrid Warfare
- RUS to counter by tighter social, information and financial control

### **Supremacy of RUS Constitution over International Law:**

- Theoretical justification (Jun 2015), Enacted into law (Dec 2015)
- RUS Law on Foreign Property (23 Oct 2015)
- RF Constitutional Court vs. EU Court on Human rights



## Yuriy Chayka, General Prosecutor of the RF

- Report on the status of law-enforcement and rule of law in RUS – 27 Apr 2016, RF Federation Council
- UKR 'Right Sector' accused of attempting to organize a coup in RUS
- Preventing social unrest by blocking social media



## Maj-Gen. Moskalkovska, new RF Ombudsman (22 APR 2016)

- Former Head of Legal Department of RUS Ministry of Interior
- Threat: Human rights theme exploited by the West to destabilize RUS
- Response: Expand protection of RUS compatriots abroad
- Objective: "Protect not only the individual, but mostly the system of values"





# RUS PERCEPTIONS OF 'COLOR REVOLUTIONS': THE KRONOS/CRONUS SYNDROME©

## 'Kronos/Cronus Syndrome'©

Pre-emptive fear of  
violent regime-change  
among elites in states  
historically prone to  
revolutions, coups and  
illegitimate power grabs

## 'Color Revolutions'





# QUASI-LEGAL JUSTIFICATIONS OF RUSSIA'S AGGRESSION AGAINST UKRAINE

## RUS Rationale (Spring 2014)

- Engineering of socio-political facts on the ground in UKR
- Ethno-cultural divisions to trigger regional secession
- Incorporation into the RF through expedited local referenda
- Justification of RUS military intervention to protect RUS citizens

## Quasi-legal basis of RUS actions

- Draft Amendment Bill for accession of new territories to the RF (28 February 2014)
- Crimea Referendum (16 March 2014)



# RUS CREATIVE BENDING OF INTERNATIONAL LAW

## “Passportization”

- Abkhazia, S. Ossetia, Crimea, Donbas

## RUS Citizenship Law Amendment (Apr 2016)

- Historical, cultural, linguistic principles

## Anti-Nazism: Legitimation of RUS Actions

- Anti-Kyiv/Baltics Nazi Propaganda Claims
- Anti-Nazi Declaration at UN
- Stalin’s 1941 Order (Igor Girkin/Strelkov)

## RUS ‘Humanitarian’ interventionism

- Transnistria, Abkhazia, Crimea, Donbass
- Appeals to UN from Donbass Militants
- ‘Humanitarian Convoys’ Technique
- Expanding RUS ‘Responsibility to Protect’



# RUS LAWFARE: HARASSMENT OF THE 'NEAR ABROAD'

## RUS Lawfare and Donbas Separatism:

- 1971 UN Decolonization Declaration: Legal Grounds of Donbas Separatist 'Road Map' of May 2014

## 'Legal Revivalism': LTU Draft Dodgers Case

- Harassing neighbors by reviving defunct Soviet laws
- Dissolution of the Soviet Union 'illegal'



## Kidnappings and High-Profile Trials:

- Nadezhda Savchenko et al., Eston Kohver

## Permeability of Borders: RUS "Borderization"

- Securing the borders in Eastern Europe
- Unilateral Demarcation: Legitimacy vs. Legality



## RUS High Seas Harassment: LTU Fishing Vessel

- Contested Areas in the High North

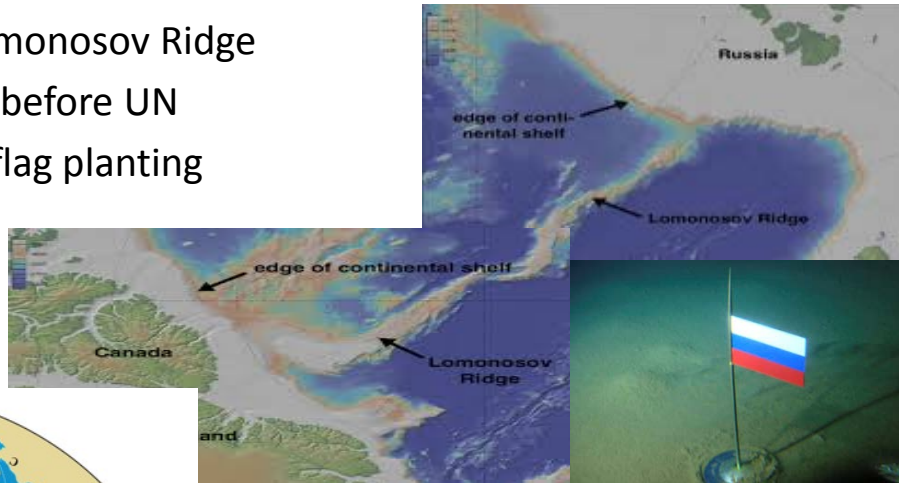




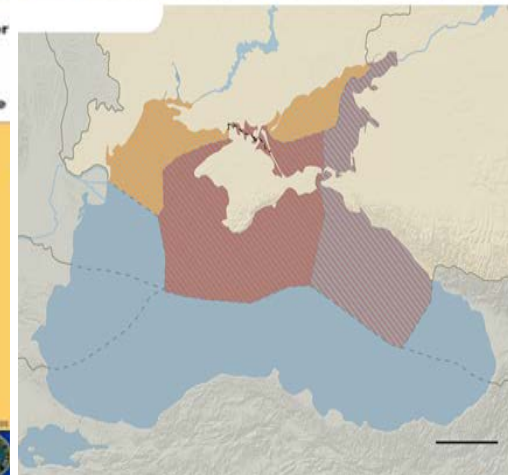
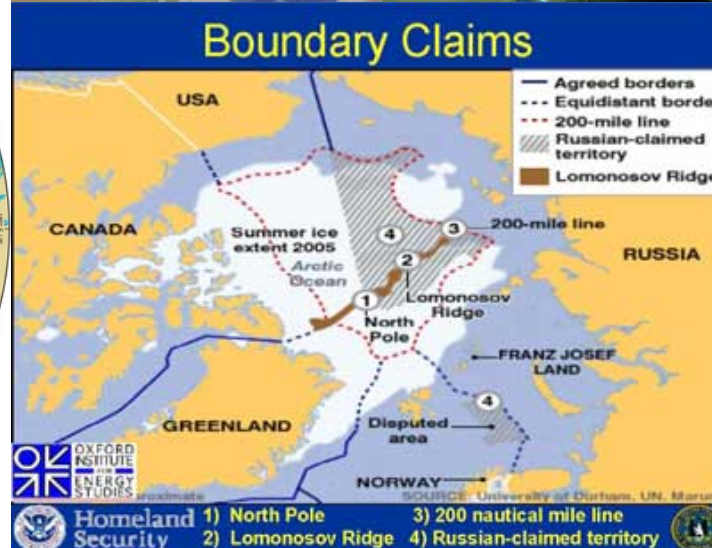
# RUS LAWFARE IN THE ARCTIC, THE BLACK AND AZOV SEAS: MATCHING 'LEGAL' WITH 'LETHAL'

## RUS Arctic Claims: The Lomonosov Ridge

- 2001 initial RUS claim before UN
- 2007 North Pole RUS flag planting
- 2014 research results
- 2015 re-submission



## De facto Black Sea borders





# RUS LAWFARE: IMPLICATIONS FOR THE INTERNATIONAL SECURITY SYSTEM

## Areas vulnerable to RUS Lawfare:

- Crimea and Donbas
- Unregulated borders along RUS periphery
- The Arctic/High North
- Belarus and Kazakhstan
- The 'Frozen Conflicts': Transnistria, Ossetia, Nagorno-Karabakh

## RUS 'Lawfare': Strengths and Weaknesses

- 'Under the radar', less unrecognizable
- Exploits existing legal loopholes
- Uses negotiations to delay and regroup
- Creates ambiguity among allies
- **Cannot remain secret: provides indications of RUS intent and potential actions**
- **Can be countered conceptually and in practice**

## Recommendations:

- Include "L" in the PMESII framework
- Track and analyze RUS legal developments
- Counter proactively RUS bending of international law
- Uphold peremptory norms of international law
- Expose the political purposes behind RUS 'peacemaking'
- Oppose RUS 'responsibility to protect'
- Close existing 'loopholes' exploited by RUS
- **Approach negotiations with RUS as a multi-dimensional chess game: calculate future RUS moves, beware of potential loopholes**

# COUNTERING RUS LAWFARE: THE WAY AHEAD

## Lawfare Study Programs:

- **Think Tanks:** UKR, Georgia, NATO and EU
- Institute for Statecraft (UK); European Values (CZE); Center for New Generation Warfare (USA)
- **Universities:** Mohyla Kyiv; Taras Shevchenko, Lviv Catholic, Ivan Franko, Tartu, Riga Stradins, Harvard, Duke, Georgetown, South Florida, etc.

### Purpose:

- Promote the study of Lawfare – Russian-style and its global implications
- Monitor and expose RUS Lawfare campaigns against national legislatures
- Generate interest among the governments, professional and academic communities and the public
- Promote the establishment of a Lawfare Center of Excellence (CPOE) for NATO/EU

## Lawfare Center of Excellence:

### Requirements:

**People, Venues, Funds,  
government/legislative support**

### Potential Locations:

- Ukraine (Kyiv, Lviv)
- Czechia (Prague)
- Estonia (Tartu)
- Latvia (Riga)
- Austria - Vienna
- Sweden - Stockholm
- USA – Washington, Boston, Florida
- Supported by NATO and/or the EU
- Links to international organizations, national governments and universities
- Study and counter RUS bending of international law by “Making it all legal”

# **RUS LAWFARE: THE DARK SIDE OF THE LAW**

## **THE ULTIMATE WEAPONS: "MAKING IT LEGAL!"**

