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Passport Power: Documents, Citizenship and Russian Leverage in Abkhazia

Research topic and its significance

My research focuses on the acquisition of Russian passports by residents of Abkhazia starting around the turn of the century. Russia and Abkhazia have claimed that all of the recipients of Russian documents – between 80 and 90% of the residents of Abkhazia – are now Russian citizens. Georgia now claims it has always viewed these individuals as Georgian citizens and that Russia has used passports to effect the annexation of Abkhazia; Russia claims that citizenship was granted legally and for humanitarian reasons. At the same time, in recent years, Russian official statements regarding the resolution of the conflict in Abkhazia have increasingly mentioned Russia's duty to defend its citizens who reside in the region; the implication is that Russia would have the right to use force under a self-defense rationale in the event of renewed armed conflict in the region.

The main objective of this project was to examine the legal mechanisms by which the citizenship grants took place and to place them within the context of the history of Russia's involvement in the conflict in order to determine whether Russia's claim of a right to intervene in Abkhazia to protect its citizens is justified; whether Russia's extension of citizenship to residents of Abkhazia constitutes a violation of the norm of non-intervention or an infringement on Georgia's sovereignty in violation of international law; what remedies, if any, might be available to Georgia under international law; and what practical ways forward might exist in the event of a conflict settlement that left a population of newly minted Russian citizens within Georgian borders or in a newly independent Abkhazia.

Approach and research methodology

My approach to this topic was based first on a review of international law theory and practice. I looked at legal treatises, scholarly articles and international case law dealing with legal norms regarding citizenship as well as the concepts of *de jure* and *de facto* statelessness. I also examined the legal basis for Russia's claim of a justification to use force in self-defense to protect its citizens outside of Russia. In addition, I briefly examined other situations involving disputes between states over issuance of citizenship across borders.

The second category of sources that I reviewed dealt with the history of the conflict and Russia's involvement during the 1990s. This examination was intended to illuminate some of Russia's long-term goals in Abkhazia and to provide a historical context for Russia's citizenship policy in the region in the early 2000s. I also examined Russian citizenship law and the changes implemented in 2002 which may have been intended in part to provide a legal basis for individuals in Abkhazia and other disputed territories to acquire Russian citizenship, and I reviewed the available information on the extent of benefits and rights provided by Russia to the individuals in Abkhazia which it now claims as its citizens. In addition, I looked at recent

Georgian citizenship law and at the cases of certain regions of the Russian Federation whose residents enjoy republican citizenship in addition to Russian citizenship.

The broadest group of sources I reviewed was a large number of primary and secondary sources providing data about the process surrounding the Russian citizenship grants and the timeline during which they took place. The sources used included NGO reports and policy papers, UN documents, press accounts, and public statements by Russian, Georgian and Abkhazian officials.

Summary of findings and preliminary policy conclusions

In spite of the general international law norm allowing states to confer citizenship freely, several factors weigh against recognizing the Russian citizenship of individuals residing in Abkhazia as a basis for Russia to intervene in potential hostilities in Abkhazia: the accelerated nature and questionable legality of many of the citizenship grants (under the 2002 Russian law, simplified applications for citizenship were predicated on the statelessness of the applicants; but the Abkhazians were not stateless *de jure*); the failure to consider other options which would have enabled residents of Abkhazia to travel internationally and addressed other humanitarian concerns; the issue of voluntariness and the intent of the Abkhazians who accepted Russian citizenship; and Russia's failure to grant full citizenship rights and official statements reflecting a willingness to use the Abkhazians' citizenship as leverage in securing a favorable resolution to the conflict between Georgia and Abkhazia.

While Georgia's inability to provide for the well-being of the population of secessionist Abkhazia and its refusal to allow the issuance of UN travel documents to the Abkhazians may be regarded as potential mitigating factors and partial justifications for Russia's actions from a humanitarian point of view, the inconsistencies of Russia's humanitarianism with respect to Abkhazia during the 1990s and more recently weaken this justification. The outcome of Russia's liberal citizenship policy in Abkhazia demonstrates that citizenship and pensions are not proper measures to neutrally address a humanitarian crisis in a secessionist region, because any genuine concerns which Russia may have had for the Abkhazians' well-being were quickly overshadowed by Russian proclamations of their duty to defend the Abkhazians in combat, which in some cases left pro-independence Abkhazians feeling ambivalent about Russia's role in the conflict. Mass acquisition of Russian citizenship came to seem problematic for Abkhazian elites who support the region's independence from both Russia and Georgia, and Russia's actions may even be seen as infringing on Abkhazia's *de facto* sovereignty. Overall, I found that international law traditionally assumes a situation where states wish to bar individuals from acquiring citizenship and is therefore not particularly useful in handling situations where an irredentist foreign power seeks to be maximally inclusive in defining its citizens.

A consequence of the citizenship grants is that it will now be even more difficult for Russia to disengage from the region. This may currently be seen by Russian policymakers as a desirable outcome, but in the (admittedly unlikely) event that the situation develops in a direction which makes Russian disengagement from Abkhazia desirable, it could become evident that the use of liberal citizenship grants to pursue tactical goals was short-sighted. Citizenship cannot be withdrawn as easily as peacekeeping forces. In addition, Russia may find itself in the position of being held responsible for some of the actions of the Abkhazian government, for example with

respect to alleged violations of the human rights of Georgian returnees in the Gali region, in part because the Abkhazian leadership is composed of individuals who hold Russian citizenship and Abkhazian officials involved in these alleged violations are also likely to be Russian citizens. According to the European Court of Human Rights' decision in the *Ilaşcu* case, this is an important factor in determining Russia's responsibility for such violations.

Georgia has been pursuing claims in international fora regarding the property rights of ethnic Georgians driven from Abkhazia during the conflict, but it does not appear that Georgia has any legal avenue in which to contest Russia's citizenship grants. Claims that Russia has violated Georgia's sovereignty and the international law norm of non-intervention may have moral weight and some legal justification, but the case is not a clear one and such claims are in any event not susceptible to adjudication. One possibility, albeit a remote one, would be that Russian citizens residing in Abkhazia could pursue claims in the European Court of Human Rights to allow them to realize the full panoply of rights which should be available to them as Russian citizens – e.g., the right to not have their pension payments jeopardized by Russia's desire to influence local elections or the right to move permanently to Russia.

This is an area where international law does not provide satisfactory answers or solutions, but it does appear that Russia's claims to have granted citizenship to the residents of Abkhazia as a humanitarian measure do not stand up to scrutiny and that the new Russian citizenship of the residents of Abkhazia poses a serious challenge to any attempts to resolve the conflict over Abkhazia. Because of the novelty of this situation, it does not appear that Georgia has many realistic options to remedy the situation using international law; and it is unclear how the Russian passport holders in Abkhazia should be treated in the event of a settlement of the conflict.

Suggestions for future research agendas

There is a great deal of research remaining to be done on this topic. It is important to determine the details of what was actually done to provide the residents of Abkhazia with Russian passports. Based on the anecdotal evidence which I was able to find, the document provided was not the same in all cases – initially, some Abkhazians simply received an insert in their Soviet passports extending the validity of those documents; some received a stamp in their old passports indicating that the bearer had become a Russian citizen; later, some Abkhazians received internal Russian passports identifying the bearer as a stateless person (“*litso bez grazhdanstva*”); while some received only Russian foreign travel passports with no right to resettle in Russia. The timeline of the process is also difficult to pin down precisely from the available sources and may provide a topic for future research.

In addition to uncertainties about the details of the documents issued and the timeline, there are conflicting accounts about the Russian official and quasi-official actors involved. It is likely that several actors were involved, including the Ministry of Foreign Affairs, regional officials from Krasnodar Krai, and the Congress of Russian Communities. Determining what actors and procedures were involved could be relevant to determining how to undo the citizenship grants if it can be agreed that undoing them would be a desirable outcome in a conflict settlement agreement. Interviewing policymakers on all sides of the conflict would be useful in

determining this information, since it is doubtful that any relevant archival material from such recent and sensitive events would be available to a researcher.

Also, it would be useful to examine in greater detail what has been done in other unrecognized states to give residents the ability to travel internationally. For example, the Turkish Republic of Northern Cyprus issues its own passports, which are recognized as valid travel documents by Turkey and several European nations. In other situations, the UN has been able to issue temporary travel documents, a solution which was vetoed by the Georgian government in the late 1990s.

Finally, there is a need to do survey research among the residents of Abkhazia in order to determine their attitudes toward their Russian citizenship. There seems to be a substantial portion of Abkhazian elites supporting the idea of an independent Abkhazia which would not be incorporated into the Russian Federation. It would be interesting to learn whether the elites or the population at large believe that the goal of independence is undermined by accepting the citizenship of a neighboring country, and how any such concern is balanced against the practical benefits provided by Russian citizenship.

It would also be interesting to learn whether those Abkhazians who hold Russian citizenship feel themselves to have the rights and obligations of Russian citizens, or whether they regard receiving Russian passports as simply the most expedient way of accessing the Russian labor market or obtaining an old-age pension – in the way that participants in a marriage of convenience regard the fictitious union as a quasi-legal way of obtaining various benefits. Anecdotal evidence suggests that few Abkhazians pay Russian taxes or serve in the Russian military, and that until recently few Abkhazians voted in Russian elections.

Recommendations for the US policy community

The principal recommendation which emerged from my research is simply to not underestimate the importance of travel and identity documents and citizenship to the ongoing conflict in Abkhazia and to its resolution. No matter what the outcome of conflict resolution negotiations, passports and promises to protect citizens cannot be withdrawn as easily as troops. In addition, I believe it is important not to allow Russia's citizenship grants to stand unchallenged and not to accept Russia's claims of a right to use force in self-defense at face value, while at the same time it should be understood that many Abkhazians understandably look to Russia as their protector and defender in the conflict.

The Russian citizenship now claimed by a majority of residents in Abkhazia and South Ossetia – and by Russia on their behalf – occupies an important position in the rhetoric of the parties to these conflicts and serves as a major element of Russia's justification for its continued involvement. The extent to which Georgia, in cooperation with the UN, could have headed off the current situation by ensuring the issuance of travel documents to the residents of Abkhazia, is also worth considering as a lesson to be applied in similar situations in the future.

Liberal issuance of Russian citizenship has also been an issue to a lesser extent in Transnistria, but it has not involved as high a percentage of the local population as in Abkhazia, in part

because residents of Transnistria have also been able to obtain Moldovan citizenship and travel documents. Russia nevertheless mentions the presence of Russian citizens in Transnistria as one reason for keeping troops stationed in the region. Easy availability of Russian citizenship is an instrument in Russia's toolbox of quasi-legal soft-power weapons which it uses to maintain influence in its "near abroad," and its importance should not be overlooked by US representatives involved in attempts to settle the unresolved post-Soviet conflicts.

Furthermore, the issue of citizenship grants as an instrument of foreign policy influence is relevant not only to situations involving unrecognized states. Disputes over liberal citizenship grants have also arisen as points of conflict in the relationships between Romania and Moldova as well as Hungary and Romania. In these situations of cross-border citizenship grants, which are often seen as irredentist attempts to create a fifth column or to foment secessionism, questions arise which the traditional framework of international law dealing with citizenship and nationality is ill-equipped to answer.

Nevertheless, it is important for policymakers to be aware of legal rationales which may exist for challenging citizenship grants like the ones which took place in Abkhazia and to consider how to deal with their aftermath in proposing conflict resolution plans. Being able to point to the questionable legality of these citizenship grants may provide the basis for introducing proposals such as annulling the Russian citizenship of those Abkhazians who received it on an accelerated basis (as part of a larger negotiated conflict settlement), and allowing an Abkhazian autonomy within Georgia to issue its own citizenship and identity documents.

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