

# Cultural Ecology and Gorbachev's Restructured Union

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First of all, it ought to be emphasized that the Party will consistently pursue a Leninist nationality policy, including such a basic principle as the right of nations to self-determination . . . .

It is a complicated, many-sided process of affirming national dignity, developing language and culture, consolidating political independence, and advancing economic and social progress . . . .

In present-day conditions the principle is best reflected in self-management, protecting ethnic identity, and the right of each ethnic group to enjoy all the fruits of sovereignty and to decide all issues of its development—economic, political and cultural— as it sees fit . . . .<sup>1</sup>

—M.S. Gorbachev, September 19, 1989.

Perestroika has given new hope and opportunity for the full exercise of cultural and political rights by each of the 100 or more national communities in and around the Union of Soviet Socialist Republics.<sup>2</sup> Until recent events, there was perhaps no better basis for that new hope than the preceding excerpt from Mikhail Gorbachev's long-awaited address on nationality policy.<sup>3</sup> Since the founding of the Union of Soviet Socialist Republics, every Soviet constitution has guaranteed cultural autonomy and

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1. Mikhail Gorbachev, *Report on Nationality Policy to the CPSU Central Committee*, Sept. 19, 1989, REPRINTS FROM THE SOVIET PRESS, NOV. 30, 1989, at 1, 16.

2. See Edward Shevardnadze, *Our Goal is to Guarantee Human Rights*, REPRINTS FROM THE SOVIET PRESS, Aug. 15, 1989, at 23, 32. Shevardnadze's resignation in December 1990, some say prompted by his support for greater republic autonomy, signals that the proponents of democratization and reform must be supported and defended if perestroika is to succeed. See Alexander J. Motyl, *Eduard in the Wilderness*, N.Y. Times, Jan. 3, 1991, at A21 (Op-Ed), col. 1 (Shevardnadze sided with the republics).

3. As this article goes to press, the January 1991 crackdowns in Lithuania and Latvia fulfill Eduard Shevardnadze's parting admonition. Where there was hope of progress toward a mutually beneficial restructuring and reintegration of the union, there is now fear of a regression toward brutal oppression. Signs of such a regression were apparent long before Shevardnadze's resignation, but the West chose not to notice and failed to pressure Gorbachev into applying his commitment to human rights in his own country.

political equality to the peoples of the USSR.<sup>4</sup> Time and again, the USSR has reaffirmed those rights by joining or embracing international agreements that support self-determination and equal protection under the law and that oppose discrimination on the basis of nationality, language, race, or religion.<sup>5</sup> As the Soviet Union has" moved to close the gap between legal aspirations and sociopolitical reality in the Soviet Union by constructing a rule-of-law state, various national communities have sought to realize the individual and group rights guaranteed under these and other legally binding documents.<sup>6</sup>

Resolving the incongruities among territorially defined communities, ethnically defined communities, administratively defined communities, various confederative arrangements, and diverse economic interdependencies will challenge the legal and political ingenuity of Gorbachev and his successors. I will discuss some of the governance problems engendered by past and present Soviet constitutional structures and policies, and the current agenda for promoting a new stable equilibrium among national communities in and around the USSR.<sup>7</sup>

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4. KONST. SSSR (1924), part 1 (equal protection, self-determination), art.3 (republic sovereignty), art.4 (free secession); KONST.SSSR (1936) art. 13 (union is voluntary association), art. 17 (free secession), art.123 (equal protection, non-discrimination); KONST.SSSR (1977) art.29 (human rights, equal protection, self-determination), art.45 (native language), art.52 (prohibition on incitement of religious hatred), art.57 (affirmative duty of officials to protect citizens' rights), art.58 (damages for unlawful official actions), art. 70 (USSR based on "free self-determination of nations and the voluntary association of equal Soviet Socialist Republics"), art. 72 (free secession), art. 80 (Union Republics have right to enter into foreign relations). All citations to the Soviet Constitution are taken from the translations in ARYEH UNGER, *CONSTITUTIONAL DEVELOPMENT IN THE USSR* (1982).

5. The Soviet Union is signatory to the UN Charter, Universal Declaration of Human Rights, Covenant on Civil and Political Rights, Covenant on Economic and Social Rights, and the Helsinki Agreements, and has incorporated them into its legal code. See Draft Criminal Code: General Part, art. 1(3), in 1989/1 Sov. Gos. & PRAVO 3, 4.

6. The notion of a rule-of-law state has been a central theme of Gorbachev's reforms. See MIKHAIL GORBACHEV, *PERESTROIKA: NEW THINKING FOR OUR COUNTRY AND THE WORLD* 91 (1987).

7. These issues have been the subject of vigorous discussion among Soviet scholars and political leaders, especially since Gorbachev put nationalities concerns at the top of the agenda in February 1988. See generally *Gorbachev Defends Restructuring to Party, Communique on the Plenary Session of the Central Committee of the Communist Party of the Soviet Union*, Cur. Dig. Sov. Press, Mar. 16, 1988, at 1,6; Valerii Tishkov, *Glasnost and the Nationalities within the Soviet Union*, THIRD WORLD Q., Oct. 1989, at 191. For a sampling of the Soviet discussion, see generally Iu. Bromlei, *Natsional'nye Protsessy v SSSR: v poiskakh novykh podkhodov*, 1988/4 ON ANSSSR 5; Kruglyi stol, *Zhurnala "Sovetskoe Gosudarstvo i Pravo" Demokratizatsiya Sovetskogo Obshchestva i Gosudarstvenno-Pravovye Aspekty Natsional'nykh Otnosheniyakh v SSSR*, 1989/2 Sov. Gos. & PRAVO 31, 1989/3 Sov. Gos. & PRAVO 18; D.L. Zlatopol'skii, *Natsional'naya Gosudarsvennost' Soyuznykh Respublik: Nekotorye Aktual'nye Problemy*, 1989/4 Sov. Gos. & PRAVO 12; *K Plenumu Tsentral'nogo Komiteta: Obsuzhdaem proekt platformy KPSS "Natsional'naya politika partii v sovremennykh usloviyax," K real'nomu ravnopraviyu*, 1989/13 KOMMUNIST 45; V. Andreev, *Ob Ekonomicheskoi Samostoyatel'nosti respublik: K Plenumu TsKKPSS po sovershenstvovaniyu mezhnatsional'nykh otnoshenii v SSSR*, 1989/ 12 KOMMUNIST 59; K. Gizatov, *Protivorechiya i ix proyavlenie v natsional'noi psikhologii*, 1989/11 KOMMUNIST 56; M. Guboglo, *Natsional'nye gruppy v SSSR*, 1989/10 KOMMUNIST 53; A. Zharnikov, *Natsional'nye samoopredelenie v zamysle I realizatsii*, 1989/9 KOMMUNIST 58; S. Cheshko, *Ekonomicheskii suverenitet I natsional'nyi vopros*, 1989/2 KOMMUNIST 97; V. Tishkov, *Narody i Gosudarstvo*, 1989/1 KOMMUNIST 49; I. Sh. Muksinov, *Sovetskii Federalizm i Kompleksnoe Ekonomicheskoe i Sotsial'noe Razvitie Soyuznoi Respubliki*, 1989/10 Sov. Gos. & PRAVO 3; see also Nahaylo, *Gorbachev Disavows Merging of Nations*, REP. USSR, Feb. 3, 1989, at 23, 25 (citing earlier discussions in VOPROSY FILOSOFII and DRUZHBA NARODOV).

The agenda for promoting a stable equilibrium among the national communities is complicated by their diverse legal, economic, political, and historical circumstances. The national communities have been granted different degrees of legal recognition and have been institutionalized in the government and legal structure in various ways, ranging from Union Republics, Autonomous Republics, Autonomous Regions, and Autonomous Areas, to ethnic groups without any territorial or administrative status. While some national communities have been sovereign states, others have not. While most national communities are neatly concentrated in a single historical homeland where they constitute the preponderate majority, others are dispersed or commingled with members of other national communities. For some national communities, the decades of Soviet rule have meant modernization and cultural advancement beyond the capacity of the community on its own, but for others they have meant stifled ingenuity, cultural and political repression, and economic regression. For nearly all national communities, the issue of cultural ecology—the right to exist as a group and to create and exercise their historically unique forms of communal expression—has become more pressing as cultural erosion during the Soviet period has imperiled their survival in their homelands. In addition, the economics and politics of worldwide mass culture have made it more and more difficult for them to maintain their identities and still be full-fledged participants in the global economic and political scene.<sup>8</sup>

The proposals for reform are as varied as the demographics. For some, regained sovereignty, suitably reinterpreted for the interdependent twenty-first century, is the next step. For others, consolidation of their territorial integrity and population within a looser confederation is a prerequisite to fuller social, economic, political, and cultural development. For still others, citizenship in a multiethnic administrative district with real equality under the law and suitable institutional support for their ethnic identity, would be a viable status.

In short, the dramatic moves for secession in the Baltic region are at one end of the spectrum of empire-restructuring that will be necessary before a new self-regulating equilibrium can emerge among the national communities in and around the USSR. While sovereignty and the nation-state have never been absolute, the times call for more flexible concepts and confederative arrangements that will conform to the reality of global interdependence and will respect the fundamental right of all peoples to full social, economic, political, and cultural development through democratic self-government. Although some commentators call for a new anational, acultural, ahistorical, and cosmopolitan world order in

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8. The threat of cultural erosion is real. A recent survey cites 20 Soviet nationalities at risk of disappearing altogether. T.R. Gurr & J.R. Scarritt, *Minorities Rights at Risk: A Global Survey*, 1989/11 HUM. RTS. Q. 375, 400. M. Ferro has described the current situation in the USSR as "defensive nationalism," e.g., Armenians in Karabagh. *Identités fuyantes*, LE MONDE DIPLOMATIQUE, Feb. 1990, at 79, 81.

order to avoid the "nuisance" of conflict among traditional communities,<sup>9</sup> if the seven decades of Soviet rule have taught the world anything, it is that the world is not ready, and may never be ready, for a monolithic new world order.<sup>10</sup> Because communities smaller than the whole will continue to exist as a basic form of human, social, and psychological identity, and because they will continue to be a logistical necessity, conflicts between groups will continue to arise. Moreover, as the Soviet experience shows, the costs of leveling the differences, even if it were possible, would be morally and legally unacceptable both in human lives and in human creativity.

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9. See, e.g., Stanley Hoffman, *Nations Are Nuisances*, N.Y. Times Book Rev., Oct. 7, 1990, at 24 (criticizing E.J. Hobsbaum for "find[ing] national identification when it is intense, something of an obnoxious nuisance"). Jerry Hough points ironically to the resurgent desideratum of self-determination in an age of interdependence, and more than a few commentators have suggested that the small nations of the USSR learn from the Europeans about community. Jerry-Hough, *Gorbachev's Politics*, FOREIGN AFFAIRS 26 (Winter 1989-1990). But the European Community is not even able to move its yearly meeting from one city to another without causing its members to raise their hackles over national vanity, and it has not even begun to deal with the problems free migration of workers will wreak upon small nationalities. What will Belgium do if it is overrun by, say, German or Turkish *gastarbeiters* who wish to exercise their democratic rights and take over a province or two of Belgium? See, e.g., *In 9 Languages, Parliament Demands Bigger Say*, N.Y. Times, Mar. 27, 1990, at A4, col. 3. In the U.S., where English reigns supreme, English-only laws are sprouting up all over to lock in the rights of the majority (see, e.g., S.I. Hayakawa, *Common Language, Common Sense*, N.Y. Times, Feb. 21, 1990, at A25 (Op-F.d.), col. 2) and the treatment of indigenous peoples is nothing less than a national disgrace. The seeming resignation of Canada to Quebec's peaceful secession is more in line with the kind of national maturity it will take to have peace without repression. See *Language Again Threatening to Split Canadian Federation*, N.Y. Times, Mar. 24, 1990, at A1, col. 5. It will be a long time before Europe or the U.S. can smugly advise the rest of the world on how to deal with minority rights and ethnicity. This attitude toward ethnicity is a vestige of the 1950-1970's "modernization paradigm, in which ethnicity was depicted as a remnant of tradition inevitably declining in significance as cultural rationality and national integration developed." David Brown, *Ethnic Revival: Perspectives on State and Society*, THIRD WORLD Q., Oct. 1989, at 1. This Western view happily corresponded to the Soviet theory of a new, modern Soviet man, which continues to provide the scientifically reasonable, Utopian mirage to which real people and cultures are being sacrificed. See, e.g., the resolutions of the 19th Party Congress devoted to the relations between nationalities: "A new historical community, the Soviet people, has become a reality." *On Ethnic Relations*, CUR. DIG. Sov. PRESS, Oct. 12, 1988, at 11 [hereinafter 19th Party Congress]. It is reminiscent of Crevecoeur's oft-cited query: "What then is the American, this new man?" And it is not yet ready for the scrap heap of failed ideology, having been reborn in neo-conservative garb. See, e.g., A. Meghji, *Canada's Policy of Multiculturalism: An Illusion of Belonging*, RECONSTRUCTION 39, (Winter 1990).

10. As Flora Lewis has noted, "[e]thnicity is a human, cultural and social reality that cannot be wiped out even by so powerful an ideology and force as Communism represented." Lewis, *People and Groups*, N.Y. Times, Mar. 31, 1990, S 1, at 25, col. 6.

The "solution" to the nationalities "problem" in the USSR is not to obliterate the communities as the Soviet Union has tried unsuccessfully to do, but to accommodate and transcend their differences through new mechanisms of peaceful dispute resolution and governance that respect minority and majority rights and maintain the ecological balance of world cultures.<sup>11</sup> As with most ecological disasters, delay only exacerbates conditions. Western passivity and reticence are restricting Gorbachev's room for maneuvering by depriving him of a dependable international human rights foil against domestic hardliners. Yelena Bonner addressed the "nationalities" problem in her recent address at Harvard University on May 6, 1990. She argues that Western **failure to insist on the reunification of Nagorno-Karabagh with Armenia two years ago** and the West's current refusal to recognize Baltic independence **have set the stage for a protracted and truly destabilizing struggle** within the USSR. As Bonner points out, the failure to create pressure to deal with these problems promptly on the basis of accepted international principles has deprived Gorbachev of the economic benefit of the Baltic window on the West and has already forced him to resort to armed force, blockades, and other undemocratic, coercive measures to maintain control. Far from encouraging stability and assuring Gorbachev's success at reform, the West by its reticence is undermining the very reform movement it seeks to support.<sup>12</sup> **Paradoxically, the only prudent route to stability is prompt, radical change.**<sup>13</sup>

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11. Recognition that many minority cultures are at risk of extinction has triggered a struggle for survival and given rise to calls for more active protection of our cultural environment. Still, resistance is great since the conventional wisdom of the mid-twentieth century draws a false dichotomy between the image of peaceful cosmopolitanism and the image of the warring nation-states of Europe.

12. See William Safire. *Policy With Purpose*, N.Y. Times, May 7, 1990, at A15 (Op-Ed), cols. 2, 3, in which the author argues that Western policy has posited an "inherently phony . . . struggle of strawmen" represented by false dichotomies, such as "anarchy or despotism," "strife vs. Stalinism," and "Baltic independence" or "reform and disarmament in Eastern Europe," when the policy choices are not mutually exclusive, but mutually reinforcing.

13. Although paradoxical, this prescription is perfectly logical and predictable given that the current situation is but a false equilibrium forcibly imposed upon a system, the pressure of whose fundamental disequilibrium has been allowed to mount for seven decades. Alain Besançon has called the current "solution" to the nationalities "problem" a "fiction" "which has gained most of its currency in the West." Alain Besançon, *The Nationalities Issue in the USSR, SURVEY*, June 1989, at 113- Nor has this false equilibrium been so peaceful or placid as the prudent make it out to have been. Those who have lived it tell a different story: "Unrest and disorder, accompanied by violence and death, have occurred throughout the history of the Soviet Union." Alexeyeva, *Unrest in the Soviet Union*, WASH. Q., Winter 1990, at 63.

## I. THE PEOPLES AND THEIR HOMELANDS IN THE USSR

[I]t is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities.

—J.S. Mill, *Considerations on Representative Government*<sup>14</sup>

The USSR is not a country of immigrants, nor is it a melting pot.<sup>15</sup> The 286 million people who live in the USSR are, for the most part, indigenous to the various regions in which they live. They are, so to speak, in their natural habitat, their homeland, where they have lived and worked together for centuries creating their languages, religions, cultures, and traditions, and adorning their lands with their unique cultural monuments and sacred shrines. "These are people who have a proprietary interest in their homelands, whose ancestors have lived there for millennia."<sup>16</sup> Deprivation of their homelands through deportation, radical changes in living conditions, such as pollution, forced urbanization and collectivization, or forced changes in ethnic composition, such as in-migration, deportation, and resettlement, endangers their existence as national communities. In fact, much of the discontent in the Soviet Union is directly tied to the cultural and environmental depredation of these homelands, and the depletion of their natural resources by central planning authorities.<sup>17</sup>

Recognition that the people themselves were the best custodians of their communities, lands and cultures gave rise to the jus cogens right of self-determination. Self-determination was seen as a means to mutual self-preservation and the maintenance of a peaceful equilibrium among nations.<sup>18</sup>

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14. JOHN STUART MILL, *CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT* 313 (1869).

15. To a degree, but only to a limited degree, the questions of self-determination and territory are raised in U.S. equal protection and federalism jurisprudence. See Gerald Neuman, *Territorial Discrimination, Equal Protection, and Self-Determination*, 135 U. PA. L. REV. 261 (1987).

16. "The existence of some 50 legalized national homelands in the USSR is a major geographic difference between the Soviet Union and the United States." *Panel on Nationalism in the USSR: Environmental and Territorial Aspects*, 30 Sov. GEOGRAPHY, 441, 485 (1989) [hereinafter *Panel on Nationalism*].

17. As Brzezinski has noted, "National hostility and ecological devastation can feed on each other." Zbigniew Brzezinski, *Post-Communist Nationalism*, FOREIGN AFFAIRS, Winter 1989-1990, at 1, 19- "It [pollution] threatens a homeland that a nation may have occupied for millennia." *Panel on Nationalism*, *supra* note 16, at 485.

18. In article 1(1) of the UN Charter self-determination is seen, along with equal protection, to be one of the "appropriate measures to strengthen universal peace." Its status as a "norm of the nature of jus cogens, derogation from which is not permissible under any circumstances" is enunciated by Judge Ammoun of the International Court of Justice. Karen Parker & Lyn Beth Neylon, *Jus Cogens: Compelling the Law of Human Rights*, 12 HASTINGS INT'L & COMP. L. REV. 411, 441(1989).

Not only are the right of self-determination and the correlative rights of sovereignty and free secession from the USSR enshrined in the Treaty of the Union (1922) Parts I and II, the current Soviet Constitution, art. 70, but they are also binding upon the USSR through the United Nations Charter, International Covenant on Economic, Social and Cultural Rights, art. 1, and the International Covenant on Civil and Political Rights, art. 1.<sup>19</sup> The right to self-determination is so fundamental to world peace and justice that its obstruction is condemned and resorting to arms in its defense is lawful under the Protocol Additional I to the Geneva Conventions and International Court of Justice's decisions.<sup>20</sup>

Although self-determination has come to be associated with armed struggle and is often seen as upsetting the status quo enjoyed by the exclusive club of sovereign states, the liberation of small nations has not always been seen as destabilizing. In fact, Mill and Tocqueville saw self-government by national communities as the prerequisites of freedom and peace.<sup>21</sup> Tocqueville observed in *Democracy in America* that "freedom is the natural condition of small societies ... at all times small nations have been the cradle of political liberty. ... If there were only small nations and no larger ones, humanity would most certainly be more free and happier."<sup>22</sup> More recently, Brzezinski in his study *Post-Communist Nationalism* made the same point in balance of power terms: "For the outside world, a genuinely pluralistic Eurasian commonwealth, instead of the Russian-dominated Soviet Disunion, would inherently be a much less centralized, less militaristic, and therefore less imperially expansive state."<sup>23</sup>

For their part, the national movements in the USSR see this bundle of rights primarily as a matter of survival: <sup>24</sup> "their aim was~ to achieve greater political autonomy so that they could control the economy including the migration into and the pollution of their national homeland in order to insure the future of their nation."<sup>25</sup> The founding principles and aims of the Armenian National Movement are representative:

#### Founding Principles of the Armenian National Movement —November 4, 1989

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19. Parker & Neylon, *supra* note 18, ac 440; UNGER, *supra* note 4, at 60.

20. Parker & Neylon, *supra* note 18, at 441.

21. MILL, *supra* note 14.

22. ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 159-61 (J.P. Mayer tram. 1969).

23. Brzezinski, *supra* note 17, at 21; *see also* Satire, *supra* note 12.

24. *Running out of Time*, U.S. NEWS & WORLD REP., Feb. 19, 1990, at 30, 31, lists the national movements, their demands, and election dates. The leading national movement\* are Birlık (unity) in Uzbekistan, Sajudis in Lithuania, Rukh in the Ukraine, Adradzhen'ne (renewal) in Belorussia, Azerbaijani, Georgian, Moldavian, Latvian and Estonia Popular Fronts, Armenian National Movement, and Nevada (anti-nuclear testing platform) in Kazakhstan.

25. *Panel on Nationalism*, *supra* note 16, at 485.

1. to establish respect for individual and group rights;
2. to exercise the right of self-determination and promote the people's political, economic and cultural development in accordance with the UN Charter, Helsinki Accords, and other international human rights documents;
3. to condemn the use of force to repress the exercise of constitutionally guaranteed economic, political and cultural freedoms
4. to establish that under international law the denial of self-determination is an act of aggression;
5. to affirm and exercise the right of self-defense in response to these acts of aggression.

#### Aims

- to secure the physical and spiritual well-being of the Armenian people;
- to promote environmental clean-up and protection;
- to renegotiate the relationship between Armenia and the Soviet Union affirming the right of the Armenian people to choose their own form of government, full recognition of the right to join or secede from the confederation, full domestic and international economic, political and diplomatic autonomy;
- to draft a new Armenian Constitution which truly promotes the welfare of the Armenian people;
- to observe strictly the current constitutional provision making Armenian the official language of the republic;

[As well as more specifically Armenian issues such as:]

- to reunite Karabagh with Armenia;
- to seek a remedy for the Armenian Genocide of 1915 through the United Nations;
- to establish ties with the Armenians dispersed around the world and provide constitutionally for their participation in the economic, political and social development of Armenia.<sup>26</sup>

From Mill to Gorbachev, ethnic diversity has been praised. To Mill's mind, the inherent diversity of humanity was implicit in the concept of liberty, but it had political and material advantages as well: "Individuals, classes, nations, have been extremely unlike one another: they have struck out a great variety of paths, each leading to something valuable . . . ." <sup>27</sup> Three years ago, Gorbachev in his

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26. H.H.Sh.-i Tsragri Nakhagitsen, Haratch (Paris) Nov. 8, 1989, at 1 (author's translation and summary); H.H.Sh.-i Himnadir Hamagumar Banadzewer, Haratch (Paris) Nov. 15, 1989, at 1 (author's translation and summary).

27. JOHN STUART MILL, ON LIBERTY 72-73 (A. Castell ed. 1947).

manifesto, *Perestroika: New Thinking for Our Country and the World*, espouses this idea in terms of rights and benefits to the whole: "Every national culture is a treasure which cannot be lost," and he continues "[e]ven the smallest ethnicity cannot be denied the right to its own mother-tongue. After all, this is human culture in today's diversity, with its numerous languages, attire, rituals and manifestations. This is our common wealth."<sup>28</sup> Gorbachev goes further and declares, "We live in a multinational country. This is a factor of its might rather than of its weakness or disintegration."<sup>29</sup> As the concerns of nationalities have found their way onto Moscow's agenda, yet more concrete pronouncements have been made by the Congress of People's Deputies calling for:

the recognition of the very great social and historical value of the full diversity of national cultures. These are not only our country's property, they are a unique and irreplaceable part of mankind's spiritual assets, and the Congress emphasizes the need for an equally solicitous attitude toward the cultures of all the Soviet peoples, both big and small, and the development and enrichment of national languages.<sup>30</sup>

These are not, however, meant merely as fine-sounding words, never to be implemented:

the Party will consistently pursue a Leninist nationality policy, including such a basic principle as the right of nations to self-determination . . . . *In present-day conditions the principle is best reflected in self-management, protecting ethnic identity and the right of each ethnic group to enjoy all the fruits of sovereignty and to decide all issues of its development—economic, political and cultural—as it sees fit.*<sup>31</sup>

Nor is the community reduced to a paltry cultural preservationism stripped of political rights and aspirations. Leaving aside for a moment the many violations of these rights and the serious shortcomings of Soviet policy during the past seventy years, the principle tenets can be summarized as follows: national diversity is a beneficial aspect of humanity, national communities need a homeland to survive and prosper, and the international and Soviet legal order must guarantee those rights both in legally binding documents and policy statements.

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28. GORBACHEV, *supra* note 1, at 105-06.

29. *Id.* at 104.

30. *Congress Policy Guidelines Resolution Published*, Pravda, June 25, 1989, reprinted in FBIS-SOV, June 26, 1989, at 47, 55 [hereinafter *Congress Policy*, June 26, 1989].

31. Gorbachev, *supra* note 1, at 16 (emphasis added).

From the start, the union was in law and fact a confederation of national or multinational entities often artificially defined. Trying to reconcile the Bolshevik's platform of self-determination with the need to consolidate Soviet control and administer the Union's vast territories, Lenin introduced a three-tier system of national-territorial entities—Union Republics, Autonomous Republics, and Autonomous Regions, the latter two for entities which lacked international borders.<sup>32</sup> "His genius formula was this: dissect the inlands into autonomous regions and republics, while granting the outlying borderlands, which had savored, briefly, the taste of independence, the higher status of union republics. The latter regions were recognized as sovereign, independent states, with the right to separate from the union—though afterwards Stalin's and the KGB's policemen would see to it that the legal right was entirely theoretical."<sup>33</sup>

Under the 1977 Constitution, as under the Stalinist Constitution of 1936, there are four kinds of national-territorial entities, in descending order of self-government: Union Republics, Autonomous Republics, Autonomous Regions, and Autonomous Areas.<sup>34</sup> What has never been resolved is whether those entities are simply territories with national character or whether they are national communities with territorial rights. As the recently retired First Secretary of the Armenian Communist Party, S.G. Arutyunyan, expressed at the September 1989 Communist Party of the Soviet Union's (CPSU) Nationalities Plenum, "What are the components of the federation: territorial units, or the peoples that make up the Union? Without an answer to this question . . . the key to improving, and thus strengthening, the Union cannot be found."<sup>35</sup>

At its formation in 1922, the Soviet Union consisted of two Union Republics (the Ukraine and Belorussia) and two confederations (the RSFSR, including the Peoples Republics of Central Asia and Turkestan, and Azerbaijan).<sup>36</sup> In 1924 the reorganization of Central Asia began, and by 1936 there were 5

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32. Although the international, or external, border rule holds for most of the Autonomous Republics and Regions, there are several notable exceptions, e.g., Nakhichevan, which not only has an external border, but is not contiguous with the republic of which it is a part due to a special arrangement between Moscow and Turkey in 1921; the northern territories; and the territories along the Mongol-Chinese border. .

33. Roula Khalaf, *Thank You, Comrade Lenin*, FORBES, Feb. 19, 1990, at 103, 106-07.

34. B. TOPORNIN, DICTIONARY OF SOVIET CONSTITUTION 20, 21 (1989) defines the autonomous formations as follows: "An Autonomous Republic is a Soviet socialist state formed on the principle of political autonomy .... The Autonomous Republic forms its own highest bodies of state authority and administration." According to the Dictionary, "An Autonomous Region is a national and state formation in the USSR which gives small nations and national groups an opportunity to develop freely."

35. *Debate at the Nationalities Plenum I*, Pravda, Sept. 23, 1989, at 1-7, reprinted in CUR. DIG. SOV. PRBSS, Oct. 25, 1989, at 5, 10 [hereinafter *Plenum I*].

36. The latter three had been engaged in sporadic armed conflict with each other for several years following the demise of their own short-lived Transcaucasian Republic in 1918 and the fall of their independent states to the Bolsheviks. See the Appendix for a complete list of national entities, their populations and histories.

more republics roughly divided on ethnic lines: Uzbekistan (1925), Turkmenistan (1925), Tadzhikistan (1925, formally admitted 1929), Kazakhstan (originally Kirgiz ASSR within the RSFSR, renamed Kazakh ASSR in 1925, Union Republic in 1936), and Kirgizia (1926 ASSR within the RSFSR, Union Republic in 1936). Among the Islamic peoples in particular, the formation of nation states introduced a new sense of distinctive identity. Paradoxically, seventy years of Soviet rule actually helped to create a nationalities problem. As noted recently in the *Los Angeles Times*, "Before the advent of Russian rule, the term Azerbaijan was rarely used; people denned themselves as Turks or Tatars or Persians .... It was only under Russian and Soviet rule that they acquired a distinct Azerbaijani nationality."<sup>37</sup> Upon the adoption of Stalin's Constitution on December 5, 1936, the Transcaucasian federation was dissolved, resulting in 11 Union Republics. The annexations and conquests of WWII brought about first the upgrading of the Karelian ASSR to Karelo-Finnish SSR, incorporating regions conquered from Finland. Next Bessarabia was annexed from Rumania to form the Moldavian SSR in accord with a Russian-German agreement. Finally, the Baltics—Latvia, Lithuania and Estonia—were incorporated as Union Republics in 1940, as a result of the now notorious Hitler-Stalin Pact. The 16 Union Republics were reduced to 15 in 1956 after the southern border of the Karelian SSR was changed and Karelian SSR was demoted to its original status as an ASSR.

In addition to the 15 Union Republics, there are 20 Autonomous Republics, 8 Autonomous Regions, and 10 Autonomous Areas; 53 entities in all, ranging in size from Delaware (Nagorno-Karabagh A.O., 1700 sq. mi.) to twice the area of Alaska (Yakut ASSR 1,197,760 sq. mi.). Of the 20 Autonomous Republics, 16 are in the RSFSR, all but one of which (Tuva 1961) have been in existence since the 1936 Constitution. Of the 4 remaining Autonomous Republics, 2 are in Georgia (Abkhaz and Adjar ASSR), 1 is in Uzbekistan (Karakalpak ASSR), and 1 is associated with Azerbaijan (Nakhichevan ASSR). Of the 8 Autonomous Regions, 5 are in the RSFSR, 1 in Azerbaijan (Nagorno-Karabagh), 1 in Tadzhikistan (Gorno-Badakhshan), and 1 in Georgia (South Ossetian).<sup>38</sup> In the RSFSR, Russians constitute a majority in 5 of the

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37. Doyle McManus, *Collapse of East Bloc Fans Flames of Ethnic Conflicts*, L.A. Times, Jan. 28, 1990, at A1, A14, col. 5-6 (citations omitted).

38. The 31 autonomous formations of the RSFSR are clustered in four regions:

(1) *Northern Caucasus* (7): Kalmyk ASSR, North Ossetian ASSR, Dagestan ASSR, Chechen-Ingush ASSR, Kabardino-Balkar ASSR, Adygei AR, Karachai-Cherkess AR

(2) *Central Tatar States* (6): Mordovian ASSR, Chuvash ASSR, Bashkir ASSR, Mari ASSR, Tatar ASSR, Udmurt ASSR

(3) *Chinese-Mongolian Border* (7): Tuva ASSR, Buriat ASSR, Khakass AR, Gorno-Altai AR, Jewish AR, Ust-Ordyn-Buriat Area, Agin-Buriat Area

(4) *Northern Borderland* (11): Karelian ASSR, Komi ASSR, Yakut ASSR, Nenets Are, Komi-Permyak Area, Khanty-Mantsy Area, Yamalo-Nenets Area, Evenki Area, Taimyr Area, Chukot Area, Koryak Area.

16 ASSRs, 4 of the 5 Autonomous Regions, and 8 of 10 Autonomous Areas.<sup>39</sup> After the RSFSR, Georgian SSR is closest to an ethnic mosaic.<sup>40</sup> Its constituent parts, Abkhazia, Adjara, Ossetia, Akhalkalak and Akhalsikhe are now calling for greater autonomy. These calls in turn set off the violently suppressed demonstrations in Tbilisi in April 1989.

Except for some creative Soviet cartography, most of the autonomous republics and regions have been relatively stable.<sup>41</sup> During WWII, however, Stalin, alleging collaboration with the enemy as a pretext, deported the Volga Germans, Crimean Tatars, Chechens, Ingushes, Balkars, Kalmyks and Meskhetian Turks, and dissolved their territorial units. All but two of these territories were reestablished after Khrushchev's denunciation of Stalin at the 20th Party Congress in 1956.<sup>42</sup> The Volga Germans, rehabilitated in 1964, and the Crimean Tatars, rehabilitated in 1967, have not regained their territory; however, the abuses they and the others suffered have officially been condemned and are now high on the nationalities agenda.<sup>43</sup> Lest it be thought that the age of arbitrary and ahistorical resettlement has

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39. T. Rakowska-Harmstone, *Minority Nationalism Today* in THE LAST EMPIRE: NATIONALITY AND THE SOVIET FUTURE 248 (R. Conquest ed. 1968).

40. See *Panel on Nationalism*, *supra* note 16, at 466.

41. There is, however, no shortage of examples of redrawing entities' borders, transforming their status, and changing their jurisdiction (see Appendix). See, e.g., Paul Goble, *Can Republic Borders Be Changed?*, Rep. USSR, Sept. 28, 1990, at 20 (over 90 changes in the past 70 years of Soviet rule). Changes in status continue to this day. In November 1990 the new president of Georgia proposed that the Adzhar Autonomous Region be abolished, and on December 11, 1990, the Georgian Supreme Soviet abolished the South Ossetian Autonomous Region. Elizabeth Fuller, *Zviad Gamsakhurdia Proposes Abolition of Adzhar Autonomy*, Rep. USSR, Nov. 30, 1990, at 13. Elizabeth Fuller, *Georgian Parliament Votes to Abolish Ossetian Autonomy*, Rep. USSR, Dec. 21, 1990, at 8.

42. UNGER, *supra* note 4, at 92, 134 n.24, 160 n.22.

43. There are 268,739 Crimean Tatars and 2,035,807 Germans in the USSR according to the 1989 Census as reported in Ann Sheehy, *Ethnic Muslims Account for Half of Soviet Population Increase*, Rep. USSR, Jan. 19, 1990, at 15, 16-17. Statistics on the Volga Germans are given in the Appendix. In the fall of 1989, the Supreme Soviet condemned the deportations of the Crimean Tatars and the Volga Germans. *Stalin's Ethnic Deportations Called Criminal*, Pravda, Nov. 24, 1989, reprinted in CUR. DIG. Sov. PRESS, Dec. 27, 1989, at 13. Suzanne Crow, *Ethnic German Calls for Restoration of Autonomous Republic*, REP. USSR, Oct. 6, 1989, at 19. The Meskhetian Turks who were resettled in the Fergana Valley in Uzbekistan were the target of attacks last spring. Their concerns are not being raised. *Meskhetian Turks Official Voice Demands*, FBIS-SOV, Mar. 11, 1990, at 68. Their return to the Caucasus is considered unlikely. Elizabeth Fuller, *What Are the Meskhetian's Chances of Returning to Georgia?*, REP. USSR, June 30, 1989, at 17. *Views Chechen-Ingush ASSR Situation*, FBIS-SOV, Mar. 14, 1990, at 47. Failure to deal with these pressing problems has given rise to yet another problem: refugees, whose numbers surpassed 1 million last year. See *Armenian Party Chief on Solution to Crisis*, FBIS-SOV, May 3, 1990, at 96. Crimean Tatars, Meskhetian Turks, Armenians from Azerbaijan and others have fled for their lives and are now homeless. Ann Sheehy, *Exodus of Nonindigenous Population from Novyi Uzen' and Fergana Valley*, REP. USSR, Sept. 8, 1989, at 26, 27. *Debate at the Nationalities Plenum II*, Pravda, Sept. 22, 1989, reprinted in CUR. DIG. Sov. PRESS, at 14, 18 (Pravda, Sept. 22, 1989) [hereinafter *Plenum II*].

passed, it is worth noting that in the wake of the Fergana Massacres of June 1989, officials are discussing the possibility of resettling the Meskhetian Turks in the predominantly Armenian regions of Akhaltsikhe and Akhalkalak in southern Georgia on the Armenian border.<sup>44</sup> Moreover, the de facto resettlement in Armenia of a quarter million Armenians from their pre-Soviet community in Baku has already taken place as a result of the Sumgait and Baku pogroms. A countermigration of 150,000 Azeris from Armenia has also taken place. Meanwhile, the depopulation of the Armenian villages in and around Karabagh is underway, with the tacit approval—some reports say active assistance—of the Soviet occupation forces.<sup>45</sup>

Of the 286 million people of 100 nationalities, 95% have national territories within the USSR or abroad and only 15% are dispersed outside of those national territories.<sup>46</sup> Of those dispersed, 40% are Russians, either through assimilation or relocation pursuant to government programs.<sup>47</sup> The dispersed Russians are not evenly spread throughout the USSR; 87% live in the Ukraine, Belorussia, and Central Asia.<sup>48</sup> This leaves approximately 9% of the non-Russian population outside of its national homeland. Leaving aside those forcibly removed from their homelands, most dispersed peoples have been historically dispersed (e.g., Armenians in Moscow, Tbilisi and Baku, or Jews in Ukraine), have relocated voluntarily in response to economic forces and government incentives, or have simply wound up resettled in a neighboring republic, because of the arbitrariness of borders, e.g., Tadzhiks in Uzbekistan, Armenians in Nagorno-Karabagh AR, or the Ossetians divided between the RSFSR and Georgia.

The Russian dispersion, which was largely engineered by the Soviet regime, has troubled both dispersed Russians and the national communities which have been their unwilling hosts. At the Nationalities Plenum last summer, the First Secretary of the Estonian Communist Party reported,

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44. *Meskhetian Turks Official Voices Demands*, FBIS-SOV, Mar. 22, 1990, at 68, 69-

45. *See Negotiations Break Down in Riga*, Armenian Weekly, Feb. 10, 1990, at 1, col. 3-

46. The largest groups without national territories are Jews (1.4 million), Poles (1.1 million), and Germans (2 million), all of which have homelands outside the USSR. The Jewish Autonomous Region on the Chinese border, which was never the home of the vast majority of Soviet Jews, is, according to the 1979 census, inhabited by 216,000 people, of whom 84% are Russians and 5.4% Jews, thus hardly meeting the definition of an autonomous region. See the Appendix for population figures on other groups.

47. Rakowska-Harmstone, *supra* note 39, at 248. "One-half of the Russians now resident outside the RSFSR either migrated in the Soviet period or are the descendants of such emigrants. The emigration was urgent in character .... Suffice it to say, as Bruk and Kabuzan point out, that 31% (18.9 million) or almost one-third of the overall increase in the number of Russians in the Soviet Union in the period between 1917 and 1979 (the last census), was due to assimilation."

48. Of the Russians outside of the RSFSR, 87% live in the Ukraine, Belorussia, and Central Asia (46% in Belorussia and Ukraine, 41% in Central Asia) and only 13% in the rest of USSR— 1.2% in Baltics, 0.2% in Armenia. Russian dispersion is largely a Soviet phenomenon. In 1926, 93.4% of all Russians lived in Russia; by 1989 that figure had dropped nearly 10%, to 84%. Rakowska-Harmstone, *supra* note 39, at 245.

About 60 million people have wound up outside their national republics, not to mention being torn away from their native areas, something that could not help but give rise to certain tensions. In many regions of the country, the critical limit of in-migration, after which an undesirable destabilization of the traditional way of life occurs, has been significantly exceeded.

Before the eyes of a single generation, the proportion of Estonians in our republic has fallen from 92% to 60%, and is continuing to decline. One asks: Can a nation remain indifferent to such processes? And how can one not share its anxiety over its future? <sup>49</sup>

Russians have responded in a variety of predictable ways. Given that Russians are the predominant group in the Union, Russia's capital is the capital of the union, and the Russian republic accounts for 76% of the USSR's area and 52% of its population, there is a tendency to attribute all the flaws of the union, present and past, to Russia and the Russians.<sup>50</sup> This Russian-bashing, justified or not, has evoked defensiveness among Russians, who see themselves as a group exploited for the sake of the development of the backward republics. Focusing on their own sacrifices to Soviet rule, the Russians are apt to interpret criticism as a kind of unseemly ingratitude.<sup>51</sup> As the entitlements, economic advantages, and prestige of being the ascendant group in the empire erode, Russians have become yet more resentful of the non-Russian peoples and the regime which is empowering them. This resentment has given rise to a conservative backlash in the form of anti-Semitism and Russian Chauvanism, expressed by such groups as Pamyat' and Soyuz, and, more generally, an antiseparatist stance toward non-Russian peoples.<sup>52</sup> Since the election of Boris Yeltsin in the summer of 1990, Russia has been moving to separate itself from the Union, a direction advocated most forcefully by Alexander Solzhenitsyn and rebutted equally forcefully by Mikhail Gorbachev.<sup>53</sup>

Because of their privileged status, Russians have not had to accommodate themselves to life in the republics, but have instead made the local culture conform to their own, which was by and large the

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49. *Plenum I*, *supra* note 35, at 11.

50. *Id.* at 6.

51. See Bill Keller, *To Gorbachev Anxieties, Add Yeltsin Candidacy*, N.Y. Times, May, 17, 1990, at A10, col. 2-3. See also Dimitry Pospelovsky, *Russian Nationalism: An Update*, REP. USSR, Feb. 9, 1990, at 8. 16.

52. See John G. Dunlop, *A Conversation with Dmitrii Vasil'ev, the Leader of "Pamyat"*, REP. USSR, Dec. 15, 1989, at 12, 13. Michael Parks, *Troop Call-Up Leaves Ethnic Russians Bitter*, L.A. Times, Jan. 29, 1990, at A1, col. 5- This sentiment is shared by other Slavs. See, e.g., *Belorussia's Sokolov 'Against Federalism'*, FBIS-SOV, Feb. 6, 1990, at 69. But see Jury Sienkowski and Kathleen Mihalisko, *Demonstrators Call for Free Belorussia*, REP. USSR, Mar. 9, 1990, at 18.

53. Solzhenitsyn, *Kak nam obustroit' Rossiya*, Literaturnaya Gazeta, Sept. 18, 1990, at 3. C. Bohlen, *Gorbachev rebukes Solzhenitsyn for Opinions "Entirely in the Past,"* N.Y. Times, Sept. 26, 1990, at A4, col. 1. See John B. Dunlop, *Solzhenitsyn Calls for the Dismemberment of the Soviet Union*, REP. USSR, Oct. 5, at 9.

Russian culture of the party elite.<sup>54</sup> Russians, who constitute large urban immigrant populations in all but a few capitals around the USSR, have not felt the need to learn the local language, and, given their predominance in the upper echelons of republican government, they have made Russian the de facto dominant and upwardly mobile language in most of the non-Russian republics.<sup>55</sup> In turn, their native tongue threatened, the non-Russian republics are now instituting local-language-only laws in order to reconstitute their cultural and linguistic community to the dismay of local Russians.<sup>56</sup> So long as Russians constitute large non-indigenous minorities in the cities of the union republics, there will be pressure to construe the nationalities problem as a question of legal status rather than a problem of cultural ecology. As a result, legal protections of non-discrimination which favor Russians and implicitly ensure Russification, will be promoted as an alternative to national territories, based on the fiction that equal protection and non-discrimination have already been guaranteed and achieved by the Soviet Constitution, and therefore, there is no need for an ethnic habitat. Pro-Russification policymakers insist that ethnic habitats are anachronistic and anti-cosmopolitan. Yet from a cultural ecological point of view, there is no more effective way to assure the survival and continued development of a people than a safe environment where people can interact and engage in their natural forms of communal expression. Legal status, whether affirmative rights to ethnic expression or prohibitions against discrimination, provides but a faint glimmer of the daily interaction of people in neighborhoods, villages, towns, and communities.

The very topology of dividing a plane into non-overlapping regions limits the extent to which territorially based units of governance can conform to the actual settlement of national communities. Arbitrary-units are only possible if we assume people are interchangeable atoms—historically, socially, and culturally unencumbered beings. But they are not, and however attractive a theory based on hypothetical beings, whether Nazism, politically correct cosmopolitanism, or Stalinist Socialism, it cannot justify the violence to the real beings in existence. Most of the incongruities between national communities and territorial units can be resolved easily. The adjustment of historically artificial borders which divide communities, resettlement of deported peoples, creation of new entities for small concentrated groups heretofore without homelands, and real guarantees of equal protection for

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54. See Dawn Mann, *Gorbachev's Personnel Policy: The Non-Russian Republics*, REP. USSR, Dec. 1, 1989, at 8.

55. See, e.g., Thomas Samuelian, Book Review, *ARMENIAN REVIEW*, Autumn 1986, 81, 87 (reviewing *Linguistic Composition of the Nations of the World*).

56. *Language Lessons—Today They Are Taking Place Not Just in Classrooms, But Also In the Halls of Parliament*, CUR. DIG. SOV. PRESS, NOV. 22, 1989, at 36 (Estonian language law gives officials and employees at state organizations four years to learn Estonian "well enough to use it on the job"). There is also a movement in Moldavia and in Central Asia to restore the non-Cyrillic alphabets, replaced in the 1930s to undermine Islam and native cultures. Erika Dailey, *Update on Alphabet Legislation*, REP. USSR, Aug. 11, 1989, at 29. The language issue is a longstanding point of sensitivity for the non-Russian peoples of the USSR. Provisions of the 1977 Constitution infringing upon the status of languages other than Russian sparked demonstrations in Armenia and Georgia a decade ago. In the USSR Congress of People's Deputies, a recent debate on making the Russian language the official language of the USSR indicates how heated the language issue has become once again. See *Draft Law on Languages Passed*, FBIS-SOV, Apr. 25, 1990, at 44.

commingled peoples are a small price to pay for a more just and stable equilibrium among nationalities. In all, the high estimates identify sixty such incongruities which should be addressed in the Soviet Union.<sup>57</sup> Most involve small numbers of people and minuscule parcels of land, especially by Soviet proportions. In light of the small dimensions of these claims, it is difficult to understand Moscow's indifference to the plight of these peoples and its intransigence toward resolving these incongruities peacefully. Even more puzzling is its willingness to destabilize the entire Union, undermine perestroika, and risk improved East-West relations in order to maintain an unjust status quo that can be rectified by fifty or sixty international arbitrations involving minute numbers of peoples and territories.

In short, the bald assertion that there are 100 nationalities is deceiving. The situation is perhaps best summed up by Paul Goble, an American expert on Soviet nationalities:

While literally true, this last assertion [that there are 100 nationalities] is in fact an exaggeration. Most Soviet nationalities are very small and the 22 largest form 98 percent of the total. But for practical purposes, even that overstates the situation. When Gorbachev looks out from Moscow, he sees a country where just over half the population is Russian, 20 percent more are also Slavs (Ukrainians and Byelorussians), another 20 percent are traditionally Islamic peoples, 3 percent are Christian Caucasians (Armenians and Georgians) and a final 3 percent are Baits (Estonians, Latvians and Lithuanians).<sup>58</sup>

## II. NATIONALITIES HAVE PROBLEMS VS. NATIONALITIES

### ARE PROBLEMS

In recent months the western media has been full of stories on how the nationalities are the cause of the Soviet Union's problems. A typical distortion is to argue from the proposition that the Soviet Union has problems, to the proposition that the Soviet nationalities have problems, to the conclusion that the nationalities are the problem. Even the most superficial survey of the discourse within and without the USSR leaves little doubt that the assertion that the nationalities are the problem has become the standard interpretation on the Soviet nationalities "problem," as if it constitutes the barrier to reform.<sup>59</sup>

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57. *Panel on Nationalism*, *supra* note 16, at 466.

58. Paul Goble, *Gorbachev: Facing the Nationality Nightmare*, Wash. Post, Mar. 25, 1990, at C1, col. 4.

59. The reigning Western view, which coincides remarkably with the Soviet view, minimizes the calamity of the past seventy years by sensationalizing the current faltering steps toward a democratic resolution of these years of repression. See e.g., McManus, *supra* note 37, at A1, col. 2. Leon Aron, *Gorbachev's Mounting Nationalities Crisis*, HERITAGE FOUNDATION REPORTS, Mar. 9, 1989- Martha B. Olcott, *Gorbachev's National Dilemma*, 42 J. INT'L AFFAIRS 399 (1989). Patrick Cockburn, *Dateline USSR: Ethnic Tremors*, FOREIGN POLICY, Spring 1989, at 168. And where rectification of past wrongs is not a "dilemma" or a "crisis" or a "nightmare," it is a "problem." E.g., Gail Lapidus, *Gorbachev's Nationalities Problem*, FOREIGN AFFAIRS, Fall 1989, at 92.

The media and Gorbachev have both laid much on the shoulders of the nationalities. From Lithuania, which was castigated for jeopardizing all the "good" developments in East-West relations,<sup>60</sup> to the referenda by the Armenians of Karabagh to reunite with Armenia, which has been represented as a terrible nuisance and distraction to reform,<sup>61</sup> to the demonstrators in Tbilisi, Fergana, and Alma Ata, described as "extremists, criminals, drug users and drunks,"<sup>62</sup> to the dozen or so national movements, that have been called "mercenary opportunists,"<sup>63</sup> all this democracy seems to be too much to take. Not a day goes by that appeals and actions by local communities are not portrayed as challenges to centralized authority and Gorbachev's power. To view local communities and their political will as obstacles to the realization of a policy aimed at local autonomy and political openness is a feat fit only for political and media logic. The demise of absolute power and the rectification of the wrongs perpetrated by the Soviet regime is what perestroika and glasnost were supposed to represent. Yet the scorecard approach to politics has made Gorbachev's success at controlling the program more important than the realization of the program itself. In a media age the appearance of success supplants success itself. Every democratic impulse is portrayed as opposition, and Gorbachev's success is measured by how well he prevails over his opposition. But prevailing over the democratic impulses of the people is the yardstick of tyrants, not champions of democratization and openness.

The discourse about nationalities in the USSR has been dominated by the tension between Utopian internationalism and historical national identity. Recognizing that non-Russian national groups joined the revolution primarily to escape the Russian domination of the Tsarist Empire, Lenin at least initially emphasized the protection and development of national groups, one aspect of which was having a national homeland. This tension between the internationalist professions of Marxist ideology and the multinational reality of Tsarist Russia was never resolved, though various slogans were adopted to

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60. *E.g.*, Victor Danilenko, *Vilnius: Its Own Worst Enemy*, N.Y. Times, Apr. 17, 1990, at A25, col. 2. A good example of this mentality on American shores is John Oakes' op-ed argument that, "[i]f the Lithuanians persist in doing so—the result could be catastrophic for the Lithuanians, destructive of President Gorbachev and highly dangerous for the United States." John B. Oakes, *Mr. Bush, Lean on the Lithuanians*, N.Y. Times, Apr. 21, 1990, § 1, at 23, col. 2. Oakes fails to perceive that the past 50 years of catastrophe have made any further catastrophe seem insignificant. People who have been to hell and back are not afraid to exercise their rights. As Jonas Mekas points out, "Lithuania has slaved too long." *No, My Friends, We Won't Go Slow*, N.Y. Times, Mar. 29, 1990, at A23, col. 2. *But see The President and Lithuania*, Wall Street J., Mar. 29, 1990, at A12, col. 1. ("The danger of American silence, of 'understanding' Gorbachev and his problems, is the alienation of the brave people trying to earn their freedom."); on unwillingness to admit new members to the exclusive sovereignty club, see William Satire, *Repeal the Fourth of July*, N.Y. Times, Apr. 30, 1990, at A17, col. 1.

61. *Gorbachev Addresses CPSU Plenum 5 Feb*, Pravda, Feb. 6, 1990, reprinted in FBIS-SOV, at 44, 48 [hereinafter Gorbachev CPSU Plenum, Feb. 6, 1990].

62. Suzanne Crow, *Distorting the Image of Ethnic Unrest*, REP. USSR, Mar. 30, 1990, at 17.

63. *Gorbachev CPSU Plenum*, Feb. 6, 1990, *supra* note 61.

reconcile the two divergent visions of the new world order. Stalin's formulation. "National in form, socialist in content," served for a time to ease minority anxieties in the 1920's and 1930's, and other metaphors and Marxist tropes were pressed into service to mask the real tension: "unity in diversity," "blossoming of nations," "brotherhood of peoples," "national rapprochement," "commingling or merger of nations."<sup>64</sup> The ultimate aim of creating a new Soviet people with a new Soviet culture was never abandoned,<sup>65</sup> and, in such fields as linguistics, theories of language mixture provided a framework for a nationalities policy predicated on a new, as yet non-existent, language and culture.<sup>66</sup> After the death in 1934 of the linguist Nikolai Marr, the leading proponent of language mixture, the linguistic framework began to collapse under the weight of its internal inconsistencies, but it took World War II to rehabilitate national languages and communities and to discredit merger and mixture as cultural processes. Patriotism, especially in the form of Russian nationalism, was fostered to mobilize the masses for the Great Patriotic War effort against the fascists. During the post-war period, but prior to de-Stalinization, anti-cosmopolitanism became the new orthodoxy. During the anti-Marrist linguistics discussion in 1951, Stalin eventually espoused the victory theory of one language over another and laid Marr's theory to rest. With linguistics again on a solid empirical footing, nationalities policy and language policy reverted to a political rather than a scientific matter, and the formulas of *sliyaniya* (merging) and *sblizhenie* (rapprochement) coupled with *rassvet* (blossoming) dominated the political discourse during the Khrushchev and Brezhnev periods.

When Gorbachev took power, the portrait of fraternal felicity was still the reigning image of the Union. "If the nationality question had not been solved in principle," Gorbachev asserts, "the Soviet Union would never have had the social, cultural, economic, and defense potential it now has. Our state would not have survived if the republics had not formed a community based on brotherhood and cooperation, respect and mutual assistance."<sup>67</sup> Gorbachev notes there were problems, and of course there is always room for improvement: "All this does not mean, however, that national processes are problem-free." But all in all, he concludes, "the USSR represents a truly unique example in the history of human civilization."<sup>68</sup>

In the early years of Gorbachev's rule, the Manichean struggle between progressive internationalism and recalcitrant nationalism was at first embraced as a Hegelian contradiction, which would result in a

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64. While "unity in diversity" is still in circulation (see *19th Party Congress*, *supra* note 9), the rest have suffered a loss of meaningfulness or have been debunked as distortions or deformations of Leninist principles. See Bromlei, *supra* note 7, at 6.

65. *19th Party Congress*, *supra* note 9, at 12.

66. See generally Thomas Samuelian, *The Search for a Marxist Linguistics in the Soviet Union, 1917-1950* (Ph. D. dissertation, U. Pa., 1981).

67. *Gorbachev*, *supra* note 1, at 104.

68. *Id.* at 104, 105.

synthesis represented by the merging of nationalities into a new Soviet nation.<sup>69</sup> However, in January 1989, Gorbachev called the "merging of nations" a "dangerous" formulation.<sup>70</sup> Since then, the Party has more explicitly renounced the merger theory and condemned its deleterious effects:

The growth of national self-awareness aroused interest in the history of one's people, its cultural traditions and values. However, satisfaction of these requirements was blocked by theories, on the speedy rapprochement of nations, claims that the nationalities question has been solved once and for all, which in practice led to the belittlement of ethnic diversity and specifics of spiritual life.<sup>71</sup>

Presently, the dichotomy has been recast in an Aristotelian structure, with repressive, "national nihilism" at one extreme, rabid "national chauvinism" at the other, and benign, reasonable ethnic awareness as the golden mean. In the formulation of the 19th Party Conference, "National nihilism and national isolation" have been "rule[d] out."<sup>72</sup> What remains are "legitimate" and "genuine" national interests.<sup>73</sup> The Party Platform spelled out the evaluative process as follows: "It is essential to draw a clear-cut dividing line between the growth of ethnic awareness and nationalism. Countering any manifestations of nationalism, it is important to be considerate of, and responsive to, all the legitimate demands and aspirations of an ethnic nature."<sup>74</sup>

The discretion inherent in making that distinction is a powerful tool for manipulating perceptions, evoking responses, and justifying actions. As a recent study of the official Soviet media concludes: "A definite pattern is emerging in some of the accounts of ethnic unrest appearing in the Soviet media. The complexity of ethnic strife is often reduced to simplistic and distorted images of the reality."<sup>75</sup> Nor is the Western coverage free of this distorted stereotyping, much of which is simply transposed from the official Soviet press to the front pages and television screens of the United States.<sup>76</sup> "It is hard to avoid the conclusion that powerful elements in the Soviet media—and within the Soviet leadership—are trying to portray nationalist demonstrators, particularly in the southern regions of the USSR, as wild

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69. See *The Nationalities Policy of the Party in Present-Day Conditions*, Pravda, Aug. 17, 1989, in REPRINTS FROM THE SOVIET PRESS, Oct. 31, 1989, at 5, 7. [hereinafter *Party Platform*, Aug. 17, 1989]

70. Nahaylo, *supra* note 7, at 23.

71. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 9-

72. *19th Party Conference*, *supra* note 9, at 12.

73. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 22.

74. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 22.

75. Crow, *supra* note 62, at 17.

76. See Elizabeth Fuller & M. Deich, *Interview with Gary Kasparov*, REP. USSR, Feb. 2, 1990, at 18, 19. Gary Kasparov, 'The Communists Don't Want a Solution,' Wall Street J., Mir. 29, 1990, at A12, col. 3.

Asian barbarians determined to disrupt the moderate policies of the current Soviet leadership."<sup>77</sup> Indeed, the category of the opportunistic nationalist has been frequently used to neutralize and imprison leaders of peaceful democratic movements.<sup>78</sup> Gorbachev characterizes the situations in the USSR as follows: "We encounter ever increasing attempts by enemies of perestroika, anti-social elements and groups, to play 'the nationalist card' to channel people's displeasure, which has accumulated over decades, into the sphere of inter-ethnic relations."<sup>79</sup> Squeezing every local claim, however legitimate and unrelated to nationality, into the category of "fanning the flames of ethnic hatred" produces a validation mechanism for any kind of action that suits the Soviet leadership. And when it serves his purpose, Gorbachev is not above making ethnic slurs or smearing the democratic movements he himself encouraged and promoted. During his visit to Armenia after the earthquake of December 7, 1988, he ordered the imprisonment of the Karabagh Committee for calling his attention to the fact that the devastation had been exacerbated by the large number of refugees from Azerbaijan who had fled because his administration had not promptly acted to reunify Karabagh with Armenia. He is reported to have said in anger at the time, "Armenians are the kind of people who rob their own dead and dying when they are under the ruins and pull off fingers [sic—rings?] from the corpses of dead people and so on."<sup>80</sup> He has continually used the power of characterization to dispose of the referenda and appeals of the 80%-majority Armenian population of Nagorno-Karabagh who seek reunification with Armenia from which they were separated by Stalin on July 5, 1921. Even after the Baku Pogroms of January 1990, their reunification efforts have been dismissed by Gorbachev in quite derogatory terms:

Those who find perestroika sticks in their gullet, those who fear democratization and glasnost, and those who do not accept the law. I am speaking of the representatives of the shadow economy, this real Mafia which fans in every possible way the flames of interethnic strife, putting pressure upon the bodies of state under the slogans of national rebirth.<sup>81</sup>

Similarly, it is far too easy to transmogrify peaceful dissidents into violent racists. As Walter Clemens noted with regard to the show of military force in Lithuania, "Moscow can find a pretext to tar the

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77. Crow, *supra* note 62, at 19.

78. Gorbachev imprisoned the Karabagh Committee, the de facto leadership of Armenia, while the world was distracted by the earthquake. Amnesty International, *Urgent Action*, 21/87, Jan. 20, 1989. They were released after six months' imprisonment. Since their release, all have assumed leadership positions in the Armenian Parliament, the Government and in the democratic movement. See Esther B. Fein, *Freed Armenian Prisons Find Their Cause Very Much Alive*, N.Y. Times, Aug. 27, 1989, § I, at 18, col. 1. In the winter of 1989, former political prisoner Rafael Kazarian, was elected the first non-Communist Vice-President of the Armenian Supreme Soviet.

79. Gorbachev, *supra* note 1, at 20.

80. *The Future of US-Soviet Relations. "The Gorbachev Era in Perspective: The End of Ideology?" Hearing Before the Senate Comm. on Foreign Relations, 101st Cong., 1st Sess. (Apr. 12, 1989).* Gorbachev's words as reported by Uri Ra'anani, Russian Research Center, Harvard University.

81. *Gorbachev CPSU Plenum*, Feb. 6, 1990, *supra* note 61, at 48.

'singing revolutionaries' of the Baltic as fomenters of ethnic unrest."<sup>82</sup>

The assignment of blame and imputation of motives in recent instances of "interethnic" conflict delimits the range of responses available to and expected of Gorbachev. Perhaps the single greatest categorization error is the constant reference to these situations as interethnic conflicts, or "nationality-based disturbances," which amorally equalizes victims and victimizers and totally obscures the legitimate political and economic issues at stake.<sup>83</sup>

The demography of the USSR dictates that issues of perestroika be ethnically colorable. Perestroika rests upon two political premises. One is the rule-of-law state as opposed to the party-controlled government or command administration. The other is democratization and economic self-management. Both presuppose less reliance on the party apparatus to run the country and more local autonomy. Minority groups long suppressed and presumed content actually took Gorbachev at his word and began exercising their rights to close the gap between law and reality. And since local political units are more likely to coincide with national communities, local issues have tended to rake on an ethnic hue, giving rise to an ambiguity ripe for political exploitation. Gorbachev himself noted the coincidence of reform and nationality. "These problems are universal in character, but in our country they have acquired an ethnic hue."<sup>84</sup> The problem, which is just as universal, is that ruling elites can and do exploit this ambiguity as a means of control, either by the old "divide and conquer" maxim or the more world-opinion conscious manipulation of legitimacy.<sup>85</sup> "Politics then involves the attempts by state elites to proclaim the illegitimacy and subversive nature of ethnic affiliations, and to undermine opposition groups by branding them as ethnically based."<sup>86</sup> Moreover, the dismantling of the command economy and bureaucracy reinforces local and regional autonomy. The centrifugal forces released by economic restructuring, enterprise self-management and worker dislocation have further accentuated the ethnic hue of social and political ferment.<sup>87</sup>

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82. Walter C. Clemens, Jr., *Promoting Baltic Independence*, Christian Science Monitor, Apr. 5, 1990, at 18, col. 3. Recently, several new laws have been proposed by the Soviet parliament to facilitate such transmogrification: *Bill Proposes Penalties for Territorial Disruption*, FBIS-SOV, Feb. 26, 1990, at 50. AzSSR has also stiffened its penalties for "Encroachments on Citizens' National Equality and Forcible Violation of the Integrity of USSR." *Racial Incitement Added to Criminal Code*, FBIS-SOV, May 3, 1990, at 96.

83. *Plenum II*, *supra* note 43, at 18.

84. Gorbachev, *supra* note 1, at 13-

85. As Martin Malia has noted, "International democratic solidarity will not go unnoticed by a government so highly sensitive to Western opinion." Martin Malia, *A Manifesto for Soviet Democracy*, N.Y. REV. BOOKS, Mar. 29, 1990, at 26, 27. The editorial board of the Wall Street Journal agrees. *The President and Lithuania*, Wall Street J., Mar. 29, 1990, at A12, col. 1. See also J. Snyder, *International Leverage on Soviet Domestic Change*, WORLD POLITICS, Oct. 1989, at 1.

86. Brown, *supra* note 9, at 14.

87. *Plenum II*, *supra* note 43, at 16.

This is not to say that there are not ethnic feuds fueled by religious fanaticism or that some violence is not motivated by hatred and venal motives. Such incitement and overtones of ethnic hatred were evident in the Sumgait and Baku pogroms that finally forced the entire Armenian population of 250,000 to flee their centuries' old homes in Baku and surrounding areas in Azerbaijan. In the words of GamidKherishchi, an ideologue of Azerbaijani Popular Front:

The Azerbaidzhan People's Front views the USSR as a dualistic state: Moslem Christian or, more accurately, Turkic Slavic .... We don't even consider the possibility of seceding from the USSR, since for us that would mean seceding from Turkic unity. But the possible secession of the Baltic republics would benefit us: There would be three fewer European Christian Peoples ....

[O]ur struggle contains elements of a jihad .... More peaceful democratic means of influence can be used. For example, a blockade of roads and especially railroads, or an economic embargo .... The Armenians have lost their battle . . . [T]he West is on the decline .... But notice that Armenia's defeat coincided with the defeat of all Christian forces in general . . . .<sup>88</sup>

But to categorize the whole conflict rather than the behavior of one or another group as irrational is not likely to help create an understanding of the situation. Such categorization does, however, have certain advantages. It relieves the parties of accountability for their actions and allows the decisionmaker to appear even-handed, as evidenced by Gorbachev's stance at the CPSU Plenum: "The position from which the center began was that the conflict around Nagorno-Karabakh should be resolved in such a way that there should be no victors and vanquished."<sup>89</sup> Yet, such seeming even-handedness is not justice, but its counterfeit. Such mischaracterizations allow disputes to fester, while those in positions of power are seen as stymied, helpless, earnest, or prudent, and in any case, blameless.

But, regardless of all these smoke-and-mirror games, the truth is emerging. The strategy has been identified. First Secretary of the Georgian Communist Party, G.G. Gumbaridze, wounds still fresh from the Tbilisi Massacre of April 9, 1989, described the tactic at the September 1989 CPSU Nationalities Plenum.

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88. *Azeri Firebrand Pushes Pan-Moslem Agenda*, Cur. Dig. Sov. Press, Jan. 24, 1990, at 13. See also *Cequeveut le Front populaire d' Azérbaidjan*, LE MONDE DIPLOMATIQUE, Feb. 1990, at 11. Other Azerbaijani Popular Front Intellectuals, led by Igrar Aliiev, Director of the Institute of History, AzSSR Academy of Sciences, have issued a manifesto smearing Armenians as "people who do not know the sentiment of friendship, so to live with them is simply impossible. They are ingrates. Do them a good turn and they stab you in the back." Armenian leaders are described as "bloodthirsty" and "morally depraved." Armenians are called a "mongrel race" mixed through "rape" and "prostitution" made possible by the "moral depravity of Armenian women." *Golos Istorii i Razuma, Materialy Samizdata*, Oct. 14, 1988, at 1, 3 (AS 6283) (author's translation). See generally Daniel Pipes, *Moscow's Next Worry: Ethnic Turks*, N.Y. Times, Feb. 13, 1990, at A25, col. 2.

89. *Gorbachev CPSU Plenum*, Feb. 6, 1990, *supra* note 61, at 48.

There are obvious indications that nationality-based excesses are often programmed in advance and are aimed at requiring the imposition of a curfew and a special form of administration, which means renouncing democratic principles and diverging from the set course. One even gets the feeling that some actions are *artificially provoked* in order to support certain theoretical constructs and models in the field of relations between nationalities.<sup>90</sup>

Even the official news program *Vremya* in describing the attacks on Meskhetian Turks, who as victims of Stalin's World War II deportations ended up in Fergana Valley, noted that the events went "far beyond the limits of interethnic tensions" and revealed "'acute social problems'—namely wide-scale unemployment in the region."<sup>91</sup>

In the wake of the Baku pogroms, Fred Starr declared, "Call the Armenians and Azeris ethnic hotheads, if you will. But both have been driven to this state, not merely by the others' actions but by policies emanating from Moscow."<sup>92</sup> World Chess Champion Gary Kasparov, a resident of Baku who was tipped off and fled before the terror crested, has gone as far as to claim that the entire bloodbath was planned as a pretext for intervention: "I think the authorities are trying to use concern for the population as a pretext for smashing the independence movement. And in order to do that, in my opinion, it was necessary to provoke a massacre of Armenians—let the whole world have a good look at the massacre and then bring in the troops .... I really think that people were incited."<sup>93</sup> As the dust settled, many others shared Kasparov's view. General Yazov's statement that the purpose of the military invasion was to secure the borders and restore the Communist government to power in Baku lays to rest any doubt as to Moscow's real motive.<sup>94</sup> The pretext theory is also supported by the timing of the invasion. The troops arrived too late to stop the anti-Armenian pogroms, since the entire 200,000 Armenian population had fled by that time.<sup>95</sup> But their arrival coincided with Gorbachev's ill-fated January 1990 talks in Vilnius, conveniently timed to serve three purposes: (1) to distract attention from any embarrassment over Lithuania's secession, (2) to reassure hardliners, and (3) to send the message

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90. *Plenum I*, *supra* note 35, at 8 (emphasis added).

91. Annette Bohr, *Violence Erupts in Uzbekistan*, REP. USSR, June 16, 1989, at 23, 24 (citations omitted).

92. Frederick Starr, *Problem of Empire, Not Hotheads: Caucasus: Moscow's Policies Have Driven the Rival Republics of Armenia and Azerbaijan to Bloodshed. Now it Should Negotiate a New Relationship*, L.A. Times, Jan. 23, 1990, at B7, col. 5.

93. Fuller & Deich, *supra* note 76, at 19.

94. *Soviet General Says Azerbaijanis Planned a Coup*, L.A. Times, Jan. 28, 1990, at A1, col. 2. M. Newton, *The USSR This Week*, REP. USSR, Feb. 2, 1990, at 23, 24.

95. Kasparov, *supra* note 76, at A12, col. 5.

that Moscow is not afraid to use force, and may indeed have no choice but to use force, in order to keep the "unruly" peoples of the Soviet Union in line. As Kasparov explains, "You understand that it is difficult to use force in the Baltic republics, or Moldavia, or Western Ukraine, and still remain a peacemaker and a democrat in the eyes of the world. It was necessary to find a spot where the use of force would appear justified from the democratic point of view, that is in the eyes of the West."<sup>96</sup> The parading of armored vehicles through Vilnius, the rounding up of Lithuanian youths avoiding impressment, and the blockading of Lithuania's fuel, raw materials, and food, are acts of aggression against a small and peaceful nation which poses little threat to the USSR and would likely remain within its sphere of economic, political, and military influence.

### III. SETTING THE NATIONALITIES AGENDA

Soviet society, which has embarked upon the path of radical reforms, is now scrutinizing its past. The task is, while preserving all valuable elements, to redress all inequities, to inject fresh energy into the economic, political and spiritual life of every people of our country, to give scope for untrammelled national development.

—The Nationalities Policy of the Party in Present-Day Conditions (CPSU Platform, Aug. 17, 1989.)<sup>97</sup>

At the February 1990 CPSU Plenum, which brought an end to the party's monopoly on government control, Gorbachev stated, "We consider that the Platform on the Nationalities Question can serve as a starting point for transforming our confederation."<sup>98</sup> The nationalities are thus not part of the problem but part of the solution. The "ideal is humane and democratic socialism" and the means, "rethinking of the democratic centralism principle, with the accent on democratism and the power of the party masses."<sup>99</sup> The task is

implementing, step by step, the principle of social justice, without the least illusions and expectations of a quick miracle. We intend to do this while rejecting prejudices of the past and various ideological taboos, and using everything of value which other societies have in their economic and social field, political life, organization of production and daily life, science and technology, culture and spiritual and intellectual creativity.<sup>100</sup>

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96. Fuller, *supra* note 76, at 19.

97. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 9.

98. *Gorbachev CPSU Plenum*, Feb. 6, 1990, *supra* note 61, at 47.

99. *Id.* at 44, 45.

100. *Id.* at 46.

The goal is nothing less than to restructure the confederation and to transform a way of living that was forcibly, and now admittedly imposed wrongly upon the peoples of the USSR. While the immediate impulse may be to look to the future, the long memories of old world peoples—comprehensible perhaps only to the indigenous peoples on these shores—dictate that the USSR look first to the past, to know how justly to act in the present and in order to build a bridge to the future. As the Party Platform states, "[i]ndifference to the people's identity and the fact that many social issues were left unresolved echoed painfully in the people's consciousness and bred resentment . . . ." <sup>101</sup>

Nearly all the current problems are the direct consequence of flaws in the design or application of the laws and policies of the USSR. Any attempt to solve them requires that they be understood. Thus Milan Kundera speaks of "the struggle of memory against forgetting" as a prerequisite for survival:

The first step in liquidating a people ... is to erase its memory. Destroy its books, its culture, its history. Then have somebody write new books, manufacture a new culture, invent a new history. Before long the nation will begin to forget what it is and what it was. The world around it will forget even faster. <sup>102</sup>

The Kirgiz writer, Chingiz Aitmatov, newly appointed to Gorbachev's presidential cabinet, sees confronting the past as spiritual regeneration:

With the onset of *perestroika* and *glasnost*, people have begun to speak openly about these past mistakes, and to express the bitterness and pain they had harboured within themselves for so many years. ... I sympathise with those who are expressing the pain of past suppression for the first time. I also think it would be unwise and immoral to prevent people in the republics from expressing their dissatisfaction, simply for the sake of unity. <sup>103</sup>

And Gorbachev and the party see it as fact-finding:

What is needed above all is the whole truth about the real processes of development of inter-ethnic relations in the USSR, about the causes for the emergence of friction in ethnic affairs. There should be no "blank spaces" remaining here, either. All this is necessary for building confidence and mutual understanding. In those instances, where there are disputes and doubts, one should not spare any effort to establish the truth on a collective-basis. <sup>104</sup>

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101. *Party Platform*, Aug 17, 1989, *supra* note 69, at 9.

102. MILAN KUNDERA, *THE BOOK OF LAUGHTER AND FORGETTING*, 159 (1986).

103. Chingiz Aitmatov, *Voice from the Republics: an Interview*, *THIRD WORLD Q.*, Jan. 1990, at 194,198.

104. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 22.

Looking to the past, then, is not merely an antidote to state-imposed amnesia or a method of spiritual catharsis, but a necessary step in the process of reform. The wrongs both perpetrated and inherited by the regime must be undone, especially the egregious crimes of Stalin, the full extent of which is not exhausted by the now ritual lists of deported peoples, treacherous pacts with Hitler, and the purposeful sundering of national communities.

One of the serious causes of aggravation of national problems was mass reprisals, particularly the resettlement of whole peoples from places of traditional residence to other republics and regions. This fate befell the Kalmyks, Karachayevs, Balkarians, Chechen, Ingush, Crimean Tatars, Meskhetian Turks, Germans, Koreans, Greeks, and Kurds. Many Party and government leaders of republics, and ethnic intellectuals were without reason accused of nationalism and persecuted.<sup>105</sup>

These wrongs must be redressed both to alleviate their problematic consequences and, more importantly, as a first step toward healing the injuries suffered by the Soviet peoples:

A legislative act is needed to ensure the full political rehabilitation of peoples who were subject to repression and deportation and to create guarantees that nothing if [sic] the kind will ever happen again. This should be done for the sake of the truth of history, for the sake of our moral ideals.<sup>106</sup>

These atrocious "aberrations," however, should not be allowed to obscure the recognition that the "nationalities" problems are ultimately governance problems. "The command system of administration, which needed absolutely centralized and uniform structures, began to increasingly ignore the demands of national development."<sup>107</sup> During the past five years, Gorbachev's rhetoric with respect to the nationalities, as I have suggested, evolved significantly and led him to the realization that the salvation of the Soviet confederation depends upon the timely solution of nationality problems:

[O]ne must . . . understand clearly that the problems that exist in the nationalities sphere are real and not invented. They await solution through perestroika. The sooner decisions are made to separate the powers of the union and the republics, to strengthen in deed their political and economic independence, to expand the rights of the national autonomies, the sooner the complex of measures aimed at a harmonious development of all languages and cultures is implemented, the faster will people see, in practice, the enormous advantages of the new Soviet federation.<sup>108</sup>

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105. *Id.* at 8.

106. *Id.* at 21.

107. *Id.* at 8.

108. *Gorbachev CPSU Plenum*, Feb. 6, 1990, *supra* note 61, at 47.

A six-point plan for creating that new Soviet federation is outlined in CPSU Platform of August 17, 1989:

- transforming the Soviet federation, and filling it with real political and economic content;
- extending the rights and possibilities of all forms and kinds of ethnic autonomy;
- providing equal rights to every people, satisfying the specific interests of each nationality;
- creating conditions for the free development of ethnic cultures and languages;
- consolidating guarantees that prohibit the infringement of citizens' rights on ethnic grounds;
- renovating all ideological, political and educational work in the sphere of national relations.<sup>109</sup>

So far, the two most concrete proposals for a transformed federation have been a new treaty of federation and a new constitution.<sup>110</sup> The original Treaty of 1922, which forms the body of the Constitution of 1924, has been incorporated in various ways into the succeeding constitutions.<sup>111</sup> The current constitution retains some of that treaty-like character, in that many of its provisions are not self-executing as Lithuania's thwarted bid for independence has shown. Not only do "the right of free secession" (art. 72) and the "voluntary association" (art. 70) provisions fail to self-execute, but they also directly conflict with the supremacy clause granting precedence to USSR laws over union republic laws (art. 74) and the USSR territorial integrity clause, which incorporates the territories of the union republics into the USSR and extends the sovereignty of the USSR throughout this territory (art. 75). As a consequence, jurists in the USSR argue that Lithuanian independence is illegal for two reasons: first, it contravenes articles 74 and 75; and second, it was proclaimed without any enabling legislation, such as the recently adopted Law on Secession, implementing article 72.<sup>112</sup> Such an analysis renders illusory the

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109. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 10.

110. As of this writing, however, it seems that the window of opportunity for a new treaty and constitution may have closed. When Gorbachev announced the long-awaited new union treaty on November 23, 1990, the Russian Republic blocked its passage, and six of the republics rejected it without consideration. The text of the New Union Treaty appeared in *Izvtstia*, Nov. 24, 1990, at 1. Moscow's delay in addressing these problems has not slowed the process of dissolution. Instead, it has accelerated the breakdown of federal ties, since economic and political exigencies have forced the republics to deal with economic, political, social, and security problems on their own.

111. UNGER, *supra* note 4, 60. "As for a new treaty, the Constitution of the Soviet federative state is actually a treaty because it sets out the main rights and mutual obligations of the Union and constituent republics. The 1922 Treaty is an open one and has retained its legal force to date." *Party Platform*, Aug. 17, 1989, *supra* note 69, at 16. For a critique of Soviet federalism, see William Hodge, *Federalism and the Soviet Constitution of 1977: Commonwealth Perspectives*, 55 WASH. L. REV. 505 (1980). See generally Viktor Knapp, *Socialist Federation—A Legal Means to the Solution of the Nationality Problem: A Comparative Study*, 82 MICH. L. REV. 1213 (1984); John Hazard, *Socialism and Federation*, 82 MICH. L. REV. 1182 (1984).

112. Danilenko, *supra* note 60, at A25, col. 3.

constitutional guarantees of sovereignty, free association, and free secession. Under the new law, secession is far from free. As of March 8, 1990, Lithuanian independence has a price tag of \$33 billion, as well as parades of armored vehicles, the subsequent blockade of fuel and food, and more recently the violent repression of peaceful demonstrators.<sup>113</sup>

While the Hitler-Stalin Pact is the most notorious evidence of the coercive nature of membership in the confederation, many of the territories and once independent states now subject to the union were annexed under no less coercive circumstances. Thus, even if just for honesty, the treaty needs to be renegotiated to give meaning to the phrase "voluntary union." As the First Secretary of the Estonian Communist Party said at the September 1989 CPSU Nationalities Plenum, "I will say bluntly that what is happening in Estonia was in large part programmed by the well-known events of fifty years ago. Therefore-complete historical truth must be restored without fail .... A sovereign Estonia in a renewed federation of Soviet peoples—that is our goal . . . ."<sup>114</sup> The Armenian National Movement has similarly called for "renegotiation of the relationship between Armenia and the Soviet Union affirming the right of the Armenian people to choose their own form of government, full recognition of the right to join or secede from the confederation, full domestic and international economic, political and diplomatic autonomy."<sup>115</sup> Fourteen of the fifteen union republics have declared sovereignty, including two of the largest of the Soviet republics, the RSFSR and the Ukraine.<sup>116</sup> Nearly half the autonomous formations have passed similar legislation seeking increased home-rule.

Moreover, much of the constitution remains aspirational—its guarantees of full employment, health care, housing, and non-discrimination. It is more manifesto than working design for government. Even relatively specific provisions, such as the tort damages for wrongful government action and certain criminal sanctions, explicitly depend upon implementing legislation which has not been forthcoming.

But the problems of constitutional design run much deeper. Basic problems of federalism, such as federal vs. states' rights, have been left unresolved. "The competence of the USSR, the sovereign rights

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113. See Lawrence Summers, *Gorbachev Should Pay Lithuania*, N.Y. Times, Mar. 14, 1990, at A29, col. 1; Francis Clines, *Moscow Sends Armored Vehicles Through Tense Lithuania Capital*, N.Y. Times, Apr. 2, 1990, at A1, col. 4. Esther Fein, *Moscow Says Cuts in Energy Supplies to Lithuania Begin: Oil and Gas Embargoes*, N.Y. Times, Apr. 18, 1990, A1, col. 6. Craig Whitney, *Moscow's Iron Hand*, N.Y. Times, Jan. 22, 1991, A14, col. 6.

114. *Plenum I*, *supra* note 35, at 11.

115. *Supra* note 26.

116. Ann Sheehy, *Fact Sheet on Declarations of Sovereignty*, REP. USSR, Nov. 9, 1990, at 23, 24. Sovereignty legislation is currently under consideration in Kirgizia, the lone exception.

of the republics, and the rights of autonomous entities need a modern precise juridical definition."<sup>117</sup> Entities acting in good faith find themselves in unavoidable conflicts since they have overlapping jurisdictions. Disputes that were once dealt with as in-house party matters are now surfacing on a large scale, sometimes violently.<sup>118</sup> A good example is the Nagorno-Karabagh Autonomous Region. Under the USSR Constitution, peoples have the right to self-determination and referendum. However, the union republic (AzSSR) is guaranteed territorial integrity, conditional upon the Union's right to ratify all border changes subject to the veto of affected republics (art. 78).

Restructuring the system of government in turn depends upon two kinds of interrelated redistributions of power: from the central to the local governments and from the party apparatus to governmental agencies accountable to their constituencies. To this end the Congress of People's Deputies reaffirmed that "[i]n the USSR all state power belongs to the people and is exercised by them through the Soviets of people's deputies."<sup>119</sup> Kurashvili, a leading jurist, calls the "diarchy" between party and state a "braking mechanism" that can only be overcome by transforming the Soviets from a "democracy of support" into a "democracy of participation."<sup>120</sup> The rescission of article 6 of the USSR Constitution, which guaranteed the Party's position as "leading and guiding force" in Soviet society, is but the first step in transferring power from the party apparatus to elected officials. It will, however, take more than the repeal of article 6 and the establishment of new governmental bodies to effect this transfer of power. The recently named Presidential Council, for example, includes a working majority of six members of the constitutionally disempowered Politburo of the CPSU. The same apparatus ruling in the same way under a new label does not constitute a transfer of power.

Upgrading the powers of local units of government, especially the autonomous republics and regions, and perhaps transforming autonomous republics into union republics are also being considered. The Bashkirs and Tatars have, for example, sought to have their autonomous republics upgraded in order to enjoy fuller economic and cultural sovereignty.<sup>121</sup> The Volga Germans and Crimean Tatars have

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117. *Congress Policy*, June 26, 1989, *supra* note 30, at 54. A draft law on the demarcation of powers between union republics and the USSR has been in preparation under the Soviet of Nationalities Commission on Nationalities Policy and Interethnic Relations, chaired by G. S. Tarazevich and was passed on April 26, 1990. *Law on Delimiting Union Powers Passed*, FBIS-SOV, Apr. 27, 1990, at 43 (full text of the law in *Izvestia*, May 3, 1990, at 1, col. 4). The division of economic spheres has proceeded apace and has been adopted by the Soviet of Nationalities. *Soviet of Nationalities Approves Economic Law*, FBIS-SOV, Feb. 27, 1990, at 47. The Economic Law, prepared by the Commission for the Social and Economic Development of Union and Autonomous Republics, Autonomous Oblasts and Okrugs, sets limits on the union's competence in economic matters, and grants republics the right "[t]o create their own budget, to regulate investment activities, to take part voluntarily in all-union programs, and to establish foreign economic links independently, etc."

118. B. Kurashvili, *Toward Sovereignty of the Soviets*, *Sov. LAW & GOV'T*. Summer 1989, at 43.

119. *Congress Policy*, June 26, 1989, *supra* note 30, at 52.

120. Kurashvili, *supra* note 118, at 41.

121. *Plenum I*, *supra* note 35, at 5.

petitioned to be resettled and to have their autonomous republics reconstituted.<sup>122</sup> The Gagauz, a Turkic minority in Moldavia, have declared independence from Moldavia and its Rumanian-speaking majority in anticipation of Rumanian-Moldavian reunification.<sup>123</sup> Depending upon their dispersion, groups without national territories will be granted self-determination through either (1) "national districts and rural and village Soviets in places densely populated by ethnic groups which have no administrative formations of their own; seal legislatively the right of ethnic groups and communities to self-government" or (2) "Union-wide Councils of Citizens of populous nationalities which have no territorial autonomy."<sup>124</sup> On April 25, 1990, such a law on free national development of citizens was passed to assure equal protection to citizens who live outside their national territories or who have no national territory in the USSR.<sup>125</sup>

Thus, the process of ensuring the survival of ethnic groups through self-government does not end with the currently recognized entities. Moreover, as long as local government districts are going to exist they may as well conform to boundaries of existing national communities rather than arbitrarily divide them. Such a policy is already in place in the Ukraine.<sup>126</sup>

These proposals demonstrate much more flexibility and variety than were possible in the past, as if the futility of uniformity has finally been accepted. At the September 1989 Nationalities Plenum, one speaker said prophetically, "Those who seek uniform causes in all republics for the exacerbation of relations between nationalities and corresponding universal prescriptions for resolving the conflicts are gravely mistaken. Every region has its own specific features, and if they are not understood correct approaches cannot be found."<sup>127</sup> This same admonition was repeated by other speakers as well who stressed "the need for a differentiated approach to each nation and for acknowledging that there are

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122. *See supra* note 43, on Volga Germans and Crimean Tatars.

123. *Gagauz Republic Proclaimed*, CUR. DIG. SOV. PRESS. Sept. 19, 1990, at 31. Some people speculate that the Gagauz movement has been incited by Moscow in order to undermine Moldavian-Rumanian reunification and to provide a pretext for Soviet military intervention.

124. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 18.

125. *Soviet of Union on Ethnic Development Law*, FBIS-SOV, Apr. 25, 1990, at 45 (full text of the law appeared in *Izvestia*, May 6, 1990, at 1, col. 5).

126. *Plenum I*, *supra* note 35, at 5. "[T]hose nationalities that live in compact groups in the republic-Bulgarians, Hungarians, Greeks, Jews, Moldavians, Poles and Gagauz .... At present, there are eight districts, about 100 rural Soviets, and 150 villages in the republic in which the majority consists of citizens of one or another of the nationalities named above. Taking historical experience and today's conditions into account, we in the republic are working out proposals for the creation of national-administrative formations." Under consideration for the many small Northern Peoples are reservations patterned after the American model. *See* Kathleen Mihalisko, *North American-Style Native Reservations in the Soviet North?*, REP. USSR, July 21, 1989, at 31.

127. *Plenum I*, *supra* note 35, at 10.

many options for the development of nations."<sup>128</sup> Gorbachev himself emphasized:

*the possibility and need for a further development of the treaty-based principle of the Soviet federation. Essentially, it is a matter of creating the legal conditions which will open up the possibility for the existence of various forms of federal ties. We favor variety, a variegation of structures in national life while observing the integrity and unity of the Soviet state.*<sup>129</sup>

The Russian Republic, paradoxically, is among the national entities that seek to gain more autonomy.<sup>130</sup> It has suffered from a kind of split-personality, never quite sure whether it is the head of the Russian Empire or a member of the Soviet Confederation.<sup>131</sup> It has been proposed that all the RSFSR divisions of USSR administrative and scientific agencies be reconstituted as independent RSFSR agencies and that the RSFSR itself, in light of its own diversity of nationalities establish a bicameral parliament, with one chamber apportioned to representatives of each national group in the RSFSR.<sup>132</sup>

The drive to fragment power in order to promote democracy has yet one more dimension: prevention of tyranny. "The new Constitution should embody a socioeconomic and state structure that would make it impossible for a personality cult or authoritarianism to spring up, or for administrative edict methods of managing society to persist."<sup>133</sup> It remains to be seen to what extent the new presidency, which has concentrated in Gorbachev the broadest formal powers wielded by any Soviet leader, is consistent with this goal.<sup>134</sup>

Several theorists of political transition have postulated that a period of autocracy is indeed necessary for any transition to take place.<sup>135</sup> Nonetheless, the ultimate aim remains a rule-of-law state. This goal was expressed succinctly at a round-table of jurists in June 1988: "[W]hat's over what? The state over law or the law over the state? And despite the fact that the law is born of the state and has state institutions as its sources, the state nevertheless becomes truly law-governed only when it places the law above itself."<sup>136</sup> Such hope and faith in legal solutions make the constitutional reform all the more urgent.

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128. *Id.* at 11.

129. *Gorbachev CPSU Plenum*, Feb. 6, 1990, *supra* note 61, at 47.

130. See Vladimir Kvint, *Russia as Cinderella*, FORBES, Feb. 19, 1990, at 103.

131. As Brzezinski has noted, "A real confederation, furthermore, would have the healthy effect of severing the mystical connection between Russia as a nation-state and Russia as an imperial entity." Brzezinski, *supra* note 17, at 21.

132. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 15.

133. *Congress Policy*, June 26, 1989, *supra* note 30, at 52-53.

134. Dawn Mann, *Gorbachev Sworn In as President*, REP. USSR, Mar. 23, 1990, at 1, 3. See generally Elizabeth Teague, *The Powers of the Soviet Presidency*, REP. USSR, Mar. 23, 1990, at 4.

135. E.g., A. Migranyan, *An 'Authoritarian' Transition to Democracy?*, CUR. DIG. Sov. PRESS, Nov. 15, 1989, at 6.

136. *What Should a Law-governed State Be?*, Sov. LAW & GOV'T, Summer 1989, at 51, 52.

Horizontal separation of powers or a system of checks and balances is also envisioned for three purposes: (1) as a catalytic counterbalance to transform and stabilize the existing centralized state, (2) as a mechanism of judicial review and interdepartmental mediation, and (3) as an efficient division of labor among legislative, executive and judiciary.<sup>137</sup> "Within its framework, the federal law-based state must set up mechanisms and establish clear procedures for resolving differences that might arise between bodies of authority and administrator. of the USSR republics. This function could be fulfilled above all by the USSR Committee for Constitutional Compliance, acting as a constitutional court."<sup>138</sup>

To handle inter-republic disputes, a more permanent body and procedure have been proposed instead of the ad hoc commissions that have been appointed to investigate the concerns of the Karabagh Armenians, Crimean Tatars, Volga Germans, Meskhetian Turks, Ingush, and Ossetians.<sup>139</sup> On March 27, 1990, the USSR State Committee for Nationalities Affairs was formally established by the full Soviet parliament.<sup>140</sup> It is too soon to tell whether it will be equal to the task of resolving differences between national-territorial entities. Interethnic disputes have been inadequately addressed despite the decision in 1989 by the Party that "differences between the Union republics, territories, regions and autonomous structures incorporated in them, shall, if not settled locally, be submitted for the consideration of the supreme bodies of power of the USSR and shall be finally settled by the Congress of People's Deputies of the USSR."<sup>141</sup>

Perhaps, no resolution of these tensions is possible short of a new constitution. Such was the conclusion of Andrei Sakharov, who was a member of the Constitutional Commission of the Congress of Peoples Deputies. Conflicting provisions are part and parcel of the purposefully self-contradictory Stalinist constitution that forms the basis of the 1977 Constitution. Sakharov proposed a new constitution that would resolve these inconsistencies by creating a looser confederation which would place the 50 or so current national-territorial units on an equal footing and would allow them to negotiate, and adjust thereafter, their relationship with the confederation in accord with international human rights covenants and norms.<sup>142</sup>

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137. See Kurashvili, *supra* note 118, at 43.

138. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 12.

139. E.g., Ann Sheehy, *Gorbachev Proposes Commission to Examine Ingush Demands*, REP. USSR, Mar. 23, 1990, at 17.

140. *State Committee for Nationalities Formed*, FB1S-SOV, Mar. 28, 1990, at 44. On more permanent bodies, Paul Goble notes that in the early 1920s there was a People's Commissariat of Nationalities and suggests that such a standing commission be reestablished. P. Goble, *Ethnic Politics in the USSR*, PROBLEMS OF COMMUNISM, July-Aug. 1989, at 1, 14. Such a standing commission was appointed in February, 1990. Called the Council of the Federation, it is composed of presidents of the republics and will oversee nationalities policy. Teague, *supra* note 134, at 6.

141. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 17.

142. David Remnick, *Soviet Rights Champion Left Model Constitution*, Wish. Post, Dec. 18, 1989, at A 27, col. 1.

Although the structural hurdles appear enormous, the "nationalities" problem is also grounded in social mores and the persistent failure to provide all citizens equal legal protection. Any solution therefore needs to address the basic history of the Soviet Union in which constitutional guarantees have never been observed but have been openly flouted. The "army crisis," for example, is the direct consequence of decades of discrimination and abuse suffered by non-Russian recruits.<sup>143</sup> Nagorno-Karabagh is another example of how decades of deprivation; purposeful economic underdevelopment; discrimination in housing, employment and education; and political disenfranchisement finally caused the system to break down.<sup>144</sup>

The criminal code already contains provisions prohibiting incitement of ethnic hatred and defacement of cultural monuments and guaranteeing citizens general security of life and property. Nevertheless, equal protection under the law has eluded the people of the Soviet Union.<sup>145</sup> The Party considers that "[t]o put into effect fully and consistently the constitutional principle of citizens' equality, without distinction as to race or nationality, is a major task in strengthening cooperation between the Soviet peoples and simultaneously shaping a socialist law-based state."<sup>146</sup> More extensive and severe criminal sanctions have been proposed as a deterrent to violation and as a token of the regime's commitment to equal protection.

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143. See Stephen Meyer, *From Afghanistan to Azerbaijan, Discord Undermines the Red Army*, N.Y. Times, Jan. 28, 1990 (reports that interethnic hazing, homosexual rape, and murder are on the upswing). Robert Pear, *Moscow Worries About Effect of Nationalist Tensions on Army*, N.Y. Times, Mar. 28, 1990, at A6, col. 3 (republics protest against mistreatment of recruits, breakdown of military justice system). In the months leading up to the Lithuanian independence, Lithuanian recruits suffered increased hazing and abuse. *Lithuanian Pride is Tempered by Doubt*, N.Y. Times, Mar. 13, 1990, at A16, col. 3. As Esther Fein reports from Estonia, "The draft evaders and deserters here say they refuse to serve an army that is illegally occupying their country. They also say they fear abuse in a military that resents the independence drive in their republic." *Youths in Estonia Defying the Soviet Military Are Finding Eager Helpers*, N.Y. Times, Apr. 5, 1990, at A16, col. 3, 5. Because of tension between Moscow and the republics, conditions have so deteriorated that it is simply unsafe for Baltic and Armenian recruits to report for duty. In response, Lithuania and Armenia have suspended the spring draft which imposes two-year compulsory military service on all Soviet young men. *Armenia Votes to Halt Spring Draft*, N.Y. Times, May 4, 1990, at A8, col. 2.

144. Elena Bonner, *The Shame of Armenia*, N.Y. REV. BOOKS, Oct. 11, 1990, at 39. NAGORNO-KARABAKH: ISTORICHESKAYA SPRAVKA (1988) gives the history of the region and documents the violations of rights. Iu. Barsegov, *Pravo na samoopredelenie—osnova demokraticheskogo reshenie mezhnatsional'nykh problem: K probleme Nagorno Karabakha* (1989), puts the Karabagh issue in the context of international legal norms.

145. UK RSFSR, Art. 74—Violation of Equality of Rights of Nationalities and Races prohibits "propaganda or agitation with the purpose of arousing hostility or dissension of races or nationalities." Art. 230—Intentional Destroying or Damaging of Cultural Monuments. HAROLD BERMAN. SOVIET CRIMINAL LAW AND PROCEDURE (1972).

146. *Party Platform*, Aug. 17, 1989, *supra* note 69, at 19.

Our legal arsenal should include the duty to compensate for moral and material damage caused by insult to a person's ethnic origin or by an attack on a person's pride of ethnic descent; actions aimed at fanning inter-ethnic animosity should be considered illegal and cut short as the Soviet law stipulates.<sup>147</sup>

Unfortunately, it is already too late for these guarantees to be of any use to the 250,000 Armenian refugees driven from their homes in Baku or for the young men who have been beaten to death and tortured in the army itself. Nor are these guarantees of any avail to the Lithuanians who, contrary to all Soviet professions of respect for human rights and self-determination, are being strangled into submission by a Soviet blockade. It is becoming increasingly apparent that Moscow is either unable or unwilling to protect the Armenians of Karabagh and vindicate their civil rights. Although a State of Emergency has been in force for nearly two years, and more than 50,000 troops have been dispatched to the region, the Azerbaijani siege and blockade of Armenia and Karabagh continue. Even after the Baku Pogroms in January 1990 and the massive deployment of Soviet military force in the region, the Azerbaijani Popular Front has been able to drive Armenians from their villages on the northern border of Karabagh, reportedly with the assistance of Soviet troops.<sup>148</sup>

Though self-criticism is raging, Gorbachev is still reluctant to relinquish the image of a country where equal protection and harmony reign. While the Armenians of Karabagh contend that their only hope of survival is reunification with Armenia, he clings to the dogma that borders must not change, overlooking the fact that they were wrongly set to begin with and have been changed scores of times in the course of Soviet rule.<sup>149</sup> "We proceed from the fact that the current national-territorial decision presents no obstacle in that people of all nationalities are able to live normally anywhere in the country."<sup>150</sup> This inflexible rule is founded neither upon a realistic assessment of equal protection in the USSR, nor is it a matter of constitutional conservatism. It took pages of finely printed amendments to the Soviet constitution to give Gorbachev the broadest formal powers of any president in Soviet history. It would take a far less sweeping amend-ment to break the constitutional deadlock between the republic's conditional right to stable borders and the citizens' inalienable right to self-determination. The right to stable borders under the Soviet constitution is a conditional right, dependent upon consent from affected entities and the ratification of higher authorities. As noted earlier, the Soviet Union has changed republic borders ninety times in the past seventy years. On the other hand, the citizen's civil and political rights are inalienable under the local law, the Union Republic Constitution, the USSR Constitution and the various international charters to which the USSR has bound itself.

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147. *Id.* at 20.

148. E. Lucas, *Kremlin 'Behind Blockade' of Armenia*, *The Independent*, Oct. 4, 1990, at 10. *Armenian Weekly*, Feb. 10, 1990, at 1, col. 3-

149. Paul Goble, *Can Republic Borders Be Changed?*, *Rep. USSR*, Sept. 28, 1990, at 20. See also *supra* note 41 for a list of border changes.

150. Gorbachev, *supra* note 1, at 19.

A hierarchy of rights with inalienable human rights on the top is the norm to which the USSR has committed itself through international pacts, constitutional guarantees, and statements of policy. Such a hierarchy of rights would resolve many constitutional contradictions and would comport with the democratic values and human rights that Gorbachev's regime advocated and promised to defend. Stable borders can only be a source of stability when they conform to the people's will exercised in accordance with the right of self-determination. Paradoxically, the stability sought by "stable" borders can only be achieved by changing destabilizing borders. Meanwhile, the people, left to fend for themselves, have resorted to self-help, arming themselves in self-defense, fighting to protect their families and homes, and refusing to serve in the army rather than submit to almost certain abuse.<sup>151</sup>

## CONCLUSION

There are many indications that the time for restructuring the union already may have passed.<sup>152</sup> The unit of reform, analysis and observation has shifted from the increasingly irrelevant USSR to the union republics, major cities, and smaller regional entities. Like a dozen or more laboratories of democratic and economic transformation, the republics have taken the lead in healing their wounds and seizing the future. While decentralization has relieved some of the worst abuses of Soviet rule, other ills remain, and yet others, many of them avoidable, will be created by miscalculated and misguided processes of transformation. Thus, prescriptions aimed at Soviet ills as a whole remain apt.

In general, wrongs must be redressed promptly, defects in the federal structure must be repaired, local autonomy must be augmented, government action must match its professions, and the regime must regain the good will of the people.<sup>153</sup> Specifically, victims of genocide must be awarded reparations and helped to be made whole. Peoples who have been deported must be compensated and resettled where practicable. Indigenous communities that have been divided by arbitrary, artificial borders should be reunited by realigning national-territorial units in accordance with the will of the people and self-determination. Homelands that have been depredated and polluted should be cleaned up, and compensation should be made for the depletion of the homeland's natural resources. Peoples whose survival is threatened because they are minorities in their own homeland, either historically or because of forced in-migration, should be assured that they have a safe environment for their continued existence. Beginning with the Baltics, which have already expressed their intent to regain independence, all peoples should be given the option of independence or commonwealth status.

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151. See Paul Goble, *Gorbachev: Facing the Nationality Nightmare*, Wash. Post, Mar. 25, 1990, at C1, col. 4.

152. As Lithuanian Prime Minister Kaziemiera Prunskiene has expressed it: "What is the Soviet Union anyway? The weakening center or the republics that are striving to become independent." E. Shogren, *Lithuanian Loosens Moscow Ties, Will Negotiate Pacts*, L.A. Times, Oct. 3, 1990, Pt.A, at 8, col. 5.

153. As "Z" so aptly put it, "The collapse of the Lie under glasnost is destroying acceptance of the system itself, especially among the young, just as Gorbachev is trying to save it by restructuring." Z, *To the Stalin Mausoleum*, DAEDALUS, Winter 1990, at 295, 315.

Concentrated minorities should no longer be territory-less. They should be given a voice in their self-government either by forming new national-territorial units or through adequate representation in the government of larger units. Dispersed minorities must be assured that constitutional guarantees of non-discrimination, equal protection, and inviolability of cultural identity will be observed and that they will receive support for maintaining their identity. Intercommunal disputes and conflicts among groups should be accepted as inevitable, and adequate mechanisms for the study and resolution of those disputes should be instituted. No peaceful solution should be altogether barred from consideration on dogmatic, pragmatic, or ideological grounds.

To be workable, solutions must focus on the real conditions of real people. They must be fact-specific rather than theory-driven. Because historically unique groups demand historically unique treatment, the equities of each situation must be closely studied, weighed, and decided. Seventy years of grand-theory social engineering and rigid categorical thinking has taken its toll on the spiritual, material, and psychological well-being of the national communities in the USSR. Now, the costs in human lives must be taken into account and the aspirations of the people must be nurtured if Gorbachev's restructured federation is to become a reality. It is not unthinkable that a commonwealth might be a transitional or more long-term stage in the development of a new equilibrium among the peoples in and around the Soviet Union.<sup>154</sup> Almost certainly, after freedom and cultural survival have been secured, the economic interdependence and the ties of common historical experience inherited from the seventy years of Soviet rule will serve as a reintegrating force among the states of the Eurasian continent.<sup>155</sup>

Finally, nationalities must be accepted as a positive and fundamental form of human life, to be valued and protected in accord with the principles of cultural ecology. At the September 1989 Nationalities Plenum, V.J. Valas, First Secretary of the Estonian Communist Party stated:

The nation is the basic form of human existence, with roots that reach back into the distant past and ahead into the foreseeable future, and national culture, which takes shape over centuries by absorbing the experience of generations, is the foundation of universal human values. It is nations and peoples, not a formless mass of people, that are the makers of history. Destroying their integrity leads inevitably to moral decline, deformation of culture, neglect of the everyday environment, ecological anomalies and, finally, stagnation.<sup>156</sup>

While global interdependence is a reality, and global collaboration a necessity, interdependence depends upon independence.

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154. Several Western commentators have suggested a commonwealth, e.g., Flora Lewis, *Hold People Power*, N.Y. Times, Apr. 24, 1990, at A23, col. 1; Roderick MacFarquhar, *King Canute's Message to Gorbachev*, N.Y. Times, Apr. 24, 1990, at A23, col. 3. Most recently, Fedor Burlatskii, suggested parallel economic and political communities, along the lines of European Communities. *Lit Gazeta*, Nov. 21, 1990, at 1, reprinted in FBIS-SOV, Nov. 30, 1990, at 38.

155. See P. Passell, *In Domestic Soviet Trade, Russia Has the Most Chips*, N.Y. Times, Oct. 7, 1990, § E, at 3, col. 1.

156. *Plenum I*, *supra* note 35, at 11.

## Appendix: Territorial Units of the USSR<sup>157</sup>

### 15 Union Republics (total population 289 million according to 1989 census)

	Date Entered USSR	Size (sq. mi.) % of USSR	Population (in millions) % of USSR	Titular Pop. (in millions) % of Rep. Pop.	Titular Total In USSR % of USSR	Dispersion Historical Notes Out of total (65 million)
1. Russia (RSFSR)	1922	6,590,950 76%	147 50.8%	120 81.5%	145 50.5%	24 36% of Dispersed Peoples 18% of Russians
Dec. 25, 1917 Independent; 1922 joins USSR; 1939 Western Ukraine incorporated into UkSSR; 1945 Ruthenia annexed						
2. Ukraine	1922	233,144 2.6%	51.4 17.9%	37.4 73%	44 15%	6.6 10% of Dispersed Peoples 15% of Ukrainians
Oct. 25, 1917 Tashkent Soviet; Oct. 1924 UzSSR from Turkestan; May 1925 Union Republic; Dec. 5, 1936 gained Karakalpak						
3. Uzbekistan	1925	172,542 1.9%	19.8 6.6%	14.1 71.3%	16.7 5.8%	3.6 .5% of Dispersed Peoples 21% of Uzbeks
Oct. 1917 Tashkent Soviet; Oct. 1924 UzSSR from Turkestan; May 1925 Union Republic; Dec. 5, 1936 gained Karakalpak						
4. Kazakhstan	1936	1,048,762 12%	16.4 5.6%	6.5 39.7%	8.1 2.8%	1.6 2.5% of Dispersed Peoples 20% of Kazakhs
Aug. 26, 1920 Kirgiz ASSR within RSFSR; 1925 renamed Kazakh; Dec. 5, 1936 KazSSR						
5. Belorussia	1922	80,288 .9%	10.1 3.5%	7.8 77.8%	10.1 3.5%	2.1 3.2% of Dispersed Peoples 20.7% of Belorussians
Nov. 2, 1939 Western Belorussia annexed BSSR gains 41,688 sq. mi. and 4.8 m. population						
6. Azerbaijan	1922	33,582 .38%	6.8 2.3%	5.6 83%	6.8 2.3%	1.2 1.8% of Dispersed Peoples 17% of Azerbaijanis
May 28, 1918 Constituent Assembly of Tatars declares independence; Apr. 1920 SSR; Dec. 1922 TSFSR; 1936 Union Rep.						
7. Georgia	1922	27,020 .31%	5.4 1.8%	3.7 70%	3.9 1.4%	.3 .46% of Dispersed Peoples 7% of Georgians
May 26, 1918 Independent Republic; Feb. 1921 SSR; Dec. 1922 TSFSR (Geo., Arm. & Azer.) joins USSR; 1936 Union Rep.						
8. Tadzhikistan	1929	55,198 .63%	4.8 1.7%	2.8 58%	4.2 1.5%	1.4 2.2% of Dispersed Peoples 33% of Tadzhiks
Dec. 5, 1929 formed from Tadzhik populated regions of Bokhara and Turkestan						
9. Moldavia	1940	13,464 .15%	4.2 1.5%	2.7 64%	3.3 1.1%	6 .92% of Dispersed Peoples 18% of Moldavians
Oct. 12, 1924 Moldavian ASSR in UkSSR; Jun. 1940 USSR annexed Bessarabia from Rumania; Aug. 1940 united as MSSR						
10. Kirgizia	1936	76,814 .88%	4.1 1.4%	1.9 48%	2.5 .87%	.6 .92% of Dispersed Peoples 24% of Kirgiz
April 1921 Soviet Turkestan ASSR in RSFSR; 1924 Kirgiz AR in RSFSR; Feb. 1, 1926 Kirgiz ASSR; Dec. 5, 1936 Union Rep.						

157 Figures for these charts are drawn from THE STATESMAN'S YEARBOOK 1222 (John Paxton ed. 1989-90); V. Tishkov, *Glasnost and the Nationalities within the Soviet Union*, THIRD WORLD Q., Oct. 1989, at 191; D. McManus, *Collapse of the East Bloc Fans Flames of Ethnic Conflicts*, LA. Times, Jan. 28, 1990, at A1, A14, col. 2-5; A. Sheehy, *Ethnic Muslims Account for Half of Soviet Population Increase*, REP. USSR, Jan 19, 1990, at 16,16-18. M. Sagers, *News Notes: Russian Population Shares in Soviet Republics*, 31 SOV. GEOGRAPHY 278 (1990) (Percentage calculations by author).

11. Lithuania	1940	25,090 .29%	3.6 1.3%	2.9 80%	3.0 1%	.2 .3% of Dispersed Peoples 7% of Lithuanians
1919 Independence; Aug. 23,1939 Stalin-Hitler Pact; Aug. 3,1940LitSSR; Mar. 11.1990 secession from USSR						
12. Armenia	1922	11,580 .13%	3.4 1.2%	3.2 95%	4.6 1.6%	1.4 2% of Dispersed Peoples 30% of Armenians
May 28, 1918 Independence; Nov. 29, 1920 Sov. Soc. Rep.; Dec. 15. 1922 TSFSR joins USSR; 1936 Union Republic						
13. Turkmenistan	1935	188,368 2.2%	3.5 1.2%	2.5 71%	2.7 1%	.4 .6% of Dispersed Peoples 15% of Turkmens
Oct. 27,1924 TSSR formed from Transcaspian Region; May 1925 Union Republic						
14. Latvia	1940	24,704 .28%	2.6 .9%	1.3 52%	1.5 .52%	.1 .2% of Dispersed Peoples 7% of Latvians
Dec. 1919 Independence; Aug. 23,1939 Stalin-Hitler Pact; Aug. 5,1940 LatSSR; Mar. 30. 1990 secession from USSR						
15. Estonia	1940	17,370 .2%	1.6 .6%	96 61.5%	1.1 .4%	0
May 1919 Independent Republic; Aug. 23,1939 Stalin-Hitler Pact; Aug. 6.1940 EstSSR; May 4, 1990 secession from USSR						

## Autonomous Formations of the USSR

20 Autonomous Soviet Socialist Republics (ASSR)

8 Autonomous Regions (AR)

10 Autonomous Areas

<b><u>R.S.F.S.R</u></b>		<b><u>Georgia</u></b>		<b><u>R.S.F.S.R</u></b>		<b><u>Tadzhikistan</u></b>		<b><u>R.S.F.S.R</u></b>	
1.Bashkir	9.Komi	17.Abkhaz	18.Adjar	1.Adygei	6.Gorno-Badakhshan	1.Agin-Buriat	6.Koryak	2.Chukot	7.Nenets
2.Buriat	10.Mari			2.Gorno-Altai		3.Evenki	8.Taimyr	3.Chechn-Ingush	11.mordovian
3.Chechn-Ingush	11.mordovian	<b><u>Uzbekistan</u></b>		3.Jewish	<b><u>Georgia</u></b>	4.Khanty-Mansi	9.Ust-Ordyn- Buriat	4.Chuvah	12.N.Ossetian
4.Chuvah	12.N.Ossetian	9.Karakalpak		4Khakass	7. S. Ossetian	5.Komi- Permyak	10.Yamalo- Nenets	5.Dagestan	13.Tatar
5.Dagestan	13.Tatar			5.Karachai- Cherkess	<b><u>Azerbaijan</u></b>			6.Kabardino-Balkar	14.Tuva
6.Kabardino-Balkar	14.Tuva	<b><u>Azerbaijan</u></b>	20.Nakhichevan		8.Nagorno- Karabagh			7.Kalmyk	15.Udmurt
7.Kalmyk	15.Udmurt							8.Karelian	16.Yakut
8.Karelian	16.Yakut								

### Area (Sq. Mi.) Population ('87) Ethnic Composition (79) Historical Notes

#### Azerbaijan

1. Nakhichevan ASSR	2.120	278,000	50% Armenian in 1921,10% Armenian 1989; Non-contiguous area transfer* to Azerbaijan by Russo-Turkish Treaty of Moscow (Mar. 1921); 1924 ASSR 75% Armenian ('90); Dec. 1920 ceded to Armenia; Jul. 3,1921 incorporate into Armenia by Caucasus Bureau Communist Party; Jul. 6,1921 taken from Armenia by Stalin; Jul. 7,1923 AR
2. Nagorno-Karabagh AR	1,7000	180,000	

#### Georgia

3. Abkhaz ASSR	3.320	535.000	17% Abkhaz, 43.9% Georgians, 16.4 % Russians; March 1921 Soviet Republic; Apr. 17,1930 Autonomous Republic in Georgia 80.1% Georgians, 9.8% Russians, 4.6% Armenians; 1878 Annexed by Russia at Congress of Berlin; Jul. 16,1921 Autonomous Republic 66.4% Ossetians, 28.8% Georgians; Apr. 20,1922 AR in Georgia
4. Adjar ASSR	1.160	385.000	
5. South Ossetian AR	1.505	99.000	

#### Uzbekistan

6. Karakalpak ASSR	63,920	1,139,000	31.1% Karakalpaks. 31.5% Uzbeks, 26.9% Kazakhs, May 11,1925 AR within Kazakh ASSR in RSFSR; March 20.1932 ASSR in RSFSR; Dec. 5.1936 transferred to UzSSR
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<u>Tadzhikistan</u>				
7. Gorno-Badakhshan AR	24,500	151,100		83% Tadzhiks, 11% Kirgiz ("87) 1925 founded on Afghan border
<u>Russia (RSFSR)</u>				
8. Bashkir ASSR	55,430	3,900,000		24.3% Bashkirs. 40.3% Russians. 24.5% Tatars. 3.2% Chuvash; 1557 annexed by Russia; Mar. 23,1919 ASSR on n. border of Kazakhstan 23% Buriats, 72% Russians; 1689-1727 annexed from China; Mar. 1, 192C Soviet region s. of Yakut; Jul. 7,1958Buriat-Mongol renamed Buriat 52% Chechens, 11.7% Ingush, 29.1% Russians; 1850s conquered by Russia; 1918 separate National Soviet in 1920 Area within Mountain Republic; Jul. 7,1924 separate Ingush AR; Jan. 1934 two regions united; Dec. 5. 1936 ASSR; 1944 dissolved; Jan. 9. 1957 reconstituted; 1957-59 232,000 Chechens and Ingush resettled
9. Burial ASSR	135,650	1,020,000		
10. Chechen-Ingush ASSR	7,350	1.240,000		
11. Chuvash ASSR	7,064	1,330.000		68.4% Chuvash, 26% Russians, 2.9% Tatars, 1.6% Mordovians; Jun. 24, 1920 Autonomous Region; Apr. 21, 1925 AR
12. Daghestan ASSR	19,416	1,800.000		30 nationalities, 25.7% Avars; 1723 region in N. Caucasus annexed from Persia; Jan. 20,1921 Autonomous Republic
13. Kabardino-Balkar ASSR	4.825	732,000		45.6% Kabardinians, 9% Balkars, 35.1% Russians, 1557 region in N. Caucasus to Russia; Dec. 5, 1936 Autonomous Republic
14. Kalmyk ASSR	9,300	329.000		41.5% Kalmyks, 42.6% Russians, 6.6% Kazakhs, Chechens and Dagestanis; 1800s region north of Black Sea populated by Kalmyks from W. China; Nov. 4, 1920 AR; Oct 22,1935 ASSR. dissolved in 1843; Jan. 9, 1957 AR again; Jul. 29. 1958 ASSR again
15. Karelian ASSR	66.546	795,000		11.1% Karelians, 71.3% Russians, 8.1% Belorussians; 1917 Russian province on Finnish border; Jul. 1923 Karelian ASSR; Mar. 31,1940 Soviet Finnish War results in expanded Karelian ASSR, which was transformed into the Karelo-Finnish SSR; 1946 southern portion attached to RSFSR; 1956 rest downgraded to ASSR in RSFSR
16. Komi ASSR	160,540	1.200.000		25.3%Komi, 56.7% Russians, 10.7% Ukrainians and Belorussians; 1500s W. Siberia annexed by Russia; 1921 A. Region; 1936 ASSR
17. Mari ASSR	8.955	739.000		43.5% Mari, 47.5% Russians, 5.8% Tatars, 1.1%Chuvash; 1552 Kazan Khanate annexed by Russia; Nov. 4,1920 AR; 1936 ASSR
18. Mordovian ASSR	10.110	964.000		34.2% Mordovians, 59.7% Russians. 4.6% Tatars; 1200s conquered by Russians of Ryazan; 1928 Mordovian Area within the Middle Volga Territory; Jan. 10, 1930 AR; Dec. 20.1934 ASSR
19. North Ossetian ASSR	3.088	619,000		50.5% Ossetians, 33.9% Russians, 8% Ingush, etc.; Descended from ancient Alans; 1774 N. Caucasus region annexed from Turkey by Treaty of KuchukKainarji; 1784 Vladikavkaz Fortress; Mar. 4.1918 ASSR in Mountain Autonomous Ossetian Area; Jul. 7,1924 AR; 1936 ASSR
20. Tatar ASSR	26,250	3.568,000		47.7% Tatars, 44% Russians, 5.9% Chuvash, Mordovians, Udmurts 1552 Kazan Khanate annexed by Russia; May 27,1920 ASSR
21. Tuva ASSR	65,810	289,000		60.5% Tuvans, 36.2% Russians; Oct. 13.1944 independent Tannu-Tuva Rep. on Mongolian border annexed by Russia; Oct. 1,1961 ASSR
<u>Russia cont.</u>				
22. Udmurt ASSR	16,250	1.587.000		32.5% Udmurts, 6.6% Tatars. 58.3% Russians; 1920 Votyak Autonomous Region; 1932 adopt native name—Udmurt; Dec. 28, 1934 ASSR

23. Yakut ASSR	1.197,760	1,034.000	36.9% Yakuts, 50.4% Russians. 2.2% Northern Peoples 1800s conquered by Russia; Apr. 27, 1922 Autonomous Republic
24. Adygei AR	2,934	426,000	Jul. 27, 1922 established in Krasnodar Territory
25. Gorno-Altai AR	37.740	180,000	Jun. 1, 1922 as Oirot AR ; Jan. 7, 1948 current name adopted
26. Jewish AR	13.895	216.000	84.1% Russians. 6.2% Ukrainians, 5.4% Jews; 1928 district established; May 7, 1934 Autonomous Region
27. Karachai-Cherkess AR	5,442	402.000	1922 Karachai-Cherkess Region; Apr. 26, 1926 renamed Karachai AR; 1943 dissolved; Apr. 30, 1928 Cherkess AR; Jan. 9, 1957 reunited AR
28. Khakass AR	23.855	555,000	Oct. 20, 1930 established on the Mongolian border
<u>Autonomous Areas in Russia</u>			
29. Agin-Buriat	7334	78,000	Eastern Siberia, formed 1937
30. Chukot	284.758	157.000	Chiefly Russians and Chukchi, Far East, formed 1930
31. Evenki	296,293	22,000	Eastern Siberia
32. Khanty-Mansi	201,916	1,125.000	Western Siberia, chiefly Russians, Khanty, formed 1930
33. Komi-Permyak	12,699	161,000	Northern Russia, chiefly Komi-Permyaks, formed 1925
34. Koryak	116,379	40.000	Far East, Kamchatka, formed 1930
35. Nenets	68,206	54,000	Northern Russia
36. Taimyr	332,770	55,000	Northern Siberia
37. Ust-Ordyn-Buriat	8,646	129.000	Eastern Siberia, formed 1937
38. Yamalo-Nenets	289,615	430.000	Western Siberia, formed 1930

### Largest Concentrations of Dispersed Peoples as a Percentage of Local Population

Dispersed Uzbeks (21% of Uzbeks are dispersed in USSR, 3.6 million, half in neighboring republics)

Tadzhikistan	23% of local pop.	1.104 million Uzbeks
Kirgizia	12%	.492
Turkmenistan	9%	.306

Dispersed Armenians (30% of Armenians are dispersed in USSR, 1.4 million, half in neighboring republics)

Georgia	8%	.477 million
Azerbaijan (Karabagh)	3%	.204

Dispersed Tadzhiks (33% of Tadzhiks are dispersed in USSR, 1.4 million, half in Uzbekistan)

Uzbekistan	4%	.760 million
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Dispersed Belorussians (20.7% of Belorussians are dispersed in USSR, 2.1 million)

Latvia	5%	.130 million
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Dispersed Ukrainians (15% of Ukrainians are dispersed in USSR, 6.6 million. 90% in RSFSR)

Russia	4%	5.8 million
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Dispersed Jews (1.4 million dispersed USSR)

Jewish AR	6.6%	.013 million
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Kazakhstan	6%	.972
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Ukraine	1.0%	.5
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Moldavia	14%	.588
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Dispersed Poles (1.1 million dispersed in USSR, 70% in Belorussia and Lithuania)

Estonia	3%	.048
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<u>Dispersed Tatars</u> (6.27 million dispersed in USSR, 52% live outside of Tatar ASSR) <sup>158</sup>			Belorussia	4%	.4 million
			Lithuania	8%	.288
Tatar ASSR	47.7%	1.692 million	<u>Dispersed Germans</u> (1.79 million dispersed in USSR, as of 78) <sup>159</sup>		
Bashkir ASSR	24.5%	.955			
Uzbekistan	4.2%	.798	Kazakhstan	5.8%	.858 million
Udmurt ASSR	6.6%	.105	Russia	4.6%	.761
Kirgizia	2.0%	.082	Kirgizia	2.1%	.089
Chuvash ASSR	2.9%	.038	Tadzhikistan	.6%	.031
Mordovian ASSR	4.6%	.044	Emigrated out of 1.79 mil.	2.7%	.050
Mari ASSR	5.8%	.042			

**Russians Throughout the Soviet Union (17.2% of Russians, 25 million, live outside Russia)**

	Russians as % of local pop.	Local Russian pop. in millions	as % of Russians Dispersion	as of Total Russians	Titular Majority	Other Minorities
Ukraine	21%	10.7	41.6%	7.3%	73%	1.% Jews
Kazakhstan	38%	6.22	24.9%	4.2%	40%	5.8% German, 5.4% Ukrainian <sup>160</sup>
Uzbekistan	11%	2.09	8.36%	1.4%	69%	4.%Tadzhik
Belorussia	12%	1.2	4.8%	.8%	80%	4.% Pole
Kirgizia	26%	1.06	4.2%	.7%	48%	12.% Uzbek
Latvia	38%	.988	3.9%	.6%	49%	5.% Belorussian
Moldavia	13%	.546	2.2%	.3%	64%	14.% Ukrainian
Azerbaijan	8%	.544	2.2%	.3%	83%	3.% Armenian
Tadzhikistan	11%	.528	2.1%	.3%	58%	23.% Uzbek
Estonia	28%	.448	1.8%	.3%	66%	3.% Ukrainian
Turkmenistan	13%	.442	1.8%	.3%	69%	9.% Uzbek
Georgia	8%	.424	1.6%	.3%	69%	9.% Armenian
Lithuania	9%	.324	1.2%	.2%	80%	8.% Pole
Armenia	3%	.102	.4%	.07%	95%	1.% Azerbaijani
Russians In RSFSR	84%	120 million			82%	4.% Ukrainian

158. Rakowska-Harmstone, *supra* note 30, at 242.

159. H. Carrère D'Encausse. L'EMPIRE ÉCLATÉ 205 (1978).

160. B. Brown, *Kazakhs Now Largest National Group in Kazakhstan*, REP. USSR. Apr. 24.1990, at 18.19.