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THE TRIPLE CRISIS OF THE SOVIET UNION TODAY

*RICHARD N. GARDNER **

I have been given the challenging task of describing the context in which lawyers are operating today in the Soviet Union. I am not practicing law in the Soviet Union, but I have been involved in a fascinating dialogue with leading foreign policy experts in the Soviet foreign ministry and in the Soviet institutes and universities. We are searching for ways in which the United States and the Soviet Union can work together in the post-cold war era to strengthen the United Nations, the International Court of Justice, international economic institutions and, finally, collective security. It is in that context and in the context of four or five recent trips to the Soviet Union that I am sharing these personal thoughts.

We are witnessing in the Soviet Union today a triple crisis and a triple transition, the outcomes of which are at this point wholly indeterminable. It is a crisis, first of all, of communism, and a transition from communism to another form of government. It is impossible to predict whether the Soviet Union will become a liberal democracy as we in the West understand it, or whether a right wing reaction will take place, resulting in a new kind of totalitarianism which will be far removed from communism but perhaps will be more akin to fascism.

There is a struggle for power in the Soviet Union today between four main groups. The alliances these groups form in relation to one another will have a fundamental impact on the future of the nation. First, there is a very powerful group of Russian nationalists that is particularly strong in the countryside and does not believe in democracy or communism. Second, there are the hard line, dogmatic, old-fashioned Communists of the Yigor Ligachev variety. Third, there is the reformed Communist group that is centered around Gorbachev. Last there are the true liberal democrats who either never belonged to the Communist party or just recently left it, such as Professor Sobchak, the law professor who is Mayor of Leningrad; Stankovich, the political scientist who is Deputy Mayor of Moscow, and many others in different republics and city administrations. There is also Boris Yeltsin, who some people think is not truly a liberal, but rather a populist and an opportunist. Nevertheless, he is leading this free market democracy group.

There are a number of different scenarios that might develop,

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including a totally benign one in which Gorbachev allies himself with the free-market group and steers a peaceful transition towards Western political and economic models. But, given the personal and bitter animosity between Yeltsin and Gorbachev, Gorbachev's still apparent commitment to communism and his ambiguous feelings as to true popular democracy, it is somewhat doubtful that this benign scenario will unfold. A more ominous scenario is one in which an alliance is formed between the first and second groups; the Russian nationalists, many of whom are anti-Semites and anti-Western, and the hard-line Communists. Perhaps these groups would then take power with the support of the military.

The second transition involves the crisis of the empire. This concerns the disintegration of the entity that is called the Soviet Union. The issue within this context is whether there will be a controlled disintegration of the union or an uncontrolled disintegration into civil war and then chaos. Nevertheless, disintegration will take place and the Soviet Union will cease to exist. For example, each of the fifteen republics has issued a declaration of sovereignty. This sovereignty consists of economic and political autonomy. Consequently, Gorbachev is encouraging the drafting of a new "treaty of union," which will redefine the relationships of the republics to the Soviet Union.

Perhaps, Gorbachev imagines a more optimistic scenario in which the Soviet Union will be comprised of concentric circles. The inner circle would perhaps consist of the Russian republic, the Ukraine, Byelorussia and Kazakhstan, a second circle would be composed of the Asian republics and an outer circle including the Baltics, Moldavia and Georgia, which would contain independent countries joined in some loose commonwealth, not unlike the British Commonwealth. This would be a kind of differentiated federal model that some people are looking to achieve, but many Ukrainians today say, "No, No, we want independence!" Some experts are of the opinion that the Ukrainians want their own army, their own currency and their own foreign policy. So this second crisis in transition is quite controlling. This has many implications for lawyers. For example, if a lawyer is negotiating for a foreign client today in the Soviet Union for oil and gas, which seems to be one of the most exciting possibilities for U.S.-Soviet cooperation, he will be uncertain as to whether he should deal with the government of the Republic of Kazakhstan or with Moscow concerning the development of Caspian Oil.

The third crisis and the third transition is in the economy. The Soviets are seeking a transition from a command economy, a Communist economy, to what they call a regulated market economy. During the last few days, a great drama has unfolded because there are different models of how to accomplish this. For instance, Mr. Shatalin has a 500-day plan in which he would totally dismantle the existing command system. He would move towards full private property, convertibility of currency, privatization of state enterprises and the development of a commercial banking system.

However, Gorbachev has rejected this plan as being too dangerous. Perhaps the military and the KGB convinced him that, not only would it presage the breaking up of the union, resulting in the loss of his power and of their own power, but that the social consequences of such a plan would be unacceptable. Today's *Times* asks whether Gorbachev is a master manipulator, a judicious reader of the public mood, a hostage to the conservative forces around him or simply a wimp.¹ It concludes that there is probably some truth to each of these characterizations. Another explanation may be that he hates Yeltsin so much that he is not going to sign on to a joint platform with him.

At this point, it is unclear whether the Russian republic will implement Yeltsin's plan, while Gorbachev tries to implement a different plan. Gorbachev's approach promises to be much more cautious. It contains no time table for change and possesses a continued element of central direction and price control.

I will offer just a few concluding words about the transformation that already is taking place in foreign policy. During the last four to five years, Gorbachev has totally revolutionized the philosophy and the practice of foreign relations in the Soviet Union. He has had a great deal of help from Mr. Shevardnadze and a whole new group of young thinkers in the Soviet foreign ministry and various academic institutes. Gorbachev and these experts have done away with the idea that international class warfare should be the basis of foreign policy, and they have asserted that the search for common human interests and common values should be the main concept of foreign policy. They have discarded Brezhnev's doctrine of proletarian internationalism and instead have replaced it with the concept of strict non-interference in the internal affairs of other countries. Of course, many of us were skeptical when that was announced, but Gorbachev did allow the Communist regimes of Eastern Europe to be swept away and, therefore, we must assign some credibility to this aspect. Furthermore, they have rejected the traditional idea of autarchy, that is of economic nationalism, and replaced it with the concept that they should become part of the world financial and trading system. This entails their joining the World Bank, the International Monetary Fund and GATT as soon as possible. Lastly, they have renounced their hostility to the United Nations. They are now saying that they want a stronger United Nations and they are working with us in the Security Council in an extraordinary way. Their cooperation in authorizing the use of force against Iraq has provided the most dramatic example. They have explicitly stated that they support international human rights standards because they are to be the standards for the reform of their domestic system.

1. Keller, *Soviet Plan in the Middle: With His Caution on Economy, Gorbachev May Find Political Center Is a Whirlwind*, N.Y. Times, Oct. 18, 1990, at A1, col. 2.

