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The Development of Environmental Policies in the United States and the Soviet Union

Professor Marshall I. Goldman*

My involvement in environmental law goes back a long time. In 1972, my book on the environment was published, my article on Soviet pollution appeared in *Science* in 1970, and in 1971 my article on Lake Baikal was in the *New Yorker*.

In December 1970, I went to the Soviet Union and met with Kosygin's son-in-law, Gherman Guishiani, who had just read a translation of the *Science* article on pollution. It was very interesting because, at that time, there was a general defensiveness, a reluctance to acknowledge that any environmental disruption could happen inside the Soviet Union.

For many years pollution was a phenomenon of the capitalist world, not the Socialist world. The fact that we are having this discussion today acknowledges that it is a problem of all societies. Our discussion is a good sign. You can not begin to address problems until you acknowledge that they exist.

In 1972, I was involved in giving advice to the United Nations Association of the United States, in the days before the Agreement on Cooperation in the Field of Environmental Protection between the USA and USSR was reached. I continue to be amazed that the Agreement has survived both Afghanistan and our own excesses.

Through environmental exchanges we have reached agreements that could, and indeed should, serve as models for the politicians of both countries. These exchanges are not just a question of "hit and run, come over and see somebody, take a quick tour, say that you have been in the Soviet Union or

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the United States," but are actually working arrangements between people in the field and scientists in the laboratories.

However, questions keep developing faster than answers can be found. I do not think the Soviets have the answers to environmental problems. The same can be said of the United States. Those of us who are concerned about environmental issues in the United States would agree unanimously that our problems are far from being solved or even addressed. Each country has experiences that should be shared.

I would like to examine briefly how the United States has come to where it is now, even though we still have a long way to go. I will then make comparisons between the USA and the Soviet Union.

In the United States, a sense of public awareness of environmental issues developed first. But even with the public marching up and down the street, we would not have been so effective if we did not institute laws to deal with the problem. With respect to environmental laws, the Soviets lead us. Soviet laws on environmental control, both past and present, are more explicit than ours. Our laws began to develop in the late 1960s and early 1970s, beginning with Earth Day. The Environmental Protection Agency (EPA) and the Council on Environmental Quality are results of this whole process. Looking back at American environmental history, you would be amazed to see that almost every government organization that existed was involved in environmental protection: the Department of the Interior; Department of Health, Education and Welfare; and the Corps of Engineers. There was no such thing as the EPA. In fact, the formation of the EPA in 1970 was an important American contribution to world law and world administrative theory. However, having the laws is not enough. You can have laws on your books and not enforce them. Our legal history is replete with laws that were unenforceable, such as the prohibition laws. Some laws are more effectively enforced than others, especially if public opinion or self-interest favors enforcement. In addition, when data or information on the regulated entity is available, enforcement is more likely. If there is no data, it is difficult to know that there is something wrong. If I tell you my water or air is clean, there is

no reason for you to check. Nor is there any reason for me to do anything to clean up my water or air. It is in the interest of the polluter to conceal data. However, if that data is made public, it will be more costly for the polluter to operate. Thus you must anticipate that the polluter will attempt to hide data from public-spirited citizens.

Basically, there must be some kind of self-regulation. In the USA, this was accomplished by passing laws and imposing charges for the use of air, water, and raw materials. These are charges the polluter must take into consideration. For example, why are there no junk cars spread all over the country? It's because most of us have discovered that we can get money for selling our used car to a dealer. And when do the cars start appearing on the streets? They appear when they are so old and the price of scrap is so low that it is not worth taking them to a used car or a junk dealer. We trade automobiles back to the dealer when we buy a new car because we think the dealer will give us several hundred dollars or maybe even a few thousand dollars for the car. Thus, we have a self-interest.

Why do we return bottles? It is because the State has imposed a five-cent deposit charge that motivates us to take bottles back. The same thing happens in the Soviet Union where there is also a deposit charge on bottles.

When will we use energy more efficiently? When there is a high charge to it. Since the price of energy is falling now, we are worried we will start wasting it again. What about the use of raw material such as air? If you have studied environmental concerns you know a major problem in maintaining high quality air is that it is difficult to impose a charge on air. Nobody can meter the air that you are using.

The same thing happens with water. However, to the extent that a water or a sewage charge is imposed, better care is stimulated. In New York City water use is not monitored. Once metering begins, it is likely that people will begin to use water more efficiently.

The problem of monitoring and charging for use is one of the things that the Soviets must address. At the very least, they need to impose a significant charge for water use. A de-

bate over this issue is currently going on. Why are there opponents? It is because the costs of production will increase and that leads to problems.

A second problem that goes along with the conflict between economic and legal interests occurs in the Soviet Union: the lack of an organization similar to the EPA. I was most impressed by the discussion within the All-Union Supreme Soviet about instituting an organization concerned with environmental issues. Until now, one of the criticisms I have had of the Soviet environmental system is that there was no such organization. But there is, however, the Committee for Hydrometeorology ("Hydromet"). Hydromet is one of the few organizations within the Soviet Union that dealt with more than just air and water, its primary concern being weather prediction and issues that do not directly concern the environment. Unfortunately, this organization has no clout or power to say stop. EPA has, over time, developed that power and clout. It can say stop. This does not mean that industries have never been closed down in the Soviet Union. Some have been closed, though not on a systematic basis. Why has the Soviet Union not created an organization similar to the EPA? As discussed earlier, there is resistance to such an organization. This resistance highlights the Soviet problem. People in the Council of Ministers who are involved with production do not want an EPA because it will hamper their ability to fulfill the production quotas of the Plan, just as American manufacturers do not want the EPA. The EPA complicates the ability to make profits. The Soviet reaction is ultimately the same. It is not sufficient to justify such an organization by saying that its existence is in your social interest. It must be in your economic interest as well. If the manufacturer must pay a high price for water, and a higher price for dirty water, the manufacturer would reason, "Let me try to internalize some of these costs and come out with emissions that are much cleaner and thereby avoid these extra costs."

If you charge a high enough price for raw materials, you will not waste any. After all, emissions are waste. You make sure there is no sulphur being emitted, that no valuable materials are being wasted, because you have been charged a

high price for them. This is what must take place inside the Soviet Union. Why do some groups oppose this?

The answer explains in part why I am fascinated by Lake Baikal. There are two paper factories on Lake Baikal and both have been closed down. Why were they not closed down before? Well, back in 1970, I met with the Deputy Minister of the Ministry of the Pulp and Paper Industry. He was responsible for making paper and cellulose. He reminded me of American manufacturers who were caught in similar circumstances. The Deputy Minister was a man who cared for women, children, animals, and nature. He said, "Why are people doing this to me?" It was because he was destroying a portion of the lake, a lake whose water you could drink. It is remarkable that it was not closed down sooner. And why was it not closed down? Millions of rubles were put into it. At one point the plant was justified because it was going to produce cellulose that would not otherwise have been available because of an embargo on shipments of cellulose to the Soviet Union. Unfortunately, none was ever made at the Lake Baikal factory. So finally, the Soviet government decided to close it down. It took an appearance by Ligachev, the number two man in the Politburo, to close a plant down in the Soviet Union. My point is that you cannot rely on ad hoc interference by senior people.

I would like to see the evaluation process institutionalized so the Vice President or the President need not be involved. Such decisions should be made by the local planners. If the planners decide that the cost of using Lake Baikal water and dumping effluent into the lake is too expensive, they should be able to close the factory down. In the 1970s one solution to the Lake Baikal problem was to build a pipeline that would pipe the effluent out of the water basin. However, that was difficult and expensive to do. The water basin has steep sides which meant the authorities would have to pump the effluent forty kilometers away. The solution was simply to close down the plant. It was realized that Lake Baikal is so valuable, both economically and ecologically, that it is not worth using for paper production.

However, what the Soviets do have to worry about is that

engineers like to build. This is particularly highlighted by the proposed reversal of major rivers. I am not convinced that the decision not to reverse the rivers will be upheld. In this particular instance not only were economics and ecology involved, but nationality was involved as well. The Russians were saying to themselves, "if we reverse the rivers a big flooding reservoir will be formed, destroying historic regions where there are old villages and churches. The only benefit of the reservoirs is to help the Uzbeks in the south grow cotton. Why should we Russians help the Uzbeks, particularly when the head of the Communist Party in Uzbekistan was just discredited, caught lying and cheating and building up his own family wealth and stripped of his medals?"

In the United States, nationalism has helped whenever there is a scandal involving an environmental project. However, I continue to worry about engineers whenever we build big dams, big rivers, or big highways.

I also worry about the economists, especially after the case of the Aral Sea. Economists have made a cost-benefit analysis of the Aral Sea. Cost-benefit analyses are always dangerous. They have proved that even if the sea is shrinking, if water is brought down, you could grow cotton. If you grow cotton, you can export it and earn hard currency, thereby solving many economic problems. So worry about the economists as well.

What about the future? For me the Soviet Union is the most exciting it has ever been. *Glasnost* is important. Recall my earlier comments on the availability of data. Zaslaukaia, the sociologist demographer, had an article in *Pravda* earlier this month complaining about the effect of *Glasnost* on the release of new information. She complained that *Glasnost* does not facilitate the release of new information. The article listed a variety of shortcomings, but the primary shortcoming was a lack of environmental information. According to Zaslaukaia, one of the reasons agriculture is in such bad shape in the Soviet Union is that the Soviets kept secret the fact that peasants do not want to live in apartment houses but would rather have their own homes. Similarly, if what is going on in the environment is kept secret, it could have far reaching neg-

ative effects. One of the reasons why the Kamerov book, *The Destruction of Nature*, was so popular outside the USSR was that Kamerov pulled together information about technological aspects of environmental concerns that had not previously been published. The book contained information that did not have to do just with the destruction of water in the villages, but also the leaking of Polyvinyl Chlorides (PVCs) and other damaging activities.

The battle continues. In the USA, there are issues which concern all of us, particularly, nuclear energy. In Boston, where I am from, the nuclear plant at Seabrook is very much on our minds. First of all, a great deal of money has been put into Seabrook. Secondly, we are worried about future oil shortages and cost.

The Soviet Union has the same problem with nuclear energy. Chernobyl is one example. The decision to rebuild the Chernobyl Plant was incredible, especially after it was proven that there were technological flaws in the design.

A year ago, right after the incident at Chernobyl, two Soviet guests visited my class, one of whom was from Kiev. The explosion at Chernobyl took place at 1:20 a.m. Saturday, and my class met on Wednesday. If you remember, we only heard about the incident Monday evening. From Saturday to Monday it was a secret outside the immediate area. The Soviets made the public announcement late Monday night. Even though my class met right on the heels of the explosion, we still did not know very much about it. One of my students asked me to say something about Chernobyl. While I was speaking I became quite upset about the secrecy surrounding the incident. I said to the gentleman from Kiev "You know what you should do when you go back home? You should organize an environmental group which would make sure that this kind of secrecy never occurs again." I gave him a lecture he did not need to hear. I now realize that we in the USA had our own incident at Three Mile Island. We did not have all the information we needed about that disaster. We have difficulty gathering enough information about nuclear plants. But one thing we try to do is to emphasize the lack of information and to make sure that it is corrected. I would feel much more

comfortable if either the Soviet Society for the Protection of Nature or another group inside the Soviet Union would insist on access to the information. Anybody who keeps such information back should be penalized either economically, such as by losing his job, or by imprisonment.

One approach that we in the USA have tried is to allow suits for liability; suits on behalf of those who have been damaged. This has brought environmental issues to the forefront. However, liability suits have become such a big issue that it may be counterproductive. But this is a way of linking economic interests with legal interests, of compelling people who are responsible to take preventive measures. People are now arguing that the legal restraints have become so complex, so diffuse and exaggerated that it is impossible to get anything done because we are so tangled up in the law. In other words, it may be too much of a good thing.

I will end by saying that the very fact that this meeting is taking place is a very hopeful sign. It shows an awareness and recognition of the problem that ten years ago I never thought I would hear. I am overwhelmed and delighted that there is this open recognition and willingness to deal with these problems. The Environmental Exchange has had a positive effect and has certainly showed us that when we do have something in common, we can work it out. This portends well for the other issues facing our two countries.