

CSCE, MINORITY ISSUES, AND THE SOVIET DISINTEGRATION CRISIS*

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The aim of this paper is to identify some CSCE-related ethnic minority issues in the context of the current Soviet disintegration crisis, from both an historical and political point of view. Although I inevitably refer to some central documents of international law, I will not attempt to analyze on a technical level the possible interpretations, applications, etc., of various principles and norms of these documents. My concern will not be with the legal definitions and explications of such concepts as “ethnic, religious, and other types of minorities,” “peoples,” “nationalities,” “self-determination,” “aggression,” “occupation,” “sovereignty,” “colonialism,” “annexation,” “seizure of a territory,” “autonomy,” “cultural autonomy,” etc. The complexities of explicating many of these notions are spelled out in a number of writings on international law.¹ I will rather focus on such issues as the phases of the Soviet disintegration crisis, some causal patterns of this crisis, predictions for the future, and policy options for the CSCE. The primary focus on Soviet problems seems justified for many reasons: the Soviet Union’s enormous impact on the European future; the complex nature of nationalities issues, which makes it impossible to discuss the problem in Eastern Europe in its entirety; and so on.

I

Since 1975, the CSCE process has been one of the most important factors determining change in the Soviet Union and in Eastern Europe generally. It is impossible, for example, to overestimate the role of the 1975 Helsinki Final Act or the 1989 Vienna Document as a positive influence on and even impetus behind democratizing changes in the Soviet Union and other communist societies. The Helsinki process has been perhaps the most important channel for introducing the concept of human rights into the closed Soviet-type states of Europe. On the other hand, the

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changes that have taken place in the Soviet Union since 1985 have themselves also made possible profound transformations in other Eastern European countries. These transformations, in turn, opened completely new possibilities for the CSCE.

The new atmosphere in Europe was dramatically highlighted in 1990 by a number of events, most remarkably perhaps German reunification and the adoption in November of the Charter of Paris for a New Europe. The charter states proudly:

Europe is liberating itself from the legacy of the past. The courage of men and women, the strength of the will of the peoples and the power of the ideas of the Helsinki Final Act have opened a new era of democracy, peace and unity in Europe. Ours is a time for fulfilling the hopes and expectations our peoples have cherished for decades: steadfast commitment to democracy based on human rights and fundamental freedoms; prosperity through economic liberty and social justice; and equal security for all our countries.

Yet the new Europe also faces new challenges. Let me name just a few. There is now a dividing line of wealth and poverty between prosperous Western Europe and communist or post-communist Eastern Europe, and there are of course no models for an easy and painless transition to a market economy and "economic liberty." It is by now clear that the Soviet Union and Yugoslavia are disintegrating, and a number of other Eastern European countries are having problems with their ethnic minorities. The denial of observer and even guest status to legitimate representatives of the Baltic states at the CSCE Paris meeting in November 1990 well illustrates how difficult these new choices are for political leaders who are trying to create the new Europe. Unfortunately, the deaths of innocent people in Vilnius and Riga in January 1991 are as much a part of the new European reality as are solemn statements about human rights, democracy, and the rule of law.

II

The fourth part of the document of the Copenhagen Conference on the Human Dimension in June 1990 gives an extensive list of points that reflect the participating states' approach to the national minorities questions.² Although this list includes a variety of principles (including a statement about establishing "appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances" of minorities), it is quite obvious that the disintegration and nationalities crises in the Soviet Union go well beyond the questions depicted in this document.

At the same time, it is also obvious that the principles of the Copenhagen Document have a profound relevance for setting standards for policies in the Soviet Union. While a number of nationalities in the Soviet Union are demanding *more* rights than are assumed in the Copenhagen Document, no ethnic minority in the Soviet Union (or in Europe generally) should be granted fewer rights than the document

assumes. For example, should the Baltic states, Georgia, or Ukraine become independent in the future, it is absolutely essential that the rights of Russians and other minorities in these countries be protected according to the conditions of the Copenhagen Document.

It is also clear that the Soviet disintegration crisis goes beyond the processes that can be interpreted within the framework of a people's right to self-determination. I have in mind this principle as it was formulated, for example, in the Charter of the United Nations (article 1, p. 2; article 55), in the 1976 International Covenant on Civil and Political Rights (article 1), and in the Helsinki Final Act.³ Although many national liberation movements in the Soviet Union refer to the right of self-determination in justifying their cause,⁴ it does not reflect the whole complexity of the problem. For example, it is clear that the question of restoration of independence for the Baltic states (which were occupied and annexed by the Soviet Union in 1940) also goes beyond the application of the principle of a peoples' right to self-determination (although, of course, it does not contradict that principle).

The Baltic question is first of all a question of Soviet aggression in 1940 and its historical implications. In fact, if we want to find a CSCE framework for the Baltic question, we should take the whole set of "principles guiding relations between participating states" as formulated in the Helsinki Final Act (including sovereign equality; respect for the rights inherent in sovereignty; refraining from the threat of use of force; inviolability of frontiers; territorial integrity of states; peaceful settlement of disputes; non-intervention in internal affairs, and others) and apply them also to relations between the Baltic states and the Soviet Union as equal and sovereign subjects of international law. I will refer to some possible practical steps in this connection at the end of my paper.

III

At least two main groups of reasons for the Soviet disintegration crisis can be identified.

The first group is connected with the economic limits of the Soviet-type socialist system. The authors of the widely debated Shatalin plan and many other economists have shown convincingly that the Soviet command economy had some time ago already reached the limits of extensive growth. The declining availability of cheap oil, gas, and other natural resources; the impossibility of rechanneling any more additional manpower or resources from the impoverished agrarian sector into heavy industry; the inflated size of defense expenditures and the bureaucratic apparatus: all these factors make any economically relevant and long-lasting return to the Brezhnev system impossible.

Six years of perestroika have also made it painfully clear that the highly centralized and nonproductive system of command economy is needed to keep the Soviet Union together. As soon as the central government

attempted to grant greater autonomy to the republics, the Soviet Union started to disintegrate. It is possible that in the long run, after the initial disintegration, a new integration among the former Soviet republics will commence and a productive economic alliance will be established. But that can happen only after the destruction of the current central imperial power structures, that is, after the dismantling of the Soviet Union in its present form.

So there is a dilemma for the Kremlin: unity or reform. If the Soviet economy is to be reformed, the Soviet Union as a political entity will at least partially disintegrate. If the Soviet economy is not to be reformed, then it will continue to decline at a rapid speed.

The hopeless economic outlook for the Kremlin also means that Soviet instability, the secessionist demands of the Soviet republics, etc., are factors that will shape the European political order for a long time to come. There is no escaping from that dimension, no matter how unpersuasive the legal justification of secessionist demands by the Soviet republics may be to the outside world or how frightened the CSCE participating states may be of Soviet disintegration.

Apart from economic causes, there is also a cluster of more concrete historical and political reasons for the Soviet disintegration crisis. I already mentioned the problems of annexation, which are manifest in the case of the Baltic states. Indeed, we may interpret the whole post-1917 Bolshevik reconquest of the Tsarist empire in this light. It is obvious, as I indicated, that public opinion and the political movements in many republics (for example, in Georgia, Armenia and Moldavia) are more and more inclined to rely on such an interpretation in justifying their desire to secede from the Soviet Union. This process may be slow and still at the beginning stages in some republics, but against the background of continuing economic hardship it will inevitably grow stronger.

In addition to the question of conquest, there are numerous other historical and political problems determining the breakup of the Soviet Union. Some of them (such as the consequences of Stalinist deportations and quarrels over the rights of autonomous units inside the non-Russian republics) are mainly horizontal, fueling more conflicts between non-Russian ethnic groups than between the Soviet empire and the republics – but even these horizontal conflicts threaten the unity of the Soviet Union, making the maintenance of it more costly for the Kremlin and the dominant Russian nationality.

IV

What should the role of the CSCE be in these new circumstances? How should the CSCE approach the Soviet disintegration crisis?

The first and most obvious need is to assess realistically the possibilities and outcomes of a full implementation of the CSCE documents in the Soviet Union. The CSCE member states should, of course, do whatever they can to ensure that the provisions of the Charter of

Paris, the Copenhagen Document, and other CSCE acts will be fully implemented in the Soviet Union.⁵ It should also be kept in mind that any real democratization of the Soviet Union will inevitably lead to its breakup. The Soviet Union can be kept together only through force and central totalitarian institutions. Therefore, the Soviet Union cannot exist if it fully implements the principles of free elections, representative government, separation of the state and political parties, accountability of the military force and police authorities, independence of judges, unimpeded access to media of all political groupings during elections, freedom of expression, the right to communication, the right of everyone to leave the country and return, the right to peacefully enjoy property, the right of everyone to conscientiously object to military service, etc. Like economic reform, democratization also contributes to the disintegration of the Soviet Union. The other CSCE member states should not necessarily have the disintegration of the Soviet Union as their formulated goal. But they should realize that the democratization of the Soviet Union implies this outcome.

Secondly, as I indicated already above, one of the most important tasks of the CSCE will be to ensure the democratic nature of the potential new states that will emerge in case of Soviet disintegration. History has a tendency to repeat itself. It is quite likely that the new Eastern European states will go through an authoritarian cycle, as happened with the Baltic states, Poland, Hungary, and some other newly independent countries between the two world wars. The most serious counterforce to possible authoritarian tendencies in these new countries will be their membership in the CSCE and the family of European nations, in the broader sense.

Thirdly, one of the practical moves by the CSCE and its participating states in the near future should be to help the Baltic states restore their independence. There are a number of ways of approaching this question. For example, it is possible to increase step-by-step the semi-official or official presence of the Western states in the Baltics, starting with the establishment of information bureaus and ending (at some point in the future) with the establishment of diplomatic relations with the democratic governments. It is also possible to support the idea of organizing an international conference to discuss the restoration of Baltic independence. The issue of granting observer status to the Baltic states in the CSCE process could also be raised repeatedly, even if the Soviet Union is sure to block it.

RESPONSE: Mr. John Evans discussed the recently concluded Meeting on the Peaceful Settlement of Disputes, held in Valletta, Malta, in January-February 1991. The aim of the meeting was to develop within the CSCE a method of managing, avoiding, and settling the disputes that inevitably arise between states. The American delegation, of which Mr. Evans was a member, examined a number of existing dispute settlement mechanisms, and it concluded that judicial approaches, in which disputes are referred for arbitration to an international body such as the World Court, are not effective in resolving many politically charged disputes. Therefore,

Mr. Evans explained, it was decided that at the Malta meeting the best approach to dispute settlement would be a procedure whereby the involved parties "submit their dispute to the intervention of a third party, inelegantly called the CSCE mechanism." The CSCE mechanism would not make any ruling on the dispute but would instead provide advice to the involved parties about appropriate methods for resolving it. Mr. Evans added that Section 12 of the Valletta Document contains an exceptions clause to the use of the mechanism for cases in which any party "finally does not want to cooperate." While calling the Valletta Document "flawed," he predicted the new mechanism will be of particular help to Eastern Europeans, who need to "develop the patterns of dispute settlement that we in the West enjoy."

NOTES

- ¹ See O. N. Zhurek, "Samoopredeleniye narodov v mezhdunarodnom prave [The Self-Determination of Peoples in International Law], *Sovetskoye gosudarstvo i pravo* 10 (1990): 98-107.
- ² U.S. Congress, Commission on Security and Cooperation in Europe, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 101st Cong., 2nd Sess., 1990, 16-20.
- ³ U.S. Department of State, "Conference on Security and Cooperation in Europe: Final Act," *Bulletin* 78, no. 1888 (September 1, 1975): 325.
- ⁴ See, for example, the use of the idea of self-determination in one Armenian viewpoint about Nagorno-Karabakh, in Yu. G. Barsegov, *Pravo na samoopredeleniye: osnova demokraticeskogo resheniya mezhnatsionalnykh problem [The Right to Self-Determination: The Basis for a Democratic Solution to Inter-Ethnic Problems]* (Yerevan: Aistastan, 1989).
- ⁵ The topic of my paper is focused on the Soviet Union. But this does not mean that I do not see other problems with the implementation of CSCE documents in other CSCE member states.