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AN OVERVIEW OF ENVIRONMENTAL LAW IN THE USSR

I. INTRODUCTION

Pollution in the Soviet Union has reached epic proportions.¹ Normal life has been disrupted by ongoing environmentally unsound policies such as the poisoning of the Aral Sea and by accidents such as that at the nuclear power plant at Chernobyl.² Incidents such as these have caused an upsurge in popular environmental concern³ that has sent the Soviet government scrambling to enact new legislation to comply with provisions of the Soviet Constitution that make protection of the environment the law of the land.⁴ The new Soviet policy of *glasnost*, or openness,⁵ has

1. *Russia's Greens*, ECONOMIST, Nov. 4, 1989, at 23. Three examples were offered to show how insidious the problem has become:

In the Ukraine last July [1989], Mr. Vasili Primka, a farmworker taking time off to pick mushrooms by the river Noren, flicked his cigarette butt into the water. The river exploded. Upstream, a bulldozer had smashed into a pipeline, turning the Noren into an oil slick. It burned for five hours.

In Sverdlovsk in September [1989], some students gathering in the onion harvest began to feel dizzy. Several collapsed. One of them had done military service in a chemical warfare unit; he recognised [sic] the symptoms of gas poisoning. So much pesticide and herbicide had been sprayed on the crop that the harvesters were being poisoned by the fumes.

In the Proletarskaya district of Moscow last January [1989], the snow turned pink. During the night, negligent workers at the Derbenevsky chemical plant had let a red dye spill. It flooded out into the streets, discolouring a mile-long swathe of snow. The dye was mildly toxic; its production in the middle of a big city is illegal; the Derbenevsky chemical plant is 110 years old.

Id. at 23.

2. *Id.* at 24. The Chernobyl nuclear reactor accident happened when reactor operators made mistakes that released radioactive material over a 12,400 square mile area. Hudson, *Cost of Chernobyl Nuclear Disaster Soars in New Study*, Wall St. J., Mar. 29, 1990, at A8, col. 1.

3. *Russia's Greens*, *supra* note 1, at 23.

4. *Id.* at 23, 26.

5. OXFORD RUSSIAN-ENGLISH DICTIONARY 130 (2d ed. 1984). This policy was first espoused by then General Secretary Mikhail Gorbachev in March 1985, upon his succession to that post following the death of his predecessor, Konstantin Chernenko. Judging by the speed with which the policy was implemented, Gorbachev had formed his ideas long before he became general secretary. *Glasnost* seeks to open Soviet society to allow a freer flow of ideas. This will pave the way for a restructuring of Soviet society, known as *perestroika*. M. GORBACHEV, *PERESTROIKA: NEW THINKING FOR OUR COUNTRY AND THE WORLD* 55 (1987). See generally Hyland, *The Gorbachev Succession*, 63 FOREIGN AFF. 800 (1985).

permitted popular groups committed to environmental protection to speak out in a sympathetic public forum.⁶ While the government is committed to change through the new policy of economic and social restructuring, known as *perestroika*,⁷ it faces a crisis of confidence among the citizenry caused by deep-seated suspicion of the centralized planning system.⁸ Bureaucratic inertia and a stagnant economy ensure that any change in Soviet environmental policy will come very slowly.⁹

II. HISTORY AND CURRENT PROBLEMS

A. *The Environmental Law Regime in the Soviet Union*

The natural environment traditionally holds a magnetic attraction for the Russian people. The concept of *Rodina*, or "Motherland," is characterized by hills, streams, rivers and forests; and love of nature profoundly affects the Russian psyche.¹⁰ The czarist governments enacted laws to protect nature and the environment.¹¹ The Leninist Government as well was committed to the protection of nature.¹² It set aside over six million hectares (units of 100 acres) of land for use as nature preserves and established the "All-Russia Society for the Protection of Nature" in 1924.¹³ Between 1918 and 1927, a series of sweeping reforms were enacted to control land exploitation, water exploitation and exploitation of mineral and forest reserves, all in an effort to safeguard the environment.¹⁴

The period between 1924 and 1926 saw the enactment of 139 laws designed to protect the environment.¹⁵ In 1957, the Soviet republics passed sweeping legislation to protect resources such as fisheries and

6. See generally *Russia's Greens*, *supra* note 1, at 24.

7. OXFORD RUSSIAN-ENGLISH DICTIONARY 511 (2d ed. 1984).

8. *Russia's Greens*, *supra* note 1, at 24.

9. *Id.* at 26.

10. Futrell, *Public Participation in Soviet Environmental Policy*, 5 PACE ENVTL. L. REV. 487, 507 (1988).

11. Kolbasov, *The Concept of Ecological Law*, 4 CONN. J. INT'L L. 267, 268 (1989).

12. Robinson, *Perestroika and Priroda: Environmental Protection in the USSR*, 5 PACE ENVTL. L. REV. 351, 368 (1989). These nature reserves were called *zapovedniki*. *Id.*

13. *Id.* Lenin advocated creating more *zapovedniki* and conducting nature studies as an essential prerequisite to natural resources use. *Id.*

14. *Id.* Lenin initiated nature conservation programs in 1918, including reforestation of areas devastated by war. *Id.*

15. Zile, *Implementation of Environmental Law in the USSR*, in SOVIET ADMINISTRATIVE LAW: THEORY AND POLICY 259 (G. Ginsburgs ed. 1989).

forests as well as measures to protect public health and environmental quality. By 1985, some 670 environmental enactments were listed in Volume IV of the USSR Code of Laws.¹⁶ Most importantly, the Soviet Constitution of 1977 was written to enshrine these values as the law of the land.¹⁷

B. Neglect of the Environmental Law Regime

The Soviet government's political and economic policies over the past seventy years explain the current state of environmental degradation in the Soviet Union.¹⁸ The civil war, with its resulting economic collapse, made nature protection unimportant to the Soviet regime.¹⁹ The intense drive to industrialize, begun during the Stalin era, started a process of environmental degradation which has continued to the present day.²⁰ Stalin's economic Five-Year Plans were administered with no regard for environmental consequences.²¹ The ruthless manner in which Stalin drove the government apparatus ensured that no party *apparatchik* would do anything to hinder industrial progress.²² This created in the minds of

16. *Id.* at 262.

17. See KONST. SSSR (1977), translated in BASIC DOCUMENTS ON THE SOVIET LEGAL SYSTEM 4-14 (W. Butler trans. 1983). Article 18 of the Soviet Constitution provides:

In the interests of the present and future generations the necessary steps are taken in the USSR to protect and make scientific, rational use of the land and its mineral and water resources, and the plant and animal kingdoms, to preserve the purity of air and water, ensure reproduction of natural wealth and improve the human environment.

KONST. SSSR (1977), art. 18. Furthermore, article 67 provides: "Citizens of the USSR are obliged to protect nature and conserve its riches." *Id.* art. 67. And article 68 provides: "Concern for the preservation of historical monuments and other cultural values is a duty and obligation of citizens of the USSR." *Id.* art. 68.

18. Zile, *supra* note 15, at 261.

19. See generally D. ROUSSET, THE LEGACY OF THE BOLSHEVIK REVOLUTION (1978). The close of the First World War saw Russia plunged into a bloody civil war in the aftermath of the Bolshevik Revolution. *Id.* An estimated 10 million Russians died, and farming and industry were almost completely destroyed. *Id.*

20. See generally N. RIASANOVSKY, A HISTORY OF RUSSIA (1977). In 1927, General Secretary Stalin commenced the first of the Five-Year Plans designed to industrialize the largely agrarian USSR to a level comparable to that of the Western industrial powers. *Id.* at 547-53. Stalin's motive stemmed from his knowledge that the struggle of Marxism against capitalism could not advance unless the USSR first attained, then surpassed, the level of industrial development of the West. *Id.* This drive to industrialize was seen as the "Internationalist Duty" of all Soviet citizens. *Id.*

21. Zile, *supra* note 15, at 259.

22. See Pipes, *Can the Soviet Union Reform?*, 63 FOREIGN AFF. 47 (1984). An *apparatchik* is literally one who belongs to the apparatus; in this case, the Soviet central

the Soviet central planners a maniacal compulsion to increase industrial output that ran roughshod over environmental concerns.²³ The planners effectively ignored the environmental laws on the books and undid much of what Lenin had done ten years earlier.²⁴ A substantial number of the nature preserves were used for agricultural and mining operations to meet the production goals of the Five-Year Plans.²⁵ The Second World War worsened the situation because of the greatly increased demands on industry.²⁶ Environmental laws became ineffective because no adequate enforcement mechanism had ever been established.²⁷ Subsequent Five-Year Plans made no mention of environmental concerns.²⁸ The first mention of governmental concern for the environment came in September 1972, when the Supreme Soviet adopted a decree expressing the view that conservation was vital to build communism in the USSR.²⁹ By then,

government. *Id.* *Apparatchiki* are the privileged, and well-entrenched, bureaucrats of the Soviet government. *Id.* They form the *nomenklatura*, who are the ruling elite. *Id.* The term "central planners" refers to the *nomenklatura*, who determine what government policy will be. See H. SMITH, *THE RUSSIANS* 35-36 (1976). See generally J. HOUGH & M. FAINSON, *HOW THE SOVIET UNION IS GOVERNED* (1979). Stalin's use of mass terror as an instrument of reform was fearsomely effective. According to a former KGB official, some 20 million innocent Soviet citizens were exterminated in prisons and labor camps. W. CORSON & R. CROWLEY, *THE NEW KGB: ENGINE OF SOVIET POWER* 40-41 (1986); see A. SOLZHENITSYN, *THE GULAG ARCHIPELAGO* 435-39 (1973).

23. *Russia's Greens*, *supra* note 1, at 24. A good example of the effects of this lionization of industrialization is the city of Magnitogorsk.

The Magnitogorsk Metallurgical Kombinat is a steel factory built by Stalin during the early days of industrialization. Keller, *In Stalin's City of Steel, Change Confronts Inertia*, *N.Y. Times*, Aug. 16, 1988, at A6, col. 1. The city of Magnitogorsk itself was built in the middle of nowhere as part of the first Five-Year Plan, near a mountain so rich in ore it was called the "Magnetic Mountain"—hence the city's name. *Id.* The factory itself was then, and still is now, the largest steel producer in the world, with an output equivalent to that of three American factories. *Id.* The central planner's obsession with output touched all aspects of Soviet culture. *Id.* The heroic work effort put forth by the workers in building the plant was immortalized in Soviet poems such as "Eternal City! Iron City!" *Id.* Furthermore, wetlands were drained, forests cleared, and even rivers diverted to further the ever-increasing needs of industry. See Robinson, *supra* note 12, at 361; Ikonitskaia, *Legal Protection of the Environment in Agriculture*, 4 *CONN. J. INT'L L.* 317, 319 (1989).

24. Robinson, *supra* note 12, at 368. By 1952 the original number of hectares which stood at 6,114,568, had been reduced to only 1,465,000 hectares. *Id.* at 369.

25. *Id.* at 368.

26. *Id.* at 369.

27. Butler, *Law Reform in the Soviet Environmental Law*, 5 *PACE ENVTL. L. REV.* 425, 432 (1988).

28. Zile, *supra* note 15, at 260.

29. *Id.* at 261.

however, disregard for the environment had become endemic.³⁰

General Secretary Leonid Brezhnev stated during the Twenty-Sixth Party Congress that the Soviet Union had good laws, but that lack of compliance rendered them useless.³¹ Paradoxically, some of the greatest environmental excesses took place during the Brezhnev era. Examples include mega-projects such as reversing the flow of Arctic and Siberian rivers to irrigate fields in the southern deserts.³² Hazardous waste dumping led to the creation of vast "dead zones" which are no longer fit for human habitation.³³

"Departmentalism" is the driving force behind the destruction of the environment.³⁴ Individual managers, factory directors and other functionaries are so determined to meet their individual departments' goals that they will fight savagely for them despite environmental consequences.³⁵ Ministries routinely pass on to other agencies the responsibility for environmental damage caused by improper or dislocated farming, mining and forestry operations.³⁶ As a result, the central government resembles a group of feuding fiefs; each vigorously pursuing its own goals, but accepting no responsibility for mistakes.³⁷

C. *The Aral Sea Disaster*

The most graphic illustration of the lengths to which the Soviet Government has gone to increase output at the expense of the environment is the Aral Sea project.³⁸ The Aral Sea, which lies in the Soviet Republic of Uzbekistan, was once the world's fourth largest lake.³⁹ Short-sighted water and land management policies over the past twenty years caused the lake to lose over 65% of its volume.⁴⁰ Fish became

30. *See id.* at 260. This decree was adopted at a session devoted principally to environmental concerns. *Id.* at 261. The laws are flouted so routinely that the problem is indeed endemic. *Id.*

31. *Id.* at 262. Leonid Brezhnev was general secretary from 1962-1982.

32. *Russia's Greens*, *supra* note 1, at 26.

33. Brinchuk, *Legal Problems of Hazardous Industrial Wastes in the USSR*, 4 CONN. J. INT'L L. 353, 358 (1989); Robinson, *supra* note 12, at 404.

34. Tarnavskii, *Law and Voluntary Nature Conservation in the USSR*, 4 CONN. J. INT'L L. 369, 373 (1989); *see* Robinson, *supra* note 12, at 365.

35. Zile, *supra* note 15, at 267; J. HOUGH & M. FAINSDOD, *supra* note 22, at 387-89.

36. *Russia's Greens*, *supra* note 1, at 26.

37. Zile, *supra* note 15, at 267.

38. *Russia's Greens*, *supra* note 1, at 24.

39. *Id.*

40. *Pravda*, Sept. 30, 1988, at 1.

extinct in the lake in 1983, and the coastline receded, leaving fishing villages as much as forty miles inland.⁴¹ Much of the exposed seabed has become a poisonous salt flat.⁴² This disaster came about simply because the central economic planners in Moscow ordered the Republic of Uzbekistan to do its "Internationalist Duty" and grow cotton.⁴³ Uzbekistan, which is largely arid, is not suited for growing cotton and the two principal rivers that feed the Aral Sea had to be redirected to irrigate the cotton fields.⁴⁴ Once the flow of fresh water ceased, the Aral Sea began to evaporate.⁴⁵ The farmers dusted the fields heavily with pesticides, which leached through the soil and eventually drained into the Aral Sea, poisoning it.⁴⁶ Moreover, each year the wind blows salt and dust from the dried seabed and deposits it on the cotton fields.⁴⁷

D. Health Implications from Pollution

The consequence of pollution for the health of Soviet citizens is equally catastrophic. Pollution often contaminates drinking water, forcing the government to ship fresh water to the affected areas.⁴⁸ In the Karakalpak Autonomous Republic, the population suffers from a disproportionate rate of gastric diseases, typhoid and cancer.⁴⁹ The infant mortality rate in the region is one of the highest in the world.⁵⁰ In another agricultural region, Azerbaijan, farmers use so many pesticides that anemia in children under fourteen is two and one half times greater than in the rest of the Soviet Union.⁵¹ The government, for its own part,

41. *Russia's Greens*, *supra* note 1, at 24. The water level has also sunk 13 meters. *Pravda*, *supra* note 40, at 1.

42. *Russia's Greens*, *supra* note 1, at 24.

43. *Id.*

44. These were the Amu-Darya and the Syr-Darya rivers. *Pravda*, *supra* note 40, at 1.

45. *Id.*; *Russia's Greens*, *supra* note 1, at 24. The amount is estimated at 75,000 tons a year. *Russia's Greens*, *supra* note 1, at 24. Only a complete halt to farming in Uzbekistan would allow the Aral Sea to recover properly. *Id.* The Soviet Union, however, is short of cotton, and so the central planners would not stop an already well-established operation unless it became impossible due to decertification. *Id.*

46. *Id.*

47. *Pravda*, *supra* note 40, at 1.

48. *Id.*; Robinson, *supra* note 12, at 404.

49. *Russia's Greens*, *supra* note 1, at 24.

50. *Id.* In Turkmenia, the infant mortality rate is 56 deaths per 1,000 live births—double the national average. *Id.*

51. *Id.*

shows seemingly little regard for the health of its citizenry when pressing its goals of higher crop yields; the health minister of the Central Asian Republic of Turkmenia insists that crop dusters often spray pesticides on to villages, rather than fields.⁵²

Industrialized regions fare even worse. In the Ural steel manufacturing town of Magnitogorsk, a majority of children suffer from serious respiratory, heart and lung diseases.⁵³ Soviet industry spews out more than sixty million tons of pollutants into the air each year, and sixty-eight industrial centers have air pollution levels that are 100 times greater than the allowable levels.⁵⁴ Mr. Alexei Yablokov, head of the biology institute at the Academy of Sciences, stated that an estimated 175 million people live in either "ecological disaster zones" or under "ecologically unfavorable conditions."⁵⁵

E. The Growth of Green Movements

The effects of pollution are pervasive and insidious enough to alarm the average Soviet citizen and have caused a "green" backlash against the government, which is widely regarded as responsible for the problem.⁵⁶ Even members of the Supreme Soviet lend an air of legitimacy to grassroots concerns by pledging to push for economic reforms to protect the environment.⁵⁷ The government-sponsored All-Russia Society for the Protection of Nature, which has forty million members, has begun to grow even larger as a result of popular alarm.⁵⁸ Furthermore, popular mistrust of government policies has spawned the growth of unofficial green parties.⁵⁹ These parties, which are simply pressure groups similar to Greenpeace,⁶⁰ use the public forum to put forth their message, usually

52. *Id.*

53. Keller, *supra* note 23, at A6, col. 1.

54. *Russia's Greens*, *supra* note 1, at 24. Approximately five billion tons of various wastes accumulate annually in the Soviet Union. *Id.* Some 10% to 20% of these wastes are toxic in some way and consume more than 4,000,000 hectares of farmland as landfill. Brinchuk, *Legal Problems of Hazardous Industrial Wastes in the USSR*, 4 *CONN. J. INT'L L.* 353, 353 (1989).

55. *Russia's Greens*, *supra* note 1, at 24.

56. *Id.*; see Robinson, *supra* note 12, at 412.

57. *Russia's Greens*, *supra* note 1, at 23.

58. *Izvestia*, July 7, 1988, at 4; Robinson, *supra* note 12, at 358.

59. *Russia's Greens*, *supra* note 1, at 23.

60. Greenpeace is a worldwide environmental activist organization. Genscher, Carter, *Greenpeace Awarded Onassis Prizes*, Reuters, Sept. 27, 1990.

in the form of street demonstrations.⁶¹ Spontaneous demonstrations by citizen's groups have occurred with greater frequency over the past several years and have not always been greeted with enthusiasm by government authorities.⁶²

Glasnost has provided a fertile habitat for unofficial grassroots organizations to play a greater role in actual decisions on environmental issues. A TASS report of September 16, 1987, claimed that citizen opposition was partially responsible for halting a government scheme to divert the flow of Siberian rivers.⁶³ Similar groups in Leningrad have protested against water pollution, forcing the closure of some factories.⁶⁴ The difference between the treatment of these groups by the government today as opposed to that of the Brezhnev era is that the current government tolerates and even assists them.⁶⁵ In some instances, they have been allowed to use government meeting halls and to voice their concerns in the official press.⁶⁶

Of possible greater concern to the Soviet government are the green movements which evolve into popular fronts.⁶⁷ Emboldened by *glasnost*, these popular fronts are nationalist groups that agitate for greater cultural, political and economic autonomy in the individual republics.⁶⁸ They exist in all the republics, and reflect great dissatisfaction with the centralized Soviet state and its so-called "monopoly of power."⁶⁹ The disregard that the central planners in Moscow show for the welfare of local environments fuels nationalist sentiment.⁷⁰ In the Baltic republics of Latvia, Lithuania and Estonia especially, environmental damage has all but become symbolic of the "national degradation" suffered at the hands

61. *Russia's Greens*, *supra* note 1, at 23.

62. Such demonstrations in Magnitogorsk, among other places, are neither prohibited, nor supported by city officials. Keller, *supra* note 23, at A6, col. 1.

63. *Projects Stopped on Environmental Grounds*, Moscow TASS Broadcast, Sept. 16, 1987, translated in Foreign Broadcast Information Service (FBIS), Oct. 18, 1987, at 36.

64. Futrell, *supra* note 10, at 505.

65. *Id.* at 504.

66. *Id.* at 505. In August 1987, the Moscow Communist Party provided a meeting hall for 53 environmental groups to use, and in October 1987, the Soviet news agency Novosti hosted a news conference for environmental groups. *Id.* This was sanctioned by high government levels and reflects the new thinking under *glasnost*. *Id.*

67. *Russia's Greens*, *supra* note 1, at 23-24.

68. *Id.* at 24.

69. See N. RIASANOVSKY, *supra* note 20, at 632-33. Centralization enables the Soviet government to hold together a vast empire of culturally distinct and disparate states. To do this, nationalistic sentiment is suppressed. *Id.*

70. Robinson, *supra* note 12, at 399; see *Resurgence of 'National Feelings' in Ukraine*, Pravda, Jan. 31, 1989, at 3.

of the Soviet government.⁷¹ The fight against Soviet rule often focuses at first on a matter of local environmental concern such as a factory or some other centrally-planned project and then grows into a popular front that espouses nationalist sentiment.⁷²

Intense opposition to new projects has taken the Soviet Government aback because it was completely unexpected.⁷³ While it may seem unsurprising that public opposition is a logical result of a loosening of government control over society, Soviet leaders have been isolated so long from local interests that they probably did not expect it.⁷⁴ Prior to *glasnost*, opposition to the ministries in Moscow probably never even reached the central planners.⁷⁵ The democratization of society under *perestroika* has now encouraged the creation of special interest groups, many of which originated as ecology clubs.⁷⁶ As candor at the local level is now encouraged, strongly-held opinions are now heard, and some decisions by the planners are taken against a backdrop of local sentiment.⁷⁷

Local ecological-nationalist groups often extend the themes of their protests to areas beyond health.⁷⁸ As stated earlier, much of the traditional "Russian" spirit is based on pastoral archetypes, chief of which is an unspoiled countryside or ancient monuments.⁷⁹ Environmentalism becomes a way to preserve traditional land use and landscapes for use as a source of nationalistic or patriotic pride.⁸⁰

71. *Russia's Greens*, *supra* note 1, at 24.

72. Robinson, *supra* note 12, at 413; see *Estonian Greens Take Anti-Militarist Stand*, *Pravda*, Oct. 27, 1989, at 2. Such sentiments can clash with the interests of the central government, as the following example shows: in Estonia, the Green Party has declared the Soviet Army an "ecological problem," and has slated candidates for the Supreme Soviet to oppose the military. *Id.* This is a clear break from a purely ecological stance to a political stance. *Id.*

73. Robinson, *supra* note 12, at 339. The Soviet agencies are silent on this point.

74. *Id.* at 400. An explanation of this may stem from the reluctance of officials at various levels of the government to report problems or mistakes. Often, a party official or department head does not want the unwelcome attention that a negative report might bring. B. Moore, *SOVIET POLITICS—THE DILEMMA OF POWER* 291 (1950).

75. B. MOORE, *supra* note 74, at 291.

76. *Russia's Greens*, *supra* note 1, at 23.

77. See *infra* note 117 and accompanying text.

78. Robinson, *supra* note 12, at 411.

79. *Id.* Two groups in particular serve to illustrate this: *Pamiat* (Memory) opposes all projects which threaten significant historic and cultural sites, and *Otechestvo* (Fatherland) seeks to preserve Lake Baykal not for scientific research, but for the good of their souls. *Id.* at 412.

80. *Russia's Greens*, *supra* note 1, at 24.

Regionalism guides much of the protest.⁸¹ Often, local groups oppose projects simply as a way to put pressure on Moscow to allow greater self-determination at home. In other words, it is a way to push for regional autonomy, free from Moscow's control.⁸² With over 100 distinct nationalities in the Soviet Union testing the limits of *glasnost*, environmental interests form a "politically legitimate protective cover for nationalistic or anti-Soviet demonstrations."⁸³

F. *The Source of the Problem: Centralized Planning*

The mistrust of the Soviet Government that led to the burgeoning green movements lies with the central government's monopoly of power and in the secrecy of its methods.⁸⁴ The principal problem with a monolithic centralized government is that it does all things; it writes the environmental laws, but it also pollutes the environment.⁸⁵ It is effectively responsible to no one for anything it does. While the government discusses the grave environmental crisis facing the Soviet Union, it continues to finance industrial projects without concern for their impact on the environment.⁸⁶ In fact, the environmental impact study, so common in the United States, is virtually unknown in the Soviet Union.⁸⁷

Decisions by the Council of Ministers (the central planners) are made in secrecy and with no public discussion.⁸⁸ Even when a project becomes a target of public criticism, the public often does not have enough information to oppose it effectively.⁸⁹ What little debate there is

81. *Id.*

82. *Id.*

83. *Reports of Agitations in the Baltic Republics*, Pravda, Jan. 9, 1989, at 2. Anti-Soviet demonstrations by nationalist groups marred 1988 May Day celebrations. *Id.*

84. *See, e.g., Russia's Greens*, *supra* note 1, at 24-26.

85. *See Goldman, The Development of Environmental Policies in the United States and the Soviet Union*, 5 PACE ENVTL. L. REV. 455, 456 (1988); *see also Lisitsyn, Information and Environmental Legislation*, 4 CONN J. INT'L L. 429, 431 (1989).

86. The impact can be destructive. The Krasnoirsksk reservoir has altered climactic conditions, causing great thunderstorms in the area. Zile, *supra* note 15, at 274; *see Kruglov, Problems of Improving Ecological Control at The Enterprise*, 4 CONN J. INT'L L. 325 (1989).

87. The Soviet government has considered implementing some version of this study. Kolbasov, *Environmental Law Administration and Policy in the USSR*, 5 PACE ENVTL. L. REV. 439, 442 (1988).

88. H. SMITH, *supra* note 22, at 466. *See generally id.* at 466-68. Central government meetings have always taken place in secret within the Soviet Union. *See, e.g., B. MOORE, supra* note 74, at 301-02.

89. Goldman, *supra* note 85, at 460; *see H. SMITH, supra* note 22, at 499.

takes place within the exclusive confines of a government conference room, to which the public is not admitted.⁹⁰ The record of any debate, if kept at all, is suitably edited to exclude disagreement.⁹¹ Discussion is kept within government circles, and a decision will reflect the wishes of the Communist Party.⁹²

The Party controls the mass media as well.⁹³ Such control, coupled with government censorship, affects environmental discussion immeasurably.⁹⁴ It is forbidden to view the Soviet system as fundamentally responsible for the country's environmental problems.⁹⁵ Political speech to this end is banned, and technical data are official secrets.⁹⁶

The means of implementing environmental control measures rests with departmental branch organizations.⁹⁷ The ministers and department heads have no incentive to comply with environmental laws.⁹⁸ No specific committee exists to monitor ecological problems; the responsibility is distributed among many.⁹⁹ Without an organization solely responsible for environmental matters, the onus of compliance with the law always will be subordinated to the individual department heads' chief goals,

90. Tarnavskii, *supra* note 34, at 374-75.

91. J. HOUGH & M. FAINSOD, *supra* note 22, at 292-293, 551.

92. Tarnavskii, *supra* note 34, at 371.

93. Maggs, *Marxism and Soviet Environmental Law*, 23 COLUM. J. TRANSNAT'L L. 353, 369.

94. *Id.*

95. *Id.* This has begun to change, under *glasnost*, but the government is still not wholly comfortable with criticism by the citizenry. *Id.*

96. *Id.* at 368. For a discussion of government paranoia concerning classification of technological data as state secrets, see V. SUVOROV, *INSIDE THE SOVIET ARMY* 241-44 (1983).

97. Wilhelm, *The Soviet Union Has an Administered, Not a Planned Economy*, 37 SOVIET STUD. 118, 123 (1985). This is because such departments control funds to be spent on such measures. The Soviet government has established many branches that oversee all areas of endeavor in the USSR; however, these branches are more concerned with guarding their bailiwicks jealously from other branches than with accomplishments. To this end there is little communication among branches and consequently no cooperation. See B. MOORE, *supra* note 74, at 277.

98. J. HOUGH & M. FAINSOD, *supra* note 22, at 387-89. Inter-departmental rivalries and officials' personal interests often create bureaucratic inertia which solidifies sluggishness as an endemic part of government behavior; this makes underachievement the rule. *Id.*; see *Economics Ministers Flout Nature Laws*, *Izvestia*, Apr. 8, 1988, at 2. The actors described in the article were the heads of packing plants and refineries. *Id.* The Metallurgy Minister refused to cooperate with government prosecutors investigating environmental abuses. *Id.*

99. Kolbasov, *supra* note 87, at 442. This was strictly so until January 1988, when *Goskomprroda* was established. See *infra* note 129.

usually output.¹⁰⁰ Such bureaucratic inertia virtually assures that the ecological recovery of the Soviet Union will remain at a standstill.¹⁰¹ The Soviet government is too ponderous to change quickly.¹⁰² To set up, equip and staff a new branch such as the Environmental Protection Agency (as the Soviet Government did last year)¹⁰³ takes time, so the government must rely on the State Committee for Hydrometeorology ("Hydromet") to do any ecological monitoring in the meantime.¹⁰⁴ This committee oversees the operations of the Ministries of Education and Culture, not the Ministries of Petroleum and Engineering, two of the chief polluters.¹⁰⁵ All of the governmental bodies responsible for management of environmental protection and the regulation of natural resources should be consolidated into one body and allowed to oversee the chief polluters if there is to be any significant difference.¹⁰⁶

The government itself often lacks the competence needed to monitor pollution effectively.¹⁰⁷ Even if Hydromet were to have the same influence as the American Environmental Protection Agency,¹⁰⁸ it would have to monitor more than 300 different types of fertilizers and an unknown number of airborne pollutants.¹⁰⁹ It currently cannot do so.¹¹⁰ As environmental problems gain greater attention in the Soviet Union, Hydromet also finds itself unable to keep up with the demands for environmental impact studies.¹¹¹ Thus, it can have no real influence on planning big projects.¹¹² The most logical solution seems to be a single ministry with the power, equipment and know-how to monitor the damage

100. *Russia's Greens*, *supra* note 1, at 24.

101. *Id.* at 26.

102. Goldman, *Gorbachev and Economic Reform*, 64 FOREIGN AFF. 56 (1985). Absent fundamental reform the Soviet Government is unlikely to change its behavior. *Id.* at 58.

103. This is known as *Goskompriroda*. See *infra* note 129.

104. *Hydrometeorology, Environment Committees Formed*, Pravda, Jan. 17, 1988, at 3; see Maggs, *supra* note 93, at 367; Robinson, *supra* note 12, at 375, 405.

105. Goldman, *supra* note 85, at 458. Hydromet never was intended to be a regulatory agency; it is a weather forecasting agency. *Id.* Its familiarity with water resources made it the obvious, if inadequate, choice to regulate until *Goskompriroda* is fully operational. *Id.* For a list of a few other polluters, see Robinson, *supra* note 12, at 401.

106. Robinson, *supra* note 12, at 375; see *Russia's Greens*, *supra* note 1, at 26.

107. *Russia's Greens*, *supra* note 1, at 26.

108. Robinson, *supra* note 12, at 355; see J. HOUGH & M. FAINSOD, *supra* note 22 at 638.

109. *Russia's Greens*, *supra* note 1, at 26.

110. Goldman, *supra* note 85, at 458.

111. *Russia's Greens*, *supra* note 1, at 26.

112. See Goldman, *supra* note 85, at 458.

and enforce the laws.¹¹³

III. PROPOSED SOLUTIONS TO THE ENVIRONMENTAL PROBLEMS IN THE SOVIET UNION

The recent restructuring of the political system in the Soviet Union has given Soviet citizens the opportunity to vent their frustrations publicly about a problem so large that it threatens national stability.¹¹⁴ The ground swell of pressure for environmental reform has made it abundantly clear to the government that public opinion must now be considered when implementing new plans.¹¹⁵ To a limited degree the Soviet Government has begun to do this.¹¹⁶ In 1986, the Central Committee and the Council of Ministers indefinitely halted efforts to reverse the flow of rivers in the far north and Siberia.¹¹⁷ The government bowed to the demands of the general public and stated that further study of the project's economic and ecological aspects was necessary.¹¹⁸

General Secretary Gorbachev acknowledged a need to reform the governmental apparatus when he addressed the Twenty-Sixth Communist Party Congress in 1986.¹¹⁹ Afterwards, sweeping environmental reform was introduced.¹²⁰ The government has now allocated thirty-five billion rubles to clean up the Aral Sea area,¹²¹ even though this is only one half of what probably is needed.¹²² It has ceased all river reversal plans, as well as a canal project linking the Danube and Dnieper rivers, due to the

113. *Id.*

114. *See generally Russia's Greens, supra note 1 at 26.*

115. *Id.*

116. *Id.*

117. *Changes in Environmental Protection Viewed*, Moscow World Service in English, Jan. 18, 1988, reported in Foreign Broadcast Information Service (FBIS) Jan. 20, 1988, at 63.

118. *Id.*

119. *Pravda*, Nov. 28, 1986, at 5; *see THE CURRENT DIGEST OF THE SOVIET PRESS*, XXXIX, No. 6, 1987, at 8-10.

120. *Party, Government Ecological Resolution Issued*, *Pravda*, Jan. 17, 1988, at 1-2.

121. The Soviet Union has a nonmarket economy, so the rouble is not traded on currency exchanges and therefore has no exchange rate against which to compare the worth of other currencies. The Soviets usually insist on a one-for-one exchange rate, so the equivalent of 35 billion dollars has been allocated to clean up the Aral Sea. *THE CURRENT DIGEST OF THE SOVIET PRESS*, XVII, No. 45, 1990, at 22.

122. *Russia's Greens, supra note 1, at 26.* No method was given of how this conclusion was reached. *Id.*

environmental damage it would cause.¹²³ It also has halted the production of nine nuclear plants in the past year, which is the first indication that the lessons of Chernobyl have at last been learned.¹²⁴

In January 1988, the Central Committee and the Council of Ministers introduced reforms designed to reorganize radically environmental protection throughout the Soviet Union.¹²⁵ The committee formed to oversee the changes is the State Committee on Environmental Protection, known as *Goskompriroda*.¹²⁶ It may be the Soviet equivalent of the Environmental Protection Agency. Beginning in 1991, factories whose emissions exceed pollution standards will pay fines, and local bodies will supervise the imposition of the penalties.¹²⁷ Sixty-five percent of the fines will go to local agencies responsible for pollution control.¹²⁸ Flagrant or persistent polluters will be closed down,¹²⁹ and there will be a fund established for *Goskompriroda* to use in nationwide cleanups.¹³⁰ Farmers, too, will now have a political and economic incentive to obey the law, because fines levied against farms will necessarily come from the collectives, thereby decreasing the profits of the individual workers.¹³¹

Whether such measures actually will work in the long run is another matter. The law, for the time being, exempts from compliance the biggest polluters of all: the steel and petrochemical industries.¹³² Under *perestroika*, which seeks to make industry more efficient, factories are expected to become self-financing.¹³³ Managers and directors can

123. *Id.* at 26.

124. *Changes in Environmental Protection Viewed, supra* note 117, at 63.

125. Robinson, *supra* note 12, at 367.

126. *Id.*

127. *Id.* The organizational framework is not yet final. *Id.* at 381. The figures in this note reflect only projections reflected in announcements in the Soviet press. See *Powers of a New Pollution Organ Viewed, Sovetskaya Rossiya*, Jan. 15, 1988, at 2.

128. *Russia's Greens, supra* note 1, at 26.

129. Robinson, *supra* note 12, at 369; see *Pravda*, Feb. 1, 1989, at 2. The media are now beginning to criticize harshly some of the worst violators, when identified. The managers of a gas works in Orenburg, in Central Russia, were labelled criminals for a gas leak that seriously injured 76 people, including 49 children. *Leaders 'Guilty' in Orenburg Gas Works Poisoning, Moscow Domestic Service in Russian*, Feb. 1, 1989, reported in Foreign Broadcast Information Service (FBIS), Feb. 2, 1989, at 73. The leak was due to negligence. *Id.* For an explanation of *Goskompriroda*, see Robinson, *supra*, note 12, at 385-89.

130. Robinson, *supra* note 12, at 382.

131. *Id.* at 381; see Nekrasova, *Legal Protection of Ground Waters in the USSR*, 4 CONN. J. INT'L L. 361, 368 (1989).

132. *Russia's Greens, supra* note 1, at 26. Apparently, the Ministry of Forests has managed to exempt itself from *Goskompriroda* as well. Robinson, *supra* note 12, at 396.

133. *Moscow News*, No. 27, 1987, at 8.

therefore reasonably be expected to oppose *Goskompriroda* because of the extra burdens it imposes on them and to try to avoid complying with its regulations.¹³⁴ Claims that plants cannot afford to comply with the law may become common, and the production of pollution control equipment has begun to fall precisely because of this.¹³⁵ An electricity plant in Kazakhstan that purchased exhaust scrubbers had to lay off employees and reduce its production by 600 megawatts to pay for the scrubbers.¹³⁶ Layoffs in the Soviet Union are unknown, and public opposition to layoffs could produce a backlash against *Goskompriroda*, if they are the result of attempts to bring factories into compliance with the law.¹³⁷

Enforcement may take time as well. *Goskompriroda* will have to oversee the operations of some 55,000 large factories, 27,000 state farms, 26,000 collective farms and some 700,000 other types of industries.¹³⁸ The potential economic problems caused in poorer areas by *Goskompriroda* are a political powderkeg and may lead to superficial enforcement of the law.¹³⁹ Industry, for example, brings jobs, money, roads and hospitals to depressed areas, and strict enforcement of environmental laws could jeopardize such progress.¹⁴⁰

Economic growth seems to be the long-term answer to the whole problem. A growing economy could easily afford to spend the amount needed for environmental measures, without layoffs.¹⁴¹ The Soviet Union has now spent forty-three billion rubles on environmental control.¹⁴² It needs to spend more, but may not unless there is real eco-

[Currently] a factory is given quotas and resources through a system of directive-like indices. Virtually all costs are covered and the marketing of products is effectively guaranteed . . . workers' incomes are connected poorly with the end result of work . . . (In this situation) manufacturers find it disadvantageous to use cheap . . . materials and unprofitable to improve product quality and apply research innovation. Under such an economic mechanism, the line between effective and systematically lagging enterprises is virtually erased.

Id. This is Gorbachev's current thinking, and the main thrust of *perestroika*. See Goldman, *supra* note 102, at 56.

134. Kolbasov, *supra* note 87, at 444; Goldman, *supra* note 85, at 458; see Robinson, *supra* note 12, at 393.

135. Kolbasov, *supra* note 87, at 444.

136. *Id.*

137. *Id.*; Robinson, *supra* note 12, at 394.

138. Robinson, *supra* note 12, at 388; see Kolbasov, *supra* note 87 at 439.

139. *Russia's Greens*, *supra* note 1, at 26.

140. *Id.*

141. Robinson, *supra* note 12, at 397.

142. *Id.*; see Kolbasov, *Modern Ecological Policy and the Utilization of a Global*

conomic growth.¹⁴³

Perestroika's reforms may be able to resolve the conflict between economic and environmental demands.¹⁴⁴ Realistic market prices for raw materials, for example, would help reduce inefficiency and pollution.¹⁴⁵ Essential to all this, of course, is decentralization. If control of land use and natural resources were transferred to local councils, central planners would be hard pressed to ignore the concerns of local citizens.¹⁴⁶

The directors of self-financing factories would be forced by local necessities and concerns to mitigate their relentless pursuit of output.¹⁴⁷ The social benefits championed by the greens will be better served by greater industrial efficiency because it will mean less waste.¹⁴⁸ Generally this means less pollution.¹⁴⁹ Burgeoning local democracy will in turn make it more difficult to ignore environmental costs.¹⁵⁰

IV. CONCLUSION

Cleaning up the environment in the Soviet Union will require a firm commitment by the Soviet government to make it a priority. Grassroots pressure has provided the impetus to enact the reforms in the environmental law needed to bring about change. The reforms are new, and only time will reveal how successful they ultimately will be. The Soviet economy traditionally only has been concerned with output and will need time to adjust to other concerns.

Environmental damage takes time to repair, so a cleanup will not be completed in the near future. When the government truly commits itself to a cure, the country will begin to recover.

Peter M. Langrind

Environmental Protection Society Strategy, 5 PACE ENVTL. L. REV. 445, 449 (1988).

143. Kaiser, *The USSR in Decline*, 67 FOREIGN AFF. 97 (1988).

144. Robinson, *supra* note 12, at 397. See generally *Why Planned Economies Fail*, ECONOMIST, June 25, 1988, at 67 (describing why a non-market economy cannot grow).

145. Goldman, *supra* note 85, at 458.

146. Robinson, *supra* note 12, at 394.

147. *Id.* at 383. Directors who wish to comply with the law may be stymied by a lack of personnel with experience in pollution control. It may take 10 years or more to develop and implement a program to train ecologists to work at the enterprise level. *Id.* at 396.

148. *Russia's Greens*, *supra* note 1 at 26.

149. *Id.*

150. *Id.*