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**Institutional Legacies of Communism: Change and Continuities in Minority Protection**  
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*Minorities protection in Russia: is there a 'communist legacy'?*

## Introduction

Russia may be the exception that proves the rule – if there is a rule with respect to “legacies”. Russia has since 1996 adopted, as the centrepiece of its minorities policy, a model of non-territorial autonomy, National Cultural Autonomy (NCA), which was anathema to Lenin as well as to Stalin and Trotsky – one of the few points on which they were all agreed. This model was elaborated in the late 19<sup>th</sup> century by the Austro-Marxists, Otto Bauer and Karl Renner (see Bowring 2002, 2005 and 2007).

Yet the Russian Federation now presents NCA as its most important policy for the protection of minorities, and the Federation itself is an asymmetric patchwork of administrative *oblasts* ethnic republic, and other territorial autonomies. (Bowring 2012).

I start this chapter by problematising the use of the word ‘communism’. Next, I subject the word “legacy” to critical scrutiny, with the aid of some recent analyses. Third, I consider whether there is a “Leninist legacy”. I show how Lenin’s vigorous promotion of the ‘right of nations to self-determination’, which he inherited from Marx and Engels, and which during his lifetime he put into practice, at the last coming into conflict with Stalin, gave the USSR and the RSFSR a unique structure with a right, on paper, to secession. Lenin also promoted territorial autonomy. In effect, he radicalised Tsarist minorities policies.

Fourth, I show that Lenin’s contributions to debates on self-determination and autonomy should be considered in the context of lively debates in scholarly circles of all shades of political opinion in the late 19<sup>th</sup> century, as to the future shape of a post-Imperial Russia. Thus, rather than a ‘communist’ or ‘Leninist’ institutional legacy, it might be better since the collapse of the USSR in 1991 to speak of a ‘Tsarist’ or even ‘imperialist’ institutional legacy.

Fifth, I turn to Russian policy after the collapse of the USSR in 1991. One could perhaps say that if there was an institutional legacy of ‘Leninism’, then it was the ‘parade of sovereignties’ throughout Russia of 1990-1991 (Bowring 2010), and the dissolution of the USSR itself in late 1991. Fifteen new states came into existence. Sixth, I explain the unexpected Russian experiment in non-territorial cultural autonomy. Finally I consider the impact on minority protection in Russia of membership of the Council of Europe.

## What is meant by 'communism'?

The term 'communist' is frequently used without definition – its meaning is taken to be clear beyond question. However, as I already noted above, there is considerable ambiguity in the use of the word. It is often used to describe a particular state form, and it serves well enough to identify the USSR and its satellites to 1989, China, Vietnam, North Korea and Cuba. But 'communism' must be more appropriately used to denote a theory, an ideology, or a future utopian society. My own fear is that without greater precision the term becomes so broad and ambiguous as to lose reference and meaning.

Indeed, in 1845-6, in *The German Ideology*, not published until 1932, Karl Marx and Friedrich Engels provided their own definition. This could not possibly be applied to any regime or state formation, and probably not to an ideology.

Communism is for us not a *state of affairs* which is to be established, an *ideal* to which reality [will] have to adjust itself. We call communism the *real* movement which abolishes the present state of things. The conditions of this movement result from the premises now in existence. (1976: 49)

Thus, 'communism' and 'communist' were for Marx and Engels proper names for a movement. It is very well known that neither of them had anything much to say about a future society. They were not utopian dreamers; they were fully engaged in the issues of their own day, including the struggles of the Poles and the Irish for self-determination, the American Civil War, and resistance to Empire in Algeria, India etc.

Archie Brown's widely acclaimed *The Rise and Fall of Communism* (Brown: 2010) is the best of four books recently reviewed by Michael Waller under the title 'Communism as History' (Waller 2012). Brown asserted on his first page, wrongly, that Marx 'sincerely believed that under communism – the future society of his imagination – people would live more freely than ever before.' (Brown 2010: 9) Not surprisingly, Brown provided no reference for this. But Brown did point out quite rightly that ideas of communism started with the early Christians (Brown 2010: 11) and were developed by a wide variety of thinkers and leaders into the 19<sup>th</sup> century (Brown 2010: 14-17) He showed the difficulty of the unqualified use of the term 'communism'.

Brown had the merit of specifying what for him is a "Communist system". He grouped the 'defining characteristics' of such a system into three pairs. (Brown 2010: 105) First, there is the political system: the monopoly of power of the Communist Party (dictatorship of the proletariat) and 'democratic centralism', discussion followed by strict observance of the decision reached. Second, the economic system was characterised by non-capitalist ownership of the means of production, and the dominance of a command economy rather

than a market economy. Third, both politics and economics were underpinned by ideology: the ‘declared aim of building communism as the ultimate legitimising goal’ (Brown 2010: 111); and, finally ‘the existence of, and sense of belonging to an international Communist movement’.

The astute reader will note first, that Brown’s six characteristics together provide a rather accurate description of Stalin’s system, which to a diminishing degree continued in Russia until the collapse of the USSR in late 1991. Second, although he identified the ‘Communist system’, he did not say what was the ‘communism’ which was to be built until his final section, entitled ‘Epitaph for an Illusion’. He asserted: “the idea of building communism, a society in which the state would have withered away, turned out to be a dangerous illusion.’ (Brown, 2010: 613). And I repeat that for Marx and Engels, Communism was a *movement*. As Brown noted, ‘Neither in the *Communist Manifesto* nor elsewhere did [Marx] address the question of the political and legal institutions which should be formed following the revolution.’ (Brown 2010: 20). However, Brown made no mention at all, in a book of some 700 pages, of Lenin’s (and to some extent Soviet) minorities policy.

I therefore start with a degree of scepticism as to the use of the word ‘communism’ in relation to ‘minority protection’.

### **What is meant by a ‘legacy’?**

There have now been twenty years of the deployment in political science of the concept of ‘communist legacy’ or ‘Leninist legacy’. In their ‘What is the Leninist Legacy? Assessing Twenty Years of Scholarship’, (LaPorte & Lussier 2011) Jody LaPorte and Danielle Lussier searched JSTOR and Google Scholar for abstracts containing the phrases *communist legacy*, *Leninist legacy*, *socialist legacy*, *Soviet legacy* and *postcommunist legacy*. From a very large number of results they chose 400 article, books and conference paper abstracts. (LaPorte & Lussier 2011: 639 – and see Geddes 1995, and Pop-Eleches 2007)

From its birth in Ken Jowitt’s discussion of the ‘Leninist legacy’ in *New World Disorder: The Leninist Extinction* (Jowitt, 1993) the concept of ‘historical legacy’ has clearly enjoyed great popularity, up to and including this volume. Following Jowitt, Beverly Crawford and Arend Lijphart edited a seminal collection, *Liberalization and Leninist Legacies: Comparative Perspectives on Democratic Transitions* (Crawford & Lijphart 1997), which included Stephen Hanson’s ‘The Leninist Legacy, Institutional Change, and Post-Soviet Russia’ (Hanson 1997).

Hanson suggested the following (Hanson 1997: 235):

I would suggest approaching the problem by breaking down the Leninist legacy into four basic components: the ideological legacy, the political legacy, the socioeconomic legacy, and the cultural legacy. I would hypothesize that the difficulty of overcoming these four legacies increases as the costs to individuals of rejecting them increase.

As Hanson pointed out, the ideological legacy died well before 1991. From my own first visit to the USSR in 1983, in the context of town-twinning (London Borough of Lambeth – Moskvoryetskiy Rayon, Moscow) and many visits until 1991, I did not meet a single convinced communist. As Hanson put it “... internal commitment to the formal belief system of Marxism-Leninism was already almost totally nonexistent by the Gorbachev era.” (Hanson 1997: 235). As can be seen, Hanson said nothing about Russia’s complex federal structure noted above, and did not include the minorities or “national” issues in his discussion.

A legacy in everyday language is of course a gift from the dead to the living. In political science the idea of ‘historical legacy’ is more than simply metaphorical. In his powerful conference paper ‘What is a Historical Legacy’, cited several times by Laporte and Lussier, Jason Wittenberg (Wittenberg 2010) subjected the phrase to rigorous analysis. He asked “... what it means for characteristics of prior political regime to feature (or not) in the politics of a latter political regime.’ He continued: ‘Yet while there is no shortage of legacies accounts, there is still no clear understanding of what a legacy is or how legacy arguments actually work ‘ (Wittenberg 2010: 1).

As he pointed out, it has tended to be assumed that post-communist governments could not easily eradicate ‘the dead weight of the past’. Following a careful analysis, which I will not repeat here, Wittenberg established a set of conditions for a phenomenon to be considered a legacy.

First, there must be at least two time periods under consideration. Second, it is necessary to establish that the phenomenon in the latter period is really the same phenomenon that occurred in the prior period, where sameness can be understood as literal unchangingness, stability of key features, unbroken existence, or pragmatic comparison of what counts as the phenomenon in each period. Third, the phenomenon must have been carried over from the past rather than merely replicated in the latter period. (Wittenberg 2010: 15-16)

This volume is concerned with “institutional legacies”. It follows that there must have been ‘communist’ institutions present in Soviet Russia which have continued their existence to the present day.

I argue that there are none.

### **‘Leninist’ policy and practice on territorial autonomy**

In this section I consider the question what might have been the Leninist or Bolshevik policy and practice which could have bequeathed a “legacy” to post-1991 Russia.

The late Oleg Kutafin (2006) made the point that the Bolsheviks, as convinced centralists, approached the idea of national (ethnic) autonomy very cautiously. (Kutafin 2006: 81) However, cautiously or not, Lenin and the Bolsheviks went a very long way indeed in proposing and implementing a range of measures involving federation and autonomy. In my contributions referred to above I have investigated in detail the way in which Lenin developed his position on the right of nations to self-determination in fierce argument with those who, like the Jewish Bund, espoused non-territorial personal cultural autonomy on the Austro-Marxist model.

In October 1913 Lenin (1913, 1964), considering the national question’, wrote that ‘far from precluding local self-government, with autonomy for regions having special economic and social conditions, a distinct national composition of the population, and so forth, democratic centralism necessarily demands both.’ (Lenin 1913, 1964: 46). On this basis he was in favour of local and regional autonomy for every region having distinct economic and social features, or populations of a specific national (ethnic) composition. These, in his view, did not contradict the principle of centralism, so necessary for economic development. (Lenin 1913, 1964: 47). He foresaw ethnic areas with populations as low as 50,000 as not only enjoying autonomy but having the opportunity to find a variety of forms of uniting with neighbouring areas to form autonomous territories. (Lenin 1913, 1964: 49)

Lenin returned to this question in 1916, in the midst of the First World War and before the October Revolution, summing up issues of self-determination, when he wrote that it was autonomy which could enable a nation, hitherto forcibly retained within an existing state (such as Russia) to “crystallise into a nation”. He had in mind Norway’s declaration of sovereignty from Denmark in 1814, and envisaged a declaration by the Polish nation that they would no longer be ruled by the Russian Tsar. (Lenin 1916, 1964: 345)

In May 1917 the issue of independence for Poland and Finland was again at the top of the agenda, and Lenin drafted a Resolution on the National Question. His starting point was clear, namely recognition of the right of all nations forming part of Russia freely to secede and form independent states. To deny them such a right, or to fail as a Russian government to take the necessary measures to guarantee the realisation of the right to secede in practice, would be in affect to support a policy of forcible seizure or annexation. (Lenin 1917, 1964: 302). From secession from the Russian Empire Lenin turned to the issue of autonomy. He meant territorial autonomy: he remained utterly opposed to the non-territorial “national

cultural autonomy” formulated by the Austro-Marxists Otto Bauer and Karl Renner, and espoused by the Jewish Bund. He made it clear that autonomy meant support for broad regional autonomy. Moreover, he advocated the abolition of supervision from above, and the abolition of a compulsory official language, both of which were features of the assimilationist policies of the late Tsarist regime. Above all, the local population itself must decide on fixing the boundaries of the autonomous territory. (Lenin 1917, 1964: 303)

Thus it was clear that before the October Revolution Lenin and the Bolsheviks were in favour not only of a right of secession from Russia by nations, but also of territorial autonomy for minorities. These policies were key components of Bolshevik policy from the moment of Bolshevik success in October 1917. In ‘The Tasks of the Revolution’, published in October 1917, Lenin declared that a democratic peace would be impossible without an explicit renunciation of annexation or seizure. He emphasised that every nationality without exception in Europe and in the colonies should have the right to decide for itself whether it should form a separate state. (Lenin 1917a, 1964: 62). This right was enshrined in the 1918 Constitution of the Russian Soviet Federated Socialist Republic (RSFSR). Every people should decide whether they wished to participate in the RSFSR and on what basis. This was the only basis for creating a free and voluntary state.

In his letter of 26 September 1922, at the time of increasing conflict with Stalin as to the right of Georgia to gain independence outside the USSR – to secede – he wrote ‘...we consider ourselves, the Ukrainian S.S.R. and others, equal, and enter with them, on an equal basis, into a new union, a new federation, the Union of the Soviet Republics of Europe and Asia.’ (Lenin 1922, 1964: 421)

On the basis of the 1918 Constitution, and Lenin’s principles, the Labouring Commune of Germans of the Volga was organised at the end of 1918, which in 1924 became an Autonomous Republic. The Bashkir ASSR was organised within the RSFSR in 1919, followed in 1920-21 by the Kirgiz (Kazakh) ASSR, and the Tatar, Dagestan, and Gorkiy autonomous republics, the Karelian Labouring Commune, and the Chuvash, Kalmyk, Marii, Botskaya (Udmurtskaya) autonomous oblasts (regions). In 1921-22 the Yakutsk ASSR, and the Karachay-Cherkess, Kabardino-Balkar, Komi, Mongol-Buryat and a series of other autonomous oblasts were created. (Kutafin 2006: 133-4). All of these were descendants of forms of autonomy already existing in Tsarist Russia.

Finally, on 31 December 1922, shortly before his death, in ‘The Question of Nationalities or ‘Autonomisation’, Lenin wrote, warning against Stalin:

It is quite natural that in such circumstances the "freedom to secede from the union" by which we justify ourselves will be a mere scrap of paper, unable to defend the

non-Russians from the onslaught of that really Russian man, the Great-Russian chauvinist, in substance a rascal and a tyrant, such as the typical Russian bureaucrat is. (Lenin 1922a, 1977: 606)

Lenin by then regarded Stalin as just such a Great-Russian chauvinist. Stalin was utterly opposed to self-determination for Georgia. Lenin was for secession by Georgia, even if under Menshevik rule (see Lewin 1969).

This policy, at least, survived Lenin's death. The 1924 Constitution of the USSR<sup>1</sup> contained a chapter on 'Sovereign Rights of the Member Republics', including the right to freely withdraw from the Union. Article 13 of the Constitution of the RSFSR adopted in 1925<sup>2</sup> and intended to implement the 1924 USSR Constitution, recognised the right of certain nationalities (ethnicities), by decision of their own congresses of soviets, and with the approval of the highest bodies of the RSFSR, to the formation of autonomous soviet socialist republics and oblasts. It also contained the following, ahead of its time, but now the received wisdom of the Council of Europe.:

The citizens of the Russian Socialist Federative Soviet Republic have the right to free use of their native language in congresses, in court, administration and public life. National minorities are guaranteed the right of education in their mother tongue in school

### **Territorial and personal autonomy in scholarly debates in the last years of the Tsarist Empire**

One reason why the existence of asymmetric federative arrangements and territorial autonomy in Russia cannot be considered to be a 'communist' or 'Leninist' legacy is that Lenin's contributions to debates on autonomy, and Bolshevik policy on secession and autonomy, were part of a much wider discussion in Russia, from the centre and right as well as the left of politics.

At the end of the 19<sup>th</sup> century leading Russian scholars argued at length as to the nature of autonomy in the Russian Empire. In 1892 the St Petersburg State University professor N. M. Korkunov discussed the various existing forms of autonomy, as the best means of preserving local laws and institutions (Korkunov 1892: 133). One of the more prolific authors was F. F. Kokoshkin, the leading Cadet (Constitutional Democrat) politician and future member of the Provisional Government. Writing in the revolutionary year 1905, he argued that if there were to be local laws, as existed in Russia, there must be local legislatures. He reassured his readers that regional autonomy did not mean the creation of a state within a state. (Kokoshkin 1905: 3) The State Duma could legislate for all-Russian matters, and local legislatures on the local scale. (Kokoshkin 1905: 9-10) The Empire retained its legislative

supremacy. (Kokoshkin 1905: 12) According to him, regional autonomy was the highest stage of the development of decentralisation. In his final work, published in 1917, he emphasised the close connection between autonomy and the national (ethnic) question. (Kokoshkin 1917: 3-5) He argued that decentralisation to a greater or lesser extent was a powerful means for satisfying the demands of ethnic groups to self-determination, especially cultural self-determination, and that this could take the form of territorial decentralisation, but could also be implemented in other forms. He insisted, in complete agreement, ironically, with Lenin, that in Russia it would be impossible to build a federation on the basis of national territorial autonomy. For example, Ukraine with a population of 25-30 million, more than Spain, would far outweigh other regions of Russia. To give unequal competences to the component parts of Russia would also lead to a blind alley, he thought. Or, rather than a federation, to confederation. (Kokoshkin 1917: 9-10)

In 1906 a collection *Autonomy, federation and the national (ethnic) question* appeared edited by V. M. Gessen, an official of the Ministry of the Interior, arguing that national autonomy should precede the establishment of a parliamentary, rule of law state. Autonomy or other forms of political independence were the best way of resolving ethnic tensions. The authors pointed out (Gessen 1906: 21-22; Kutafin 2006: 19) that notwithstanding the centralised political government of Russia, it to that date preserved within itself a series of local laws.

For example, in the Privislenskiy Krai (in Poland) the Code Civile of Napoleon I had been in force since 1808. In the Ostzeiskiy Krai (on the Baltic coast) a whole range of laws including Roman law were in force. In Finland the Swedish laws on 1734 were in operation. Because of its Byzantine past Bessarabiya had laws with Byzantine roots. In the Governorates of Chernigov and Poltava the Lithuanian statutes remained in force. In the Caucasus and many other places, special, particular laws were applied. Whole regions of the Russian Empire lived and had lived their own juridical life.

The Narodnik (populist) scholar G. Novotorzhskiy (a pseudonym), whose books are frequently cited to this day, argued that the contemporary Russian state had come into being through conquest, and therefore consisted of a whole range of regions, formed on a national as well as administrative basis. (Novotorzhskiy 1906: 14-15) In Russia these were Finland, Poland, Ukraine, Caucasus, the Pribaltiskiy Krai (Baltics), Lithuania, Siberia and finally "Great Russia". He wrote:

Finland at the present time has almost complete autonomy. The question of Polish autonomy demands resolution in the shortest possible time, as soon as the police state is abolished. The question of autonomy for the Caucasus is more complex,

since many ethnicities are living there, mixed with each other. The Jewish question can be resolved by giving the Jews the full rights enjoyed by other ethnicities in Russia, and by guaranteeing the rights of the minorities which they will constitute in Poland, Ukraine, Great Russia and Byelorussia. As concerns the autonomies of Ukraine, Siberia autonomous regions in Great Russia, they can be created as required. As, so to say, autonomies of the second rank.” (Novotorzhskiy 1906: 14-15)

The Latvian Jewish scholar and politician M. Ya. Lazerson<sup>3</sup> wrote in 1917 a book entitled *Autonomy and Federation* which argued forcefully for “personal autonomy” – that is, non-territorial autonomy – drawing on Karl Renner’s writings. In his view, one should not, in a contemporary state, consider the population as tied to particular territories. Such a state, with many ethnicities cannot be divided into territories in each of which there is a single ethnicity. (Lazerson 1917: 23-24) However, he argued strongly against the term “national-cultural autonomy”, which in his view confused the territorial principles and the personal principle. (Lazerson 1917: 25-26)

I repeat that the roots of the Russian Federation’s diverse institutional arrangements for the protection of minority rights are to be found as much in the history of Russia and its intellectual life as a whole, as in any ‘communist’ or ‘Leninist’ legacy.

### **The nationalities and minority policy of the late USSR and the first post-Soviet years**

Khazanov (1997) pointed out that the USSR presented itself as a confederation, a union of sovereign republics with a right of secession; and the RSFSR as a unitary state with strong elements of territorial autonomy. As I have noted elsewhere, the autonomous republics, within the RSFSR, of Tatarstan and Baskkortostan, were granted special status, and aspired to become union republics, with the right of secession (Bowring 2010: 54). The Declaration on State Sovereignty of the RSFSR of 12 June 1990, together with the Laws of the USSR ‘On the foundations of economic relations of the USSR and union and autonomous republics’ of 10 April 1990 and ‘On the delimitation of competences between the USSR and subjects of the federation’ of 26 April 1990, laid the basis for the explosive ‘Parade of Sovereignties’ of the end of the 1990s. On 12 June 1991 Boris Yeltsin was elected President of the RSFSR, and Mintimer Shaimiev was elected President of Tatarstan. The RSFSR’s Declaration was followed by no less than 23 declarations of state sovereignty in 1990 and a further 3 in 1991, prior to the final collapse of the USSR in December 1991 (See a table in Bowring 2010: 55).

On 31 March 1992 the RSFSR and most of the subjects of the Federation, except for Tatarstan and Chechnya, signed the Federative Treaty, which turned the RSFSR from a unitary state into a semi-federative or quasi-federal state, with striking asymmetry between

the powers and autonomy of the various subjects. The Treaty was incorporated into the 1978 (Brezhnev) Constitution of the RSFSR on 10 December 1992, and the relations between the Russian Federation and its subjects were further formalised in the Constitution adopted on 12 December 1993 after President Yeltsin tore up the 1978 Constitution and shelled the White House, the seat of the parliament. (Bowring 2010, 57). The 21 ethnic republics, each with the name of its “titular” people, elected presidents, many had constitutional courts, and each had the right to an official language in addition to Russian. There are now 83 subjects in all. However, it is apparent that the drafters of the 1993 Constitution had no consistent or systematic approach to the protection of minority or indigenous rights (Bowring 2012, 26).

From 1994 to 1996 a great many bilateral treaties, 46 in total, were entered into between the Russian Federation and its subjects. The 15 February 1994 treaty entered into by Tatarstan on the demarcation of its competences with the Federation affirmed its constitution and presidency, provided for citizenship of Tatarstan and significant sovereignty over oil and natural resources, special provisions for military service, and other rights and powers.

1996 was a climactic year in which Russia acceded to the Council of Europe and legislated for National-Cultural Autonomy. On 15 June 1996 President Yelstin issued a decree (no.909) confirming the ‘Concept of state national policy of the Russian Federation’, which has not been superseded, and is published<sup>4</sup> on the web-site of the Ministry of Regional Development (which replaced the Ministry of Nationalities). This was the first attempt at a systematic reformulation of minorities policy in Russia following the collapse of the USSR, but is now regarded in Russia as outmoded. There is currently no attempt to replace it.

The Concept, in its first sentence, describes itself as ‘a system of contemporary views, principles and priorities in the activities of organs of state power, organs of the state power of subjects of the Russian Federation, and organs of local self-government, for the realisation of state nationalities policy...’ It is in fact a long-winded set of platitudes, with no analysis of existing minorities policy or concrete proposals for reform.

### **Not a legacy but a completely new turn**

One reason for this, perhaps, is that two days after promulgation of Decree No.909, on 17 June 1996, the Federal Law ‘On national-cultural autonomy’<sup>5</sup> (NCA) was enacted (Bowring 2002 and 2012, 23). This new law represented a sharp change in Russian minorities policy, to a model which had been anathema to Lenin and the Bolsheviks.

Gavrill Popov, later Mayor of Moscow, was the first to resuscitate the Austro-Marxist conception of Otto Bauer and Karl Renner in a journal article in 1988 (Popov 1988). But it was not taken seriously until 1992, when Valerii Tishkov, then in a position of political power

as head of Goskomnats (State Committee on Nationalities), now Director of the Institute of Ethnology and Anthropology at the Academy of Sciences in Moscow, began the work of drafting the Concept which finally appeared in 1996. He proposed the NCA model as a 'strategy of nationalities policy', potentially no less important than federalism (Filippov 1998, 68). Why was the NCA model chosen? The answer of some of the leading scholars is simply that it seemed the most plausible alternative to the Soviet territorial model.<sup>6</sup> However, as Tishkov himself reports, when he first reported on NCAs to the government in 1992, President Yeltsin simply did not want to listen (Tishkov 1998, 12)

In 1994, when Sergei Shakhrai became Minister for Affairs of Nationalities, he put forward the idea of policy based on two vitally important principles: local self-government and NCAs (Filippov 1998, 69). Yeltsin changed his mind, and, in his 1994 Report to the Federation Council, urged the adoption of a law on NCAs, and described them as based on the principle of 'the self-organisation of ethnic groups, not having their own national-territorial formation in the Russian Federation, or living outside such a formation' (Filippov 1998, 74).

### **Russia and the Council of Europe**

To what extent has membership of the Council of Europe since 1996, ratification of the European Convention on Human Rights (ECHR) in 1998, ratification of the Framework Convention for the Protection of National Minorities (FCNM) in 1998, and signature of the European Charter for Regional or Minority Languages (ECRML) in 2001, influenced or altered Russia's minority protection?

Russia has now provided three periodical reports for the FCNM, on 8 March 2000, 26 April 2005, and 9 April 2010.<sup>7</sup> The first two cycles have been completed with Resolutions of the Committee of Ministers on 10 July 2003 and 2 May 2007 respectively. The Advisory Committee is now working on its Opinion on the third cycle report. In its First Report<sup>8</sup>, Russia described its asymmetric federalism and emphasised the NCAs, especially the fact that 'this practical form of self-determination and realization of the rights of national minorities is of special importance for those ethoses that do not enjoy territorial autonomy in view of their geographical dispersion.'

Notwithstanding the many problems and contradictions of the NKA form, it is surprisingly popular. Osipov has noted (Osipov 2010: 42,3) that:

The concept of 'autonomy' still sounds attractive to ethnic activists. Despite legislative restrictions and bureaucratic burdens, the number of NCAs has grown over the years. By early 1999, 227 NCAs had been registered, of which 160 were local, 60 regional, and 7 federal. The respective figures for the beginning of 2005

were: 315, 173, and 16 (in total, 504). On 1 January 2009, there were 717 organizations, of which: 488 were local, 211 regional, and 18 federal.

NCAAs represent more than 60 ethnicities - in particular, federal NCAs have been established on behalf of Armenians, Assyrians, Azeris, Belarusians, Chuvash, Germans, Jews, Karachais, Kazakhs, Koreans, Kurds, Lezghins, Lithuanians, Poles, Roma, Serbs, Tatars, and Ukrainians. Regional and local NCAs have been set up in 72 of 83 constituent units (subjects) of the Russian Federation. Several NCAs represent ethnic groups officially acknowledged as small indigenous peoples of Russia.

Of course, the Russian Federation still consists of 83 subjects, 21 of which are ethnic republics (termed 'autonomous republics' in the USSR) with the right to an official language in addition to Russian (see Bowring 2010). Only in the North Caucasus do the 'titular' populations have an absolute majority according to the 2010 census<sup>9</sup>. As the result of the two wars of recent years, 1994-1997 and 1999-2009, the population of Chechnya is 95.3% ethnic Chechen; Ingushetia 94.1%; Dagestan 88%; Kabardino-Balkaria 69.9%; North Ossetia – Alania 65.1%. These are not places where ethnic Russians want to live. The Tatars are the most numerous ethnic minority in Russia, nearly 4 million-strong. But in their 'titular' republic, Tatarstan, their population is 53% of the total, a bare majority. Most Tatars live outside Tatarstan.

So far as Russia is concerned, its asymmetric federation and its system of NCAs are entirely consistent with Council of Europe standards. Indeed, as I have suggested above, the Council of Europe's (and the OSCE's) liking for autonomy could almost be represented as a 'Leninist legacy'.

### **Conclusion**

The autonomous republics, now simply republics, and their populations, were and are a small minority of the territory of Russia. The present structure is a legacy not so much of 'communism' or 'Leninism' as of the centuries of expansion of the Russian Empire, especially its bloody conquest of the North Caucasus; and the astonishingly tenacious persistence of forms of autonomy, and debates concerning autonomy and federalism.

There are, therefore, good grounds for suggesting that if there is a "communist" or "Leninist" legacy in the field of minority protection, it is precisely Lenin's consistent support for self-determination of the nations (ethnicities) of the Tsarist Empire. This took the form first of full independence in the case of Finland, Poland, and the three Baltic states; second, to a union of equals in the USSR with Ukraine, the Caucasus States and others, with a right to secede; and third, to the creation of autonomous republics and oblasts in the RSFSR.

If this is correct, then a 'communist legacy' is to be found today not only in the constitutional arrangements of the Russian Federation, but also in the Council of Europe's 1995 Framework Convention for the Protection of National Minorities (FCNM)<sup>10</sup>, and the OSCE's 1999 Lund Recommendations on the effective participation of national minorities in public life<sup>11</sup>. Recommendation 14 provides: 'Effective participation of minorities in public life may call for nonterritorial or territorial arrangements of self-governance or a combination thereof.' This is explained in the Explanatory Note as follows:

The term "self-governance" implies a measure of control by a community over matters affecting it. The choice of the term "governance" does not necessarily imply exclusive jurisdiction. In addition, it may subsume administrative authority, management, and specified legislative and judicial jurisdiction. The State may achieve this through delegation or devolution, or, in the case of a federation, an initial division of constituent powers. Among OSCE participating States, "self-governance" arrangements are variously referred to as delegations of autonomy, self-government, and home rule.

With a few word changes, this could indeed be presented as an 'institutional legacy of communism', at least to the extent that it embodies Lenin's proposals for post-revolution Russia.

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## Endnotes

<sup>1</sup> English translation at <http://www.answers.com/topic/1924-constitution-of-the-ussr> (accessed 9 September 2012)

<sup>2</sup> In Russian at [http://constitution.garant.ru/history/ussr-rsfsr/1925/red\\_1925/5508617/chapter/4/#33500](http://constitution.garant.ru/history/ussr-rsfsr/1925/red_1925/5508617/chapter/4/#33500) (accessed 10 September 2012)

<sup>3</sup> Maksim Yakovlevich Lazerson (1887-1952) sociologist and professor at St Petersburg then Petrograd State University, member of the *Saima* (Parliament) of inter-War independent Latvia, leader of the Jewish *Ceire Cion* party; from 1939 lectured at Columbia University, New York

<sup>4</sup> [http://www.minregion.ru/upload/04\\_dmo/national\\_policy/npa/Ukaz-909.doc](http://www.minregion.ru/upload/04_dmo/national_policy/npa/Ukaz-909.doc) (accessed on 9 October 2012)

<sup>5</sup> Law no. 74-FZ as amended on 29 June 2004

<sup>6</sup> Author's discussions in 2001 with V. Filippov and E. Filippova and others

<sup>7</sup> [http://www.coe.int/t/dghl/monitoring/minorities/3\\_fcnmdocs/table\\_EN.asp#Russian\\_Federation](http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/table_EN.asp#Russian_Federation) (accessed 10 September 2012)

<sup>8</sup> ACFC/SR(1999)015, received on 8 March 2000;

<sup>9</sup> See [http://www.perepis-2010.ru/results\\_of\\_the\\_census/results-inform.php](http://www.perepis-2010.ru/results_of_the_census/results-inform.php) (accessed 8 September 2012)

<sup>10</sup> At <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm> (accessed 10 September 2012)

<sup>11</sup> <http://www.osce.org/hcnm/32240> (accessed 10 September 2012)