

The 1991 Soviet and 1917 Bolshevik Coups Compared: Causes, Consequences, and Legality

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***Abstract:** This article measures the success of the two major coups de'etat in Russian history, the 1991 Soviet coup and the 1917 Bolshevik coup through comparison, and argues the illegality of the 1991 Soviet coup. The 1991 Soviet coup was a result of the Communist Party's dissatisfaction with Gorbachev's increasing power as he attempted to slowly transition the Soviet Union into a more capitalistic society by instituting new economic reforms. Gorbachev was betrayed by eight members of his inner circle, which resulted in a failed three day coup d'etat against him. This coup brought about the end of the Soviet Union, as the incident's inefficiency cemented anti-Community sentiment within the public. The 1917 Bolshevik coup was a result of Vladimir Lenin and the Bolsheviks orchestrating the overthrow of the Provisional Government through the use of conspiracy tactics and sudden violence. As in 1991, economic woes were at the root of the coup, but the Bolsheviks were more effective in exploiting the social unrest within the country. While the coups contrasted in terms of effectiveness and efficiency, they were similar in cause, and both effectively brought about the end of the incumbent regime. Finally, the 1991 Soviet coup was illegal, as the steps taken by the eight conspirators violated the Soviet Union's succession rules, and was thus, illegitimate.*

Introduction

On the morning of August 19, 1991, the people of the Soviet Union (and the world) were startled to hear that Mikhail Gorbachev had been ousted from power in a right-wing military coup d'etat. Hard-line Communists, most of whom Gorbachev had appointed to office, temporarily deposed the rightful Soviet President in three dramatic days which shook the world. This extraordinary event in the history of the Soviet Union not only threatened Gorbachev's efforts to democratize the country, but also placed in jeopardy years of progress in East-West relations which occurred during President Gorbachev's administration.

After a brief review of what a coup d'etat is, this comment will consider the Soviet coup of August 1991 ("the August coup") in detail, beginning with an analysis of the coup's underlying causes, and focusing on how it was conducted and why it failed. After suggesting that the takeover could have succeeded if better executed, this work will examine how the coup helped bring about the actual end of the Soviet Union.

The August coup will also be compared to Russia's Bolshevik coup of 1917. Better known as the "October Revolution," the Bolshevik coup essentially created the Soviet Union after Communist forces ousted the existing short-lived democratic government.

Although the Bolshevik and the August coups have many disparities, it will be seen that they possess several interesting and striking similarities. The most profound connection between the two is that the August coup can be regarded as having effectively restored the democratic form of government which the Bolshevik coup deposed.

This comment will then explore the constitutional legality of the August coup leaders' actions in overthrowing President Gorbachev and declaring a state of emergency throughout parts of the Soviet Union. It will be shown that although the substitution of the Soviet Vice President for Gorbachev was technically constitutional, it was nevertheless unlawful and illegitimate since it was fraudulently based.

The Coup d'Etat

A *coup d'etat* (French: "stroke of state") is defined as a "political move to overthrow existing government by force."¹ A more complete definition is that a coup (or putsch) is the sudden substitution of key incumbent government authorities by an individual or small group, usually without any intended or actual change in the government structure itself.² The setup of a successful coup regime is essentially the same as that of the old government, with the exception of the top leader or group of leaders.³

A coup is distinguished from a revolution in that a revolution is clearly an extra-constitutional means of bringing about a change of state *government*, whereas a coup d'etat involves an unlawful change of state *leadership*.⁴ Unlike a revolution, a coup generally does not bring about broad social and economic changes; existing social and government institutions are usually left untouched in coups d'etat.⁵ Yet sometimes a coup may develop into much more than the replacement of one set of government authorities by another, and may indeed be the first step of a full revolution.⁶ In such cases, the coup acts as the triggering event that brings about eventual revolutionary change in a nation.⁷

This is certainly the case with the August 1991 Soviet coup. The brief ousting of Mikhail Gorbachev clearly demonstrated to the Soviet public (and the world) Gorbachev's lack of authority, and also highlighted the ineffectiveness and disintegration of the Soviet Union's entire

¹ BLACKS LAW DICTIONARY 351 (6th ed. 1990).

² Farooq Hassan, *A Juridical Critique of Successful Treason: A Jurisprudential Analysis of the Constitutionality of a Coup d'Etat in the Common Law*, 20 STAN. J. INT'L L. 191, 198 (1984). Leaders of coups d'etat are usually part of the ruling regime itself and normally leave old governmental institutions and policies in effect after taking over key government positions. *Id.* 197.

³ *Id.* 198.

⁴ *Id.*

⁵ *Id.* Unlike revolutions, coups usually do not involve popular participation and are usually carried out without bloodshed. *Id.* 196. Because of this, "[c]oups d'etat ... where power changes hands from one man to another, from one clique to another ... have been less feared because the change they bring out is circumscribed to the sphere of government and carries a minimum of unquiet to the people at large ..." HANNAH ARENDT, ON REVOLUTION 27 (1963). Furthermore, [T]he focused, concentrated violence of [a] coup seems preferable to the bloody hazard of revolution or civil war. The blow is directed exclusively against the real sources of governmental power, and, if it succeeds, there is no undue disruption of the state. Even from the humanitarian point of view there seem to be strong arguments in favor of the coup, for casualties are likely to be kept to a minimum, and these casualties – from the viewpoints of the rebels – are not suffered by innocent soldiers or citizens but by those very men whose mismanagement of affairs has made change necessary. D. J. GOODSPEED, THE CONSPIRATORS: A STUDY OF THE COUP D'ETAT 232-33 (1961). This fairly describes the Soviet coup, as the conspirators moved only against Gorbachev, since they considered him the sole cause of the Soviet Union's problems and the only constitutional obstacle to their goals.

⁶ Hassan, *supra* note 2, 196.

⁷ *Id.* 197. A coup and a resulting revolution cannot be distinguished when this happens, since such political events run together and end where no one thought they would. Eugene Kamenka, *The Concept of a Political Revolution*, in REVOLUTION 134 (Carl J. Friedrich, ed. 1966). "The definition of revolution is not the beginning, but the end of an inquiry into social upheaval, social change, and the translocation of power." *Id.*

Communist government. This revolutionary process culminated with the sweeping change of power from the central Soviet government to the former Soviet republics, followed by Gorbachev's resignation late that year.⁸ Even more revolutionary is that the August coup helped bring about the end of Communism as a political force in the world.⁹

Gorbachev and the Soviet Union

Gorbachev's Reforms

Mikhail Gorbachev became leader of the Soviet Union following several years of instability in the country's leadership.¹⁰ Gorbachev was nominated General Secretary of the Communist Party Central Committee on March 11, 1985.¹¹ A staunch communist, Gorbachev became the youngest man since Joseph Stalin to be the most powerful man in the Soviet Union.¹² He immediately appraised the country's economic and social situation and realized that the Soviet Union was still practically a third-world country.¹³ He recognized that the Communist Party and the vast military-industrial bureaucracy were strangling the nation.¹⁴ Gorbachev decided to modernize his country, although he did not intend to dissolve its Communist system.¹⁵

Gorbachev began by initiating economic reforms under the concept of *perestroika*, which means "restructuring" or "rebuilding."¹⁶ Industries were made more self-sufficient, employees began to be paid based on their productivity, and bureaucrats were told to stop interfering with

⁸ Francis X. Clines, *Gorbachev Resigns as Last Soviet Leader; U.S. Recognizes Republics' Independence; Communist Flag Is Removed; Yeltsin Gets Nuclear Controls*, N. Y. TIMES, Dec 26, 1991, Aa1.

⁹ Ironically, although Communism was the primary revolutionary movement of the early 20th Century, before the August coup, it has always ruthlessly extinguished any rebellion threatening its existence. Kamenka, *supra* note 7, a197. Take for example the Soviet Army's violent suppression of the 1956 Hungarian Revolt and the 1968 Czechoslovakian Revolt. *Id.* The major problem which had prevented revolutions in Communist countries in the past was that power was exclusively concentrated in the state and rigorously controlled by authorities. *Id.* The revolutionary change of political power which occurred in the Soviet Union and other European Communist states since the late 1980s could not have happened without Gorbachev's reforms loosening the yoke of Communist state repression.

¹⁰ Michael J. Bazyler, *The Gorbachev Revolution*, 12 WHITTIER L.R. 147 (1991). Following the death of Leonid Brezhnev on November 10, 1982, Yury Andropov became leader of the Soviet Union until his death on February 9, 1984. Andropov's successor, Konstantin Chernenko, had been in power for less than a year before dying on March 10, 1985. BRITANNICA BOOK OF THE YEAR 548 (1986) [hereinafter 1986 BRITANNICA]. Chernenko's death marked the final passing from Soviet politics of a generation of leaders who had come into power under Leonid Brezhnev. *Id.*

¹¹ 1986 BRITANNICA, *supra* note 10, 548. The Secretary General and various powerful government ministers involved in operating the Soviet Union comprised the "Politburo," the executive committee of the Communist Party Central Committee. THE SOVIET UNION THROUGH ITS LAWS 239 (Leo Hecht ed. & trans. 1983). *Id.* The Politburo's mission was to make policy for not only the Communist Party, but also for the entire nation. *Id.* Gorbachev also simultaneously became Chairman of the Presidium of the Soviet Parliament, the Supreme Soviet. (Gorbachev handed the Chairmanship to Andrey A. Gromyko in June of 1985.) Although the Presidium was the highest policy-making body within the Parliament, the 2500-member Congress of the Peoples' Deputies was the Soviet Union's supreme constitutional authority. *Id.*

¹² 1986 BRITANNICA, *supra* note 10, 548.

¹³ Bazyler, *supra* note 10, 128.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Mikhail Gorbachev set out his plan for the Soviet Union's economic reform, including the introduction of capitalistic principles, in PERESTROIKA: NEW THINKING FOR OUR COUNTRY AND THE WORLD (1987).

everyday economic matters.¹⁷ Citizens were even permitted to hire workers and start their own private business enterprises.¹⁸

To further social growth, Gorbachev instituted the policy of *glasnost* (“openness”), which refers to greater democratization of Soviet society.¹⁹ Until Gorbachev came to power, the Soviet Union was a totalitarian society in which only the words and thoughts of the Communist Party were sanctioned.²⁰ After Gorbachev placed into effect the principles of *glasnost*, individuals were permitted to speak out, even against the Communist Party.²¹ Censorship was curtailed and public debate encouraged.²²

Although a firm Communist himself, Gorbachev resolved to loosen the Communist Party’s omnipotent control over the Soviet government. To accomplish this, Gorbachev began asking the Supreme Soviet (the country’s Parliament) for more power for himself.²³ The Parliament responded by creating a strong five-year presidency for Gorbachev in March 1990.²⁴ By the end of 1990, Gorbachev had received the authority to nullify a Soviet republic’s legislation by presidential decree.²⁵

Gorbachev’s Loss of Authority

The powers which Gorbachev secured made him a virtual dictator. He issued presidential decrees whenever he felt that the integrity of his office was threatened.²⁶ For example, when demonstrators heckled him at the 1991 May Day Parade in Red Square, he immediately issued a decree making it a criminal offense to insult the President of the Soviet Union.²⁷ This order largely went unheeded; however, despite his increased *power*, Gorbachev’s *authority* – the general population’s acceptance of his right to rule – actually declined strikingly during 1990 and 1991 as the Soviet people saw that his economic reforms had failed and the country was headed towards economic ruin.²⁸ Issuing presidential decrees at a rapid rate could not help matters when nobody obeyed them.²⁹

¹⁷ Bazylar, *supra* note 10, 128.

¹⁸ *Id.* 149.

¹⁹ *Id.* 147.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* 148. For a report on how censorship lessened after Gorbachev took office, see *How Soviet Censorship is Easing Up*, IZVESTIYA, Nov. 3, 1988, *trans. in* 40 CURRENT DIG. OF SOVIET PRESS 1 (No. 44)(1988).

²³ Henrik Bering-Jensen, *Sorry Mood in Capital of a falling empire*, INSIGHT, May 14, 1990, 15.

²⁴ *Id.* See Article 127 of the final Soviet Constitution for the provisions creating the Soviet presidency.

²⁵ Gorbachev’s power to rule by decree was listed as one of the President’s powers in the Soviet Constitution: “On the basis of and in fulfillment of the USSR Constitution and USSR laws, the USSR President issues decrees that have binding force throughout the country.” Art. 127, par. 5 KONST. SSSR. Some members of the Supreme Soviet worried about the concentration of so much power in one man, especially considering that Gorbachev constitutionally had more authority than any Soviet leader since Stalin. Bering-Jensen, *supra* note 23, 16. Other members of the Parliament regarded Gorbachev’s strengthening of power as political opportunism and an attempt to create a new powerbase to replace that of the weakening Communist Party. *Id.* They felt that if Gorbachev wanted a popular mandate for more power, then he should call for a presidential election. *Id.* His supporters responded that this was impossible since an election might provoke a civil war. *Id.* There was a more practical reason not to call for a general election: considering the mood of the country, Gorbachev simply would not have won re-election. *Id.*

²⁶ Henrik Bering-Jensen, *In the Midst of the Storm Rides a New World Order*, INSIGHT, Dec. 24, 1990-Jan. 7, 1991, 9.

²⁷ *Id.*

²⁸ *Id.* The economic troubles of the Soviet Union before the coup are discussed in the text accompanying *infra* notes 37 through 41.

²⁹ *Id.*

A telling example of Gorbachev's general lack of authority before the August coup was his relationship with Boris Yeltsin, the first popularly-elected President of Russia.³⁰ Gorbachev had made Yeltsin Communist Party leader of Moscow soon after 'coming into power, but dismissed him in 1987 and removed him from the Politburo.³¹ Their principle disagreement was that Yeltsin advocated moving the Soviet Union to a free market economy as quickly as possible, while Gorbachev desired a much slower pace.³²

By late 1990, Gorbachev had evidently taken steps to reverse the forces of *glasnost* and *perestroika*, perhaps as one last effort to preserve his political future and keep the Soviet Union together.³³ Government censorship was partially reinstated in early 1991.³⁴ The K.G.B. became more powerful, with its hard-line Communist chairman, Vladimir A. Kryuchkov, stressing law and order as the solution to the nation's problems.³⁵ To help make things easier for himself in dealing with right-wing government forces, Gorbachev chose a career Communist Party member, Gennadi I. Yanayev, as his Vice President.³⁶

³⁰ Celestine Bohlen, *Coup Set Yeltsin at Center Stage*, N. Y. TIMES, Aug. 20, 1991, A11. Trained as an engineer, Yeltsin was once close friends with Gorbachev. *Id.*

³¹ *Id.* Yeltsin publicly quit the Communist Party in July of 1990. *Id.*

³² *Id.* The already bitter feelings between the two widened after Gorbachev tried (but failed) to prevent Yeltsin from becoming Russian President. *Id.* For a description of the relationship between Yeltsin and Gorbachev before, during, and after the August coup, see JOHN MORRISON, *BORIS YELTSIN: FROM BOLSHEVIK TO DEMOCRAT* (1991).

³³ Stephanie B. Goldberg, *Danger on the Right: The Soviet Union Retreats from Reform*, A.B.A. J., May 1991, at 71. For further discussion on the end of democratic reform in the Soviet Union, see Bill Keller, *Mourning Soviet Reform: Many Regard Legislature's Session as End of Democratization and Onset of Reaction*, N.Y. TIMES, Dec. 29, 1990, 1. It is not clear whether Gorbachev's decision to restrict the country's reforms was his alone or resulted from right-wing pressure on him to do so. Resolution of this question is difficult since it was hard-line Communists who tried to depose the President, with disastrous results.

³⁴ Goldberg, *supra* note 33, 71. For instance, the Kremlin cut the frequency of the Russian republic's most popular radio station and tried to close a competitor of the Soviet news agency Tass. *Id.* Also, a television show covering the shootings which occurred in Lithuania in January 1991 was edited to conform with Communist Party rhetoric. *Id.* For a report on Gorbachev's desire to restrict the Soviet press, see Esther B. Fein, *Gorbachev Urges Curb on Press Freedom*, N.Y. TIMES, Jan. 17, 1991, A3.

³⁵ Goldberg, *supra* note 33, 71. Gorbachev issued a decree increasing K.G.B. authority at the expense of civil liberties and commercial development after Kryuchkov addressed the December 1990 meeting of the Congress of the People's Deputies to complain about the Soviet Union's ills and the threat of its collapse. Bill Keller, *K.G.B. Chief Warns Against West's Aid to Soviet Economy*, N.Y. TIMES, Dec. 23, 1990, 1. The K.G.B. chief had called for "decisive measures" to contain ethnic violence, saying that the country "will not escape upheavals with more serious and painful consequences." *Id.* Kryuchkov also blamed the West for disseminating "anti-Soviet propaganda," and maintained that foreign aid was "economic sabotage." *Id.* 12. Given that Vladimir Kryuchkov was one of the conspirators in Gorbachev's overthrow, it may be that Gorbachev's decree increasing K.G.B. authority was an attempt on his part to placate the conservative K.G.B. chief. Unhappy with right-wing influence over Gorbachev, Soviet Foreign Minister Eduard Shevardnadze stunned the Soviet Union and the world by resigning during the same meeting of the People's Congress. Bill Keller, *Shevardnadze Stuns Kremlin By Quitting Foreign Ministry and Warning of 'Dictatorship'*, N.Y. TIMES, Dec. 21, 1990, A1.

³⁶ Bill Keller, *Gorbachev Names a Party Loyalist to Vice Presidency*, N.Y. TIMES, Dec. 27, 1990, A1. This was a fateful step for Gorbachev, as it was Gennadi Yanayev who played a critical role in the August coup by taking over as Soviet President upon Gorbachev's ouster. Yanayev presented himself to the Supreme Soviet as a "Communist to the depth of [his] soul" *Id.* Parliament members did not initially approve Yanayev for the newly-created vice presidency, but acquiesced after Gorbachev insisted that Yanayev was a man he could trust. Esther B. Fein, *In Hard Battle, Gorbachev Gets Aide He Chose*, N.Y. TIMES, Dec. 28, 1990, A1. See *infra* note 60 for discussion on Gorbachev's inability to appoint to power friends who were truly loyal to him. See *infra* note 189 and accompanying text for further discussion on the Soviet vice presidency (and its establishment).

Conditions Before the Coup

In spite of Gorbachev's initiatives, conditions in the Soviet Union became worse during his last years in office.³⁷ With shortages of even the simplest necessities, the public soon regarded Gorbachev's economic reforms under *perestroika* as failures.³⁸ Food rationing was introduced in Moscow and Leningrad for the first time since World War II, and buyers had to wait in line for hours if food was available.³⁹ As people became more tired of waiting for the promises of *perestroika*, they became less tolerant of Gorbachev.⁴⁰ Soviets saw Mikhail Gorbachev as the cause of their hardship.⁴¹

Citizens, particularly hard-line Communists, had also become acutely aware that their empire was being lost.⁴² Gorbachev pulled the Soviet Army out of Afghanistan in 1988 after the Soviet Union had spent eight fruitless years at war.⁴³ Communist regimes fell like dominos in Eastern Europe.⁴⁴ The Warsaw Pact disbanded and the Berlin Wall came down. Buoyed by the collapse of European Communist governments, Lithuania declared its independence from the Soviet Union in 1990.⁴⁵ Nationalism and ethnic strife rose throughout the Soviet republics.⁴⁶ Older members of Soviet society soon realized that everything they had suffered and struggled for, everything Lenin promised under the "enlightened future of socialism," was nothing more than a sad illusion.⁴⁷

³⁷ Bazkyler, *supra* note 10, 149.

³⁸ *Id.* One cause of the failure was that Communist Party bureaucrats controlling the Soviet Union's pervasive military-industrial complex were unwilling to give up their power and control of the economy. *Id.* 149.

³⁹ Bering-Jensen, *supra* note 26, 8. The Russian city of Leningrad, the Soviet Union's second largest city after Moscow, provides an excellent microcosm of the connection between the Bolshevik and August coups and their aftermaths. Founded by Peter the Great in 1703 as St. Petersburg, the city was renamed Petrograd in 1914. THE NEW ENCYCLOPEDIA BRITANNICA, MACROPAEDIA, vol. 22, *Leningrad* 953 (15th ed. 1987). In 1924, the city was renamed Leningrad upon Lenin's death that year to honor him for leading the October Revolution (the Bolshevik coup) in 1917. *Id.* In response to the tumultuous events of 1991, Leningrad returned to its original name of St. Petersburg two weeks after the August coup. Serge Schmemmann, Soviets Recognize Baltic Independence, Ending 51-Year Occupation of 3 Nations, N.Y. TIMES, Sept. 7, 1991, 1.

⁴⁰ Bazkyler, *supra* note 10, 149.

⁴¹ Bering-Jensen, *supra* note 23, 10. Also blamed were: (1) old-time Communists, stubbornly resisting change; (2) Soviet Jews, up to their conspiratorial efforts; (3) the Baltic states (Latvia, Estonia, and Lithuania), upsetting the country with their demands for independence; (4) the Muslims, creating trouble in the Soviet South; (5) Westerners, meddling in the affairs of the Soviet Union; and of course (6) bureaucrats, for being bureaucrats. *Id.*

⁴² *Id.*

⁴³ *Id.* 11. The Afghan war drained the country's treasury and killed thousands of conscripts. *Id.* Waged in the name of socialism, the war's underlying purpose was to stabilize the Muslim situation within the Soviet Union itself by halting the creation of a new Muslim fundamentalist nation at the Union's southern border. *Id.* Already demoralized with its defeat in Afghanistan, the Soviet Army returned home to an even bleaker environment. *Id.* The Afghan defeat also added to the discontent and sorry mood of the Soviet people, especially the leaders of the August coup. *Id.*

⁴⁴ Within six months, the people of Eastern Europe had regained freedoms denied to them for forty years under oppressive Soviet-backed Communist governments. Flora Lewis, *Legacy of 1991: Phoenix or Empty Ashes?* 1992 BRITANNICA BOOK OF THE YEAR 4 (1992).

⁴⁵ But in January of 1991, the Soviet military charged into Lithuania with the purpose of taking over a militant Lithuanian broadcast center. Bill Keller, *Soviet Loyalists in Charge After Attack in Lithuania; 13 Killed; Crowd Defiant*, N.Y. TIMES, Jan. 14, 1991, A1. Gorbachev was said to have tacitly approved of the invasion, which resulted in several deaths. *Id.* Gorbachev repeatedly declared that Lithuania's claim of independence was illegal. *Id.*

⁴⁶ *Id.*

⁴⁷ *A Day in the Death of the Soviet Union*, INSIGHT, Nov. 19, 1990, 12. Some people actually expressed nostalgia for the rigid order of Joseph Stalin: "[Russians] need an iron fist," said one Russian. *id.* 10 "This is what Stalin

The huge military-industrial complex came to loath Gorbachev and his liberal economic and social reforms.⁴⁸ The military leadership was considerably upset with the Communist Party's loss of power under Gorbachev, as well as the Soviet Union's declining international strength.⁴⁹ The possibility of civil war was a topic of conversation for months throughout 1990 and 1991; persistent rumors of a military coup buzzed around Moscow.⁵⁰ The situation became such that it was not clear whether political authority was coming from Gorbachev, the Communist party, the Supreme Soviet, or the Soviet republics.⁵¹

While the Soviet empire fell apart, Gorbachev became increasingly isolated from the public and the events transpiring. There were public demonstrations against Gorbachev.⁵² By mid-1991, conditions in the Soviet Union had become ripe for a drastic event to occur.⁵³ And Gorbachev was just about everybody's target of choice.

The Soviet Coup

The Committee of Eight and Its Justification

A right-wing, military-backed coup d'état ousted Mikhail Gorbachev from power for three days starting the night of August 18, 1991.⁵⁴ While he was vacationing at Cape Foros in southern Crimea, an eight-man group calling itself the "State Committee for the State of Emergency in the U.S.S.R." ("the Emergency Committee") sent emissaries to Gorbachev demanding that he immediately declare a state of emergency in the Soviet Union and then

provided, and during that period, we had something to believe in. We had a leader and we had ideas. We have nothing now." *Id.*

⁴⁸ Bill Keller, *Soviet Military Grows Resentful at Gorbachev's Policy of Change: Many Middle Ranking Officers Favor Hard Line*, N.Y. TIMES, Dec. 24, 1990, 1.

⁴⁹ *Id.*

⁵⁰ *A Day in the Death of the Soviet Union*, *supra* note 47, 10.

⁵¹ Goldberg, *supra* note 33, 71.

⁵² Bering-Jensen, *supra* note 26, 8. Such demonstrations against Gorbachev as occurred at the 1991 May Day Parade would have been unthinkable under previous Soviet leaders. *Id.* Ironically, Gorbachev's *glasnost* policies had opened the door to political demonstrations in the first place. Despite all this, Gorbachev was still popular throughout the world, and had even won the 1990 Nobel Peace Prize for his contribution in ending the cold war. *Id.* But fearing being deposed while out of the country, Gorbachev cancelled his trip to receive his award. *Id.* Indeed, only three days before the August coup attempt, the Kiplinger Washington Letter noted that although Gorbachev was popular elsewhere in the world, he could not win a free election at home. KIPLINGER WASH. LETTER, vol. 68, No. 33 (Aug. 16, 1991).

⁵³ Even more than a year before the August coup, Professor Michael J. Bazylar concluded a speech presented at the 1990 International Law Symposium at Whittier College School of Law with: "With the Soviet economic faltering, the often-asked question is whether Gorbachev will stay in power. No one can predict the answer, but we should not be too surprised if one morning we read in the newspapers that he has been overthrown." Bazylar, *supra* note 10, 150.

⁵⁴ Gorbachev's removal from power was orchestrated similarly to the deposal of Nikita S. Khrushchev twenty-seven years earlier. *Recollections of Khrushchev*, N.Y. TIMES, Aug. 20, 1991, A10. Like Gorbachev, Khrushchev was a different type of Soviet leader, and, again like Gorbachev, was actually more respected in the West than in his own country. *Id.* The 1964 ouster of Khrushchev occurred when the leader was away on vacation, as with Gorbachev, when the Communist Party Central Committee suddenly decided to replace Khrushchev with Leonid Brezhnev as Party leader. *Id.* A meeting of the Presidium of the Supreme Soviet then stripped Khrushchev of his Prime Minister's post and replaced him with Aleksei Kosygin. *Id.* Khrushchev was so easily deposed because the Communist Party was in firm control of the Soviet Union and the populace at the time, as opposed to its relative lack of control of the country and people by August 1991. Also, there was no reason in 1964 for Soviet citizens to protest who their leader was anyway, as there were no democratic reforms at stake.

voluntarily relinquish power to the Committee.⁵⁵ Vehemently refusing,⁵⁶ Gorbachev was placed under house arrest in his villa.⁵⁷ The coup leaders then tersely announced the takeover and the imposition of a state of emergency to the Soviet public.⁵⁸

The members of the “Committee of Eight” were all stalwart members of the Communist Party Central Committee who disagreed with Gorbachev’s social and economic initiatives.⁵⁹

⁵⁵ MIKHAIL GORBACHEV, *THE AUGUST COUP: THE TRUTH AND THE LESSONS* 19 (1991). The representatives were Oleg D. Baklanov, deputy Chairman of the National Defense Council and a member of the Emergency Committee; Valery I. Boldin, Gorbachev’s chief of staff; Oleg Shenin, secretary of the Communist Party Central Committee; General Valentin Varennikov, chief of Soviet Ground Forces; and Major General Yuri S. Plekhanov, head of K.G.B. security for high government officials. *Id.* The reason and logic behind the conspirators’ specific demands of Gorbachev are discussed in the text accompanying *supra* notes 194 through 196. Gorbachev was reportedly paid \$500,000 by HarperCollins for *The August Coup*, a 127-page account of his experiences during the takeover. Esther B. Fein, *Gorbachev Memoir Affirms Socialism*, N.Y. TIMES, Oct. 27, 1991, 12. For review of Gorbachev’s memoir, see Phillip Taubman, *Three Who Made a Revolution*, N.Y. TIMES BOOK REV., Dec. 8, 1991, 3.

⁵⁶ Gorbachev told the men: So tomorrow you will declare a state of emergency. When then? Can you plan for at least one day ahead, four steps further – what next? The country will reject these measures.... The people are not a battalion of soldiers to whom you can issue the command ‘right turn’ or ‘left turn, march’ and they will all do as you tell them. It won’t be like that. Just mark my words. GORBACHEV, *supra* note 55, 21-23.

⁵⁷ *Id.* 27. Along with Gorbachev and his wife were other members of his family and 32 loyal bodyguards. Although virtually cut off from the world during his three days of house arrest, Gorbachev was able to keep abreast of coup developments by monitoring the British Broadcasting Corporation, Radio Liberty, and Voice of America broadcasts. *Id.*

⁵⁸ The following are excerpts from the Emergency Committee’s resolution announcing the ouster of Gorbachev and the imposition of a state of emergency in the Soviet Union:

In view of Mikhail Sergeevich Gorbachev’s inability, for health reasons, to perform the duties of the U.S.S.R. President[,] and of the transfer of the U.S.S.R. President’s powers, in keeping with Paragraph 7, Article 127 of the U.S.S.R. Constitution, to U.S.S.R. Vice President Gennadi Ivanovich Yanayev,

With the aim of overcoming the profound and comprehensive crisis, political, ethnic and civil strife, chaos and anarchy that threaten the lives and security of the Soviet Union’s citizens and the sovereignty, territory integrity, freedom and independence of our fatherland,

WE RESOLVE:

1. In accordance with Paragraph 3, Article 127, of the U.S.S.R. Constitution and Article 2 of the U.S.S.R. law “on the legal regime of a state of emergency” and with demands by broad popular masses to adopt the most decisive measures to prevent society from sliding into national catastrophe and insure law and order, to declare a state of emergency in some parts of the Soviet Union for six months from 04:00 Moscow time on Aug. 19, 1991.
2. To establish that the constitution and laws of the U.S.S.R. have unconditional priority throughout the territory of the U.S.S.R.
3. To form an Emergency Committee for the State of Emergency in the U.S.S.R. in order to run the country and effectively exercise the state-of-emergency regime, consisting of [The names and titles of the eight Committee members were listed here.]
4. To establish that the U.S.S.R. Emergency Committee for the State of Emergency’s decisions are mandatory for unswerving fulfillment by all agencies of power and administration, officials and citizens throughout the territory of the U.S.S.R. G. Yanayev V. Pavlov O. Baklanov
Text of Resolution Ousting Gorbachev and Forming a Ruling Committee, N.Y. TIMES, Aug. 20, 1991, A14.

See infra note 189 and accompanying text for discussion of Article 127, Paragraph 7, of the Soviet Constitution.

See infra note 195 and accompanying text for discussion of Article 127, Paragraph 3, section 15, which addressed the President’s authority to declare a state of emergency.

⁵⁹ Francis X. Clines, *K.G.B.-Military Rulers Tighten Grip; Gorbachev Absent, Yeltsin Defiant*, N.Y. TIMES, Aug. 20, 1991, A1. *See infra* note 64 for speculation as to why these men wished to seize Soviet power.

Representing every part of the huge Soviet military-industrial complex, the conspirators were: Soviet Vice President Gennadi I. Yanayev, who had taken over as acting President; K.G.B. Chairman Vladimir A. Kryuchkov; Defense Minister Marshal Dmitri T. Yazov; Prime Minister Valentin S. Pavlov; Interior Minister Boris K. Pugo; Oleg D. Baklanov, deputy Chairman of the National Defense Council; Vasily A. Starodubtsev, Chairman of the Soviet Farmers' Union; and Aleksandr I. Tizyakov, President of the Association of State Enterprises.⁶⁰

⁶⁰ *Id.* Ironically, these individuals were all Gorbachev appointees and were friends of his! For example, in an attempt to appease hard-liners, Gorbachev appointed an old Communist friend, Boris Pugo, as head of the Interior Ministry in December 1990. Esther B. Fein, *Skillful Party Climber*, N.Y. TIMES, Aug. 21, 1991, A10. A Western diplomat stated that Boris Pugo was regarded as a "reactionary in *glasnost* clothes" and a "wild card" in the Gorbachev clearly took a bad political gamble when he chose him." *Id.* See *supra* note 36 for discussion on Gorbachev's appointment of Gennadi Yanayev as his Vice President in 1990 to appease conservatives.

In a precursor to the August coup, Prime Minister Pavlov went to the Supreme Soviet in June of 1991 to ask for additional powers for himself, without Gorbachev's permission or knowledge. Bill Keller, *The 3-Day Fiasco: Anatomy of a Failed Strike at the State*, N.Y. TIMES, Aug. 25, 1991, 1, 16. Kryuchkov, Yazov, and Pugo endorsed Pavlov's attempt to usurp some of Gorbachev's authority. *Id.* A few days later, however, Gorbachev cleared up the problem and joked (in the presence of these men) "The coup is over." *Id.* Apparently, Gorbachev could not see that his conservative "friends" were serious in their dissatisfaction with his leadership and liberal reforms.

After the coup crumbled, Aleksandr N. Yakovlev, a key architect of Gorbachev's reform policies, placed the blame for the August coup on Gorbachev himself for choosing "a team of traitors." *Ex-Aide Blames Gorbachev for 'Team of Traitors'*, N.Y. TIMES, Aug. 22, 1991, A 13. "Why did he surround himself with people capable of treason?" Yakovlev asked. *Id.* Aleksandr Yakovlev was once thought to be a potential candidate for Communist Party Chairman but quit the Party a few days before the August coup after warning Gorbachev that a plot against him was in the works. *Id.* Gorbachev did not listen.

In assessing Gorbachev's decisions regarding his appointees, consider the following: The head of state must delegate authority to make and enforce decisions to assistants whom he cannot observe directly and continuously. The larger the size of his administration[,], the more indirect his knowledge of its members becomes. To the extent that he can, he will surround himself with those who seem reliable, but [that] action has unwished for consequences. It makes him vulnerable to the intrigues of his assistants, for they cannot be effective in their public responsibilities unless they have the right to access him, to move freely in critical areas, to meet with colleagues to discuss common or overlapping jurisdiction, and to have subordinates trained to follow orders without question. All of these rights give conspirators invaluable advantages in executing coups d'etat. And needless to say, the same reasons which make [the] administrative head a possible victim of a few of his officials apply with much stronger force to his own ability to conspire to deprive them of their constitutional powers. David A. Rapoport, *Coup d'Etat: The View of the Men Firing Pistols*, in REVOLUTION 68-69 (Carl J.I Friedrich, ed. 1966).

Leaders of regimes where coups d'etat are more common usually know that they are likely to be deposed by violent means, just as Gorbachev had premonitions that he would be ousted (see below). *Id.* 71. However, most leaders do not know who the usurpers will be or when they will strike, and do not know what will happen to their lives, families and fortunes. *Id.* 72. A prudent leader will realize that those most likely to threaten him are posing as loyal supporters occupying positions of trust and protected by the regime itself. *Id.* This is very applicable to Gorbachev.

In states where coups often happen, there can be little mutual confidence among officials. *Id.* How can a leader contend with problems facing his country when he does not know who his true supporters are, and when he knows that those commanding the government's bases of power are able to either initiate or join in an attempt to oust him? *Id.* Obviously, leaders in such a position are not very effective, and this can be said of Gorbachev and the situation in which he found himself by August 1991.

Although it is true that Mikhail Gorbachev did nothing to prevent a coup despite being warned that certain individuals were eager to overthrow him, it may be fairer to say that he did not act because he did not have the governmental or political authority to do anything (and did not know what to do anyway). Gorbachev later maintained that his inactivity was actually purposeful:

Of course I did foresee the theoretical possibility of a sharp conflict between the forces of renewal and reaction....From the very beginning of the crisis brought about by the radical transformation of our society[,] I tried

The specific event sparking the takeover was Gorbachev's endorsement of a new Union treaty with nine of the fifteen Soviet republics which would have produced a drastically redesigned Soviet Union.⁶¹ The pact, which was to have been signed on August 20, would have certified the republics as autonomous states, with pre-eminence in economic policy, and possessing the authority to suspend laws of the central Soviet government.⁶² The treaty also amounted to virtual acceptance of the independence claims of the six republics which had indicated they would not sign.⁶³ By limiting the Kremlin's power over the Soviet republics and Soviet society overall, the new Union treaty clearly posed an imminent threat to the interests and power of the institutions represented by members of the Emergency Committee: the military, the K.G.B., and the underlying Communist Party.⁶⁴

The group most likely to initiate any form of government overthrow, especially a coup d'état, is the military leadership, since it has control over the country's armed forces.⁶⁵ Elements of the military leadership are usually involved in orchestrating a coup even if the coup leaders are civilians.⁶⁶ This is the case with the August coup. Although the Committee of Eight was comprised primarily of Soviet civilian government directors, it does appear that Dmitri Yazov, Vladimir Kryuchkov, and Boris Pogo were the coup's true masterminds.⁶⁷ These three men controlled the Soviet empire's vast military forces, powerful K.G.B. units, and dreaded Interior Ministry police.⁶⁸

As an excuse for its actions, the Emergency Committee maintained that Gorbachev was ill and unable to carry out his duties.⁶⁹ "He is very tired after these many years," contended

not to allow an explosive resolution of the contradictions to take place. I wanted to gain time by making tactical moves, so as to allow the democratic process to acquire sufficient stability to ease out the old ways and to strengthen people's attachment to the new values. In short, I wanted to bring the country to a stage where any such attempt to seize power would be doomed to failure.

GORBACHEV, *supra* note 55, 13. If he was to be taken at his word, then perhaps Gorbachev knew what he was doing all along.

⁶¹ Clines, *supra* note 59, A1.

⁶² Bill Keller, *Gorbachev and His Fateful Step*, N.Y. TIMES, Aug. 20, 1991, A1, A10. See *supra* note 58 for the Emergency Committee's statement announcing the ouster of Gorbachev. The statement's second resolution declared that the Soviet Union's constitution and laws had unconditional priority throughout the Soviet territory. The Committee of Eight apparently wished to ensure that the Soviet republics had absolutely no notions to the contrary.

⁶³ *Id.*

⁶⁴ *Id.* Boris Yeltsin remarked after the coup that the new Union treaty would have "strip[ped]...the architects of the putsch of their offices, and herein lies the secret of the conspiracy and the main motivation behind the actions of the parties to it. Their demagoguery about the fate of the homeland is little more than trickery concealing their personal selfish interests." Serge Schmemmann, *Gorbachev Back as Coup Fails, But Yeltsin Gains New Power*, N.Y. TIMES, Aug. 22, 1991, A1, A10. A Soviet political commentary had this to say about the conspirators: What happened on the morning of Aug. 19 can be viewed as a conspiracy against the Gorbachev-Yeltsin political alliance by the main central structures of the former unitary imperial state that is doomed to disappear. They see no place for themselves in the future, or they see a place that is so unfamiliar and humiliatingly modest that they cannot accept it. Stanislav Kondrashov, *Political Commentator's Opinion: Trails Behind, Trials Ahead*, IZVESTIYA, Sept. 25, 1991, *trans.*, in 43 CURRENT DIG. OF SOVIET PRESS 1 (No. 34)(1991).

⁶⁵ Hassan, *supra* note 2, 198.

⁶⁶ *Id.*

⁶⁷ Stephen Kinzer, *Three in Coup Feared U.S. Dependency*, N.Y. TIMES, Oct. 7, 1991, A7.

⁶⁸ *Id.*

⁶⁹ *Excerpts From the New Leader's Remarks: 'Law and Order'*, N.Y. TIMES, Aug. 20, 1991, A12. The claim that Gorbachev was ill did not convince the Soviet public. Francis X. Clines, *Resistance to Soviet Takeover Grows as Defiant Crowds Rally for Yeltsin*, N.Y. TIMES, Aug. 21, 1991, A1. Boris Yeltsin demanded that the physician drafted the following statement while Gorbachev was under house arrest:

Gennadi Yanayev, “and will need some time to get better... and it is our hope ... that Mikhail Gorbachev, as soon as he feels better, will take up again his office.”⁷⁰ Gorbachev’s whereabouts were initially unknown, although Yanayev stated that Gorbachev was undergoing “treatment” in the south of the country.⁷¹

With reference to reports that have appeared in the mass media that M.S. Gorbachev is unable to carry out his duties as President of the USSR on account of his state of health[,] I consider it my professional duty and my duty as a citizen to state the following:

I have been M.S. Gorbachev’s personal physician since April 1985. I have observed no substantial changes in the state of Mikhail Sergeyevich’s health recently. I see no reason as far as his health is concerned why M.S. Gorbachev should not carry out the duties he is invested with. I am prepared to discuss this opinion with any competent commission of Soviet or foreign specialists. GORBACHEV, *supra* note 55, 95.

While under house arrest, Gorbachev dictated a declaration in which he attested to his good health and addressed the constitutionality of the Emergency Committee’s actions. (Note that it is often Gorbachev’s style to refer to himself in the third person as “the President” in his writings and speeches):

I bring to the attention of the Congress and the U.S.S.R. Supreme Soviet the following DECLARATION:

1. G. I. Yanayev’s assumption of the duties of President on the pretext that I am ill and unable to carry out my responsibilities is an attempt to deceive the people and thus cannot be described as anything but a coup d’etat.
2. That means that all subsequent acts are also illegal and unlawful. Neither the President nor the Congress of the People’s Deputies has given Yanayev such authority.
3. Please convey to comrade Lukyanov my demand for the urgent summoning of the Supreme Soviet of the U.S.S.R. and the Congress of the People’s Deputies to consider the situation that has arisen. Because they and only they have the right to decide the question of the measures to be taken by the government and the means of putting them in practice.
4. I demand the immediate suspension of the activity of the State Committee for the Emergency until the above decisions have been taken by Supreme Soviet or the Congress of the People’s Deputies of the U.S.S.R.

The continuation of these actions and the further escalation of measures taken by the State Committee for the Emergency can turn out to be a tragedy for all the peoples, further aggravate the situation and even completely wreck the joint work that the Centre and the republics have begun in order to find a way out of the crisis.

GORBACHEV, *supra* note 55, 25-26. Gorbachev also managed to produce a videotape to be shown to authorities and the Soviet people in which he discussed his health and the legitimacy of the Emergency Committee’s acts. See *id.* 91-93 for a transcript of this videotape. After the coup, Gorbachev asked “How could these people talk about my health, when their own hands were shaking so?” Francis X.

Clines, *Gorbachev Recounts Telling Plotters: ‘To Hell With You’*, N.Y. TIMES, Aug. 23, 1991, A13.

⁷⁰ *Excerpts From the New Leader’s Remarks: ‘Law and Order’*, *supra* note 69, A12. Yanayev further stated: “[C]an you imagine the stress that he has had to endure over the past six years[?] I hope my friend, President Gorbachev, will return to his office and we will work together [again].” *Id.* At this press conference, television cameras repeatedly focused in on Yanayev’s trembling hands and overall nervous demeanor.

⁷¹ *Id.* Soon after the coup began, various political commentators and experts on the Soviet Union gave their opinions on the putsch and its chances of success. See *Voices of I.S. Scholars: These Forces Go Way Back in Russian History*, N.Y. TIMES, Aug. 21, 1991, A12. Princeton University Professor Stephen F. Cohen pointed out that while the takeover was a shock, it was not a surprise: “These people and the institutions that they represent – the military-industrial complex, the K.G.B., the [Communist P]arty apparatus, the Ministry of the Interior and the state collective farm structure – were the primary targets of Gorbachev’s reforms.” *Id.* University of California at Berkeley Professor Gail Lapidus noted that the Emergency Committee was clear in what it was against: “It is opposed to reform, democratization, the opening to the West and the significant devolution of power to the republics and the secession of some. It does not have a cohesive program of its own.” *Id.* Professor Roald Z. Sagdeyev of the University of Maryland noted that the coup leaders were not using the old Communist jargon of the past. Instead, “they [were] trying to paint themselves as apolitical, on the side of order and legality and against chaos and civil war.” *Id.* Zbigniew Brzezinski, national security adviser to President Carter stated: “In the long run, the coup will most certainly fail. There is no way of putting the old system back together with a military putsch... The putschists represent a bankrupt past, in many respects a criminal past.” *Id.* Condoleezza Rice, former chief Soviet specialist at

Individuals or groups instigating coups d'état also usually claim that the deposed political system had enough problems to warrant a swift change of leadership and that their drastic actions will cure the nation's ills.⁷² Yanayev, for example, declared that the Emergency Committee was "guided by the principle that sometimes there are critical situations that call for immediate actions."⁷³ The Committee of Eight thus believed that the takeover was necessary considering the economic and political crisis facing the Soviet Union. A formal statement from the Emergency Committee to the Soviet people stressed that Gorbachev's reforms had entered "a blind alley," with "[l]ack of faith, apathy and despair" as having "replaced the original enthusiasm and hopes."⁷⁴ Furthermore, all democratic institutions created by the popular will are losing weight and effectiveness right in front of our eyes. This is a result of purposeful actions by those who, grossly violating the fundamental law of the U.S.S.R., are effectively in the process of staging an anti-constitutional coup and striving for unbridled personal dictatorial powers.⁷⁵

The Emergency Committee seemed to have implied that one of the reasons for the seizure of power was that the office of the presidency had become too powerful, especially in light of the additional powers the Supreme Soviet had granted Gorbachev during the previous year and a half. However, while Gorbachev indeed had almost dictatorial powers *on paper* before the August putsch, he actually had little tangible authority by that time. The notion that Gorbachev had almost become dictator of the Soviet Union can surely be regarded as merely a shallow and convenient pretext for the Emergency Committee.

Action and Reaction

The coup conspirators moved quickly to reimpose hard-line control in the areas with the greatest insurgent opposition to Communist authority: Moscow, Leningrad and the Baltics

the National Security Council, clarified the situation when she pointed out that the August coup was not a true military coup: "There's a lot of calling this a military coup. The military's involved but this is a right-wing putsch. This is all right-wing. That makes it more dangerous." *Id.*

⁷² Hassan, *supra* note 2, 197. They do this to justify their obviously illegal actions. *Id.* If the masses agree with the usurpers' reasons for the takeover, then the takeover will probably be considered legitimate. *Id.*

⁷³ *Excerpts From the New Leader's Remarks: 'Law and Order'*, *supra* note 69, A12.

⁷⁴ *State of Emergency Committee's Statement "A Moral Danger Has Come"*, N.Y. TIMES, Aug. 20, 1991, A13.

Following are more excerpts from the Emergency Committee's statement:

Compatriots, citizens of the Soviet Union, we are addressing you at the grave, critical hour for the destinies of Motherland and our peoples. A mortal danger has come to loom large over our great Motherland.... It is high time people were told the truth: *If urgent and decisive measures are not adopted to stabilize the economy, hunger and another spiral of impoverishment are imminent in the near future....* Only irresponsible people can bank on some aid from abroad. No handouts can solve our problems; *our rescue is in our own hands.* The time has come to measure the authority of every person and organization by their real contributions to the rehabilitation and development of the national economy.... Prefectures, mayoralities and other illegal structures are increasingly replacing, de facto, popularly elected governing councils.... The pride and honor of the Soviet people must be restored in full. *The Emergency Committee for the State of Emergency in the U.S.S.R....takes upon itself the responsibility for the fate of the country and is fully determined to take most serious measures to take the state and society out of the crisis as soon as possible....* We intend to restore law and order straight away, end bloodshed, declare a war without mercy to end the criminal world, [and] eradicate shameful phenomena discrediting our society and degrading Soviet citizens.... Our prime concern is the solution of the food and housing problems. All available forces will be mobilized to meet these, the most essential needs of the people. We are calling upon workers, peasants, working intelligentsia, all Soviet people to restore... labor discipline and order, [and] raise the level of production in order to resolutely march ahead.... *We call upon all citizens of the Soviet Union to grow aware of their duty before the country and render all possible assistance to the Emergency Committee for the State of Emergency in the U.S.S.R. and efforts to pull the country out of the crisis....* *Id.* (emphasis added).

⁷⁵ *Id.*

republics (Lithuania, Latvia and Estonia).⁷⁶ Military officers appeared at city halls and other bases of legitimate authority in these regions and announced that they were in charge on behalf of the Emergency Committee.⁷⁷ There were swift crackdowns in the Baltics, with Soviet troops surrounding and taking over television stations in Latvia and Lithuania.⁷⁸

After flooding Moscow with troops and tanks, the coup leaders immediately banned protest meetings and suspended publication of many newspapers and journals which had enjoyed relative freedom of the press under *glasnost*.⁷⁹ The Committee of Eight also moved against independent broadcast outlets, such as Radio Russia, by having soldiers block entry to the broadcast studios.⁸⁰

Public attention quickly turned to the one dominating figure left on the political stage: Boris Yeltsin, the only nationally and internationally known leader in Moscow possessing legitimate government authority.⁸¹ When the putsch started, Yeltsin publicly condemned it as “unconstitutional and unlawful” and immediately issued an order countermanding the Emergency Committee’s decrees.⁸² Seeking to rally resistance, Yeltsin climbed atop an armored vehicle before 20,000 cheering Moscovites in front of the Russian Parliament and called for a general strike to protest to takeover.⁸³

Yeltsin warned the public not to antagonize the Army troops, and promised legal protection for soldiers who defied the coup leaders.⁸⁴ The Troops themselves were confused by

⁷⁶ Clines, *supra* note 59.

⁷⁷ *Id.*

⁷⁸ *Id.* The Soviet Army had already been occupying a Lithuanian broadcasting center seized since its bloody assault on it during the January 1991 invasion. See *supra* note 45 for further discussion on the Lithuanian invasion.

⁷⁹ Francis X. Clines, *Independent Newspapers Draw Coup’s Early Fire*, N.Y. TIMES, Aug. 20, 1991, A11. The new regime required newspapers to register with the central government to be permitted to publish again, thus virtually assuring that the newspapers would not be allowed to reopen. *Id.* Gennadi Yanayev justified these actions by maintaining that independent newspapers had “played a certain role” in bringing on the crisis that was engulfing the nation. *Id.* *Moscow News*, in an attempt to defy the new registration requirement, began distributing news snippets with fax machines throughout the city. *Id.* Within 24 hours, the democratic forces rallying against the coup apparently managed to construct a communications network better than that of the Committee of Eight’s.

⁸⁰ *Id.* see *infra* note 114 and accompanying text for discussion on the importance of keeping the public uninformed during a coup d’etat.

⁸¹ Celestine Bohlen, *Coup Sets Yeltsin at Center Stage*, N.Y. TIMES, Aug. 20, 1991, A11.

⁸² *Id.* Yeltsin also issued an order putting Soviet government agencies under Russian control. *Id.*

⁸³ Clines, *supra* note 59. The following are some of Yeltsin’s remarks: Citizens of Russia: On the night of 18-19 August 1991, the legally elected President of the country was removed from power. *Regardless of the reasons given for his removal, we are dealing with a rightist, reactionary, anticonstitutional coup....* [W]e proclaim all decisions and instructions of this committee to be unlawful.... We appeal to citizens of Russia to give a fitting rebuff to the putschists and demand a return of the country to normal constitutional development.... We are absolutely confident that our countrymen will not permit the sanctioning of the tyranny and lawlessness of the putschists, who have lost all shame and conscience. We address an appeal to servicemen to manifest lofty civic duty and not take part in the reactionary coup. Until these demands are met, we appeal for a universal unlimited strike. *Yeltsin’s Remarks: A ‘Reactionary Coup’*, N.Y. TIMES, Aug. 20, 1991, A11 (emphasis added). As these words indicate, Yeltsin was primarily concerned with the takeover itself; Gorbachev and his fate were only secondary to Yeltsin.

⁸⁴ Bill Keller, *Sporadic Mutinies Rack Soviet Army*, N.Y. TIMES, Aug. 21, 1991, A1. Following is part of Yeltsin’s address to Soviet troops maneuvering throughout Russia: Countrymen: An attempt to stage a coup d’etat has been made. The President of the Country, the Commander in Chief of the armed forces of the U.S.S.R. has been removed from power. The Vice President, the Chairman of the K.G.B., the First Deputy of the Chairman of the Council of Defense, have formed an unconstitutional body and have hereby committed a grave crime. The country is faced with the threat of terror.... Soldiers and officers, at this tragic hour, I call on you. Don’t let yourselves be misled. Don’t allow adventurists to use you as blind weapons.... Think about your loved ones, your friends and your people. At this difficult hour of decision, remember that you have taken an oath to your people, and your weapons can be

the takeover and were unsure of their role in enforcing the Emergency Committee's claim to power.⁸⁵ Many soldiers told Moscovites that they would not obey orders to shoot; others altogether defected to Yeltsin's side.⁸⁶ This did not bode well for a successful coup d'état.

The Emergency Committee warned Yeltsin that it was prepared to "dismantle" agencies resisting its authority.⁸⁷ For a time, the scene was set for a confrontation at the Russian Parliament between army troops under the Emergency Committee's command and those loyal to Yeltsin.⁸⁸ Furniture, old cars, buses, and other obstacles were piled in the streets of Moscow to hamper tank movements and to serve as barricades in front of Yeltsin's headquarters.⁸⁹ On the second night of the coup, Soviet Army command ordered tanks to roam the streets to intimidate the populace and enforce an 11PM military curfew.⁹⁰ In the coup's first instance of actual violence, three Moscovites were killed by an armored troop vehicle during the night's chaos.⁹¹

The Emergency Committee soon found that an increasingly resentful public was ignoring its executive decrees and orders, not to mention the military curfew.⁹² Despite intense dissatisfaction with the current state of affairs, nearly every Soviet citizen opposed the coup as an illegitimate usurpation by volatile elements of the Communist system. "We are seeing the agony of the old regime," said Oleg D. Kalugin, a former K.G.B. officer who had become the Soviet agency's biggest critic.⁹³ "These are old guys, simply crazy."⁹⁴ The putsch was obviously missing the key legitimizing ingredient of a successful coup d'état: public support. Leaders of other Soviet Republics began to denounce the coup as an unlawful seizure of power.⁹⁵ Latvia and Estonia declared their total independence from the Soviet Union, joining Lithuania. World opposition to the takeover was almost universal.⁹⁶ U.S. Secretary of State James Baker, for example, released a statement warning the Emergency Committee: "The whole world is

turned against the people. You can erect a throne using bayonets but you cannot sit on bayonets for long.... Clouds of terror and dictatorship are gathering over Russia but this night will not be eternal and our long-suffering people will find its freedom once again, for good. Soldiers, I believe at this tragic hour you will take the right decision. The honor of Russian arms will not be covered with the blood of the people. *Entreaty To Troops By Yeltsin*, N.Y. TIMES, Aug. 21, 1991, A10.

⁸⁵ Keller, *supra* note 84. See *infra* note 118 for discussion of the Soviet military's role in the coup.

⁸⁶ *Id.* One high-ranking tank officer said that he and others went over to defend the Russian Parliament because they considered the orders of the conspirators illegal. Peter Gumbel & Gerald F. Seib, *Spotlight Is on Yeltsin As Soviet Coup Effort Runs Into Roadblocks*, WALL ST. J., Aug. 21, 1991, A1, A8. Asked if he was afraid of reprisals, the officer said "History will judge us." *Id.*

⁸⁷ Clines, *supra* note 59.

⁸⁸ *Id.*

⁸⁹ Celestine Bohlen, *Bare-Fisted Russians Plot a Last Stand*, N.Y. TIMES, Aug. 21, 1991, A9. Members of Yeltsin's Russian government were issued bullet-proof vests, helmets, and gas masks in preparation for a battle with government troops. *Id.* However, other than a few pistols, the Yeltsin forces were only armed with sticks, stones, and Molotov cocktails. As one man said, "we could not hold off [the Army] more than five minutes. This is mostly symbolic." *Id.*

⁹⁰ Clines, *supra* note 69.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.* In 1990, Major General Kalugin had been stripped of his rank, awards and pension for publicly criticizing the K.G.B. *Id.* Gorbachev restored these to Kalugin after the coup.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ But Saddam Hussein supported the coup, maintaining that a Soviet Union with a hard-line government was necessary to act as a counterbalance to the United States. *Hussein's Council Welcomes Coup*, N.Y. TIMES, Aug. 22, 1991, A1, A10.

watching. *Legitimacy in 1991 flows not from the barrel of a gun but from the will of the people. History cannot be reversed. Sooner or later your effort will fail.*⁹⁷

The Coup Plotters: Incompetence and Responsibility

Before Baker could deliver his message, however, the coup had begun to falter, with military forces withdrawing from Moscow, Leningrad, and the Baltics. Pursued by a task force led by Russian Republic's Vice President, several members of the Emergency Committee (including Vladimir Kryuchkov and Dmitiri Yazov) flew off to meet with Gorbachev and personally beg for forgiveness.⁹⁸ They were arrested upon arriving in the Crimea. Gorbachev said he would ensure that the conspirators carried the "full responsibility" for committing a "state crime."⁹⁹

In Moscow, Prime Minister Pavlov was under arrest and hospitalized, apparently ill from drinking.¹⁰⁰ Interior Minister Boris Pugo had killed himself with a shot to his head.¹⁰¹ Gennadi Yanayev remained in his Kremlin office until Gorbachev loyalists came to arrest him.¹⁰² He tried to excuse his acts by claiming that the other putsch members threatened him with imprisonment if he did not cooperate with them.¹⁰³ Ordered to remain in his office, Yanayev had drank himself to unconsciousness by the next morning.¹⁰⁴ The coup was over.¹⁰⁵

Persons (such as the cast of the Committee of Eight) who engage in rebellions against legitimate state authority must consider the consequences.¹⁰⁶ If the takeover succeeds, then there

⁹⁷ Adam Clymer, *NATO Expresses Concern*, N.Y. TIMES, Aug. 22, 1991, A15 (emphasis added).

⁹⁸ Sege Schmemmann, *Gorbachev Back as Coup Fails, But Yeltsin Gains New Power*, N.Y. TIMES, Aug. 22, 1991, A1, A10.

⁹⁹ *Id.* Upon his return to Moscow, Gorbachev addressed cheering Moscovites: Let me tell you the most important thing. Everything we have done since 1985 has borne fruit. Society and our people have changed and that has proved to be the major obstacles in the way of the gamblers.... I congratulate our Soviet people, who do have the sense of responsibility and dignity and who have shown concern that due respect is displayed to those people who have been entrusted with authority, by [the] people. And it is not just an insignificant group of people who used attractive slogans and [were] trying to take advantage of the problems that we are aware of and concerned about and that we want to deal with. [The conspirators] wanted to push people to the road which would have led our society to a catastrophe. But they have failed, and this is a major victory for *perestroika*... Gorbachev's First Remarks: 'They Failed', N.Y. TIMES, Aug. 20, 1991, A11.

¹⁰⁰ Bill Keller, *Gorbachev Says Coup Will Hasten Reform; Yeltsin Leads the Celebration in Moscow*, N.Y. TIMES, Aug. 23, 1991, A1, A8.

¹⁰¹ *Id.* To the end, however, Pugo maintained that the coup was politically and morally correct. *Id.* Pugo had also shot his wife but only injured her.

¹⁰² Peter Gumbel, *How Not to Mount a Coup: The Lessons From the Kremlin*, WALL ST. J., Aug. 29, 1991, A1.

¹⁰³ *Id.* It does appear that Vladimir Kryuchkov and Dmitri Yazov were the masterminds of the coup and could have forced Yanayev to heed them.

¹⁰⁴ *Id.* The Emergency Committee members apparently spent most of their time drinking rather than planning and managing their takeover. Dmitri Yazov later admitted that he, Vladimir Kryuchkov, and Boris Pugo were all drunk on August 18 at a key meeting at which the coup was hastily planned. Kinzer, *supra* note 67, A7.

¹⁰⁵ Charged with high treason, Kryuchkov later said that he had no regrets. Kinzer, *supra* note 67, and A7. But Yazov took full responsibility for the actions of the Soviet armed forces during the coup and said he was very sorry for all that had happened. *Id.* For the opinion of the plotters' wives that the men innocent and that Gorbachev was the true villain of the events of August 1991, see Fen Montaigne, *Wives of Coup Plotters Speak Out: Soviet Women Passionately Defend Their Husbands*, PHILADELPHIA INQUIRER, Nov. 11, 1991, 1-A.

¹⁰⁶ ERIC A. NORDLINGER, *SOLDIERS IN POLITICS: MILITARY COUPS AND GOVERNMENTS* 63 (1977). After all, a coup d'etat is "purposely undertaken...to achieve consciously formulated goals, with an awareness of the possible costs and risks involved." *Id.* Coups obviously attract men willing to gamble to change their personal circumstances in a single act. David A. Rapoport, *Coup d'Etat: The View of the Men Firing Pistols*, in *REVOLUTION* 66 (Carl J. Friedrich, ed. 1966). The initiators must use their forces to gain full advantage of

is no problem, since the resultant new regime will justify its founders.¹⁰⁷ In pursuit of its goals, a revolutionary group can easily justify its actions if the incumbent government is regarded as incompetent, tyrannical or illegitimate.¹⁰⁸ But if the rebelling group fails, all its acts hostile to the rightful government are illegal and the conspirators will be guilty of treason, the gravest crime of most legal systems.¹⁰⁹

The Executive Committee member surely comprehended the two possible results of their actions to remove Gorbachev. If the coup had succeeded, they would have made sure that their resulting hard-line government justified their actions. Soviet history books would begin describing Gorbachev as an ineffective leader who deserved to be overthrown for bringing only hardship, shame, and despair to the Soviet Union. But with the coup's collapse, the conspirator's acts were declared unconstitutional, as were the decrees and laws they passed.

What Went Wrong?

At first, the Bush administration was uncertain as to whether the conspirators would fail, despite the ineffective manner in which they organized and conducted their coup.¹¹⁰ U.S. officials considered the large number of armed forces at the Emergency Committee's disposal and initially felt that the takeover could last for some time.¹¹¹ But after learning of the heavy public resistance against the Committee and reports of mass army defections, administration officials concluded that the putsch was "implemented in stages" and "very amateurish."¹¹²

The Bush administration was also astounded that the Emergency Committee neglected to cut Soviet communications with the rest of the world, which let the world's media fully record and report upon events happening during the coup.¹¹³ "One of the first things you do [to bring about a successful coup d'etat]," an official remarked, "is seize communications facilities so the outside world doesn't know what's going on. The world is getting a good look at what is going on [in the Soviet Union]."¹¹⁴

Soviet citizens themselves returned to the *pre-glasnost* era method of gathering non-official news: monitoring the Voice of America, the British Broadcasting Corporation, and radio Liberty. Throughout the coup, resistance forces gained and disseminated information by relying

surprise, and if surprise is thwarted, they become vulnerable to a counterstroke. *Id.* A coup which misfires exposes the initiators, revealing them to be the antithesis of what they had seemed to be. *Id.* 67. This is true with the August coup; Gorbachev found that his "friends" were not as trustworthy as he supposed them to be.

¹⁰⁷ Hassan, *supra* note 2, 197.

¹⁰⁸ *Id.* The government is likely to be viewed this way if it cannot preserve social or political order, and this failure will provide the public a reason to support the overthrow. *Id.* 198.

¹⁰⁹ *Id.* 193. The members of the Committee of Eight were indeed charged with high treason. Kinzer, *supra* note 67, A7.

¹¹⁰ Andrew Rosenthal, *Sizing Up New Bears*, N.Y. TIMES, Aug. 21, 1991, A11.

¹¹¹ *Id.*

¹¹² *Id.* Another official stated: "What is striking is how limited the writ of the coup plotters seems to be." *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.* In a successful coup, the capture of communications facilities is a necessity. GOODPSEED, *supra* note 5, 227. They are needed by the usurpers for their own use and, equally important, they must be denied to the legitimate government. *Id.* Also, after a coup has begun, radio and television propaganda can gain time for the development of the revolt and can confuse and dishearten government supporters. *Id.* Although the Emergency Committee managed to close most Moscow radio stations, it failed to silence the station broadcasting the voice of democratic radical Gavriil K. Popov, the city's first popularly-elected mayor. Popov's pleas to Moscovites to support Yeltsin resulted in over 200,000 people gathering outside the Russian headquarters the day after the coup began. This surely was not foreseen by the putsch leaders.

heavily upon foreign television and radio sources, as well as local telephones, fax machines, and computer nets.¹¹⁵ Thus the Emergency Committee could do nothing to prevent ordinary citizens from learning first-hand of the events transpiring throughout the country; everybody immediately knew what was at stake.¹¹⁶ The age of instant information might prove to be a permanent obstacle for those wishing to usurp governments in the future.¹¹⁷

In spite of the Committee of Eight's inability to prevent world and public access to news and information about the coup, it is probable that the August coup could have succeeded had the Emergency Committee resolutely used the formidable military, K.G.B., and Interior Ministry forces available to it.¹¹⁸ A bloody act of brute force may have terrorized Soviet citizenry into humble submission, just as the massacre of thousands of students in Tiananmen Square squashed the Chinese democratic movement of 1989.¹¹⁹

Yet the Emergency Committee did not even set the forces at its command in Moscow against resistance forces based at the Russian headquarters.¹²⁰ Even the relatively easy act of

¹¹⁵ Flora Lewis, *Legacy of 1991: Phoenix or Empty Ashes?* 1992 BRITANNICA BOOK OF THE YEAR 6 (1992).

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ The Committee of Eight ordered the tanks they sent to Moscow to only aimlessly circle the city. Patrick E. Tyler, *Leadership of Soviet Military Facing Shuffle and Reduced Independence*. N.Y. TIMES, Aug. 23, 1991, A14. U.S. officials later estimated that only fifteen of the Soviet Union's 180 Army divisions were involved with the takeover. *Id.* "They used only a fraction of their assets and the question is why?" a U.S. official wondered. *Id.* U.S. military intelligence also reported that only token elements of the Soviet Union's crack special forces, the Spetsnaz, were deployed in Moscow. *Id.* "The intelligence boys say it was small potatoes." *Id.* One reason for the Soviet military's limited use is that its diverse composition, from conscripts born and raised in the several Soviet republics, made it very unstable. *Id.* The military was, like the rest of the country, torn by divided political and ethnic loyalties and differences over the changes happening in the Soviet Union. *Id.* There was also a generation gap between the older right-wing officers and the younger democratic-minded officers. *Id.* During the coup, some wary field commanders cancelled regular training exercises and confined their troops to barracks to apparently make sure that their units would not be involved in the putsch. *Id.* The Ministry of Defense, under the Emergency Committee's control, did not order these troops out of their barracks because it apparently did not know, or want to know, what would happen. *Id.* The Committee of Eight may have also misjudged the loyalty of troops under its command by sending mainly ethnic Russian soldiers into Moscow. The troops were surrounded by fellow Russians which tried to talk them out of supporting the Emergency Committee. Peter Gumbel & Gerald F. Seib, *Spotlight Is on Yeltsin As Soviet Coup Effort Runs Into Roadblocks*, WALL ST. J., Aug. 21, 1991, A1, A8.

¹¹⁹ During the coup, Condoleezza Rice, former chief Soviet specialist at the National Security Council, noted that: "Success for the plotters would be if they were able, without massive bloodshed, to silence the democratic forces.... When Gorbachev was President, he didn't have the stomach for major bloodshed. But it's anybody's bet whether Pugo and Kryuchkov and Yazov do." *Voices of U.S. Scholars: These Forces Go Way Back in Russian History*, N.Y. TIMES, Aug. 21, 1991, A12. As it turns out, like Gorbachev, these men did not have the stomach for bloodshed, especially since such action could have easily developed into an uncontrollable civil war.

It was the opinion of one general supporting Yeltsin that Defense Minister Dmitri Yazov may have developed reservations about ordering troops to attack the Russian Parliament, since he realized there would have to be much blood spilled if the Emergency Committee's plans were to succeed. Bill Keller, *The 3-Day Fiasco: Anatomy of a Failed Strike at the State*, N.Y. TIMES, Aug. 25, 1991, A1, 16. "If he wanted, [Dmitri Yazov] could [have] pulverize[d] everything standing in the way of the armed forces." *Id.* See *infra* note 120 for more discussion on what the Emergency Committee had planned to do with the Russian Parliament building.

The August coup leaders apparently did not understand that "[a] government which lacks a right to rule... depends almost entirely on its ability to coerce." David A. Rapoport, *Coup d'Etat: The View of the Men Firing Pistols*, in REVOLUTION 71 (Carl J. Friedrich, ed. 1966).

¹²⁰ Internal division and indecisiveness among the coup leaders was apparently why resistance forces in Moscow and around the country were not attacked. Boris Yeltsin later said that according to documents seized after the coup, the plotters had prepared a detailed plan to overrun his Russian headquarters. Serge Schmemmann, *Yeltsin Says Elite K.G.B. Unit Refused to Storm His Office*, N.Y. TIMES, Aug. 26, 1991, A1, A12. A Soviet Anti-Terrorist Group

arresting or otherwise eliminating Boris Yeltsin before starting the coup would have made the Committee's chances for success much better.¹²¹

The conspirators apparently lacked the necessary ruthlessness for a violent government takeover, in which Gorbachev, Yeltsin, and a few thousand protestors would have been killed instantly.¹²² They tried for a soft threatening coup, relying on their belief that the Soviet people would simply revert to their 70-year old habit of cowering before Communist governmental authority.¹²³ But things were different in the Soviet Union by August 1991, and the Emergency Committee overlooked the authority Boris Yeltsin commanded not with force, but with popularity. Authority and governmental legitimacy derived from popular support were concepts the old Communists did not understand.

The August Coup's Aftermath

The End of Soviet Communism

Communist Party leaders emerged after the takeover to denounce the Emergency Committee, and asked the public to be gentle in applying epithets.¹²⁴ However, Party bosses soon realized that they were no longer in a position to request or demand obedience from the Soviet people. Citizens saw that Communism was the principle force behind the coup, and joked about

(under the Interior Ministry's command) was to storm the building and capture or kill Yeltsin. But despite threats from the K.G.B., the Group refused to participate. *Id.* This delay permitted Yeltsin's supporters to assume positions in the Russian headquarters and also allowed thousands of Moscovites to rally around the building. *Id.* "What is incredible," said Yeltsin, "is that the organizers of the coup did not expect this." *Id.* The attack was repeatedly postponed until it was cancelled altogether. *Id.*

¹²¹ By the takeover's end, members of the Emergency Committee may have wondered whether they should have deposed *Yeltsin* rather than Gorbachev. Yet in an astounding slip-up, the Committee of Eight failed to even arrest Yeltsin. Arresting or otherwise eliminating him on the day of the coup would have been easy since Yeltsin was lightly guarded and had flown home by commercial airline from a well-publicized trip to Kazakhstan. Bill Keller, *Subplots Within the Plot Intrigue Coup Theorists*, N.Y. TIMES, Aug. 28, 1991, A10.

¹²² Consider the following in assessing the Committee of Eight's handling of the coup: The military conspirators were to a large extent the creatures of their own training and environment. And if this should be held against them, it should also be remembered that this was what had made them conspirators in the first place.... They were officers and gentlemen, and therefore totally unfit to be conspirators. GOODSPEED, *supra* note 5, 206. Although these words refer to the men who had attempted to assassinate Adolph Hitler in Rastenburg in 1944, the same can be said of the Emergency Committee members and their attempted takeover of the Soviet government. Furthermore, it seems true with the August coup that "the kind of men most attracted to political power are seldom best fitted to wield it. Much more frequently, those who have gained control of the state by violence have proved themselves unable to govern well." *Id.* 235.

¹²³ Serge Schmemmann, *Across Europe to Moscow, the Trial of Freedom Reaches Tyranny's Epicenter*, N.Y. TIMES, Aug. 25, 1991, Sec. 4, 1. Only a few years earlier, the smallest show of government force would have curbed the slightest public rebellion. *Id.*

¹²⁴ Francis X. Clines, *A Thick Russian Porridge, 'Not the Way to Do a Coup'*, N.Y. TIMES, Aug. 21, 1991, A1, A14. The secretary of the Central Committee, Sergei Kalashnikov, told people not to use the word "junta" and asked them to consider the eight members of the Emergency Committee as merely having "made a blunder in the estimation of a difficult situation." *Id.* He also said that the coup should not be used to strike a blow against the Communist Party's reputation. *Id.*

Russian citizens began to wonder why the Supreme Soviet waited until the coup's end before condemning the takeover. *Id.* Soviet lawmakers contended that they had condemned the coup in its first few hours, but only bothered publishing their statement a few days later. *Id.* Gorbachev himself was not pleased with this explanation. He stated that the conspirators would not have been able to carry out their plans if the Parliament had immediately held an emergency meeting to deal with the crisis. GORBACHEV, *supra* note 55, 43. "[I]f the Supreme Soviet had met on 19 August the coup could have been halted at the very beginning." *Id.*

the irony of it all: “We knew that Communism couldn’t do anything right.”¹²⁵ Even hard-line Communists not involved in the takeover were critical of the coup leaders, who were all un-charismatic men closely identified with the archaic Communist Party.¹²⁶

The failed coup d’etat legitimized the claim of the country’s democratic reformers that they were the rightful heirs to power. In the coup’s wake, the Communist Party was humiliatingly routed from all levels of Soviet government.¹²⁷ The privileges of Party membership, such as limousines and special housing, were abruptly halted, and symbols of Communism were angrily removed from their haughty positions throughout the cities of the Soviet Union.¹²⁸ The Soviet people realized there would never be another opportunity to do away with Communism and its sources of power (the K.G.B., the military, and the Interior Ministry).¹²⁹ They wanted to make sure that Communism could never later re-group and reassert its control.

Communist Party members protested against “attempts to hold the entire party responsible for criminal actions of a handful of adventurers.”¹³⁰ And speaking before the Supreme Soviet on August 23, even Gorbachev responded reservedly to actions taken against the Communist Party. “No one has the right to set the task of banishing socialism from our country,” Gorbachev said.¹³¹

Death Blow to Gorbachev and the Soviet Union

Yet Gorbachev himself took a step towards banishing socialism from the Soviet Union when he resigned as General Secretary of the Communist Party a few days later.¹³² And with Communism under assault throughout the country and his own leadership in shambles as a result of the putsch, Gorbachev changed his mind about defending the Party and proceeded to ban it from any role in Soviet government.¹³³ This move ended 74 years of Communist rule in the

¹²⁵ Bill Keller, *Old Guard’s Last Gasp*, N.Y. TIMES, Aug. 22, 1991, A1. This sentiment perfectly described the whole Communist machine, which had ruthlessly imposed its will on other countries but could not manage overthrowing of its own government. *Id.* Even the name of the Emergency Committee for the State of Emergency in the U.S.S.R. was made an object of ridicule, since the Russian initials, G.K.Ch.P, resembled the sound of “a cat choking on a hairball.” *Id.* A11.

¹²⁶ *Id.* “When I first heard of [the coup] on Monday, my personal reaction was positive,” said an Army colonel who had long advocated a state of emergency for the Soviet Union. *Id.* “But as soon as I saw it was constructed of decrees, all on paper, I quickly became disappointed. [The Committee of Eight] displayed military incompetence, inconsistency, a lack of concrete actions.” *Id.*

¹²⁷ Celestine Bohlen, *Many Communists Desert Party For Its Complicity in Failed Coup*, N.Y. TIMES, Aug. 24, 1991, A1. Communist leaders across the county were locked out of the offices in mass retribution for the Party’s involvement in the putsch. *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.* Lawmakers viciously scorned Gorbachev for remaining loyal to the Party despite its clear complicity in the coup. *Id.*

¹³² Bill Keller, *Gorbachev Quits as Party Head; Ends Communist’s 74-Year Rein*, N.Y. TIMES, Aug. 25, 1991, 1. Gorbachev, however, did not give up his Party membership.

¹³³ *Id.* Gorbachev also ordered the end to all Communist activities within the military, the K.G.B., and the Interior Ministry. *Id.* On August 29, the Supreme Soviet suspended all Communist Party activities pending investigation into its role in the coup. Serge Schmemann, *Soviets Bar Communist Party Activities*, N.Y. TIMES, Aug. 30, 1991, A1. The Supreme Soviet was the only national institution with the formal power to legally act against the Communist Party in this manner. *Id.*

Soviet Union and effectively left Gorbachev without any powerbase. Gorbachev's actions amounted to the final surrender of the old right-wing order to the new democratic order.

Upon hearing that the coup was over, President Bush offered the following reason for its collapse: "[The conspirators] underestimated the power of the people, they underestimated what a taste of democracy and freedom brings."¹³⁴ Bush also remarked that Boris Yeltsin's standing in the Soviet Union and the world had increased because of the putsch.¹³⁵ Indeed, it seems that the overthrow attempt against Gorbachev was the best thing that could have happened to Yeltsin (and the Russian republic), considering how it accelerated the ultimate demise of the Soviet empire, thus enabling Yeltsin to finally gain the sovereignty for Russia he had actively sought.¹³⁶

It was clear that the balance of Soviet power had shifted in Yeltsin's favor and away from either Gorbachev or the hard-line Communists. Although Gorbachev emerged from his house arrest in good physical condition, his political status had become even more ambiguous than it was before the putsch.¹³⁷ Citizens began regarding him as a fool for appointing to power the men who had tried to overthrow him, despite warnings from both friends and enemies that he should not have trusted them.¹³⁸ Some Soviets even speculated that Gorbachev had secretly helped organize his own removal.¹³⁹

Finally, the coup not only inflicted a fatal blow to Soviet Communism, but only a few months later brought down Gorbachev and the entire Soviet empire as well. The sudden beginning and end of the coup created a fresh state of confusion and uncertainty in the Soviet Union, which added to the state crisis the country had been experiencing in the years before. Gorbachev tried to maintain a federation of former Soviet states over which he could preside, but the republics instead decided to create a "Commonwealth of Independent States."¹⁴⁰ In December 1991, eleven of the fifteen former Soviet republics signed the agreement, which effectively terminated the Soviet Union.¹⁴¹ On Christmas Day, Gorbachev bowed to the inevitable and resigned as President of a country which no longer existed.¹⁴²

¹³⁴ *Excerpts From Bush's Talks: Gorbachev Says 'Things Are Under Control'*, N.Y. TIMES, Aug. 22, 1991, A15.

¹³⁵ *Id.* President Bush stated: "[Yeltsin] has shown tremendous courage.... I think he will have a well-earned stature around the world that he might not have had...before all this happened." *Id.*

¹³⁶ *Id.*

¹³⁷ Keller, *supra* note 125, A1, A11.

¹³⁸ *Id.* "Gorbachev's problem all along was that he trusted the wrong people," said one Moscovite. *Id.* "He never had any trust in us." *Id.* Even Gorbachev's longtime friend Anatoly Lukyanov, Chairman of the Supreme Soviet, and Valery Bolding, Gorbachev's own chief of staff, were implicated in the conspiracy. Oleg Kalugin, the K.G.B. general who had become the K.G.B.'s biggest critic, said of the situation: "The saddest thing is that the President didn't listen to us. We told him that he mustn't keep the structures that at any moment could organize a putsch against him." Peter Gumbel & Gerald F. Seib, *Gorbachev's Downfall Raises Political Specter For Soviets and West*, WALL ST. J., Aug. 20, 1991, A1, A11. See *supra* note 60 for further discussion on Gorbachev's inability to appoint loyal subordinates and his failure to heed warnings that a coup against him would occur.

¹³⁹ Keller, *supra* note 125, A1, A11. In these people's view, Gorbachev hoped the coup would either succeed, in which case he could return as dictator, or fail, in which case he would come out as a heroic leader. *Id.* President George Bush discounted such notions: "To suggest that...President Gorbachev would plot to put the people of the Soviet Union through this kind of trauma and the rest of the world...makes absolutely no sense at all." *Excerpts From Bush's Talk: Gorbachev Says 'Things Are Under Control'*, N.Y. TIMES, Aug. 22, 1991, A15. See GORBACHEV, *supra* note 55, 28, for Gorbachev's denial of these allegations.

¹⁴⁰ For a text of the agreement creating the Commonwealth of Independent States, see *Text of Protocol: 11 States 'On an Equal Basis'*, N.Y. TIMES, Dec. 22, 1991, 12.

¹⁴¹ Soviet Georgia decided not to join the Commonwealth and the three Baltic states had earlier declared their respective independence from Moscow.

¹⁴² Frances X. Clines, *Gorbachev Resigns as Last Soviet Leader; U.S. Recognizes Republics' Independence; Communist Flag Is Removed; Yeltsin Gets Nuclear Controls*, N.Y. TIMES, Dec. 26, 1991, A1.

The Bolshevik Coup d'Etat (The October Revolution)

Russia's Provisional Government and Lenin

The plight of the Soviet Union in its final two years of existence has been compared to that of Russia before the October Revolution of 1917: a steady erosion of central governmental authority, and the legitimate ruler losing control of the country.¹⁴³ The 1917 February Revolution against the ancient Russian monarchy had resulted in a representative Provisional Government charged with maintaining order and establishing democratic reforms.¹⁴⁴ This unstable but legitimate government consisted of leaders of the bourgeois liberal parties, and its ascent to power was tolerated by the council (soviet) of workers' deputies elected in the factories of Petrograd,¹⁴⁵ the Russian capital. Like similar labor councils in cities throughout Russia, the Petrograd Soviet itself was composed of a majority of Menshevik and Socialist Revolutionary leaders who regarded the February Revolution as a revolt of the emerging middle class, not the lower class. Thus, they believed that the Provisional Government should be headed by leaders of the middle class itself.

The Petrograd Soviet also contained a minority of Bolsheviks (Communists), inspired by Lenin (Vladimir Il'ich Ul'ianov) and supported by common workers, soldiers, and peasant farmers (i.e. the lower class). Lenin exhorted fellow Bolsheviks not to support the Provisional Government, calling it imperialistic and undeserving of support, despite its legitimacy and clear democratic leanings.¹⁴⁶ He argued that the Provisional Government was merely a dictatorship of the bourgeoisie that sought to continue repressing the lower class and to keep Russia in the war with Germany.¹⁴⁷ Lenin also claimed that the Provisional Government was incapable of responding to the needs of the lower class, which wished to seize Russia's landed estates away from the middle and upper classes.¹⁴⁸

According to Lenin, only a soviet government directly ruled by the masses could divide Russian property amongst workers, soldiers, and peasant farmers.¹⁴⁹ By September 1917, he had persuaded fellow Bolsheviks that the workers soviets must overthrow the Provisional Government.¹⁵⁰ The new government would then negotiate a general peace with Germany, as well as nationalize all land to later divide it among the lower classes.

¹⁴³ Bering-Jensen, *supra* note 26, 8.

¹⁴⁴ The Russian Revolution of February 1917 was a mass revolt of people who could no longer bear conditions under the tzarist monarch. *See generally* HERBERT J. ELLISON, HISTORY OF RUSSIA 281-314 (1964). Immediately after the February Revolution, Russia was governed by a legitimate parliamentary body called the "Provisional Committee of the Duma." *Id.* 206-214. After the Duma dissolved, the Provisional Government came into being, led by Prince Georgi E. Lvov. *Id.* 217. After Lvov resigned, Alexandr F. Kerensky led the Provisional Government. *Id.* For information specifically on the October Revolution (more exactly, the Bolshevik coup d'etat), *see generally* ROBERT V. DANIELS, RED OCTOBER: THE BOLSHEVIK REVOLUTION OF 1917 (1967); JAMES BUNYAN & H. H. FISHER, THE BOLSHEVIK REVOLUTION: 1917-1918 (1934); D. J. GOODSPEED, THE CONSPIRATORS: A STUDY OF THE COUP D'ETAT 70-107 (1961); FELIKS GROSS, THE SEIZURE OF POLITICAL POWER IN A CENTURY OF REVOLUTIONS 217-235 (1958).

¹⁴⁵ *See supra* note 39 for discussion on the name of this Russian city and its relevance to this comment.

¹⁴⁶ Gross, *supra* note 144, 219-223.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* 217. Lenin raised the battle cry "All power to the Soviets!" to call for soviets throughout Russia to seize power from the Provisional Government. *Id.*

Meanwhile, the Provisional Government, headed by Socialist Aleksandr F. Kerensky, had lost popular support by September of 1917.¹⁵¹ Increasing war-weariness, the breakdown of the economy, and un-fulfilled promises of democratic reform overtaxed the patience of the masses.¹⁵² Workers, soldiers, and peasant farmers were united in demanding immediate and fundamental change. And not only was the ineffectual Provisional Government forced to contend with the leftist Bolsheviks attacking it, but right-wing former autocrats were also trying to topple it in order to restore the Russian monarchy.

With the slogan “Peace, Land, and Bread,” the Bolsheviks capitalized on the entire situation and managed to win a majority in the Petrograd Soviet and other soviets throughout Russia.¹⁵³ Leon Trotsky was later elected chairman of the Petrograd Soviet. Lenin decided that the time was ripe to depose Kerensky and the whole Provisional Government.¹⁵⁴ At a meeting of the Bolshevik Central Committee on October 10,¹⁵⁵ Lenin won a majority in favor of preparing an imminent armed takeover of Petrograd.¹⁵⁶ He entrusted Trotsky to take the necessary steps to gain the military’s support and to train armed workers (“Red Guards”) for an insurrection.¹⁵⁷

The October “Revolution”

On October 24, Aleksandr Kerensky sent loyal soldiers to close a Bolshevik newspaper (*Rabochii Put*--“Worker’s Way”), an act which the Bolsheviks considered the beginning of an expected government move against them.¹⁵⁸ In response, the Bolsheviks called on Red Guards and sympathetic soldiers and sailors to defend the Petrograd Soviet. They met only slight resistance from Provisional Government troops.¹⁵⁹ However, subsequent resistance in Moscow to the Bolshevik takeover resulted in many deaths. Following the tactics Lenin and Trotsky had prepared in advance, the rebel forces seized telegraph, telephone, power and railway stations, as well as important bridges in Petrograd. Once the instruments of power were captured, the already week Provisional Government was truly doomed.¹⁶⁰

¹⁵¹ *Id.* 218.

¹⁵² *Id.*

¹⁵³ *Id.* 227.

¹⁵⁴ *Id.* 228.

¹⁵⁵ The dates used in this comment when referring to the October Revolution correspond to the Julian Calendar which Russia was still using in 1917. Thus the “October” Revolution of October 24-26 (Julian Calendar) actually occurred on November 6-8 (Gregorian Calendar). Like the August coup, the Bolshevik coup spanned three days which shook the world.

¹⁵⁶ Gross, *supra* note 144 228. The Bolshevik Central Committee passed this resolution: “Recognizing that an armed uprising is inevitable and the time is ripe, the Central Committee proposes to all organizations of the party to act accordingly and to discuss and decide from this point of view all the practical questions.” *Id.* According to Trotsky, “It was a question of taking full possession of Petrograd in the next 24 hours. That meant to seize those political and technical institutions which were still in the hands of the government.” LEON TROTSKY, *THE HISTORY OF THE RUSSIAN REVOLUTION* 207.

¹⁵⁷ Gross, *supra* note 144 229. Lenin stayed hidden throughout the coup because he was wanted by the Provisional Government for allegedly assisting the German war effort. *Id.* Trotsky thus followed Lenin’s instructions as to how to properly conduct a government overthrow. *See infra* notes 172 and 173 and accompanying text for discussion on Lenin’s instructions regarding successfully executing an armed insurrection.

¹⁵⁸ *Id.* 234.

¹⁵⁹ *Id.* The show of arms was enough; there was only a small loss of life with the Bolshevik coup. *Id.* Three or four Army cadets defending members of the legitimate Provisional Government at Petrograd’s Winter Palace were killed. *Id.* 235. (Similarly, three resisters were killed in the 1991 Soviet coup.

¹⁶⁰ The crumbling Provisional Government appealed to the Russian citizenry, to no avail: Citizens! Save the fatherland, the republic, and freedom! *Maniacs have raised a revolt against the only governmental power chosen by the people – the Provisional Government....* Citizens, you must help the Provisional Government. You must strengthen its authority. You must oppose these maniacs, with whom are joined all enemies of liberty and order

The next day, the Bolsheviks proclaimed the overthrow of Kerensky's Provisional Government and declared that the workers' soviets controlled Russia.¹⁶¹ Consisting of a majority of Bolsheviks, the Congress of Soviets quickly ratified the new regime and elected Lenin as its chairman.¹⁶² Overnight, Lenin had turned from fugitive (in the eyes of the Provisional Government) to head of the world's largest country.

The Bolshevik coup's success can be attributed to leadership abilities and organizational skills of Lenin and Trotsky, although it may be more accurate to say that the victory resulted from the instability of the Provisional Government. Also, the Bolshevik coup was not a spontaneous movement by the Russian public as was the February Revolution; the masses were mostly apathetic to the Provisional Government's overthrow.¹⁶³ Such passivity, however, made the coup easier for the Bolsheviks to successfully undertake.¹⁶⁴ Lenin and Trotsky took advantage of the overall social unrest at the time to take control of the government and to keep this control after resistance had ended.

The Bolsheviks' use of conspiracy, tactics, and sudden violence to overthrow the existing lawful regime made the October Revolution a classic example of a well-executed coup d'état.¹⁶⁵ Yet Bolsheviks were reluctant in 1917 (and to this day) to call events of October 24-26 a "coup." Instead, the overthrow has been glorified in Communist history as the "October Revolution."¹⁶⁶ This designation made the coup sound as if all Russians supported the Bolsheviks and participate in the uprising.

The Bolshevik coup was truly an unfortunate part of Russian history. Consider the following in light of recent events in what was the Soviet Union:

The February Revolution was the democratic revolution of Russia. Never before and never after have the Russians been as free as they were between the February and October Revolutions of 1917. It was a painful period. But freedom was born out of slavery. The February Revolution had overthrown the centur[ies]-old autocracy. The Bolshevik, October Revolution killed not autocracy but the young, Russian democracy. A short-lived, weak one, but the only one Russia ever had.¹⁶⁷ It took about 70 years for Russians to taste (relative) freedom again,

including the followers of the old regime whose purpose is to destroy all conquests of the [February R]evolution and the future of our dear fatherland...*Appeals of the Provisional Government*, IZVESTIIA, Oct. 26, 1917, 3 reprinted in BUNYAN & FISHER, *supra* note 144, 101-102 (emphasis added). Compare the Provisional Government's plea with the statements of both Mikhail Gorbachev and Boris Yeltsin upon the Emergency Committee's seizure of power, *supra* notes 69, 83, and 84. Aleksandr Kerensky valiantly organized forces to recapture Petrograd several days later, but his troops fought half-heartedly and were beaten. He fled to Paris, eventually settling in the United States where he lived until his death in 1970 at age 89. His account of the Bolshevik coup is in his book *The Catastrophe* (1927).

¹⁶¹ The Bolsheviks broadcast the following proclamation on October 25 upon their success: The Provisional Government is deposed. The state authority has passed into the hands of the Military Revolutionary Committee, the organ of the Petrograd Soviet of Workers' and Soldiers' Deputies acting in the name of the Petrograd proletariat and garrison. The causes for which people were struggling – immediate democratic peace, abolition of the [landlord's] right to the land, labor control of industry, and a Soviet form of government – are not all guaranteed. Long live the revolution of Workers, Soldiers, and Peasants! *The Provisional Government Is Deposed*, NOVAIA ZHIZN, Oct. 26, 1917, 1, reprinted in BUNYAN & FISHER, *supra* note 144, 100. Compare the Bolsheviks' proclamation with the Emergency Committee's statement announcing its takeover, *supra* note 58.

¹⁶² Gross, *supra* note 144, 234.

¹⁶³ *Id.* 231.

¹⁶⁴ *Id.*

¹⁶⁵ GOODSPEED, *supra* note 5, 105.

¹⁶⁶ *Id.*

¹⁶⁷ Gross, *supra* note 144, 235.

under Mikhail Gorbachev. His reforms and, finally, the end of Soviet Communism (and the Soviet Union itself) can be regarded as having in effect *restored* Aleksandr Kerensky's Provisional Government! The August coup thus helped reinstate, hopefully permanently, Russia's first representative, democratic government.

The Bolshevik and August Coups Compared

Similarities Between the Two Coups

A comparison between the Bolshevik coup of 1917 and the August coup of 1991 may not at first seem appropriate. First of all, Lenin and the other Bolsheviks were not members of an existing regime.¹⁶⁸ Thus the common definition of a coup d'état as originating from within the existing government does not apply to the Bolshevik coup. Furthermore, the Bolshevik coup was not specifically aimed only at Aleksandr Kerensky; Bolshevik forces attacked and deposed the entire Provisional Government. In the August coup, the Committee of Eight moved only against Mikhail Gorbachev and left most of the Soviet Union's government intact.

However, there are several remarkable similarities between the Bolshevik and August coups. Both the Bolshevik and August coups culminated revolutionary periods in Russian and Soviet history, periods which ended the existence of both nations. The similarities of the coups probably stem from the likeness of the Soviet empire's social-economic situation in 1991 to that of the Russian empire in 1917. The August coup happened during a difficult time in Soviet history, just as the Bolshevik coup occurred during a very unstable time in Russian history. As in 1917 Russia, the Soviet Union's economy was in shambles by 1991.¹⁶⁹ The democratic and economic reforms Gorbachev had instituted were not proceeding as planned, just as those of the Provisional Government were not successful. The Soviet central government and the Russian Provisional Government had lost popular support, as did their respective leaders, Gorbachev and Kerensky.¹⁷⁰ Like the Russian citizenry in mid-1917, Soviet citizens were demanding and expecting drastic change, starting with the possible removal of Gorbachev himself. Like the usurping Bolsheviks, the August coup's Emergency Committee took advantage of the general social unrest to seize power.

In both 1917 and 1991, the people of Russia and the Soviet Union even had similar demands from the unstable existing governments: food and land. In 1917, Russia was

¹⁶⁸ In fact, Lenin was wanted by the Provisional Government at the time of the coup for allegedly assisting the German war effort. *Id.* 229.

¹⁶⁹ The absence of a reliable economic foundation is a common element in societies where coups take place, since this usually creates an atmosphere ripe for political violence. Hassan, *supra* note 2, 194. The occurrence of a coup may not indicate a simple breakdown in the legal system, but instead may be an unavoidable reaction to circumstances in developing countries which lack the prosperity and stability necessary for more orderly behavior. *Id.* 195. These typical conditions preceding a coup d'état seem to be true with both the August coup and the Bolshevik coup (the October Revolution). The Soviet Union, still a virtually undeveloped nation in 1991, was obviously undergoing severe economic and political difficulties in the years before the coup occurred, as was Russia in the early part of this century.

¹⁷⁰ Like Gorbachev, Kerensky was more liked abroad than by his own people. The Allies especially preferred to deal with him and his democratic Provisional Government rather than the radical or conservative forces struggling for power in Russia at the time. This is the same situation as before the August coup: Western governments, especially the Bush Administration, strongly supported Gorbachev rather than either Boris Yeltsin (and the liberal forces he led) or the conservative forces in the Kremlin who were challenging Gorbachev. This support for Gorbachev lasted well after the coup ended, even when it was clear that the balance of power had shifted to Yeltsin and his democratic followers.

experiencing a terrible shortage of food which made the masses restless and desirous of change. In 1990, food shortages in Moscow and Leningrad forced the introduction of rationing for the first time since World War II, and the public was angry that such shortages could occur in a country considered a world power. As for land, the Bolsheviks of 1917 advocated the seizure of land from the upper class so as to divide it amongst the masses. By 1991, Gorbachev's economic reforms under *perestroika* had permitted private ownership of real property and business enterprises to exist for the first time in the Soviet Union. Common citizens saw that they could participate in capitalism to make a profit for themselves. Realizing that the Committee of Eight was a threat to Gorbachev's reforms, Soviets wished to ensure that the coup members would not turn the country back to what it had been before Gorbachev took office.

Like Mikhail Gorbachev in 1991, Aleksandr Kerensky was beset with political pressures from both the right and left. The conservative monarchists of 1917 roughly correspond to the right-wing Emergency Committee, which represented Communists who had lost power in the late 1980s under Gorbachev, just as the tsarists lost power in 1917. Despite the Bolshevik coup resulting in a totalitarian state, the Bolsheviks were (on the surface) the most liberal (i.e. radical) of the forces involved in Russia's 1917 power struggle. The Bolsheviks can thus closely compare to the great number of liberal, reform-minded individuals who rallied against the August coup conspirators. (Of course, there is a major difference: the democratic forces of 1991 contested the Committee of Eight's takeover and sought to restore the legitimate Soviet government, whereas Bolshevik forces took steps to topple Kerensky and his legitimate and democratic Provisional Government.) Finally, many Russian soldiers and sailors supported Lenin and the Bolsheviks in overthrowing Kerensky's government, just as elements of the Soviet military supported Yeltsin's democratic forces in resisting coup plotters.¹⁷¹

The "Art" of Insurrection

Weeks before the Bolshevik coup, Lenin had written a long letter to the Bolshevik Central Committee entitled "Marxism and Insurrection"¹⁷² in which he described the tasks necessary to achieve successful armed revolt. The letter concludes with: In order to treat insurrection in a Marxist way, i.e., as an art, we must ... without losing a single moment, organize a *headquarters* of the insurgent detachments, distribute our forces, move the reliable regiments to the most important points ... arrest the General Staff and the government, and move against the officer cadets ... We must mobilize the armed workers and call them to fight the last desperate fight, occupy the telegraph and the telephone exchange at once, move our insurrection headquarters to the central telephone exchange and connect it by telephone with all the factories,

¹⁷¹ The analogy between the Bolshevik and August coups does have an interesting and frightening component: Boris Yeltsin must parallel Lenin as the leader of their respective liberal forces! Both Lenin and Yeltsin possessed magnetic personalities which enabled each of them to command great popular support. Neither the 1991 Emergency Committee nor the 1917 Provisional Government understood the political authority such support could mobilize. Also, Yeltsin placed the needs and desires of Russia and its citizens above those of the Soviet Union and the other Soviet republics' citizens, much as Lenin sought (so he said) to help Russia's poor laborers, soldiers, and peasant farmers. Furthermore, Yeltsin was convinced of the rightness of openly (and remorselessly) aiding the final downfall of Gorbachev (and the entire Soviet empire) in late 1991. Like Yeltsin, Lenin was thoroughly convinced of the rightness and necessity of forcefully deposing Aleksandr Kerensky and the Provisional Government.

¹⁷² LENIN, COLLECTED WORKS, vol. 26, 22 (Yuri Sdobnikov & George Hanna, trans. 1964). Lenin wrote "Marxism and Insurrection" on September 13 and 14, 1917 (Julian Calendar). *Id.* 27.

all the regiments, all the [other] points of armed fighting, etc... [I]t is impossible to remain loyal to Marxism ... unless insurrection is treated as an art.¹⁷³

Upon overthrowing the Provisional Government, the Bolsheviks issued the following decree: “All railroad stations and the telephone, post, and telegraph offices are occupied. The telephones of the Winter Palace and the [District Military] Staff Headquarters are disconnected. The State Bank is in our hands. The Winter Palace and the [military] Staff have surrendered ...”¹⁷⁴ It is clear that the Bolsheviks had fully adhered to Lenin’s instructions as to how to properly and successfully seize government power.

As members of the Communist Party Central Committee, the August coup conspirators should have been familiar with Lenin’s teachings.¹⁷⁵ But the members of the Committee of Eight were apparently bad Marxists-Leninists; they did not treat their revolt as an “art.” For example, they failed to move battalions loyal to them to key points (and even had difficulty finding any battalions loyal to them).¹⁷⁶ The telephones in Moscow continued working throughout the coup, allowing resisters to rally against the Committee. Newspapers opposing Gorbachev’s ouster continued to be published in secret, and the public was, of course, able to tune into foreign radio stations for non-official news.

The Legality of the August Coup

Rules of Succession

In his article *A Legal Theory of Revolutions*, Professor Ali Khan of Washburn University developed a theory to determine the legitimacy of revolutions and other forms of political upheaval (including coups d’etat).¹⁷⁷ The theory focuses on the significance of *succession rules*.¹⁷⁸ Succession rules are the power-conferring procedures through which: (1) legislators acquire the legal right to make laws, and (2) executives (or leaders) acquire the legal right to enforce laws.¹⁷⁹

¹⁷³ *Id.* (emphasis in original). The notion that insurrection should be considered an “art” came from Karl Marx’s writings, although Friedrich Engels actually originated the idea. *Id.* 21, a.6.

¹⁷⁴ *The Revolution Has Triumphed*, NOVOE VREMIA, Oct. 26, 1917, 2, reprinted in BUNYAN & FISHER, *supra* note 144, 100.

¹⁷⁵ Serge Schmemmann, *Et Tu, Anatoly? In Moscow It Has a Certain Ring*, N.Y. TIMES, Aug. 28, 1991, A10. Lenin after all had founded the Communist Party and was himself the plotter of a successful coup d’etat. *Id.* In the form of a seven page pamphlet, “Marxism and Insurrection” should have been readily available to the Emergency Committee. *Id.* It may also have been wise for the Committee of Eight members to have read *Coup d’Etat: A Practical Handbook* (1968) by Edward Luttwak before beginning their adventure. This 189-page book provides step-by-step instructions as to how to properly plan and execute a successful coup d’etat.

¹⁷⁶ Schmemmann, *supra* note 175, A10.

¹⁷⁷ Ali Khan, *A Legal Theory of Revolutions*, 5 B.U. INT’L L.J. 1 (1987). Khan’s theory is based on “social approval” of revolutions and other types of government revolt. Since the theory of social approval regards revolutions in the legal, not sociological sense, it need not and does not recognize the distinction between revolutions and coups d’etat. *Id.* 5.

¹⁷⁸ *Id.* 2. Succession rules must be rooted in communal consent to provide a legal structure to translate the will of the people into rightful governmental authority. *Id.*

¹⁷⁹ *Id.* Almost every nation stipulates its succession rules in its constitution (or an alternate device). *Id.* 19-20. Valid succession rules can thus be used to distinguish between the ruling acts of legitimate authority-bearers (such as leaders or legislators) and those of illegitimate authority bearers (such as gunmen or government rebels). *Id.* For example, the orders of a state’s executives and legislators are generally considered lawful (even if unfair or coercive) as long as they operate under proper succession rules. *Id.* 20. On the other hand, a gunman cannot invoke

There are two types of succession rules. The “successor-in-title” rule prescribes the *legal mode* of determining a successor.¹⁸⁰ Such a succession rule denotes the manner in which successive leaders and legislators legitimately gain their authority, such as the election process or succession through title or rank.¹⁸¹ The other kind of succession rule is the “rule of devolvement contingencies.”¹⁸² A devolvement contingency is a *specific event* which must occur before the office and power of a law maker or law enforcer is passed to his successor, such as when an existing office-holder dies and the legal successor-in-title assumes the office.¹⁸³

A *legitimate* succession takes place only when *both* succession rules are followed. A particular event required by the rule of devolvement contingencies must occur, and the individual succeeding to the office must then meet the nation’s successor-in-title requirements.¹⁸⁴ A change of government leadership is *illegitimate* when a revolutionary group takes possession of state control in violation of either type of succession rule.¹⁸⁵

The overthrow of a leader is unlawful if the principle usurper is not his successor-in-title, *even if* the requirements of the devolvement contingencies are completely met.¹⁸⁶ Alternatively, if a leader is forced to leave his office in a manner contrary to or not specified in the appropriate rule of devolvement contingencies, the succession is unlawful *even if* the individual assuming office is the true successor-in-title.¹⁸⁷

Succession Rules of the Soviet Constitution

This was the case in the August coup. Vice President Gennadi Yanayev was indeed the constitutionally-designated successor to Mikhail Gorbachev.¹⁸⁸ Article 127, Paragraph 10 of the last Soviet Constitution, which ostensibly reflected Soviet society’s will regarding the country’s leadership, read that the Vice President would assume the presidency if the President was incapacitated:

In the President of the USSR is unable to continue performing his duties for one reason or another, pending the election of a new President of the USSR[,] his powers are transferred to the Vice-President of the USSR, or, if this is impossible, to the Chairman of the USSR Supreme

even a legitimate rule of the legal system to prove the validity of his coercive order, despite having all the force necessary to demand obedience. *Id.*

¹⁸⁰ *Id.* 24.

¹⁸¹ *Id.* For example, the office of the President of the United States devolves only to the Vice President, the constitutionally-designated presidential successor.

¹⁸² *Id.*

¹⁸³ *Id.* In the United States, only the death, resignation, or constitutional removal of the President from office serve as valid contingencies required before the Vice President may assume the presidency. *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* 3. If the new regime attains power through the nation’s existing succession rules, no revolution occurs in the legal sense, even if the new government intends to revolutionize the country. *Id.* 4. On the other hand, if a group of individuals seize power in violation of existing succession rules, a revolution in the legal sense does take place, even if the group does not intend to effect any social changes. *Id.* 5.

¹⁸⁶ *Id.* 25.

¹⁸⁷ *Id.* 24. Of course, a revolution or coup is certainly unlawful when leaders or legislators are deposed in violation of both the legal and contingent rules of succession. *Id.*

¹⁸⁸ As Yanayev announced upon the Emergency Committee’s seizure of power, “[D]ue to the [Mikhail Gorbachev’s] inability to continue in office, and under article 127.7 of the U.S.S.R. Constitution...the Vice President [Yanayev himself] has taken office of the U.S.S.R. President.” *Excerpts From the New Leader’s Remarks: Law and Order*, *supra* note 69, A12.

Soviet.... In such an event, the election of a new President of the USSR is to be held within three months.¹⁸⁹

This constitutional provision, in effect at the time of the August coup, made Gennadi Yanayev President Gorbachev's lawful successor-in-title. The Emergency Committee members must have felt that having the actual successor-in-title assume the Presidency would lend the coup a somewhat legitimate appearance.¹⁹⁰

However, the rule of devolvement contingencies mentioned in the constitutional provision was not truly satisfied because the Committee of Eight had contrived the excuse that Gorbachev was ill and thus was "unable to continue performing his duties."¹⁹¹ In actuality, Gorbachev was healthy and fully able to fulfill his presidential duties.¹⁹² Therefore, despite technically fulfilling the succession rules specified in the Soviet constitution, the substitution of Vice President Yanayev for President Gorbachev was *unconstitutional* since it was fraudulently effected.¹⁹³

If Gorbachev had truly become incapacitated (through no act of the Emergency Committee), then Yanayev's assumption of power would be considered legitimate. Instead of a coup d'état, there would only be a lawful (though unwanted) change of leadership under the Soviet Constitution's succession rules. And logically, the Soviet people could not challenge such a legitimate transfer of power properly effected under these rules. After all, the succession rules supposedly reflected the Soviet people's collective will regarding their country's presidential succession. Only the matter of the constitutionality of the Emergency Committee itself would pose a problem to the new regime, but Yanayev could logically claim the executive right, as President, to have created such a group.

¹⁸⁹ Art. 127, part 7, KONST. SSSR. The December 1990 changes to the Soviet Constitution creating the vice presidency were reported in *The Law on Changes in the Constitution*, PRAVDA, Dec. 27, 1990, TRANS. IN, 43 CURRENT DIG. OF SOVIET PRESS 20 (No.48) (1991).

¹⁹⁰ See *supra* note 103 and accompanying text for discussion of Yanayev's claim that Vladimir Kryuchkov and Dmitri Yazov had forced him to participate in the coup. Considering the overall illegality of the August coup, it did not matter anyway whether or not Yanayev had assumed the presidency.

¹⁹¹ The quoted language is from the constitutional provision noted in the text. See *supra* note 69 on the matter of Gorbachev's health. The burden is on the successor-in-title to prove that all of the proper devolvement contingencies have been met, and successors usually make a formal public announcement to this effect. See *supra* note 58 for the Committee of Eight's statement as to Gorbachev's incapacity and the necessity of having Yanayev and the rest of the Committee of Eight assume control over the government.

¹⁹² In assessing the Emergency Committee's actions, consider also Article 127, Paragraph 8 of the Soviet Constitution: The President of the USSR possesses the right of immunity and can be removed only by the Congress of the People's Deputies if he violates the USSR Constitution and USSR laws. Such a decision is adopted by at least a two-thirds vote of the total number of the Deputies to the Congress of the USSR People's Deputies, at the initiative of the Congress itself or of the USSR Supreme Soviet, taking into consideration the conclusions of the USSR Constitutional Review Committee. Art. 127, par. 8, KONST. SSSR.

¹⁹³ As Soviet Foreign Minister Aleksandr A. Bessmertnykh stated when asked about the constitutionality of the Committee of Eight's actions: The Constitution and laws [of the Soviet Union] do provide for the possibility of conveying authority from the President through the Vice President and [it] is quite clearly indicated how this is to be accomplished. Today we have not gotten an answer yet on the main question; namely, whether President Gorbachev was in agreement that his power had to be conveyed[,] and if he was not in a physical state to give such an agreement, we have to know what his physical condition was.... We did not get an answer to either of these two questions. Therefore...yes, this change [of leadership] was unconstitutional. It was not done in accordance with the Constitution of the Soviet Union. *Top Minister's Reaction: 'Unconstitutional' Act*, N.Y. TIMES, Aug. 22, 1991, at A14. Bessmertnykh was himself on vacation and apparently truly ill during the time of the coup. *Id.* Interestingly, upon his return to Moscow during the takeover, the Emergency Committee did not detain the Foreign Minister. *Id.* Gorbachev later removed Bessmertnykh from office, citing the minister's passivity during the putsch.

The Legality of the State of Emergency

The Committee of Eight obviously desired a state of emergency imposed in parts of the Soviet Union so as to be able to constitutionally declare rigid Communist control over the militant republics and to freely repeal many of Gorbachev's democratic reforms.¹⁹⁴ Under the final Soviet Constitution, there were only two ways for the President to legally declare a state of emergency: (1) The Presidium of the Supreme Soviet or any one of the Soviet republics could request the President to do this, or (2) the President on his own initiative could do so as long as he submitted this decision to the Supreme Soviet for subsequent ratification.¹⁹⁵

The Emergency Committee members knew they could not safely (or successfully) request either the Supreme Soviet or the republics to ask Gorbachev to impose a state of emergency. They were left only with the alternative of having Gorbachev do so under his own constitutional authority. Realizing that Gorbachev would not agree to this, the coup perpetrators tried to force him to resign 'voluntarily.' When Gorbachev refused, they decided to depose him, and justified their actions by asserting that Gorbachev's health prevented him from continuing his presidential duties. However false it was, this lie served as a legitimate reason to install Yanayev as President of the Soviet Union, according to the Soviet constitution. Once in power, "President" Yanayev could legally proceed to take action and make changes on behalf of the Committee of Eight, including proclaiming a state of emergency in parts of the nation.¹⁹⁶

Conclusion

The August 1991 Soviet coup stemmed from the desire of the old-guard Communists to declare a state of emergency throughout parts of the Soviet Union. Such a state of emergency would have allowed the Executive Committee to legally reimpose stern Communist control throughout the country. Overthrowing Gorbachev was the only practicable means of accomplishing this objective. However, besides not reflecting the will of the Soviet people, the Committee of Eight's actions were clearly illegitimate and unconstitutional. The entire takeover

¹⁹⁴ See *supra* note 58 for text of the first resolution the Emergency Committee passed upon deposing Gorbachev: the declaration of a state of emergency "in some parts of the Soviet Union for six months from 04:00 Moscow time on Aug. 19, 1991." Boris Yeltsin pointed out the reason why the Committee of Eight selectively imposed the state of emergency only in Moscow, Leningrad, and the Baltic states: "These actions are not aimed against Kazakhstan or Uzbekistan, but against democratic Russia. The state of emergency has been imposed only where the leadership is democratic.... This makes clear against whom this putsch was made." Clines, *supra* note 69.

¹⁹⁵ Article 127, Paragraph 3, section 15, of the last Soviet Constitution delineated the Soviet President's authority to declare a state of emergency: The President of the USSR: 15. [I]n the interests of ensuring the safety of USSR citizens, issues warnings about the declaration of a state of emergency in specific localities, and when necessary introduces a state of emergency at the request or with the consent of the Presidium of the Supreme Soviet or the supreme body of state power of the relevant Union republic. In the absence of such consent, introduces a state of emergency with immediate submission of the decision for ratification by the USSR Supreme Soviet.... In the instances indicated in the first part of this point, the President may introduce temporary presidential rule, while observing the sovereignty and territorial integrity of the Union republic. The conditions applying under a state of emergency, as well as under presidential rule, are determined by law. Art. 127, par. 3, sec. 15, KONST. SSSR.

¹⁹⁶ During the press conference announcing Gorbachev's ousting, Yanayev did declare that the legality of the state of emergency would be settled at the meeting of the Supreme Soviet the following week. *Excerpts From the New Leader's Remarks: Law and Order*, *supra* note 69, A12. Later, in an interview from the Matrosskaya Tishina Prison where he and the other plotters were awaiting trial, Valentin Pavlov said that he and the other plotters simply hoped that the Supreme Soviet would approve of the Emergency Committee's actions and that afterwards "things would work out." Kinzer, *supra* note 67, A7.

was based on fraud and thus violated the lawful presidential succession rules specified in the Soviet Union's Constitution.

Although Gorbachev's ousting was only temporary, the Emergency Committee's takeover irreparably and fundamentally affected the Soviet Union, just as the Bolsheviks' success in 1917 forever changed Russia and the world. George F. Kennan, a leading American historian on the Soviet Union, stated that the aborted August coup even eclipsed the Russian Revolution of February 1917 in importance.¹⁹⁷ "I find it difficult to find any other turning point in modern Russian history that is so significant as this one," he said.¹⁹⁸ Kennan also praised Mikhail Gorbachev, saying that despite his weaknesses, he was the one who made the fall of the Soviet empire possible by opening Soviet society.¹⁹⁹

Yet Kennan saw that Gorbachev's moment in history was over.²⁰⁰ And this turned out to be true. Gorbachev failed to realize (or accept) that the forces of glasnost and perestroika could not be controlled by him (or even the Committee of Eight).²⁰¹ Ironically, Mikhail Gorbachev became a victim of his own reforms: a danger to the old order and an obstacle to the new. *Id.* The August coup is laced with many intertwined ironies: Gorbachev was betrayed by old friends (the conspirators), and saved by an old enemy (Boris Yeltsin). And Yeltsin rescued the man whose downfall he had actively sought and advocated. The Emergency Committee tried to restore traditional Communist authority in the Soviet Union, but wound up eliminating Communism from the country altogether. Gorbachev was the only Soviet leader to survive an attempted coup, and yet was the only Soviet leader to resign his post. Yet the most profound irony of the events of 1991 is that the Soviet Union essentially finished its existence with a coup after having been born of a similar political event, the 1917 Bolshevik coup, only seventy-four years earlier.

¹⁹⁷ Neil A. Lewis, *Kennan Says Failed Coup Eclipses '17 Revolution*, N.Y. TIMES, Aug. 24, 1991, 9. Mr. Kennan is among the last of a group of scholar-diplomats who specialized in Soviet affairs and affected the course of post-World War II history by doing so. *Id.*

¹⁹⁸ *Id.* Kennan continued: For the first time in their history, the Soviet people have turned their back on the manner in which they've been ruled – not just in the Soviet period but in the centuries before. They have demanded a voice in the designing of their own society.... *Even 1917 had nothing quite like this. It's the most hopeful turning point I've ever seen in Russian affairs. Id.* (emphasis added).

¹⁹⁹ *Id.*

²⁰⁰ *Id.* "Everyone...in public life has his hour and his period. You can't expect to have really more than one and I think Gorbachev...has pretty well exhausted what he had to give to the Russian situation." *Id.*

²⁰¹ Serge Schmemmann, *Across East Europe to Moscow, the Trial of Freedom Reaches Tyranny's Epicenter*, N.Y. TIMES, Aug. 25, 1991, Sec. 4, 1.