

A NOTE FROM THE EDITOR

The conflict over Mountainous Karabagh has entered its 10th year and has attracted the attention of not only politicians from various countries but has also preoccupied the minds of many legal experts, philosophers and sociologists. Starting as an internal problem of the former Soviet Union, the Karabagh conflict was transformed into an issue of international law after the proclamation of independence by the Republic of Mountainous Karabagh and secession of Azerbaijan from the Soviet Union. Mountainous Karabagh, which from time immemorial has been populated by Armenians and for many centuries constituted an integral part of Eastern Armenia, demanded the basic right to self-determination, which, unfortunately developed into a complicated problem, involving besides the Republic of Mountainous Karabagh and Azerbaijan, also Armenia, Russia, Turkey, Iran and the USA. The search for a fair settlement of this conflict is now being pursued within the circles of influential international organizations like the United Nations and the CSCE.

The confrontation between Azerbaijan and the Republic of Mountainous Karabagh escalated into an armed conflict that has claimed thousands of victims from both sides. As one of the hot spots of the former USSR, the Mountainous Karabagh region is being convulsed by an armed struggle which, in ferocity, equals the civil wars within Georgia, Tajikistan, ethno-political conflicts in Ossetia, Moldova and the Northern Caucasus. Actually, the Karabagh conflict is unique in that its roots can be traced back to the early 1920s, when the indigenous Armenian population contrary to their will, was arbitrarily placed under the administrative control of Azerbaijan.

Numerous testimonies of eye witnesses, many historical documents and yearbooks have been published about the Karabagh conflict. A cursory review of the publications that have been put out by the two antagonists will show that there are two distinctly separate approaches that are being followed for finding a solution to this conflict. The Armenians of Karabagh keep emphasizing their right to exercise self-determination which is guaranteed by the charter of the United Nations, and is recognized as an inviolable right by the European Parliament. The Azerbaijanis, on the other hand, keep referring to those articles of the United Nations that guarantee the territorial integrity and the inviolability of the borders of its member states. Although international jurists find no contradictions between the nations right to choose their own destiny and the inviolability of their borders, in the case of the Karabagh conflict, all the present difficulties and problems were created because the Armenians had been denied those rights.

Now that the Karabagh conflict has become an interstate conflict, a thorough and unbiased analysis of its root causes becomes imperative. The authors who contributed articles in this publication are experts who have followed all the developments of the conflict with a keen interest. The articles in this compilation greatly differ from previous publications in that they thoroughly analyse all the problems that followed Azerbaijan's decision to secede from the Soviet Union and the subsequent declaration of independence by the Republic of Mountainous Karabagh. It is especially important to note that the declaration of independence by the Republic of Mountainous Karabagh was in full compliance with the provisions of the constitution of the former USSR, and was ratified by its citizens in a free referendum that was conducted under the supervision of international observers. Throughout the 70-year-long Soviet rule, the Karabagh region was considered to be an autonomous region, and according to the Soviet constitution all autonomies had the right to secede from the union; therefore, when the Mountainous Karabagh Republic declared its independence, it acted within the sphere of Soviet law and exercised its constitutional right.

As a result of the free elections that took place in Mountainous Karabagh, a genuinely democratic government has come into existence that truly represents the will and the wishes of the vast majority of the indigenous people. It is an incontrovertible fact that the democratic government that has ruled over Mountainous Karabagh for the last two years is a legally established authority that fully represents the aspirations of its citizens.

On the basis of today's political reality, the political disagreements that have led to military clashes between them must be resolved on the basis of internationally recognized laws. The final conclusion of the detailed analysis contained in the articles of this compilation is that the Karabagh conflict is nothing more than a struggle for national liberation from an illegitimately constituted rule that was both despotic and grossly abusive.

It is hoped that the contents of the following articles will familiarize the general public with the complexities of the Karabagh conflict, and assist all people of goodwill, who are participating in the negotiations between Azerbaijan and the Republic of Mountainous Karabagh, devise a just plan to put a final end to the bloodshed and hostilities that have ravaged the two countries.

Professor Konstantine Khoudaverdian,
Chief Editor of the Armenian Encyclopedia

THE FOUNDING OF THE MOUNTAINOUS KARABAGH REPUBLIC WAS BASED ON THE CONSTITUTION OF THE USSR

By *Souren Zolian*
Doctor of Philological Sciences

The founding of the Republic of Mountainous Karabagh and the process of its international recognition are usually viewed to be an expression of political intentions. Regardless of the complexities that accompany that course, in the final analysis, it is the legal rights that will perform the decisive role. First of all, we should take into consideration those peculiar aspects of the USSR constitution that enabled the former Soviet Republics gain international recognition as independent countries. Article 72 of the constitution of the former USSR gives every constituent republic the right to secede from the union on the basis of self-determination, and thus choose their own destiny. Unfortunately, many influential specialists are committing serious blunders by disregarding the Soviet laws that explain the legal structures of the constitution of the former USSR. Especially forgotten are the constitutional provisions that guarantee the self-determination rights that were redefined on April 3, 1991, in conjunction with solving the particular problems that are connected with the secession of some republics from the union. It is noteworthy that this Soviet law granted the right to self-determination not only to the federal republics, but also to the autonomous republics where various ethnic groups constituted the majority of the population. International organizations, and especially the CSCE, have re-affirmed the principle to recognize the independence of those republics that had the constitutional right to secede from the former Soviet Union. It is very astonishing that some influential politicians are disregarding, either knowingly or unknowingly, the same provisions of the USSR constitution that accorded the right of self-determination not only to Azerbaijan, but also to Mountainous Karabagh.

The Mountainous Karabagh Republic was the only autonomous region that exercised its constitutional right in the fall of 1991, by conducting a national referendum on the matter of independence; whereas, the vast majority of the former Soviet republics first declared their independence, and then conducted the national referendum that the constitution demanded. In other words, the Republic of Mountainous Karabagh took extreme care to meticulously follow all the requirements of the USSR constitution.

Article 3 of the above-mentioned constitutional law states: "Those Soviet republics that have autonomous regions, autonomous districts under their administration should conduct a separate referendum on secession in each of them. The people of each autonomous republic or other kind of autonomous structure have the right to decide for themselves whether they want to remain a part of the USSR, or remain in the seceding republic, or establish their own state. If in a Soviet republic there are regions where the majority of the population is made up of certain ethnic groups the results of the referendum must be counted separately for each region".

The presence of such a law, based on demographics, makes sense and shows that the former USSR, at least in theory, acknowledged the rights of ethnic groupings. The USSR was a union made up of different nations, and "autonomy" means a form of self-determination, it is evident therefore, that a nation's right to self-determination should not prevent a numerically smaller nation from exercising the same right. The constitution of the USSR also recognizes the special rights of those ethnic groups that did not have autonomous structures. The basic structure of this Soviet law reveals the fact that in those republics where the population was not homogeneous, the majority could not deprive the minority from their right to self-determination. Every ethnic group, in any region of the former USSR, possessed the constitutional right to self-determination.

Intentionally, at this time, we do not desire to discuss the illegal manner by which Mountainous Karabagh was annexed to Azerbaijan, and the exclusion of the Shahoumian and Khanlar regions from its boundaries. If the members of the international community today insist on recognizing the validity of past treaties and the national boundaries that were determined by the legislative action of a foreign occupation, then they are forever legitimizing injustice. If the inclusion of Mountainous Karabagh within the boundaries of Azerbaijan rests solely on the decree of the Soviet constitution, and has no other legal foundation, then the international community has to be consistent and honor the remaining articles of the same Soviet constitution that grant to the indigenous Armenian population the right of self-determination and secession from the imposed union.

On August 30, 1991, the Supreme Council of Azerbaijan declared independence from the Soviet Union without conducting a nation-wide referendum that the USSR constitution required. Once again, Azerbaijan

violated the USSR constitution by not allowing the Armenian inhabitants of Mountainous Karabagh to vote on whether they wanted to secede or remain within the union. On September 2, 1991, the representatives of the people of Mountainous Karabagh and the Shahoumian region, where the Armenians constituted a majority, held a session to express their political and constitutional right to self-determination which had been unjustly usurped by the Azerbaijani authorities. The USSR constitution clearly states that when a Soviet republic decides to secede from the union, then the ethnic groups that inhabit its autonomous regions have the right to choose their own destiny.

The Armenian people of Mountainous Karabagh, through their elected representative and their individually cast votes, decided to use their constitutional right to self-determination by declaring their independence to free themselves from Azerbaijan's discriminatory policies and oppressive rule.

It is very important to take into consideration the fact that Azerbaijan's declaration of independence from the Soviet Union stated that the leaders of their country decided to restore the sovereignty of their independent republic that existed from 1918 to 1920. All the historical documents and geographic maps clearly show that the Azerbaijani Republic of 1919-1920 did not include within its boundaries the territories of Karabagh and Nakhichevan which, at that time as always, rightly belonged to Armenia.

The declaration of independence by the Republic of Mountainous Karabagh was in full compliance with the provisions of the Soviet constitution that granted all autonomous regions within the republics to choose one of three options: (1) to remain under the administration of the republic to which they were joined; (2) to remain under the control and jurisdiction of the USSR; (3) to form their own independent state. Not only the Armenians of Mountainous Karabagh, but also the Lezghine and Talish peoples within Azerbaijan had the same right to self-determination as Azerbaijanis themselves. Unfortunately, the present rulers of Azerbaijan, have decided to completely ignore and repudiate these provisions of the USSR constitution that they had used, since 1921, to impose their administrative control on Mountainous Karabagh and Nakhichevan.

On October 18, 1991, the political leaders of Azerbaijan, being unable to cope with the legal and constitutional problems of the autonomous structures placed under their control, declared the dissolution of all autonomous structures of government, and invalidated all the obligations that they had inherited from the USSR. The Azerbaijani renunciation of the laws that pertain to the governance of autonomous of the autonomies, prove beyond a shadow of doubt, that autonomous political entities endowed with special rights, like Mountainous Karabagh, did actually exist. By declaring that the present Azerbaijani government is the continuation of the Sovereign Azerbaijani Republic that existed from May 28, 1918 to April 28, 1920, they announced the abrogation of all laws that were in effect from April 29, 1920 until August 30, 1991. Thus, with one stroke of the pen, the government of Azerbaijan declared the annulment of all the laws that gave special rights to the territories populated by indigenous Armenians.

Then, on November 23, 1993, the Azerbaijan Republic announced the official dissolution of the Mountainous Karabagh Autonomous Region that had existed since 1921, claiming that the creation of this political entity by the Russians did not favor the national interests of the Azerbaijani people, and was primarily designed to cause a permanent friction between them and the Armenians. So, the Azeris claim that their acceptance on July 5, 1921, to grant an autonomous status to Mountainous Karabagh was not voluntarily made. In the same vein of thought, the Russians' decision to place the Armenian provinces of Karabagh and Nakhichevan under Azerbaijan's control was carried out contrary to the wishes and against the protests of the Armenians.

It is interesting to note that the democratically elected representatives of Mountainous Karabagh and the Shahoumian region met in a session on September 2, 1991, and in full compliance with the USSR constitution, exercised their right to become independent; whereas, Azerbaijan's decree to dissolve the autonomous status of the region, and to abrogate all Soviet laws came later, on October 18, 1991. Therefore, it is easy for the unbiased observer to notice that the formation of the Mountainous Karabagh Republic took place at a time when the laws of the USSR were still in force throughout Azerbaijan.

The Soviet law that granted autonomy and the right of self-determination to Mountainous Karabagh is the same law that placed the Armenian region under Azerbaijan's control. When the Azeris accepted this law in 1921 because it gave them new territories, and thus, expanded the boundaries of their republic, they ignored its other provisions that gave the Armenians of the annexed territories a degree of autonomy and the right to self-determination. When the Azeris announced the abolition of all Soviet laws, they in effect annulled the

law that allowed them to be in charge of the administration of Mountainous Karabagh and Nakhichevan. The Azeris cannot have it both ways; they either have to embrace Soviet laws in their totality, or reject them in their totality.

Our attention must remain focused on four central facts: (1) if, in 1991, the Azeris restored their independent republic that existed between 1918 and 1920, that republic did not include the regions of Mountainous Karabagh and Nakhichevan within its boundaries; (2) by repudiating the Soviet constitutional law of 1922, the Azeris themselves abolished the only law that gave them the right to annex Mountainous Karabagh and Nakhichevan; (3) there was no law in September of 1991 that permitted Azerbaijan to dissolve the autonomous status of Mountainous Karabagh and deprive its indigenous Armenian people of their right to choose their own destiny; (4) throughout the duration of the USSR, the region of Mountainous Karabagh was recognized as an autonomous region endowed with special rights.

In accordance with the provisions of the USSR constitution, on December 10, 1991, the people of Karabagh freely participated in a referendum to vote on their acceptance or rejection of the creation of the independent Republic of Mountainous Karabagh. Of the 132,328 people who had the right to vote, 108,736 individuals (82.2%) cast their ballots without any coercion. 108,615 people, i.e., 99.89% voted in favor of independence and secession from Azerbaijan, 24 persons opposed the declaration of independence, and 96 votes were invalidated. The results of this free referendum were validated by international observers who were present there. We have to emphasize the fact that at the time when the referendum was conducted, the constitutional laws of the USSR were still in force, and had not yet been renounced by the Azerbaijan Republic. Thus, prior to the disintegration of the former USSR, the Mountainous Karabagh Autonomous region had become a fully independent republic by the free choice of its indigenous people.

The NKAR and Shahumyan region were respectively the only autonomy and territory of closely inhabited national groups which exercised the right granted to them by the Union constitutional right and created solid ground for a newly-formed state. And even though there might be analogous situations with other autonomies of the former USSR from a political point of view, the NKR case is unique from a legal point of view and its recognition will simply mean adherence to the accepted legal principle. It is indispensable to recognize as independent states all those entities which were created in accordance with the internal legislation of the federation (this is reflected in the amendments approved by the Supreme Council of the Republic of Armenia in the ratified agreement on creating CIS, which states that CIS membership extends to the former autonomous formations of the USSR which held a referendum before the Declaration of the Supreme Soviet of the USSR, "on Dissolving the USSR"). The referendum question makes possible for all parties concerned to enter into a dialogue with the NKR on condition that the forms of accord relations are not imposed on but are determined by the NKR. The recognition of the NKR is not merely a manifestation of political will; it is a legal act, it is a legal duty. This is the duty of Armenia and Azerbaijan first of all, states which declared the inclusion of Nagorno-Karabagh in their state boundaries and now they ought to have respect for its changed status: it is their duty to display respect for Nagorno-Karabagh Republic if they have any respect for laws underlying their own independence. This is the duty of Russia, which having declared itself successor to the USSR, has made itself responsible for observing the legal norms which were in force on the Union territory before the collapse of the USSR, one of these legal norms being the NKR referendum held in accordance with the law of the USSR: the NKR was not included in any republic then, it was a union territory. Finally, this is the duty of the international community, which in resolving disputable questions gives priority to legal principles.

THE CONFLICT BETWEEN AZERBAIJAN AND THE REPUBLIC OF MOUNTAINOUS
KARABAGH MUST BE VIEWED WITHIN THE LEGAL CONTEXT
OF THE DISSOLUTION OF THE USSR

By *Alexander Manassian*
Doctor of Philosophical Sciences

Anyone thinking in terms of international Law will be surprised to discover that neither Azerbaijan nor the countries that have attempted to act as mediators have considered the legal and historical roots of the conflict. The only exception has been the Republic of Mountainous Karabagh whose authorities have always expressed their willingness to put a dossier of legal rights at the disposal of the United Nations and the CSCE.

It is understandable that Azerbaijan is vehemently opposed to the consideration of internationally recognized legal rights that lie at the root of the conflict. The Azerbaijan authorities know very well that the legal and historical documents that pertain to Mountainous Karabagh prove indisputably that the region was annexed illegally. It is very upsetting for Azerbaijan to realize that there are no valid historical and legal documents that can justify its present policy toward the Mountainous Karabagh Republic.

The members of the Politburo that ruled the former USSR were not interested in finding a legal and just resolution for the Karabagh conflict. Perhaps, they were afraid of setting a precedent for solving political problems on the basis of legal and human rights, or they considered the Karabagh conflict to be an enormous explosive that, if left unchecked, could cause the collapse of their empire that was full of legal and historical contradictions. The indifference of other countries toward the consideration of the legal and historical causes of the Karabagh conflict can be traced to their selfish geo-political interests in the eastern Trans-Caucasus.

The file that contains legal documents regarding Karabagh is very bulky indeed. Often, reference is made to the Goulistan Treaty of 1813, that transferred the control of Karabagh from Persia to Russia, and to the July 5, 1921 arbitrary decision of the Caucasus Bureau that placed Mountainous Karabagh and other Armenian-population regions of the Russian Yelizavetpol province under the administrative control of Azerbaijan. The legal documents that relate to the above-mentioned events do not justify Azerbaijan's present policies toward Mountainous Karabagh. Neither will its emphasis on the importance of adherence to Soviet laws, as will be shown in this paper. In this study, the term that needs an additional explanation is our understanding of "the dissolution of the USSR" which the international news media prefer to call "the disintegration of the USSR". All the events that transpired since the resignation of Gorbachev, the General Secretary of the USSR, and the distribution of weapons among the republics, point to the dissolution of the Soviet system which, legally, cannot be described as an unsupervised disintegration. According to the documents that were received by the republics that formed "The Commonwealth of Independence States", the USSR underwent a voluntary dissolution.

When it comes to the examination of the legal basis of the conflict between Azerbaijan and the Mountainous Karabagh Republic, it is essential to analyze the nature of their statehood and the legal rights that they enjoyed within the USSR. As is evident to all, the USSR was a confederation. The legal and political rights of the constituent republics and autonomous regions that comprised the USSR were regulated and defined by the Soviet constitution. The dominant feature of the Soviet confederation was the supremacy of laws, that either contradicted or did not correspond to the USSR constitution, naturally lost their validity. In practice, all local legislation was considered to be inferior to the binding authority of the USSR constitution. As an example, let us consider the law that was enacted by the Supreme Council of the Azerbaijan Soviet Socialist Republic on June 16, 1981, regarding the Autonomous MKAR. All the quotations that we will make from this law show, very clearly, the recognition of the absolute supremacy of the USSR constitution over the entire region.

Article I. According to the constitution of the USSR, and the constitution of the Azerbaijan Soviet Socialist Republic, the Mountainous Karabagh Autonomous Region is placed under the jurisdiction of the Azerbaijan Soviet Socialist Republic.

Article II. According to the constitution of the USSR and the constitution of the Azerbaijan Soviet Socialist Republic, the legal status of the Mountainous Karabagh autonomous region is defined by the legislative actions of the USSR.

Article III. The boundaries of the Autonomous Region cannot be changed without the consent of the Council of people's delegates of Mountainous Karabagh.

Article IV. According to Article 110 of the constitution of the USSR, the Mountainous Karabagh Autonomous Region is allowed to send 5 delegates to the Nationalities Assembly of the Supreme Council of the USSR.

Article X. According to the constitution of the USSR and the constitution of the Azerbaijan Soviet Socialist Republic the state authority in the Mountainous Karabagh Autonomous Region is constituted by the council of the people's delegates. The main principles of organization and activities of the regional council and its authority shall be defined by the law of the USSR, "On Plenary Powers of Provincial and Regional Councils of People's Councils of People's Delegates of Autonomous Regions and districts", as well as by the Acts and Legislation of the USSR, by the present law and other acts of the Legislation of the Azerbaijan SSR.

Article LXV. According to the constitution of the USSR and the constitution of the Azerbaijan Soviet Socialist Republic, the chief prosecutor of the Mountainous Karabagh Autonomous Region shall be appointed by the prosecutor general of the USSR.

These quotations that are taken from the law that was enacted by the Azerbaijan Soviet Socialist Republic regarding the political and legal status of the Mountainous Karabagh Autonomous Region do not leave any doubt about the fact that the province was governed by the USSR constitution, and that Soviet law was superior to Azerbaijan's legislative actions.

This comparison between the laws of the USSR and those of the Azerbaijan Soviet Socialist Republic reveals the fact that the Soviet authorities had established, in the republics that they dominated, political and legal structures that are characterized by uniformity. One can easily observe that the constitution of the Azerbaijan Soviet Socialist Republic corresponds to and is similar to the constitution of the USSR. The constitutions of both the USSR and the Azerbaijan Soviet Socialist Republic recognize the autonomous nature of the Mountainous Karabagh region, and specifically mention that its governing body is made up of the representatives of the local inhabitants.

First Comment: The Government of the USA intended to recognize the republics and the autonomous regions of the former USSR and respect their national boundaries. The existence of this policy can be verified by the telegraph that President George Bush sent to the President of Azerbaijan, Ayaz Moutalibov. The American President's telegraph, that was sent after the proclamation of the establishment of the Republic of Mountainous Karabagh, emphasizes the necessity of respecting all internal as well as external borders. This statement can be interpreted to mean that the president of the USA was also referring to the borders of the Republic of Mountainous Karabagh and demanding that they be respected.

The first distinctive mark that identified statehood within the USSR system of confederation was the right to exercise a measure of autonomy, or self rule, over a certain geographical area. The laws of the USSR show that Mountainous Karabagh enjoyed such a status.

The second distinctive mark that identified statehood within the USSR system of confederation was the right to have local representation at the highest levels of the Soviet government, such as the People's Congress and the Supreme Council. All nationalities enjoyed equal rights when it came to the matter of sending delegates and representatives to the highest councils of the Soviet government. The rights and obligations that the Soviet republics and autonomous regions were identical. Neither the Azerbaijan Soviet Socialist Republic nor the Mountainous Karabagh Autonomous Region had the right to have a national army or an independent monetary system. The internal borders that existed within the former USSR were drawn solely for administrative functions. All the peoples who lived within those borders were considered to be citizens of the USSR.

Second Comment: The federal republics and the autonomous regions that formed the USSR had the same legal rights, and the absence of any principal difference between the functions of their states proves that they also had equal political rights. In other words, there was no fundamental difference between the federal republics and the autonomous regions of the former USSR. After the dissolution of the USSR, it was this primary principle that served as the basis for the recognition of all autonomous structures in Russia as republics who, later on, chose to sign a new federal treaty. At that same time, Azerbaijan decided to trample on the internationally recognized principles and by violating all the constitutional laws of the USSR, annulled the autonomous status of the Mountainous Karabagh region.

This was not the whole story. According to Soviet legislation, the federal republics and the autonomous regions that were populated by ethnic groups enjoyed equal rights both during their co-existence as well as their divorce. This fact is verified by the Soviet law that was enacted on April 3, 1990, to solve all the matters that relate to the secession of a republic or an autonomous republic, or an autonomous region, or an autonomous district as to areas where certain ethnic groups constituted the majority of the population of the USSR. It is very important to mention here the fact that the official delegates of both the Azerbaijan Soviet Socialist Republic and the Mountainous Karabagh Autonomous Region, who were present at the Supreme Soviet Council, voted in favor of accepting this law that clarified the legal conditions under which the federal republics and the autonomous regions could leave the USSR. The third article of this law states, "Those Soviet republics that have autonomous republics, autonomous regions, autonomous districts under their administration should conduct a separate referendum on secession in each of them. The people of each autonomous republic or other kind of autonomous formation have the right to remain a part of the USSR, or remain in the seceding republic or establish their own state. If in a Soviet republic there are regions where the majority of the population is made up of certain ethnic groups, the results of the referendum must be considered separately for each region".

Third Comment: In 1923, when the Mountainous Karabagh Autonomous Region was formed by the arbitrary decision of the Caucasian Bureau, the territory was endowed with special rights that characterize statehood. The Soviet decree that established the Mountainous Karabagh Autonomous Region says, "The ownership of all pastures, forests, land and springs is to be retained by their present owners". A special decree stated, "The language of communication in the Mountainous Karabagh Autonomous Region will be Armenian". As a rule, the most important state actions were printed and circulated in three languages: Armenian, Russian and Azeri. In all the budgets and the economic development plans of the Azerbaijan Soviet Socialist Republic, the Mountainous Karabagh Autonomous Region was mentioned separately. Furthermore, the statistical reports and the balance sheets of state accounts of the Azerbaijan Soviet Socialist Republic were published separately without including any reports from the Mountainous Karabagh Autonomous Region.

Fourth Comment: At the time of the dissolution of the USSR, the Mountainous Karabagh Autonomous Region had neither legal documents to repeal nor treaty obligations to fulfil regarding Azerbaijan, and in this way, differed greatly from the autonomous regions that are found in Russia, like Tartaristan and Chechnia, that were bound by a special treaty to keep their federal ties with Russia. It is an incontestable fact that the political actions and positions that have been taken by the Mountainous Karabagh Republic don't violate either Soviet laws or the norms of international rights. It is significant to note that the highest Soviet authorities never described the political actions of the Mountainous Karabagh Republic as illegal, but on certain occasions they did not refrain from denouncing the actions of the Azerbaijan Soviet Socialist Republic for being unconstitutional.

The chronology of events that is associated with the formation of the Mountainous Karabagh Republic sheds light on the legal features of the conflict with Azerbaijan. On August 30, 1991, the Supreme Council of the Azerbaijan Soviet Socialist Republic accepted the proclamation of the restoration of the independence of Azerbaijan. As a legal state action, this proclamation marked the beginning of the process that had to be followed by Azerbaijan in order to secede from the USSR. Two days later, on September 2, 1991, the regional council of Mountainous Karabagh Autonomous Region, together with the people's representatives of the Shahoumian region, convened a meeting and decided to secede by following the provisions of the USSR constitution which accorded the right of self-determination to all autonomous regions. On the other hand, Azerbaijan's declaration of independence did not contain even one sentence regarding the observations of the USSR constitutional law, and completely ignored the rights of the ethnic groups that inhabited its autonomous regions. However, Azerbaijan did not succeed in completely renouncing its inheritance of USSR laws. In their new constitution, that was drafted after their declaration of independence, they state, "Until the enactment of new laws, the laws of the USSR are still effective throughout the territories of Azerbaijan".

On the whole, the political positions assumed by Azerbaijan during the re-establishment of its statehood, are so contradictory in nature, that any independent international panel of legal experts would have found them to be baseless. After ignoring the legal provisions of the USSR constitution, following their declaration of independence, Azerbaijan nonetheless sent delegates to the USSR and fully participated in the discussions, thus proving that the Azerbaijani politicians viewed their secession to be bound by the USSR regulations and

procedures that pertain to such a dramatic action. At the same time, while Azerbaijan was still not legally independent, because a nation-wide referendum on independence had not yet been conducted, and while USSR laws were still effectively operating throughout its territory, the Supreme Council of Azerbaijan violated all existing laws when it abolished the autonomous status of Mountainous Karabagh. This is a typical example of Azerbaijani actions that show lack of respect for both Soviet and international laws. Reacting to Azerbaijan's illegal and unconstitutional action, the Supreme Council of the USSR on November 27, 1991, asked the Supreme Council of Azerbaijan, to repudiate all laws that aim at changing the legal and political status of Mountainous Karabagh. At this time, we feel obligated to emphasize the fact that none of the actions and steps that were taken by the Mountainous Karabagh Republic have been labeled as illegal or unconstitutional by the highest authorities of the USSR.

The foundations on which the Republic of Mountainous Karabagh Republic was established are legal because they rest on the constitutional laws of the of the USSR. Whereas Azerbaijan's declaration of independence and its subsequent actions do not follow the legal procedures that are outlined by the USSR constitution. Within the legal context of the dissolution of the USSR, the republic of Azerbaijan enjoyed no constitutional advantage whatsoever over the Mountainous Karabagh Republic. The Soviet constitution clearly states that when a federal republic (like Azerbaijan) decides to secede from the USSR, the autonomous regions within that republic (like Mountainous Karabagh), have the same right, and are allowed to form their own state.

According to the international law norms and the above mentioned evidence, we arrive at the following conclusions:

First: As a consequence of the dissolution of the USSR, the conflict between the Azerbaijan Republic and the Republic of Mountainous Karabagh were created in accordance with the provisions of the constitutional laws of the USSR, on the basis of the Azerbaijan Soviet Socialist Republic and the Mountainous Karabagh Autonomous Region respectively.

Second: The political positions that are taken by the two combatants must be viewed and judged within the context of the USSR constitution, and the legal rights it accorded to its constituent republics and autonomous regions simply because it was Soviet rule that created the present problem.

Third: The conflict must be solved on the basis of the right to self-determination which the USSR constitution granted to all nationalities that were within its jurisdiction. During the past seventy years, the Mountainous Karabagh Republic was considered to be autonomous and its citizens had the right to choose independence in the event of the dissolution of the USSR.

Fourth: Throughout the process that led to independence, the Mountainous Karabagh Republic followed all the constitutional laws of the USSR.

Fifth: The search for a fair settlement to this conflict should not overlook the fact that prior to its involuntary incorporation into the Azerbaijan SSR, Mountainous Karabagh was an integral part of Armenia.

THE MAIN QUESTION OF THE MOUNTAINOUS KARABAGH CONFLICT VIEWED IN THE LIGHT OF INTERNATIONAL LAW

By *Hamlet Gevorgian*
Doctor of Philosophical Sciences

The Mountainous Karabagh conflict, at the present time, is entering a new phase; by assuming international importance, the problem has been transferred to the realm of international policy and diplomacy, where the decisive role is played by the presentation of the peculiarities of the case and its effect on public opinion. Unfortunately, sometimes the peculiarities of the conflict are ignored, and the matter is treated by familiar stereotypes, thus generating unfavorable results for Mountainous Karabagh.

1. A just resolution for the Mountainous Karabagh conflict is indeed tied to every nation's right to self-determination, but the sole emphasis on this principle could jeopardize the presentation and the study of the case because of its general abstraction. In reality, it often happens like this, and the Mountainous Karabagh conflict is unjustly classified with self-determination seeking peoples like the Kurds in Iraq and Turkey, the Sikhs in India, the Basques in Spain, Gagauses in Moldova et cetera. Naturally, a solution is then sought that tries to balance the protection of human rights with the principle of nation's right to self-determination. In such an arrangement, primary consideration is given to securing the legal rights of the ethnic groups involved in the struggle, and in rare cases, when the human rights cannot be guaranteed, the conflict then should be resolved by granting autonomy or independent statehood to a given nation. In practical terms, international efforts that follow this route usually enter into a dead-end street, especially when mutual recognition of the right to self-determination is sought from both sides of the conflict. In international circles today, the existence of multi-national countries is considered to be normal because it claims to reflect the relationships created by modern civilization.

Fortunately for us, the Mountainous Karabagh problem does not exist on this plane. This fact should be clearly presented during the negotiations and to the general public opinion. Thus, one circumstance that requires consideration is that the Armenian population of Mountainous Karabagh is not merely entitled to securing the right of self-determination for themselves but very significantly to upholding the legitimacy and legality of its already existing constitutional status.

Mountainous Karabagh was an autonomous region within the USSR, and as such its Armenian population had self rule granted to them by the authority of the Soviet constitution. Consequently, the declaration of independence by the Mountainous Karabagh Republic was not an initial step to gain independence based on national self-determination, but the elevation of its legal status of the autonomous region.

The Republic of Mountainous Karabagh is the legitimate successor to the Mountainous Karabagh Autonomous Region, which in the context of the dissolution of the USSR, declared independence exercising its constitutional rights.

2. The legal elevation of the legal status of Mountainous Karabagh from autonomy to statehood will have a practical effect on the outcome of negotiations. It is evident that the Azerbaijanis are expressing their willingness to grant cultural autonomy and even territorial administrative self rule to the Armenians of Mountainous Karabagh in order to create the impression that they respect human rights, and that have made considerable concessions before the start of negotiations, creating the impression that for the first time ever they have brought up the issue of its unrealized right to self-determination. The fact that should never be forgotten is that throughout the seventy-year-long Soviet rule, the Armenians of Mountainous Karabagh already had those rights conferred upon them by the USSR constitution. The Azerbaijani's aim is to mislead the international community into thinking that because of their magnanimous spirit, they consent to give to the Armenians of Mountainous Karabagh special rights that they never had before. The Azerbaijani offer cannot be accepted as a concession because the Armenians of Mountainous Karabagh had autonomy and self rule during the existence of the USSR. Moreover, as a precondition for negotiations, the Azerbaijanis must, without any reservation, accept the illegal nature of their law which abolished the autonomous status of Mountainous Karabagh. Neither the Soviet constitution nor international law gave the Azerbaijan Republic the right to change the political and legal status of Mountainous Karabagh. This is an important point that contradicts the Azerbaijani assertion that the Armenians are laying claim to new territories that originally did

not belong to them. The Azerbaijanis know the strength of the evidence that the Mountainous Karabagh Republic is the rightful successor of the Mountainous Karabagh Autonomous Region, and for this reason, the official organs of their government keep talking about Mountainous Karabagh as if it were a piece of land that had been a part of their homeland, completely ignoring the historical, geographical, and political documents that show the disputed territory has always been a separate entity from Azerbaijan.

3. The Armenian population of Mountainous Karabagh, upon whom was conferred the right of self-rule, exercised their constitutional right to protect their legal autonomous status. This fact has been endorsed by international jurists whose views about Mountainous Karabagh range from moderate to negative. Here is a quotation from a specialist in international law, Gleb Staroushenko, who in August of 1988 wrote, "Since the Armenians of Mountainous Karabagh have their own territory, they have the legal right to elevate their political status to a higher degree of autonomy. Such precedents exist". This confession becomes more significant because it is found in an article entitled "Restoration Doesn't Mean the Removal of Borders", the general tone of which was not favorable to the Armenians. It should also be noted that Mr. Staroushenko represented the USSR for many long years at the United Nations' Anti-Discrimination Committee.

4. The legal representatives of the Mountainous Karabagh Republic have full rights to participate in negotiations, not only by virtue of their declaration of independence, but also as members of the Mountainous Karabagh Autonomous Region, which possessed the right to self-rule and was recognized by the USSR as a separate political structure. It naturally follows, that the official delegation of the Mountainous Karabagh Republic, upon being recognized as a party with equal rights to the negotiations, will guarantee the physical security of its minority citizens and pledge to respect their human rights. It has been evident, for a long time, that the Azerbaijanis are demanding the equal representation of the two Mountainous Karabagh communities (Armenian and Azeri) at the negotiations table, once again ignoring the special rights of the Armenian majority and overlooking the fact that Mountainous Karabagh has had a constitutionally recognized and legally upheld autonomy. Therefore, only those who have been legally chosen by the people can officially represent Mountainous Karabagh. By the way, the same policy is being followed at the negotiations concerning the Cyprus problem. Turkey is demanding that the majority Cypriot Greek and the minority Turkish communities have equal representation.

5. The establishment of the Republic of the Mountainous Karabagh did not shatter the wholeness of Azerbaijan's territorial integrity because all authentic documents show that the region was illegally and arbitrarily annexed without taking into consideration the will of its indigenous inhabitants. Another fact that must be taken into account is that as a result of the dissolution of the USSR, the Mountainous Karabagh Republic and the Azerbaijan Republic are both new states. In a federal structure, like the former USSR, when the federation is subjected to dissolution, then all its nationalities have the equal right to self-determination. In the former USSR, the Azerbaijani people who had their own republic, had no legal advantage over the people of Mountainous Karabagh who had an autonomous region that was endowed with the principle of self-rule. It is worth mentioning here that, after the dissolution of the USSR, autonomous regions within the Russian Federation established their own republics regardless of their former status.

From this point of view, the presence of a precedent assumes great importance. Following the dissolution of the British Empire, India which constituted one political entity, was first split up into two, then into three independent states. The international community today, even though accepts the nation's right to self-determination, is trying to solve ethnic conflict on the basis of respecting human rights within the borders of multi-national states.

This kind of approach is due to the wrong interpretation of the precedent. The event that corresponds to the dissolution of the USSR was the dismantling of the British Empire that consisted of different political structures that had different degrees of self-rule. The break-up of the British Empire gave rise to dozens of independent states some of which were carved out of larger political entities. Political leaders realized that the creation of lasting peace required that all nationalities be given the right to exercise self-determination in the regions where they lived.

6. There's another pattern of thought that has no legal foundation. The argument that the Armenians of Mountainous Karabagh are entitled to self-determination because they constitute the preponderate majority of the population is a flawed argument. Doesn't this mean that the Armenians of Mountainous Karabagh would have been deprived of the right to self-determination if they were the minority population? If the number of

Russians in Estonia and of Tartars in the Marnyoul region were to exceed that of the indigenous peoples, would they be entitled to self-determination? The international law specifies that the right to self-determination is reserved only to those peoples who live on their ancestral lands. Even in the case of being forcefully and unjustly occupied by a foreign nation, the indigenous people retain their sovereign right to self-determination and to administering their ancestral lands. For the people who live in their motherland or fatherland the right to self-determination becomes an absolute right that is never affected by the percentage of the population. Even though the Estonians in Estonia constituted half of the population, they will never lose their right to self-determination because they are living on their ancestral land. As long as the Armenians of Mountainous Karabagh continue to live on their ancestral soil, they retain their right to self-determination and the right to establishing a national state. It was not incidental that in the regions of ethnic conflict, the discussions about the rights of the Russian-speaking people shifted to become focused on the rights of the Cossacks who were considered indigenous to the newly independent territories.

A clear distinction must be made between the people who live on their ancestral land and the other ethnic minorities that are scattered among them. The Armenians in Abkhazia, the Russians in Estonia, and the Azeris in Mountainous Karabagh do not possess the right to self-determination because they are living in foreign countries. The human rights of ethnic minorities must be respected and preserved by the government of the natives, and in some instances it is possible to give them cultural and territorial semi-autonomy like the one which the Germans enjoyed in the Volga region of Russia, and the Soviet Jews in Birobijan, by mutual agreement, but not on the basis of self-determination.

Hopefully, these nuances of the problem will be taken into account during the negotiations.

THE KARABAGH CONFLICT: A POLITICAL SOLUTION

By Hayk Kotanjian
Doctor of Political Sciences

In the research conducted by the "HAYK" Institute, the Karabagh conflict is viewed in the light of international law. It is a fact today that as long as negotiators keep holding on to the model of an internal conflict, "non-international conflict", they will not succeed in their attempts to settle the conflict as this will eventually put Karabagh under their former usurpers. This kind of approach limits political and diplomatic contribution on the part of Armenia and Karabagh, and mediators (CIS and CSCE).

On the basis of the norms of international law the Republic of Mountainous Karabagh is to be recognized as one of the conflicting sides in negotiations aimed at regulating the conflict, and now when the negotiations have entered the phase on discussing the political-legal status of Mountainous Karabagh, the independent status of the Republic of Mountainous Karabagh should be emphasized.

The politological methodology developed by the "HAYK" researches will be summed up in the following points:

1. The Karabagh conflict is classified as an "international conflict" based on the following arguments:
 - a) The Republic of Mountainous Karabagh is a legitimately established independent state, in compliance with the UN Universal Declaration on Human Rights (1948) and the International Covenant on Political and Civil Rights (1966) the preambles of which treat the nation's right to self-determination as a preliminary to realization of individual, economic, social, cultural, as well as political and civil human rights;
 - b) The Republic of Mountainous Karabagh was established by conducting a free referendum on independence of the RMK under the supervision of international observers and by democratic elections in compliance with the above-mentioned norms of international law, as well as in compliance with the 1990 Law of the USSR, "On Solving Issues Relating to Secession of a Soviet Republic from the USSR".
 2. Karabagh Armenians have been forced into self-defense (Article 51 of UN Charter) against Azerbaijan's regular military aggression to destroy the freedom of self-determination of the people of Karabagh, jeopardizing the security of the self-determined people. The military confrontation of the Republic of Mountainous Karabagh against Azerbaijan is anticolonial (national-liberation) movement and in compliance with the Geneva Conventions and Additional Protocols the Karabagh conflict is an international conflict.
 3. The following conflictopolitical principles are basic to regulating the problem:
 - a) in the case of "internal, non-international conflict", the principles of inviolability and "non-interference" gain priority;
 - b) in the case of an "international conflict" the principles of "equality of parties", "self-determination", "forced self-defense" gain priority. This entitles Karabagh to participate in negotiations through the whole process of international settlement of the conflict for the sake of establishing permanent peace.
 4. The application of Additional Protocol I (1977) to the Geneva Conventions (Additional Protocol I, Article 1, paragraph 4) will play a decisive role.
- The Republic of Mountainous Karabagh as one of the conflicting sides of an "international armed conflict" can appeal to join Geneva Conventions (Additional Protocol I, Article 96, Paragraph 3).
- The Republic of Mountainous Karabagh is an independent state of a people who exercised their right to self-determination, which is a major political-legal factor for the overall resolution to the conflict. In this connection the following arguments gain in importance:
- a) The Republic Mountainous Karabagh was established through democratic elections and has been in continuous existence on the whole territory of the Republic of Mountainous Karabagh, it has representative, executive, including military authority.
 - b) The Armenians of Mountainous Karabagh have exercised their right to self-determination on their ancestral land, which had continuously been populated by them and are in possession of numerous material and spiritual records created by them on their ancestral land for over 2000 years.
 - c) The establishment of the Republic of Mountainous Karabagh should not be viewed as an initial step of self-determination but as a regular logical elevation of their constitutional status in the context of dissolution of the USSR (The Mountainous Karabagh Autonomous Region was a state entity within the USSR federation).

The resolution of the conflict should be based on the fundamental interests of the sides - establishing permanent peace secured by geopolitical equilibrium of the forces in the region and by guarantees made by the international community, Russia Federation and the European Security Council.

**SOME IMPORTANT LEGAL AND POLITICAL CONSIDERATIONS REGARDING
THE MAIN PROBLEM OF THE KARABAGH CONFLICT
(Resumé)**

With the Karabagh conflict entering its tenth year, the political and scientific discourse around it has tended to intensify and the issue has received extensive treatment in numerous publications and research projects in the field of conflict resolution.

The research conducted by the Hayk Institute through independent experts reflects the main thrust of quest for an acceptable framework for a legitimate resolution of the conflict. The framework identified as such by the experts is that of international law which allows to look at the problem both from the broader perspective of approaches to self-determination claims in general and at the same time to reveal those peculiarities of this particular case the consideration of which is a necessary requirement for its legitimate resolution.¹

In this light, the points brought up by the experts in the suggested research papers give a valid perspective for increasing the awareness of the general public and the international community as to the relevant legal aspects of the problem, and most importantly as to their immediate significance for the emerging new stage in negotiations with the focus on the political-legal status of the Nagorno-Karabagh Republic.

Specifically, the research traces the elevation of the region's status starting from its incorporation into the Russian Empire as its administrative-territorial unit up to the present-day political reality of its de facto independence accompanied by the fast evolution of all the necessary attributes of an independent statehood. Following this undetermined evolution, the experts draw attention to the undetermined status of the Nagorno-Karabagh region during the brief period of existence of the three independent Transcaucasian republics in 1920s. This study substantiated by facts clearly demonstrates two important points. On the one hand, throughout their history the Armenians of the Nagorno-Karabagh region have displayed considerable social and ethnic cohesiveness and strong sense of distinct identity which allowed the de facto elevation of their status by always remaining in their struggle within the limits of legality. And on the other hand, having all historical, cultural, psychological, humanitarian, socio-economic, and political attributes of an ethnic community to back up its eligibility to exercise the right to self-determination, they were paradoxically deprived, due to the clash of the geopolitical interests of a number of countries, of the opportunity to exercise that right on their ancestral land. Eventually, the legitimate exercise of this right in 1991 with the presence of international observers and in compliance with the provisions of the USSR constitution moved the self-determination claim of the Nagorno-Karabagh Armenians to a higher plane of legitimacy and legality.

Specifically and significantly, the USSR constitution stipulated that the successor states the USSR will have to abide by the provision that upon the secession of a federal republic the autonomous republics or autonomous regions within its boundaries have the right to choose from the following options: 1. remain within the seceding republic; 2. remain within the USSR; 3. choose independence from both.²

The course of action adopted by the predominantly Armenian-populated region of Nagorno-Karabagh led to the establishment of an independent republic through holding a free referendum. This is a legal factor which is manifestly suggestive of the logical necessity to rule out the possibility of viewing the former region at the initial stage of its self-determination claim.

It also shows a logical elevation of the region's (enclave's) constitutional status in the context of the dissolution of the USSR.

In the light of this legal and political reality, the very standing and the transforming status of the region as a conflicting side transforms an intra-state conflict, as it was before the disintegration of the USSR, into an interstate one, as it stands now, and thus further necessitates the republic's recognition, on the basis of international law, as an equal party in negotiations on the regulation of the conflict. Thus the conflict itself has been internationalized.

The legitimacy of the Nagorno-Karabagh's political independence is further enhanced by the fact that it was acquired in compliance with the UN Universal Declaration on Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) the preambles of which treat the nation's right to self-determination as a preliminary to realization of individual, economic, social, cultural, as well as political and civil rights.

Finally, another important point made by the experts is that the transformation of the Karabagh conflict into an armed one occurred as a consequence of Azerbaijan's military aggression aiming to abort the exercise of the right to self-determination by the Armenians of Nagorno-Karabagh and to jeopardize their security. This circumstance forced the Karabagh Armenians to take up arms in exercise of their right to self-defense (Article 51 of UN Charter). This important factor sheds light on/brings to the forefront the nature of the military confrontation of the Nagorno-Karabagh Republic against Azerbaijan as a national-liberation movement (anticolonial), and in accordance with the Geneva Conventions and Additional Protocols this conflict at its present stage should be viewed as an international one.

It is from this perspective of the evolution of the confrontation that the political principles of "international conflict", "equality of parties", "self-determination", and "forced self-defense" gain priority over the principles of "internal, non-international conflict" and "inviolability of borders and non-interference". This entitles Karabagh to participate in negotiations through the whole process of international settlement of the conflict.

As one of the conflicting sides in "an international armed conflict", the Nagorno-Karabagh Republic can appeal to join Geneva Conventions (Additional Protocol 1, Article 96, Paragraph 3) in which case the application of Additional Protocol (1977) to the Geneva Conventions (Additional Protocol 1, Article 96, Paragraph 3) will play a decisive and constructive role, in bringing about the establishment of permanent peace.

With consideration of the above mentioned legal aspects and political realities the resolution of the conflict can be based on the fundamental interests of the sides and can facilitate the establishment of permanent peace secured by the geopolitical equilibrium of the forces in the region and by the guarantees provided by the international community, the Russian Federation and the Conference on Security and Cooperation in Europe.

1) The Constitution of the Soviet Socialist Republics. October 7, 1977:

Article 87... The Nagorno-Karabagh Autonomous Republic shall be within the Azerbaijan Soviet Socialist Republic. Moscow Political Literature Publishing House. Moscow 1977

2) The Law of the Soviet Socialist Republics

252 On the Order of Resolving Questions Relating to the Secession of a Union Republic from the USSR (Moscow, Kremlin, April 3, 1990. № 1409-1)

Article 3. Autonomous republics, autonomous regions, autonomous districts shall conduct a separate referendum on secession. The people of autonomous republics and autonomous formations have the right to decide whether they want to remain part of the Union of SSR, or remain in the seceding republic; they also have the right to raise a question on their state legal status.

In a union republic which has on its territory places inhabited by ethnic groups which constitute the majority of the population in that place, the results of the referendum shall be considered separately.

Глава 11
АВТОНОМНАЯ ОБЛАСТЬ
И АВТОНОМНЫЙ
ОКРУГ

Статья 86. Автономная область находится в составе союзной республики или края. Закон об автономной области принимается Верховным Советом союзной республики по представлению Совета народных депутатов автономной области.

Статья 87. В Российской Советской Федеративной Социалистической Республике состоят автономные области: Адыгейская, Горно-Алтайская, Еврейская, Карачаево-Черкесская, Хакасская.

В Грузинской Советской Социалистической Республике состоит Юго-Осетинская автономная область.

В Азербайджанской Советской Социалистической Республике состоит Нагорно-Карабахская автономная область.

В Таджикской Советской Социалистической Республике состоит Горно-Бадахшанская автономная область.

Статья 88. Автономный округ находится в составе края или области. Закон об автономных округах принимается Верховным Советом союзной республики.

КОНСТИТУЦИЯ
(ОСНОВНОЙ ЗАКОН)
СОЮЗА СОВЕТСКИХ
СОЦИАЛИСТИЧЕСКИХ
РЕСПУБЛИК

*Принята
на внеочередной
седьмой сессии
Верховного Совета СССР
девятого созыва
7 октября 1977 года*

ЗАКОН

СОЮЗА СОВЕТСКИХ СОЦИАЛИСТИЧЕСКИХ РЕСПУБЛИК

252 О порядке решения вопросов, связанных с выходом союзной республики из СССР

Статья 1. Порядок решения вопросов, связанных с выходом союзной республики из СССР в соответствии со статьей 72 Конституции СССР, определяется настоящим Законом.

Статья 2. Решение о выходе союзной республики из СССР принимается свободным волеизъявлением народов союзной республики путем референдума (народного голосования). Решение о проведении референдума принимается Верховным Советом союзной республики по собственной инициативе или по требованию, подписанному одной десятой частью граждан СССР, постоянно проживающих на территории республики и имеющих право голоса согласно законодательству Союза ССР.

Референдум проводится в порядке, определяемом Законом СССР, Законом союзной, автономной республики о референдуме, если их положения не противоречат настоящему Закону.

Референдум проводится тайным голосованием не ранее чем через шесть и не позднее чем через девять месяцев после принятия решения о постановке вопроса о выходе союзной республики из СССР.

В референдуме участвуют граждане СССР, постоянно проживающие на территории республики к моменту постановки вопроса о ее выходе из СССР и имеющие право голоса согласно законодательству Союза ССР.

Во время проведения голосования какая-либо агитация по вопросу, вынесенному на референдум, не допускается.

Статья 3. В союзной республике, имеющей в своем составе автономные республики, автономные области и автономные округа, референдум проводится отдельно по каждой автономии. За народами автономных республик и автономных образований сохраняется право на самостоятельное решение вопроса о пребывании в Союзе ССР или в выходящей союзной республике, а также на постановку вопроса о своем государственно-правовом статусе.

В союзной республике, на территории которой имеются места компактного проживания национальных групп, составляющих большинство населения данной местности, при определении итогов референдума результаты голосования по этим местностям учитываются отдельно.

Статья 4. Для организации референдума о выходе из СССР, определения срока проведения референдума и подведения его итогов Верховный Совет союзной республики образует комиссию с участием представителей всех заинтересованных сторон, в том числе упомянутых в частях первой и второй статьи 3 настоящего Закона.

Статья 5. Для обеспечения полной свободы волеизъявления народов союзной республики при подготовке, проведении и определении итогов референдума о выходе из СССР Верховный Совет СССР решает по согласованию с Верховным Советом союзной республики вопрос о присутствии на ее территории в качестве наблюдателей

С момента принятия такого решения Съездом народных депутатов СССР выход союзной республики из СССР считается состоявшимся, а народные депутаты СССР от вышедшей республики утрачивают свои полномочия.

Съезд народных депутатов СССР вносит соответствующие изменения в Конституцию СССР.

Президент Союза Советских Социалистических Республик М. ГОРБАЧЕВ.

Москва, Кремль. 3 апреля 1990 г.

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