

# JERUSALEM LETTER / VIEWPOINTS

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## REVOLUTIONARY TIMES IN THE SOVIET UNION

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**A Legal Symposium on Freedom of Movement / A National Forum on Soviet Jewry / The Congress of Peoples' Deputies / The Soviet Legal Revolution / Is It Good for the Jews? / Facts and Figures on Emigration / Emigration to the U.S. / A Drive to Create Facts / What About the Role of World Jewry? / How Long Will It Last?**

In May and June 1989 I spent close to a month in the Soviet Union, a period described in the public media as one of the most significant in the second half of the twentieth century. I witnessed three unprecedented events that month, each of which reflects and represents not only revolutionary developments in the Soviet Union generally, but could have significant impact on Soviet Jewry in particular. During this time I had occasion to meet with both leading Soviet officials and also the leaders in the Jewish refusenik and Jewish culture movements, so my perspective came from both Soviet officials and Soviet Jews.

### **A Legal Symposium on Freedom of Movement**

The first event was the first international legal symposium ever held in the Soviet Union on freedom of movement. When I was in the Soviet Union

in June 1988, as part of an International Bar Association seminar on peace and human rights, the Soviets were not yet prepared to publicly discuss the issue of freedom of movement. Yet today, not only was the issue discussed, but a special conference was held solely on this topic to which were invited not only Soviet legal scholars, and indeed legal scholars from other parts of the world, but it also included panels attended by refuseniks themselves. In fact, a former prisoner of conscience who recently received his exit visa, long-time refusenik Boris Chernobelsky, was a member of the organizing committee of the conference. There was a sense of dramatic developments because in June 1988 such a conference would not yet have been permitted, even though glasnost and perestroika and democratizatzia were already on their way.

Most significantly, the conference

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passed not only a final document which details the plight of those who are deprived of freedom of movement without naming the Soviet Union, because it was a conference on freedom of movement generally, but the conference also added as an appendix a statement of fundamental principles of freedom of movement -- 13 principles which would be a model for any Western democracy anywhere. And this statement of fundamental principles of freedom of movement has in fact now been subscribed to by Soviet scholars and officials themselves.

### **A National Forum on Soviet Jewry**

The second event was the first meeting of a National Forum on Soviet Jewry. Some of those participating in the event said it was the first of its kind held in the Soviet Union since just before the Second World War. In fact, a Jewish historian got up and said it was the first event of its kind that had taken place in the Soviet Union since 1917. Some 250 Jews from all over the Soviet Union -- from Siberia, Novosibirsk, Kiev, Moscow, Leningrad, Minsk, and the Baltic republics -- gathered in Riga to discuss the state, condition, and future of Soviet Jewry. They represented some 40 recently created Jewish clubs and societies in the Soviet Union. While this event in Riga did not receive the international media attention that it might have warranted, in historical terms and in terms of the fallout for Soviet Jewry, it was one of the most significant events of recent memory.

The first day of the two-day National Forum was devoted to a general debate on the state and condition of Soviet Jewry, and it was one of the most inspiring experiences in which I have ever participated. One witnessed debates on a level, with a seriousness, and with an inspirational sense, the likes of which one does not see in the Jewish world anymore. One could imagine harkening back to the times of Basle, where Zionist speakers debated whether aliya was the only solution to the Jewish problem or whether one could build an

independent Jewish movement in the Soviet Union; or whether there should be emigration to countries other than Israel. People spoke from every political, ideological, religious and secular position imaginable. One man, speaking in Hebrew, quoted from Jabotinsky's writings of the late 1930s and called upon Soviet Jewry to rise up and go to Israel en masse, saying two years of glasnost and perestroika is nothing compared to 70 years of oppression of Soviet Jewry. Yet others got up and said that even if Jews should go on aliya, nonetheless the history of Soviet Jewry, indeed the history of diaspora Jewry as a whole, has shown that there will always be a diaspora and therefore let us now seize the opportunity and build an independent Jewish movement in the diaspora. It was a remarkable debate, given that here were people who were cut off from any sense of Yiddishkeit for at least 40 years, or 70 years for those outside the Baltic republics.

During the conference I said to them, "Look, as you yourselves have said, this is the first time you have gotten together since 1917. Seize the time, create a Soviet Jewry congress, create an independent body for Soviet Jewry. Speak on behalf of Soviet Jewry yourselves and not through any other international Jewish organization as an intermediary. Form your own organization." But their response was, "We are not representative enough. We did not have a chance to reach all of the cities and towns and all of the clubs and societies. It would be undemocratic for us to presuppose that we are now sufficiently representative to create a body to represent Soviet Jewry."

In the end they set up a 28-person national coordinating body to plan a founding conference for Soviet Jewry. And even the manner in which that committee was set up was itself revealing. They felt it would have been undemocratic again to just elect people from among themselves, so they asked for volunteers. Anyone who wished could be a member of this committee providing he or she was prepared to

assume responsibility for a particular area and to carry that responsibility, whether that meant doing a demographic study on Soviet Jewry today or doing a study of anti-Semitism in the Soviet Union or whatever. What a remarkable way to get people to really become functioning members of a Jewish organization, to require them, if they want to take on a position of leadership, to also undertake to discharge a particular responsibility with certain reporting time-frames and the like.

Just before I departed for the second day's proceedings, there occurred a small incident which said a lot about what is happening in Soviet Jewry today. I happened to stay at the home of Vitaly Kushevsky, who is now the acting president of the Jewish Cultural Association of Riga. Previously, one always had to stay in a hotel; it was impossible to stay at the home of a family. But for this conference the Baltic Republic of Latvia authorized the Jewish Cultural Association of Riga to be the official sponsoring agency for the conference. As we left to go to the conference, all of a sudden Vitaly Kushevsky, who speaks very little Hebrew or English, opened a drawer, took out a kippa, and put it on his head. I looked at him with surprise because I knew that he was not religious, and he said to me: "Me no dati; kippa -- demonstration." By the second day it was hard to distinguish between those who were religious and those who were not on the basis of kippot because most of them put on kippot by the second day as a demonstrative act of identification with their being Jewish.

The second day of the conference was devoted to passing resolutions and the concluding document. The first resolution passed called upon the Soviet Union to repudiate "the shameful Zionism is racism resolution" -- their words, not mine. I do not even know if Canadian Jewry has yet adopted such a resolution calling upon the Canadian government to see to the repeal of this shameful resolution.

The second resolution passed called on the Soviet Union to immediately resume

diplomatic relations with Israel without conditions. The third called upon the Soviet Union to prosecute all those who were involved in the dissemination of hate propaganda against Israel, who were involved in any form of anti-Semitic act, and the like.

Then came what was called the final document of the All-Soviet Union National Forum on Soviet Jewry on an agenda for Soviet Jewry. The first section emphasized the historical importance and imperative of aliya to Israel. Now there were people there who did not intend to go on aliya, there were people there who were not religious or even refusniks, but nonetheless this commitment to aliya was part of the shared consensus. The second section noted the importance of a nationally Jewish-inspired emigration. When I asked the difference between the second and the first, they explained that if there are going to be people who are going to countries other than Israel, they should go there as Jews and live there as Jews, in other words, to go there with a national consciousness as Jews and as members of a Jewish polity.

The third section noted the importance of developing an autonomous Jewish national and cultural movement in the Soviet Union, a free, independent, viable movement for Soviet Jews.

"When national and cultural autonomy is developed under favorable conditions this will ensure the creation of various organizational forms on the basis of pluralism to benefit the social, political, and cultural life of Soviet Jews and will enable the development of all kinds of Jewish initiatives. First of all, it is necessary to restore the system of Jewish education to make it possible to reestablish the almost lost connection with the values which have always constituted the core of life of the Jewish people. The rich experience gained through independent Jewish movements during the last 30 years should be widely drawn upon. It would also be proper to assist the new Jewish cultural

centers which are emerging in different cities, to develop independent Jewish media, to create traditional community formations, and to provide social security, health, and other social services specifically for Jews.

"It is most important to restore academic research institutes on Judaic studies and studies of modern Jewry in the Soviet Union. The development of a stable system of Jewish religious education throughout the whole country, real freedom for the activities of Jewish religious associations, provision of kashrut, free access to religious and general information and literature, the possibility to carry out the rite of circumcizing and other rites without any obstruction are thought to be absolutely essential. Our duty is to restore respect for the Torah and its role among Soviet Jewry."

This was a disproportionately secular group of whom perhaps 10 percent were religious, and this group concluded that it had to restore respect for the Torah and its role among Soviet Jewry. Such was the remarkable conclusion of a remarkable conference.

### **The Congress of Peoples' Deputies**

The third meeting I had occasion to attend was the Congress of Peoples' Deputies which began on May 24. The Congress was as remarkable a political gathering as one could imagine, even by Western standards. It was one thing to see Soviet deputies getting up and criticizing Gorbachev and his policies and practices. That also would have been unheard of a year earlier but it had already been going on for some time. It was another thing to see Soviet deputies getting up and criticizing Gorbachev and his wife in personal terms in the Soviet parliament, having a Soviet deputy stand up not that far away from Gorbachev and say to him, "You know, people compare you to Churchill. I would rather compare you to Napoleon because you have a wife like Napoleon's

wife. And your wife is going to do to you what Napoleon's wife did to him, and your wife together with you are going to be the ruination of the Soviet Union."

For me, sitting there in the Soviet parliament, it was remarkable. Ten years earlier, in August 1979, I had gone to the Soviet Union as a legal counsel for a number of Soviet refusniks and prisoners including, in particular, Natan Scharansky. The Canadian government had arranged through its good offices for me to meet with the Procurator General and the Chief Justice of the court that had tried and convicted Scharansky. But before I could have those meetings, while in the company of Scharansky's brother and then long-term refusnik Alexander Lerner and his family, we were stopped and I was detained, interrogated and expelled from the Soviet Union within three hours. I was not permitted to come back to the Soviet Union until January 1988. Now here I was in June 1989 as an invited guest at the opening of the Congress of Peoples' Deputies. When I was being interviewed by Soviet radio and TV, one of the questions that was put to me was, "Ten years ago you were expelled from the Soviet Union. What changes have you seen in the Soviet Union on your return?" Clearly that very question was itself dramatic evidence of change.

Gorbachev and the Soviet Union are representative today of an almost unique political phenomenon. Gorbachev is at one and the same time not only the General Secretary of the Communist Party, not only the President of the Supreme Soviet, but he is also the leader of the opposition in the Soviet Union. Gorbachev is today the number one dissident in the Soviet Union, because if Gorbachev had said what he himself is now saying in the time of Stalin, he would have been shot. Had he said what he is now saying even in the time of Brezhnev, he would have been sent either to a psychiatric clinic or to a labor camp. Yet he is now saying these things as the leader of the Soviet Union.

### The Soviet Legal Revolution

From my discussions with Soviet officials I heard of a number of basic principles underlying what was called "the Soviet legal revolution." At it was represented to me, the first new legal principle is the emergence of the Soviet Union as a rule-of-law state, of the rule of law as the organizing principle of Soviet state and society. In the words of the Procurator General, "everything is now permitted except that which is expressly prohibited by law. Previously it used to be that everything was prohibited except that which was permitted by law." When I reported this to Andre Sakharov, he said to me somewhat humorously, "actually it was a little different. Previously everything was prohibited, even that which was permitted by law."

The second principle, a corollary to the first, is responsibility of the government to its citizens and the importance and primacy of individual rights. As they put it, just as citizens have duties to the state, so does the state have duties to its citizens. These include "the constant strengthening of the guarantees of the rights and freedoms of Soviet citizens proclaimed by law." At this point there are some 50 draft laws before the Supreme Soviet dealing with matters of freedom of the press, freedom of conscience and religion, freedom of association, freedom of movement, and the like.

Principle number three is that the provision of human rights is indispensable to international peace and security. Now this used to be the classic Western position during the entire Helsinki process, namely that human rights is a precondition for peace. The Soviets used to say that peace is a precondition for human rights and in fact peace is so important that one has to divide the two. Now the Soviet Union said not only are the two matters of peace and human rights indivisible, but they agree that human rights is a precondition for the development of peace.

One initiative that they have now agreed to which has particular significance

for Soviet Jews is that the Soviet Union is about to ratify the optional protocol of the International Covenant on Civil and Political Rights. Its significance for Soviet Jews is that if a country ratifies the optional protocol of the International Covenant on Civil and Political Rights in addition to ratifying the Covenant itself, which the Soviet Union has done, which Canada has done, which the United States interestingly enough has not yet done, it gives Soviet citizens the right to file a complaint against the Soviet Union to international bodies for violation by the Soviet Union of the rights of its own citizens.

Principle number four is the notion of a humanistic criminal law, and that has to do with the decriminalization of a number of laws which had been used in the criminalization of dissidents including some Prisoners of Zion.

Principle number five is the legalization of glasnost, the idea that glasnost is not supposed to be just rhetoric but is to be part of the law.

Principle number six is the notion of the legal process as a rights process, the end to what they call telephone justice; the end to the interference by the Communist Party in the administration of justice in the Soviet Union; the end of "the criminalization of the innocents" -- their words, not mine; the end to the prosecutorial bias that has hitherto characterized Soviet criminal justice.

### Is It Good for the Jews?

Now what does this all mean in terms of Soviet Jews and what is the situation at this point for Soviet Jews?

First of all, the statement of fundamental principles on freedom of movement, which was adopted by the international legal symposium and endorsed and approved by leading Soviet officials, now provides a useful benchmark for both lawyers and human rights activists outside the Soviet Union as well as human rights activists and Jews within the Soviet Union to monitor Soviet emigration law and practice. If

the proposed Soviet law, which has been mooted now for some time, when enacted does not adhere to these 13 fundamental principles, this will permit activists within the Soviet Union and without to hold the Soviet Union to account.

Secondly, there is now a proposed draft law on the rights to leave and return before the Supreme Soviet, and it is expected that this draft law will be passed no later than this fall. The draft law includes the principle that every Soviet citizen has the right to leave the country and to return for short travel periods for which no invitation from abroad is needed from any source. In addition, each prospective applicant for permanent emigration will need to submit for his or her application an invitation from any person who is a permanent resident of a foreign state but who need not be a relative of the applicant. Invitations will also be accepted from sponsoring organizations. This will dramatically change the present procedure in which an invitation is required from a first-degree relative abroad. Any limitation on the right to leave would be in accordance with those authorized by international law and international agreements to which the Soviet Union is a party. Regarding state secrecy as a reason for refusing emigration, there will be an upper limit of five years, with some exceptions. Individuals applying for employment in an establishment doing classified work will be advised in advance in writing of any state secrecy restrictions.

#### **Facts and Figures on Emigration**

Soviet officials advised me that the number of prospective emigrants from the Soviet Union in 1989 will be the highest ever, as the number of Soviet Jews leaving will probably even exceed the benchmark year of 1979 when some 50,000 emigrated. Indeed, the same official speculated that the numbers in 1990 could exceed 60,000 and maybe even 70,000. He said that the refusal rate now was about 1 percent of all applicants. In the whole of 1988, some 108,000 applicants received permission to

leave, including a large number of persons who had hitherto been refused. This figure includes Volga Germans and Armenians who are also being permitted to leave. In the first five months of 1989, some 71,000 individuals emigrated, a rate 2.7 times higher than the same period in 1988. During those five months, some 26,000 persons received permission to emigrate to Israel, a rate 5 times higher than the same period in 1988. I was told that approximately 250 people had been refused permission to emigrate thus far in 1989.

These statistics are clearly encouraging, if not dramatic, but one should not forget that there are over 600 long-term refusniks still in the Soviet Union who have not received permission to emigrate. The refusniks themselves told me that of those 600 there are more than 90 families, about 300 people, that are still refused on grounds of state secrecy. One of those still denied the right to leave is Ella Varshaskaya. Her last known job was in 1947, 42 years ago, when she was a telephone operator for the KGB. So with all the talk of revolutionary developments in the Soviet Union, one should not ignore the individual refusnik families who represent individual and collective tragedies in a human sense, in a Jewish sense, having been denied the right to leave.

#### **Emigration to the U.S.**

While tens of thousands of Jews are now leaving the Soviet Union, most will seek to go to the United States. Why? One reason is that now there are large numbers of Soviet Jews living in the United States who are relatives of those who are leaving. Another factor for many Jews is that, to the extent that they know anything about their Jewishness, they are leaving the Soviet Union to escape it, because their Jewishness has always been a burden. Israel represents Jewishness. They go to the United States to become Americans, not to become Jews, as those at the Riga conference understood.

Finally, there are those who do think about coming to Israel and have a positive

impression of Israel and feel very Jewish, but they may still not come because, as one of the leading refusniks told me, "Look, I am 61 years old. I am an academic, a professional. I have already been offered a job at a leading university in the United States and the assurance of housing and the like. I have been a refusnik for 12 years. I do not have that much time left. I do not even know if I can still practice my profession. But if the choice remains to take up a university position that has already been offered me, to be able to work in the few years I have left in my profession, or go to Israel and probably not be able to get a job because other people better than me are losing their jobs and I may not be able to get housing, it is not because I do not want to go to Israel. It is because I feel I have nothing to do once I get to Israel. And that is why I am going to the States. In fact, it is almost better for Israel if I do go to the States. I will only be a burden to Israel if I went there."

#### **A Drive to Create Facts**

Many Soviet Jews are clearly skeptical as to what is going on. That is why even those who are unJewish, but feel that their Jewishness could be a problem if things change, want to get out and go to America. There are others who think that Gorbachev has given Soviet Jews an opportunity to make of their Jewishness something that is positive and indeed even historic, in other words, to become a diaspora Jewish community like other diaspora Jewish communities, with a Jewish educational system, a Jewish cultural system, with Jewish media.

They are skeptical, but they believe at the same time that they should seize the moment and make the Soviet Jewry movement irreversible as far as possible. That is why there is a rush to register associations officially. There is a rush to set up Jewish schools. Vilna is going to be operating an all-Yiddish Jewish school come September. The goal is to create facts in the Soviet Union as quickly as possible.

#### **What About the Role of World Jewry?**

A few years ago, there were no world Jewish organizations in the USSR to take advantage and try to build up a Jewish infrastructure. Now all of them are seeking to get in. What we need is more of an overall coordinated effort so that we do not end up duplicating what others are doing -- reinventing the wheel and sending out press releases about it. I am afraid we are about to see that.

There is at this point an opportunity to do something in terms of development of a religious consciousness in the Soviet Union and we should take advantage of this for those who are oriented in that direction. There is an opportunity to develop Jewish culture in the Soviet Union, and we should take advantage of that. But most importantly, we should work on creating a Jewish educational infrastructure because that would radiate outward all through the Soviet Union. We could start building Jewish school systems, which the Soviet Union said they are prepared to allow, in all of the various cities and towns, given that we do not know how long this thing is going to last.

#### **How Long Will It Last?**

We should have at least two more years of revolution. One reason is because in November 1991 the Soviet Union is hosting the last of the three human rights conferences authorized under the Helsinki Final Act and the concluding Vienna document. The first one was held in Paris in May 1989, the second is to be in Copenhagen in 1990, the third is in Moscow in the fall of 1991. The Soviet Union would not want to impare its human rights image before then; rather they want to showcase their human rights program and policy. What better way to do it than to take the one issue that has been so divisive, namely the question of freedom of movement, and let whoever wants to leave to do so. Then they can call attention to the immigration policies of the Western democracies which do not let them in. They want to convert 1991 into an indictment of the

United States, Canada and the rest and they will do it. They will let people out in such substantial numbers that the West, including my own country, Canada, will not want to take them in.

The Soviet Union faces two major problems: First, the economy continues to deteriorate. There were less consumer goods of any quality available in June 1989 than there were in January 1988. The second problem is that there is a real nationalistic movement proliferating in the Soviet Union. The Baltic republics are not the principal problem. Gorbachev is prepared to let them have as much freedom as possible. But there are 45 million Ukrainians, for example, whose intense nationalism is even more pervasive, and in that sense more threatening than in the Baltic republics. The large Muslim minority poses similar problems. While Soviet Jewry is a major issue internationally, it really is a marginal issue domestically. On the other hand, the other national questions are major issues domestically though they have been marginal internationally up to now.

Whatever else Gorbachev has done for the Soviet Union, as one Soviet citizen put it, "he has raised the level of conversation in this country." That is not just an idle remark. When the Congress of Peoples' Deputies was going on, wherever one went -- into any apartment, taxi, or bar --

everyone was glued to a radio or a television set watching the Congress. It gripped the country. On one level there is a tremendous sense of political, intellectual, ideological, and most importantly, cultural dynamism in that country. As someone said, "If Gorbachev and the revolution were to stop now, what has been produced in literature in the last three years has been more than has been produced in the last 40.

We are living through an extraordinary revolutionary period in the Soviet Union, in general, and in terms of Soviet Jews being able to leave, or being able to develop an independent Jewish community in the Soviet Union. It is a period that we as Jews, scholars and activists ought to take seriously in terms of deciding the best way to help give expression to this revolutionary movement among Soviet Jews.

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