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REVOLUTIONARY TIMES IN THE SOVIET UNION — 20 MONTHS LATER

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A Referendum on Preserving the Union

These days it seems almost banal to note that the Soviet Union is going through a particularly revolutionary period; yet even in the "banality" of revolution we have just witnessed a truly revolutionary event -- the only Referendum that has taken place in the Soviet Union in decades, and which itself reflects the nature of the revolution as a whole.

On March 17th, the Soviet people were asked the following question: "Do you think that it is necessary to preserve the Union of Soviet Socialist Republics as a renewed federation of equal and sovereign republics in which the rights and freedoms of every citizen regardless of ethnic origin will be fully guaranteed?"

According to Soviet sociologist Tatiana Zlavaskaya, one of the leading pollsters in the Soviet Union, people were not entirely sure how to vote on this question because they were not sure how their vote might be interpreted. For example, they may have liked the term "renewed" with respect to federation, but did not like the term "socialist"; or they did not know which federation of the Soviet Union was supposed to be preserved, that which already exists or that which ought to be created.

At the same time, a counter-revolution is also underway. One ominous sign of this counter-revolution involves the replacement of the main reform-minded individuals who were in the forefront of the legal and political revolution two years ago. Almost every one of these individuals has either retired, as in the case of Foreign Minister Shevardnadze, or has been removed, as in the case of Minister of Interior Bakatin. As well, the

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KGB has been given increased powers of search and seizure, the MVD has been expanded and the army is now seconded to patrol the streets; while Gorbachev has managed to arrogate to himself an inordinate degree of power to rule by executive decree. Indeed, from the original reform-minded leaders, only Gorbachev, the original architect of the reforms, remains. Yet as Steven Cohen has written, one ought to move slowly in terms of thinking how to get rid of Gorbachev, because the alternative might be much worse, and one should not easily dismiss the architect of the reforms that are already in place.

The Soviet Legal Revolution

Alexander Sukharov, then-Procurator General of the Soviet Union, described the Soviet revolution three years ago as "a revolution the likes of which has not taken place in the Soviet Union since 1917 -- a legal revolution, in which there is not only a revolution in the law, but law is the change agent of the revolution as a whole." This revolution was organized around seven basic principles, each and all of which have particular implications for the fate and future of Soviet Jewry.

The first principle is the notion of the Soviet Union as a "Rechstaat," a rule-of-law state. In the words of Sukharov at the time, everything is now permitted except that which is expressly and specifically prohibited by law. Previously, as he put it, everything had been prohibited, except that which was permitted by law.

The second principle is that of the constitutional protection of human rights -- the notion of the state as having duties and obligations to promote and protect the rights of its citizens as distinct from the previous situation in which the citizen was deemed to have duties but not really claims against the state. Now, as Gorbachev put it and Sukharov reflected it, the state had an obligation to protect universal human rights, "to prevent human rights violations even from occurring." This new idea is being reflected in three new pieces of legislation of particular importance to Soviet Jewry as well as to the population as a whole:

1) The first piece of legislation -- or draft legislation awaiting imminent passage -- is that of a Soviet Law on the Right to Leave and Return to the Soviet Union, expressive of the fundamental principle of freedom of movement. The Soviet Union has stated that the law will not only comply with, but be subordinate to, international human rights principles which will also determine the interpretation and application of this law.

2) A citizens' rights law. This law now authorizes citizens to sue not only individuals who have violated their rights, but authorizes legal action even against organizations and administrative bodies found to violate the rights of an individual.

3) A law protecting freedom of conscience and religion which has given the Jewish religion legal standing in the Soviet Union and helped promote and protect the movement for Jewish renewal in the Soviet Union.

These three examples represent a whole corpus of legislation to constitutionalize human rights in the Soviet Union.

The third principle of the Soviet legal revolution is that of international law and human rights as an organizing idiom of Soviet foreign policy. In effect, this has been the basis of the Gorbachev doctrine, or as former spokesperson Gennady Gerasimov put it with regard to Eastern Europe, the "Sinatra Doctrine," i.e., "let them do it their way." It remains an open question as to whether the Gorbachev doctrine will apply to the Baltic republics as it did to Eastern Europe.

Other examples of the recognition of international law as an organizing idiom of Soviet foreign policy include, cooperation with the United Nations; acceptance of the jurisdiction of the World Court respecting human rights treaties; conformity of domestic law to international law; peaceful settlement of disputes; arms control and disarmament; and the movement to ratify the Optional Protocol of the International Covenant on Civil and Political Rights,

which is really a revolutionary initiative. For this would permit Soviet citizens to seek relief from the UN Human Rights Committee for violations by the Soviet Union of its undertakings under this treaty after domestic remedies have been exhausted. Admittedly, one can prolong those domestic remedies, but the Optional Protocol even says that if the domestic remedies are unreasonably prolonged, one can still seek relief in the international arena. This remedy will have far-reaching effects for all Soviet citizens, including Soviet Jews.

The fourth principle has to do with what the Soviet Minister of Justice has called "a humanistic criminal law," and as they put it, "bringing glasnost to the gulag." A personal vignette may illustrate this change. In August 1979 I was in the Soviet Union to make representations on behalf of Anatoly Sharansky. Among other things, I requested permission to visit the notorious Chistopol prison in Kazakstan where Sharansky had then been held incommunicado for the previous 18 months. Not only was my request denied, but shortly afterward I was expelled from the Soviet Union, and told that I would never be permitted to return except to go to a Soviet prison myself.

As it happened, in September 1990 I again requested to visit Chistopol prison, this time to visit Mikhail Kazachkov, one of the longest serving political prisoners in the Soviet Union, and one who had even been arrested before Sharansky and in circumstances not unlike Sharansky's. He had also applied to leave in 1975; however, as with Sharansky, his application was refused, and he was then charged and convicted of treason and anti-Soviet slander and agitation. This time, not only was my request to visit Kazachov granted, but I visited Chistopol prison as the guest of Minister of Interior Bakatin and the head of the prison system in the Soviet Union, Gen. Goliev, who in effect acted as my personal host. More symbolically, I was accompanied by Leonid Stonov, who was then the longest standing refusenik in the Soviet Union (and who has since received permission to leave), and who acted as my translator for the visit.

When we arrived in Kazakstan the Soviets put on a full blown reception. As I was being driven to the place where we were to spend the first evening before we set off to Chistopol, I was told by the head of prisons in Kazakstan while we were driving through what formerly had been a prohibited area: "Five years ago I would have been obliged to arrest you as a spy here in the Soviet Union. Today you are a guest of the Minister of Interior. Welcome."

The fifth principle has to do with the very notion of glasnost, which is not just a code word for a charm offensive but which has now been institutionalized as a matter of law. This has allowed what Vitaly Korotich, the editor of Oganyok, has called "the emergence of a civil society in the Soviet Union" -- the proliferation of voluntary groups and organizations of every ideological, cultural, religious and political persuasion.

The sixth component is the notion of the legal process as a rights process, with particular reference to "the independence of the judiciary." In the words of the Minister of Justice, this means "the subordination of the party to the state, and the state to the rule of law, and the independence of the judiciary as a foundation principle for a rights process." The whole notion of "telephone justice" -- where someone from the party would call up the court and that would resolve the outcome -- was not only severely critiqued, but has now been rendered illegal.

The seventh and final component is the whole notion of democratization in the Soviet Union. This includes the ending of the constitutional monopoly of the Communist party, which occurred with the repeal of Article 6 of the Soviet Constitution, as well as the idea of the "sovereignty of parliament" -- involving both the central parliament and those of the republics -- while "developing a democratic culture of rights in the Soviet Union."

The Telescoping of the Revolution

These seven principles were enunciated at the apex of glasnost and perestroika three years ago and were themselves the embodiment and harbinger of the new revolution. Since then there has been a revolutionary leap forward that was unforeseen even by its architects. As Gorbachev has put it, more has happened in the last three years since these principles were enunciated than in the previous seventy. For example, in 1989, democracy was on the march both in the Soviet Union and in Eastern Europe, with hundreds of millions now exercising the franchise who were not permitted to do so some 18 months ago. In 1986, less than 1,000 Jews were permitted to leave the Soviet Union; in 1990, over 200,000 arrived in Israel. Article 6 of the Soviet Constitution was repealed just a little over a year ago. Erich Honiker, the head of the East German Communist party, began the year 1989 by saying "the Berlin Wall will last for 100 years"; by the end of that year not only had the Berlin Wall fallen but Honiker was under house arrest.

But perhaps the most dramatic example of how a revolution can be telescoped in a short period of time occurred during the course of my visit to the Soviet Union in November 1989, as a member of the Canadian Prime Minister's delegation to the Soviet Union. On November 17th, as "the whole world was watching," Czech militias were beating Czech demonstrators in the streets of Prague; one week later, the politburo in Czechoslovakia had fallen. As it happened, I was meeting that November 24th with Mikhail Chlenov, who was then the prospective co-president of the Jewish "Vaad," the confederation of Jewish organizations and communities in the USSR. On that November 24th we went to see Andre Sakharov to ask if he would deliver what was to become the first Raoul Wallenberg Lecture in Human Rights in the Soviet Union at the first ever meeting of the "Vaad." (Again, none of these things would have been possible even a year earlier.) While Sakharov was telling us he could not deliver the lecture because of a parallel meeting of the Congress of Peoples Deputies, the phone rang. It was Wroclav Havel, the leader of the democratic movement in Czechoslovakia, telling Sakharov to listen to the cheering of the quarter of a million Czech citizens gathered in Wenceslas Square in Prague after the fall of the Czech Politburo. Havel, who three years ago had been in prison, was now speaking to Sakharov, who three years ago had been exiled in Gorky. Indeed, Sakharov had been the only person in the Soviet Union who had stood up to protest against the Soviet invasion of Czechoslovakia in 1968, 21 years earlier. Now, he said to Havel, "I feel 21 years younger today."

Then Sakharov told us he was going to embark upon the real struggle in the Soviet Union, which was the repeal of Article 6. At the meeting of the Congress of Peoples Deputies I still recall the dramatic exchange when Sakharov made his proposal. Gorbachev waived him away in a cavalier fashion, declaring "What you are saying is rubbish; this cannot happen here in the Soviet Union." Yet, in February 1990, three months later, the Soviet parliament repealed Article 6. Unfortunately, Sakharov did not live to see it, having died on December 14, 1989.

The Gathering Storm

Yet, one may ask, if everything is so good, why then does everything appear to be so bad? Why is it that the "P" word of perestroika is being replaced by the dreaded "P" word -- "pogrom"? Why is it that the Soviet "civil society" is increasingly described as being on the verge of "civil war"? And so it is, then, that Soviet Foreign Minister Shevardnadze, resigning, speaks not only about ethnic hostility as a "gathering storm," but about dictatorship as a gathering threat; while Gorbachev warns again and again of the balkanization of the Soviet Union, and of the referendum as being "a choice between survival and chaos."

Together, then, with the emergence of

the Soviet "rule-of-law" state, we are seeing the emergence of national-based republics in the Soviet Union. Indeed, the nationalist secessionist movements now speak of independence itself as a fundamental right, and regard the very existence of the Soviet Union, and of their condition within it, as "a prison of nations." The fear, however, is that the secessionist movements may lead to a war of all against all, with Soviet Jews inevitably becoming victims.

Human Rights and Independence Movements

In June 1990 the International Helsinki Federation, together with the Moscow Helsinki Monitoring Group, organized the first public hearings on human rights ever held in the Soviet Union. The co-chair of the meeting were Lev Timofev and Sergei Kovalyov, the latter now a member of the Russian parliament, and who both were in Soviet prisons in the mid-1980s.

What was fascinating in these hearings was that every representative from every republic spoke of human rights not in terms of criminal law reform, or the constitutional rights of the Soviet citizen, or reform of the courts, glasnost, or freedom of the press, but rather in terms of the right to self-determination of the national republics in the Soviet Union -- of the imperatives of independence for the nationally based republics. In other words, human rights, if not turned on its head, was now given an entirely different complexion. The human rights representatives who had previously spoken in terms of all those foundation principles as part of glasnost and perestroika, now spoke of "independence and national sovereignty as a prior human right"; in other words, first, independence from the Soviet Union, and then one would discuss human rights within these independent states, either within or without the Soviet Union.

Together with the Soviet referendum, then, we are witnessing a secessionist political earthquake. All fifteen republics have either issued declarations of sovereignty or declarations of independence. As well, not only the Baltic republics but the other national based republics have proclaimed that their laws, and not the laws of the Soviet Union, will be supreme on their territories. This is as if every state in the United States, or every province in Canada, were to pass either a declaration of sovereignty or a declaration of independence, and declare as a bottom line that their laws take precedence over the laws of the federal government.

For Gorbachev, however, the issue is the continued existence of the Soviet Union, and the preservation of a strong central government, both of which Gorbachev regard as necessary for the protection of human rights against the "mindless separatists," as he calls them, who will lead the Soviet Union to "chaos and dissolution." But, for the human rights people in each of the republics, federation and independence is a human rights issue per se, and one which not only repudiates the Soviet Union as it now exists, but also the central government power upon which it rests.

The Unpredictable Dynamics of Ethnicity

The secessionist movements in the Soviet Union are not just separatist movements in political terms but nationalist movements in ethnic terms, a dimension that is not always sufficiently appreciated. And it is here that the politics of nationalism and ethnicity begin to assume a dynamic of their own. In nine of the republics that are seeking independence from the Soviet Union and which are themselves nationally based republics, 30 percent or more of the population belong to some group other than the dominant national culture. This has resulted not only in claims to protect minority rights, but also for the extension of the principle of independence to the national minority in the republic that is seeking independence from the Soviet Union. So while Moldova seeks to secede from the Soviet Union as a nationally based republic, the ethnic Russians in the eastern part of the republic and the Gagauz in the northern part have declared

their sovereignty from Moldova. Similarly, while Georgia has declared its independence from the Soviet Union, two large minorities, the Absekians and the Usishians, have declared their independence from Georgia. There is no end to this phenomenon of balkanization.

Even where there are republics that are to a large degree ethnically homogeneous, such as Armenia and Azerbaijan or Uzbekistan and Khirgisia, they are often in collision with each other, and the Jews are caught in between.

For example, it was not widely reported, but in 1989 when ethnic hostility between Armenia and Azerbaijan exploded into violence, the Jews in Baku asked to be airlifted to Israel. The Jews felt that they better get out, and the same situation could occur today in Uzbekistan, Khirgisia and the central Asian republics. For Jews in the Soviet Union see themselves as bystanders in a political struggle in which they do not belong to any of the movements. They belong neither to the secessionist nationalist movements nor the anti-nationalist movement.

Yet this nationalist current has also had a kind of psychological fallout, leading Jews who never really understood their Jewishness to begin to understand that there is no place for them in this myriad of struggles for national self-determination. Suddenly they feel both a push and pull to go to Israel. On the one hand, they feel pushed out of the Soviet Union to escape the crossfire of competing and contradictory dynamics. On the other hand, somehow a pull that never existed for them emerges not because of Zionism directly but Zionism as part of the fallout of the dialectic of the nationalist struggle within the Soviet Union.

Will Diffusion of Power Lead to Paralysis?

In the Soviet Union today, not only is power being diffused horizontally out to the republics but it is being diffused vertically away from the central authority. Under this theory, as championed by Yeltsin, power would flow upward from the local councils to the city, to the oblast, to the autonomous republics, to the republic, and if there is anything left, maybe to the Congress of Peoples Deputies; but Gorbachev would be left with nothing to preside over except as the ceremonial head of state of the Soviet Union.

Yet this trend may not only diminish the power of the central authority, but it may mean that power cannot be exercised at all. Here is where Gorbachev is not incorrect in warning about the politics of paralysis that could emerge not only from the horizontal diffusion but from the vertical diffusion of power. In the Soviet Union, then, which has five tiers of local government, what may result may not be so much a culture of democracy as a culture of anarchy. For the bottom of the pyramid where the decision-making is supposed to begin, and for Yeltsin would largely end, there may never be any consensus at all. In other words, for example, one town may want a proposed road to run north-south, a second may want it to run east-west, and a third may not want it to be built at all -- a prescription for paralysis.

A culture of anarchy is also worrisome for the Jews; for they need to know that there is some credible address to which they can turn, and that has some power to make decisions. They fear that anarchy could lead to balkanized decision-making with regard to exit visas, and thereby change their whole ability to make a quick and effective exit if necessary. While Yeltsin might say everybody will be in control, Soviet Jews believe that nobody will be in control, a situation that may have serious implications with regard to both Jewish renewal within the Soviet Union, and emigration from the Soviet Union.

Deteriorating Conditions Trigger Anti-Semitism

The Soviet Union is experiencing not only a political meltdown but an economic meltdown as well. According to every economic indicator the Soviet Union is unravelling economically. The gross national product is estimated to be some 20 per-

cent lower this year than last; inflation is running at 150 percent for the first four months of 1991; price rises are rampant. Somehow this energizes the question of the Jewish connection. For, the only thing in the Soviet Union that appears to be working are the cooperatives, and the Jews are popularly perceived to be in charge of them. The fact that less than 5 percent of those who are managing the cooperatives are Jews is irrelevant to a society that needs somebody to blame, and regards those in charge of the cooperatives as people who do not care about the rest of the economy.

There has also been increasing attention given to a dramatic erosion in the overall quality of life. Whatever the measure, the "misery index" is growing. And once again the Jews are blamed; for if the misery index is growing, the Jews must be "responsible" for that growing misery; while by their visible emigration, Soviet Jews are prepared to allow the other Soviet people to bear the burden of this misery.

Part of this erosion involves the growing recognition of pervasive environmental pollution, which again puts the Jews in a kind of double jeopardy. For example, the Jews are held out as those who are to blame for the Chernobyl reactor explosion; yet there are also 130,000 Jews living in the Byelorussian area who are victims of the Chernobyl disaster.

Similarly, after the Armenian earthquake, it was charged that the Jewish seismologists did not alert the population. This is yet another example of the realities of glasnost. And so it is, then, that every disaster in the Soviet Union is now a matter of public knowledge in a way that never occurred before, which is good, but every one is deemed to have a Jewish footprint, which is not. The result is a kind of rolling public indictment of the Jews. Moreover, as glasnost is now unraveling the crimes of the Soviet Revolution, the Jews are emerging as a constant scapegoat. The four Russian words that were taught to me by my grandfather as a child -- "Be Zidof spacie Russia" -- meant: "Beat the Jews and save Russia"; regrettably, this anti-Semitic credo of a czarist Russia has now returned to the streets and marketplaces of the Soviet Union.

Also, within the Soviet legal revolution, the laws on glasnost now mean to some that Soviet anti-Semitism can proceed under the protective cover of freedom of speech. Ironically enough, popular public anti-Semitism in the Soviet Union is being propagated under a Soviet version of the American First Amendment doctrine, protecting such hate groups as Pamyat.

Accordingly, a general culture of anti-Semitism has begun to emerge. As Boris Paramanov described rather compellingly in a recent issue of Partisan Review, the most outstanding quality of cultural life in the Soviet Union is now that of anti-Semitism. Admittedly, the historic varieties of anti-Semitism in the Soviet Union were never really an expression of the cultural elites in the Soviet intelligentsia. Now, one finds popular anti-Semitism from below, given legitimacy by the intellectuals and the cultural elites from above. So while there is no longer state anti-Semitism, this new convergence is producing a rather serious kind of popular anti-Semitism.

One also sees this manifested politically. The new Russian right blames the Jews for bringing about Communism; and the old Communist left blames the Jews for the downfall of Communism. Either way the Jews are caught in the middle.

This is not to say that there are no counterweights to this trend. In October, for example, a leading member of Pamyat, Smirnov-Ostashvili, was tried and convicted in the first prosecution in 70 years under the Soviet law prohibiting incitement to racial hatred; and for the first time Moscow not only joined in but was a co-sponsor along with Canada, of an international agreement at the 1990 Copenhagen Conference on the Human Dimension in which not only racism, xenophobia, and chauvinism, but anti-Semitism as well was expressly and specifically included as an object of condemnation. All signatories of

the Helsinki Final Act were then called upon to not only condemn but enact laws to prosecute such racist incitement; while throughout the past year we have seen mass demonstrations in Soviet cities in support of democracy.

The Position of Soviet Jewry Today

Are Soviet Jews in physical danger today? For the most part, no. Admittedly, many Soviet Jews remain apprehensive about the danger of a pogrom, but the evidence does not suggest that this is "a clear and present danger." It is true that during the last year there were a spate of horror stories about different types of violent murders of Jews because they were Jews. However, it turned out upon investigation that some never happened, and some happened but not because the victims were Jewish. The kind of brushfire rumor that went across the Soviet Union about impending pogroms, and which had its apex last spring, fortunately did not prove to be true. This is not to understate the dangers, particularly to vulnerable communities in some of the central Asian republics. But one must be very careful about making accusations that are not true, lest the real ones not be believed.

Are the gates of emigration in danger of closing? Both Yeltsin and Gorbachev proclaim that they are democrats and would not close the gates. Indeed, Gorbachev would not likely close the gates because his whole reform is contingent upon the economics of perestroika, and this in turn is contingent upon technology and credits from the West. For Gorbachev, then, Soviet Jewry is a minor domestic issue in the Soviet Union, but it is a major issue in Soviet-American relations. It is sufficiently a marginal domestic issue that Gorbachev does not need to add it to all his present woes -- both international and domestic.

Will most of Soviet Jewry leave? Historically, the sociology of Jewry is such that unless there is a gun pointed at their head, Jews will stay where they are. In 1989 enough Soviet Jews began to believe that they were being caught in a crossfire if not having the gun pointed at their head, and so they began to assert their desire to leave, which became a kind of emotional contagion. The Soviet emigration movement became, in effect, not a movement of individuals and families but of entire communities. An emigration movement began to take on the characteristics of an "exodus." But there are still enough Soviet Jews who believe that they can not only weather the gathering storm, but that they can actually develop a Jewish geseilshaft in the Soviet Union. The challenge, then, will continue to be not only the protection of the right to leave and the challenge of absorption, but of protecting the right to live as Jews within the Soviet Union.

It is not surprising, therefore, that at the recent "Vaad" Conference in the Soviet Union, the debate was between the priority of aliya, and the priority of building a Jewish life in the Soviet Union. On a formal level, Soviet Jews decided to put the priority on what was called a Jewishly, nationalistically conscious movement that will have both its emigration and Jewish renewal dimensions. At the present time I would say it is about half and half, although I know there are those who say that more than half want to leave and that may be true. But even though the conditions may be objectively worse today than they were last spring, the level of apprehension was higher last spring due to fears of impending pogroms.

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