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Soviet Human Rights under Gorbachev: Old Wine in a New Bottle

Keywords

Human Rights Law, Revolution, Civil Rights, Constitutional Law

DEVELOPMENT

Soviet Human Rights Under Gorbachev: Old Wine in a New Bottle?

In times of crisis, nearly everything may depend on the regard and confidence placed in some man who possesses the experience and qualities of a leader.¹

Plutarch

I. INTRODUCTION

The Soviet government has through its seventy year history frequently been criticized by Western governments for its unfavorable record on human rights. Following the Bolshevik revolution in 1917 and Lenin's short rule, the Soviet people endured twenty-four years of hegemony under Joseph Stalin. As a result of Stalin's intentions to create an industrial and military power, numerous hard-line policies were formed, some of which still remain today.

Gorbachev's ascent to power has brought the area of human rights into an evolving and dynamic period. He has introduced "*glasnost*," a policy where through the devices of criticism and monitoring by the masses, the Soviets can be assured of a more healthy and prosperous society. In order to achieve this there has been a relaxation in government policy towards censorship, demonstrations, and prisoners. Most academicians have found it premature to voice a decisive opinion on whether human rights have in fact improved, mainly because the Gorbachev administration is so new at coping with these issues.

The strained issue of human rights, which has been a major obstacle in East-West relations has been somewhat diminished. Developments witnessed in freedom of expression and movement might not completely satisfy Western demands, however the steps which have been taken by the Soviets do not appear to be mere token gestures. This article will begin with a historical background of human rights in the Soviet Union tracing the developments from Stalin to Krushchev to Gorbachev.² The central part of this article will discuss recent developments in five primary areas of Soviet human rights: political prisoners; minority and religious prison-

1. PLUTARCH, *MORALIA*, COLLECTED WORKS OF PLUTARCH 340 (3d ed. 1951).

2. For studies on Gorbachev, see CONG. RESEARCH SERVICE, Rep. No. 85-858F; and Simis, *The Gorbachev Generation*, 59 FOREIGN POL'Y 3 (1985).

ers; demonstrations; censorship; and emigration. Finally, this article will inspect the effectiveness of glasnost and whether Gorbachev's policies will persevere.

II. BACKGROUND

Upon reading the Constitution of the Soviet Socialist Republics, one is struck by the remarkable likeness of its articles regarding individual rights and liberties to the United States' Bill of Rights. The most significant article in this respect is Article 50, which states: "In accordance with the interests of the people and in order to strengthen and develop the socialist system, citizens of the USSR are guaranteed freedom of speech, of the press, and of assembly, meetings, street processions and demonstrations."³ Despite the similarity in language, the judicial interpretation by Soviet courts has clearly not been as generous as their U.S. counterparts. Since 1918, the value of Art. 50 has been comparable to a lead statue leafed in gold. It gives a striking and majestic first impression, however, merely scraping the exterior reveals its true worth. It is also astonishing that individual liberties were stressed by the most ruthless of all Soviet leaders, Joseph Stalin, who once wrote:

Real liberty can be had only where exploitation is destroyed, where there is no oppression of one people by another, where there is no unemployment, and pauperism, where a person does not shiver in fear of losing tomorrow his job, home, or bread. Only in such a society is it possible to have real, and not paper, liberty, personal and otherwise.⁴

Despite this hypocritical statement by Stalin, many rights formally affirmed by the Supreme Law of the Soviet remained "dead letters" for over two decades after 1936. Freedom of speech, press, assembly and association, and inviolability of persons' homes and correspondence were more often breached than obeyed; something which was acknowledged at the XXth Party Congress and by succeeding Soviet leaders.⁵

After the death of Stalin in March 1953, significant progress was made in the area of personal and social rights. However, the Soviet state has still remained a totalitarian one party oligarchy in which political activity opposing the government on basically any issue is barred, and freedom of expression will be permitted only within the limits of the existent "party-line."⁶

3. KONST. SSSR, art. 50 (revised and adopted 1977). In comparison, Amendment I of the Bill of Rights states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or for the right of people peaceably to assemble, and to petition the government for a redress of grievances." U.S. CONST. amend. I.

4. *Izvestia*, Dec. 8, 1936, at 1 (article by Stalin).

5. F. SCHUMAN, *RUSSIA SINCE 1917*, at 231-236 (2d ed. 1979).

6. D. BRAHAM, *SOVIET POLITICS AND GOVERNMENT* 392 (2d ed. 1975). See also J. HAZARD, *MANAGING CHANGE IN THE USSR* (1983).

It is justifiable to state that the Communist human rights movement was initiated by Nikita Krushchev. As a counter-reaction to the harsher policies of Stalin, Krushchev liberated millions of people from prisons.⁷ Krushchev's motives were not based on benevolence or deep-felt sympathy, instead, he had three broad motives for liberalizing human rights in the Soviet Union. First, he sought to set in motion the extensive human resources of the Soviet Union after a prolonged period of stagnation. Second, he wanted to satisfy the West's desire for concessions on human rights issues. And third, he wished to improve the general atmosphere of East-West relations in order to facilitate increased trade and arms control. Gorbachev is motivated by very similar goals. Like Krushchev, Gorbachev has concluded that in order to restore health to the economy,⁸ and to narrow the technological deficiency towards the West, it is essential to mobilize the so-called "creative intelligentsia" on his side. This is a strong and radical prescription to cure the illness which is plaguing the Soviet system.⁹

Human rights issues in the Soviet Union have been influenced by the United Nations Covenant on Human Rights of 1973, which was ratified by the Soviet Union.¹⁰ In addition, the Soviets signed the final act of the "Conference on Security and Co-operation in Europe of 1975," better known as the "Helsinki Accord."¹¹ Though the Accord is not a treaty, and is therefore not legally binding, it has been treated almost as a legal commitment by the signatory states. It seems quite probable that both of these agreements have influenced the current Soviet leadership in its position on human rights. For example, the Soviet Union has begun to real-

7. V. CHALIDZE, *PRAVA CHELOVEKA I SOVETSKI SOIUZ* (1974). English: *TO DEFEND THESE RIGHTS* 51 (1974). See also R. MEDVEDEV, *KNIGA O SOTSIALISTICHESKOI DEMOKRATII* (1972). English: *ON SOCIALIST DEMOCRACY* (1975). Both of these experts believe that the Soviet system would be acceptable to the rest of the world community if the Soviets would adhere to their own constitutional rights guarantees.

8. It is important to note the economic developments in the USSR; examples being in annual rates of growth: Total GNP: [1961-65] 5.0% p.a., [1984] 2.5% p.a.; Consumption: [1961-65] 3.7% p.a., [1984] 3.0% p.a.; Investment: [1961-65] 7.5% p.a., [1984] 1.7% p.a. Further statistics can be found in CIA Handbook of Economic Statistics, C.P.A.S. 85-10001 (1985), at 64-65.

9. See CONG. RESEARCH SERVICE, REP. NO. 86-87 F [hereinafter CRS 86]. This is an excellent report from the XXVIIth Soviet Communist Party Congress.

10. Ved. Verkh. Sov. SSSR No. 40 item 4564 (1973); *ratification on* Sept. 18, 1973.

11. Text of the Final Act can be found in 73 Dep't State Bull. 323 (1975), or in 14 I.L.M. 1292 (1975). Pertinent sections concerning human rights are Principle VII and Basket III. Principle VII deals with respect for human rights and fundamental freedoms. The most significant section states that: "The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion." Under the section for cooperation in humanitarian and other fields, Basket III covered cooperation regarding family unification, travel, sports, activities, and freer and wider dissemination of information. See *generally* APPRAISAL OF ITS RAMIFICATIONS: HUMAN RIGHTS, INTERNATIONAL LAW AND THE HELSINKI ACCORD (T. Buerghenthal ed. 1977); Coughlin, *Monitoring of the Helsinki Accords: Belgrade 1977*, 10 CASE W. RES. J. INT'L. L. 511 (1977).

ize that a nation state's method of treating its population is not solely a domestic concern.¹²

Socio-economic conditions have reached such a low ebb in the USSR that outsiders do not hesitate to speak of a crisis in the country's internal metabolism. This crisis began with Leonid Brezhnev, and accentuated in the last ten years of that regimes existence, the crisis lingered on into the paralyzing interregnum of the early 1980's. To the Soviets, this lethargy would imply a threat to the viability of their political system, together with prediction of imminent discontinuities. In short, there is a crisis of effectiveness.

Gorbachev's liberalization of the system has been cloaked in the term "*glasnost*," which can be interpreted as greater openness in public life, candor, and self-criticism. Interestingly enough, this term was also used by Lenin.¹³ Possibly the best interpretation of *glasnost* is democratization of the system. *Glasnost* may be the boldest act by a Soviet leader since 1917. How exactly does *glasnost* fit into the Gorbachev administration's overall strategy? The name of the strategy is *perestroika*, or economic restructuring. Gorbachev calls *perestroika* "a revolution,"¹⁴ one which most likely will take years to achieve. He reinforces this contention by stating that: "we need *glasnost* as we need the air."¹⁵ Without it, the Soviet Union will most likely stagnate, will fail to compete in the world, and will be vulnerable to outside pressures. *Glasnost* came first, creating the freer atmosphere in which the drive for democratization has been launched in earnest. *Glasnost* and *perestroika* now mean two things in the human rights sector: 1) they are weapons Gorbachev has handed to the Russian intellectuals meant to destroy inefficiency in the bureaucracy; and, 2) they are an entrance back into the "normal" life for individuals who had been wrongly imprisoned.¹⁶

In his concluding speech to the Central Committee on January 28, 1987, Gorbachev spoke about *glasnost*: "The Communist Party firmly holds that the people should know everything. *Glasnost*, criticism, and self-criticism, monitoring by the masses - these are the guarantees of the healthy development of Soviet society. The people must know everything and consciously make judgments about everything."¹⁷ While the *glasnost* policies of the Gorbachev leadership are essentially identical to the ones of the Krushchev leadership, they have manifested as more systematic

12. See Henkin, *The U.N. and Human Rights*, 19 INT'L ORG. 504 (1965), and, CONG. RESEARCH SERVICE, Rep. No. IB83066, at 15. Previously, whenever a country or organization criticized the human rights situation in the Soviet Union, the Soviet government would always counter with the argument that human rights were domestic and not international issues. *Glasnost* appears to be causing greater deference to human rights agreements, which in turn changes the Soviet stance on issues of international domestic concern.

13. Wash. Post, March 22, 1987, sec. C, at 7, col. c.

14. M. GORBACHEV, *PERESTROIKA* 49 (1987).

15. *Id.* at 78.

16. See N.Y. Times, Jan. 4, 1987, sec. 4, at 2, col. 1.

17. Pravda, Jan. 29, 1987, at 1.

and calculated, and have surpassed Krushchev's in scope and radicality.

To carry out his strategy, Gorbachev believes that the vast "untapped resources of socialism" must be mobilized. Central planning and the latest technology are crucial, but the least used resource is the human factor. The Party must arouse the Soviet people from their apathy and convince them that they all have a stake in the success of *perestroika*. According to Gorbachev, this requires "the serious, deep democratization of Soviet society . . . which will enable us to involve in reconstruction its decisive strength - the people We need democracy like air. If we don't understand this . . . our policies will founder and reconstruction will collapse, comrades."¹⁸ In another speech, Gorbachev states that "we need such powerful forms of democracy as *glasnost*, criticism and self-criticism, to change radically every area of social life." Concluding, he professed that "the more democracy we have, the faster we shall advance along the road of reconstruction and social renewal, and the more order and discipline we shall have in our socialist house. So is it either democracy or social inertia and conservatism. There is no third way, comrades."¹⁹ It has been noted that this democratization process must be somewhat tempered; a high-ranking editor states that "for Gorbachev to be too far ahead of the people is not good."²⁰

Despite these extremely positive remarks by the Soviet leader, the Westerner must be cautious not to overreact. Regardless of these intentions of democratization, the USSR will continue with its socialist ideology.²¹ *Glasnost's* basic function is not to stimulate democracy, but instead to encourage efficiency and industrial development. As Gorbachev himself states in his book *Perestroika*: "those in the west who expect to give up socialism will be disappointed."²² In a July 1987 speech he stressed exactly this point: "We intend to make socialism stronger, not replace it with another system."²³

The issue thus becomes: can Gorbachev hope to succeed where Krushchev failed? Is there evidence yet of a real shift in the Soviet handling of human rights, or is this another Potemkin's village, what the

18. Pravda, Jan. 30, 1987, at 1. (Gorbachev's concluding speech at the Plenum of the Central Committee).

19. Pravda, Feb. 26, 1987, at 1.

20. N.Y. Times, Nov. 3, 1987, sec. 1, at 4, col. 1.

21. *Id.*, sec. 1, at 7, col. 2. (text from Gorbachev's speech on the 70th anniversary of the Russian revolution), which states: ". . . people must be taught in practice to live in the conditions of deepening democracy, to extend and consolidate human rights, to nurture a contemporary political culture of the masses; in other words, to teach and to learn democracy . . . perestroika will not succeed without a drastic invigoration of the activities of all party organizations . . . and so we must have a more businesslike and a more democratic attitude, we must improve organization and tighten discipline . . . then we will be able to put perestroika into high gear and impart a new impetus to socialism in its development."

22. M. GORBACHEV *supra* note 14, at 37.

23. Time, July 27, 1987, at 31. See also Wash. Post, July 15, 1987, sec. A, at 16, col. a.

Russians call *pokazuka*, or "just for show"?²⁴ To put flesh on the bones of this skeletal conundrum, one must consider the five primary groups of human rights issues in the Soviet Union: political prisoners; minority and religious prisoners; demonstrations; censorship and emigration.

III. HUMAN RIGHTS ISSUES

A. *Political Prisoners*

Gorbachev understands that economic reforms cannot be truly effective without social reforms. For this reason, professional people in the Soviet Union can expect better relations with the ruling authorities. In addition, if concessions were made to dissidents, the reform coalition of *glasnost* would most likely be strengthened. Other sections of the intelligentsia are being satisfied with relaxed cultural controls, and increased *glasnost* in scholarship, literature, and the arts. Most important is the recent release from imprisonment of people who have close connections to the intelligentsia. This should be considered an extremely strong political gesture by the Kremlin. The United States State Department has announced that there are approximately 700 prisoners convicted for subversive activities in Soviet prisons and camps.²⁵ In February 1987, 140 prisoners who had been serving time for conducting "anti-Soviet agitation and propaganda" were pardoned by a decree from the government.²⁶ Included in those released were Anatoly Koryagin, Aleksandr Ogorodnikov, and Iosef Begun.²⁷

In the short term, the release of political prisoners has yielded substantial gains beyond merely gratifying the liberal intelligentsia. Though the releases were clearly convincing developments, the unfortunate deaths in prison of several human rights advocates emphasized the dangerous position of thousands of Soviet dissidents.²⁸ After his release from exile in Gorky,²⁹ Andrei Sakharov has been openly spreading favorable publicity, without compromising his integrity, calling for support of Gorbachev's general line.³⁰ Many feel that with each step Gorbachev takes in this enterprise, he is coinstantaneously increasing 1) his own open-mindedness, 2) the esteem of a substantial part of the population, and 3) the support to battle the opponents of *glasnost*.³¹

24. See Wash. Post, Jan. 28, 1987, sec. A, at 18, col. e.

25. N.Y. Times, Feb. 11, 1987, sec. 1, at 1, col. 6.

26. *Id.*; see also N.Y. Times, Feb. 8, 1987, sec. 1, at 1, col. 2.

27. CONG. RESEARCH SERVICE, Rep. No. 87-551 F, at 12; N.Y. Times, Feb. 18, 1987, sec. 1, at 1, col. 1. According to an estimate by Amnesty International, the group freed represented ca. one-third of the so-called "prisoners of conscience."

28. See N.Y. Times, *supra* note 25.

29. CONG. RESEARCH SERVICE, Rep. No. 87-551 F, at 10 [hereinafter CRS 87].

30. N.Y. Times, Feb. 9, 1987, sec. 1, at 1, col. 2; see also, N.Y. Times, Feb. 7, 1987, sec. 1, at 4, col. 5.

31. *Id.*

Another significant development in the area of political prisoners concerns the laws commonly used to place dissenters in labor camps; the statutes governing "anti-Soviet propaganda" and "slandering the Soviet State." These laws still remain on the books, however, there is high level speculation that they will be tempered or repealed.³² If this change becomes a reality, it would be significant evidence of the Soviet's desire for change. According to Gennadi Gerasimov, spokesman for the Soviet foreign ministry, many of the pardons granted political prisoners were part of a review of the Criminal Code "so that we have fewer people behind bars and behind barbed wire."³³ Other Soviet officials stated that pardons and related measures reflect a genuine determination by Gorbachev to expand the limits of acceptable dissent.³⁴ Most recently, Gerasimov stated that a general amnesty would be declared, one which would allegedly release hundreds of prisoners. This would be the first amnesty in the history of the Soviet Union relating only to individuals sentenced for political crimes.³⁵

B. *Minority and Religious Prisoners*

Since the early 1930's, minorities and strongly religious individuals have been persecuted and harassed.³⁶ Today, it appears that the government is taking an obdurate position regarding the treatment of national minorities (such as Volga Germans, Armenians, and Ukrainians) and religious dissidents (primarily Jews, Baptists and Pentecostals). According to a recent report, there has been a small number of national minority prisoners released, but no religious prisoners.³⁷ It is important to emphasize that only a minuscule portion of the several thousands of religious prisoners have so far been released, and some freed prisoners have been threatened with arrests if they do not maintain silence. Also of impor-

32. The criminal law provisions which have been most frequently employed are: 1) Law on Crimes Against the State Art. 7, and Art. 70 of the UK RSFSR Criminal Code, which prohibits anti-Soviet agitation and propaganda; Art. 190-1 of the RSFSR Criminal Code, which makes it a crime to circulate statements known to be false which are defamatory to the Soviet system; Art. 64 of the UK RSFSR Criminal Code, which provides for the death penalty or lengthy prison sentences for treason; Art. 209-1 of the UK RSFSR Criminal Code, which prohibits "malicious evasion of performance of decision concerning arrangement of work and discontinuance of parasitic existence;" and, Art. 206 of the UK RSFSR Criminal Code, which prohibits "malicious hooliganism," which is defined as any intentional act violating public order and expressing "clear disrespect for society" which is committed with "exceptional cynicism or special impudence." For an interesting view of why the dissenters should be punished, see article in Pravda, Feb. 12, 1977, at 4, which expressed the previous Soviet leadership's views.

33. N.Y. Times, Feb. 12, 1987, sec 1, at 1, col. 1.

34. *Id.*

35. See CRS 87, *supra* note 29, at 14.

36. R. MEDVEDEV ON SOCIALIST DEMOCRACY 166 (1975); and A. MARCHENKO, MY TESTIMONY 71 (1969).

37. Report from the Kennan Institute for Advanced Russian Studies, June 1987, at 1 [hereinafter Kennan].

tance is the fact that some of the religious prisoners have come from the ranks of the Russian Orthodox Church. An interesting, though possibly insignificant, development occurred during this last summer, when Rev. Gleb Yakunin was freed from imprisonment, and thereafter reinstated by the Russian Orthodox Church.³⁸

C. *Demonstrations*

During the past year a few demonstrations have occurred in Moscow, the city which is considered the showcase of liberalism. However, even in Moscow, some demonstrations are still being dispersed by strong-armed methods. An example would be the open demonstration by Jews protesting the imprisonment of Jewish dissident Iosif Begun. This demonstration was promptly quashed by the authorities, who through plain-clothes policemen pushed and hit demonstrators.³⁹ In addition, undesirable demonstrations have been preempted by systematic house arrests.⁴⁰ An opposite reaction by the authorities occurred at a demonstration by 300 Tatars at the Kremlin gate. The demonstration concerned the Tatars desire to return to the Crimea, from where they had been deported in 1944. The police did nothing to stop the noisy demonstration, merely observing it from a distance.⁴¹ In addition, the Kremlin permitted a meeting between President Andrei Gromyko and the Tatars. However, Gromyko warned the Tatars that to continue to pressure the government would not be in furtherance of their interests.⁴² Other demonstrations not disturbed by the authorities involved Soviet Hare Krishnas, who demonstrated in public, asking permission to practice their faith more freely,⁴³ and a group of 400 Russian nationalists from the *Pamyat* organization, who called for a return to orthodox Leninism.⁴⁴ The latter group was permitted to meet with the head of the Moscow Communist Party, Boris Yeltsin. Though the authorities have seemed more inclined to tolerate small, unofficial demonstrations and dissident news conferences, various Soviet spokesmen have alluded that the regime will not tolerate very much in the way of free-spoken dissent.⁴⁵

D. *Censorship*

Gorbachev has commented that "the press must become even more effective."⁴⁶ In addition, he "wishes to emphasize that the press should unite and mobilize people rather than disuniting them and generating of-

38. N.Y. Times, June 8, 1987, sec. 1, at 4, col. 3.

39. N.Y. Times, Feb. 13, 1987, sec 1, at 1, col. 2.

40. See Kennan, *supra* note 37.

41. N.Y. Times, July 26, 1987, sec. 1, at 3, col. 4.

42. N.Y. Times, July 28, 1987, sec. 1, at 3, col. 2.

43. Wash. Post, May 2, 1987, sec. A, at 17, col. a.

44. See CRS 87, *supra* note 29, at 14.

45. See N.Y. Times, April 19, 1987, sec. 1, at 14, col. 1.

46. U.S. News and World Report, Nov. 9, 1987, at 74.

fense and a lack of confidence. Criticism can be an effective instrument of *perestroika* only if it is based on absolute truth and scrupulous concern for justice.⁴⁷ The most dramatic developments in this area have been reports in the press discussing economic problems, corruption, and subjects such as suicide, drug use, and rising criminal rates, though these have been controlled by the leadership.⁴⁸ The media has also found itself engaged in setting forth viewpoints on moral and cultural values.

An additional development is the increased frankness by the media concerning accidents and natural disasters. Even though *glasnost* clearly failed the test in the immediate aftermath of the Chernobyl disaster, due to the unfortunate failure of swiftly reporting it before Swedish authorities did, it was that failure which seems to have hastened the quick improvements that have occurred since the accident. Proof can be found in the accident between a passenger liner and a cargo vessel, in which 398 people were killed. The reports from the Soviets were not sketchy or delayed, but were instead quite candid.⁴⁹

Regardless of Gorbachev's policy of *glasnost*, there are limits to the extent in which censorship can be lifted. Gorbachev conveyed his approach to such matters at the January plenum, by stating:

If someone tries to use our extensive *glasnost* and the democratic process for his own selfish and anti-social purposes, for the purpose of blackening everything, will we really - with such a powerful Party, with such a patriotic people devoted to the ideas of socialism and to its Motherland - not be able to cope with the situation.⁵⁰

Here, Gorbachev appears to be stressing that *glasnost* is not a broadsword which the individual may swing as he pleases against the curtain of freedom. It will be the Soviet society as a whole who shall decide exactly how far that curtain shall be opened. Individualism is therefore limited. Furthermore, it seems clear that the press must be subservient to fulfill the Party's plan.

In discussions of foreign policy matters, *glasnost* has had less success. Real Soviet motivations and negotiating positions are still too secret to be debated by the Soviet public. Nevertheless, western officials, such as Edward Kennedy, Margaret Thatcher, and George Schultz have been permitted to voice harsh views on Soviet television.⁵¹ Most recently, the state publishing company has voiced its desire to publish the autobiography of super-capitalist Lee Iacocca.⁵² Hints of an apparent desire by some elements in the leadership, possibly Gorbachev, to withdraw from Afghani-

47. *Id.*; see also Wash. Post, July 1, 1987, sec. A, at 1, col. b. (report on the Soviet legislature's approval of some of Gorbachev's reforms, including freer speech).

48. See Kennan, *supra* note 37.

49. See CRS 87, *supra* note 29, at 8.

50. N.Y. Times, Jan. 28, 1987, sec. 1, at 8, col. 1.

51. See CRS 87, *supra* note 29, at 5. See also Wash. Post, Feb. 4, 1987, sec. D, at 1, col. c. This article noted that Pravda began publishing commentary from Western press.

52. Newsweek, Sept. 7, 1987, at 5.

stan were made when a letter by a prominent emigre was permitted to be published in a Moscow newspaper. The letter challenged Gorbachev to withdraw the Soviet troops from Afghanistan. As a counter-reaction, Pravda criticized the letter,⁵³ but the mere fact that a letter of this type was published is truly revolutionary.

The increased cultural freedom has led to decisions to publish long-suppressed works by writers such as Boris Pasternak, author of *Doctor Zhivago*.⁵⁴ Another book which would never have been published two years ago is Anatoly Rybakov's novel chronicling the terror under Stalin.⁵⁵ The Soviet cinema is also changing. "Commissar," which is a twenty year old film on anti-semitism, was shown at the recent Moscow Film Festival.⁵⁶

The fierce ongoing struggle in the Kremlin between the liberal Gorbachev trend and the conservatives is reflected in the equally ferocious conflicts of cultural life. The Kremlin's second in command, Yegor Ligachev, lashed out on the developments by criticizing that enough focus is not being directed towards the classics.⁵⁷ Among the literary-political publications, those controlled by conservatives (e.g. *Zvezda* and *Literaturnaya Rossiya*) continue jousting with those edited by the liberals (e.g. *Ogonyok* and *Novyi Mir*).

Numerous new journals have sprouted out of these developments. One of these journals is named *Glasnost*, and is written by a group of dissidents and freed political prisoners.⁵⁸ Another journal, edited by the known dissident Sergei Grigoryants, apparently contained articles of a sort not seen in the Soviet Union since the 1920's.⁵⁹ Due to the recent uncharacteristic use of truth in the press, the population has reacted by purchasing more magazines and newspapers.⁶⁰

For the present, *glasnost's* prospects in this field seem quite good. Most of the influential positions are now in the hands of people who favor it, such as the head of state publishing, Nenasev; the Minister of Culture, Zakharov; and the editor of the Moscow News, Yakovlev. This group is clearly empowered to influence the arts by thrusting back the boundaries of censorship.

53. N.Y. Times, Mar. 26, 1987, sec. 1, at 10, col. 3.

54. See CRS 87, *supra* note 29, at 7 and 12; N.Y. Times, Feb. 13, 1987, sec. 1, at 5, col. 1; Wash. Post, Jan. 8, 1987, sec. A, at 1, col. a; Newsweek, Nov. 9, 1987, at 10. Pasternak was denounced and expelled from the Soviet Writers Union in 1958 for "anti-Soviet" writing.

55. N.Y. Times, March 14, 1987, sec. 1, at 1, col. 2.

56. N.Y. Times, July 18, 1987, sec. 1, at 3, col. 3. Of plays, "The Brest Peace" by Mikhail Shatrov, and "Requiem" by Anna Akhmatova have been permitted to be performed. See CRS 87, *supra* note 29, at 14.

57. N.Y. Times, May 28, 1987, sec. 1, at 1, col. 3.

58. N.Y. Times, June 28, 1987, sec. 1, at 12, col. 3.

59. N.Y. Times, July 23, 1987, sec. 1, at 27, col. 3.

60. N.Y. Times, May 12, 1987, sec. 1, at 30, col. 1.

E. Emigration

The past decades have seen drastic reductions and increases in emigration. During Stalin's years there was virtually no emigration. Brezhnev reacted quite to the contrary, by permitting 260,000 Jews to leave in the 1970's. During the interregnum between Brezhnev and Gorbachev, permission to emigrate slowed to a trickle. Since entering office, Gorbachev has hinted that emigration restrictions may be relaxed.⁶¹ In considering this issue, Gorbachev must weigh many factors, including the fact that the Jewish population is the most educated of all the nationalities in the Soviet Union. Permitting emigration on a grandiose scale may not prove itself an asset to the Soviet state. Quite contrary, the Soviet Union would lose not only some of its greatest minds, but also some of its greatest artists. There are Soviet officials who have stated that there is no political dividend to be gained by an open policy of emigration.⁶² It should be remembered that emigration has never been considered a right in the Soviet Union,⁶³ and that the handling of emigration policies has always been an internal affair. It appears that this position is softening, possibly influenced by the Helsinki Accord.⁶⁴

According to some estimates, there are 11,000 refuseniks in the Soviet Union who have applied for exit visas,⁶⁵ and nearly 400,000 who have shown interest in leaving.⁶⁶ Other nationalities which have shown interest in leaving are the Germans and the Armenians. According to official West German reports there are 100,000 Germans who wish to emigrate, while German repatriation organizations believe that there are 300,000. There are reports that possibly 200,000 Armenians would leave if permitted.⁶⁷ In 1986, the Soviet government permitted 914 Jews to leave, less than in 1985 when 1140 left the Soviet Union. Currently, emigration of Jews has risen strongly, as 5,398 people have so far been permitted to emigrate. German and Armenian emigration has also increased.⁶⁸

Despite these positive developments, a new emigration law has been introduced, restricting emigration to those who receive invitations from immediate family members. Under this new emigration law, only 30,000 to 40,000 individuals would be eligible to leave.⁶⁹ This law, which went into effect in January 1987, is a great deal tougher, not liberal, and may be considered a potential source of foreign and domestic tension. If the

61. CONG. RESEARCH SERVICE, Rep. No. IB 82080, at 2 [hereinafter CRS IB].

62. N.Y. Times, Jan. 2, 1987, sec. 1, at 5, col. 1.

63. N.Y. Times, Feb. 11, 1987, sec. 1, at 12, col. 2.

64. See CRS IB *supra* note 61, at 3.

65. N.Y. Times, May 2, 1987, sec. 1, at 27, col. 2.

66. See CRS IB *supra* note 61, at 5.

67. *Id.* at 6-7.

68. *Id.* at 9. German emigration: 1986 - 753, 1987 - 3,550; Armenian emigration: 1986 - 247, 1987 - 1,281. 1987 statistics concerning Jews are through Sept. 30, 1987; concerning Germans, through June 30, 1987; and concerning Armenians, through August 31, 1987.

69. N.Y. Times, Jan. 2, 1987, sec. 1, at 5, col. 1.

Soviets hold to the general intent and letter of the law, emigration will once again decline to a trickle. Only a very small proportion of the more than half million who have indicated their wish to emigrate will qualify to do so because relatively few potential emigrants have relatives outside of the Soviet Union. The current trend appears to be away from the liberal policies of the 1970's, with an effort directed towards encouraging these individuals to stay, but to allow them a greater freedom of travel.⁷⁰

IV. CONCLUSION

Gorbachev, principally through *glasnost*, has made progress concerning human rights. This progress is evidenced by the release of political prisoners, relaxed censorship, and allowance of certain public demonstrations. Areas which have shown little or no progress concern minority and religious prisoners, and emigration. To the Western perception, the Soviet hard-line position is softening.

Reflecting on the developments regarding the fate of the liberalization experienced during the last year, it is reasonable to predict that there will be more progress on human rights in the coming months. In the longer term, one should not be euphoric about the prospects of *glasnost* in this area. If Gorbachev is trying to square the circle by undertaking the democratization of the Soviet system, as he shows every sign of doing, it is unlikely that he will perdure in control for many more years. As destiny would naturally have it, sooner or later the *nomenklatura* will most likely eject him. The result would be that *glasnost* would find itself bound to suffer in the unavoidable conservative response. What is crucial is that the longer term future depends overwhelmingly on Gorbachev's fate. If Gorbachev succeeds in promoting democratization and revitalizing the economy smoothly, without threatening the party's control, he will endure. Dissidents, believing that deception is the key word, claim that: 1) these changes were directed towards enticing Westerners to participate in a Moscow human rights conference, which would be furthered by the Soviet government; 2) the surfacing of good will by the Soviets will dematerialize as soon as an arms-control agreement has been completed; and, 3) the changes have been a skillful method of dealing with the dissidents, since these changes were directed more at pacifying than bolstering the dissent.⁷¹ Andrei Sakharov believes otherwise, stating that "objectively something real is happening. How far it is going to go is a complicated question. But I myself have decided that the situation has changed."⁷²

Western experts on the Soviet political scene feel that Gorbachev's striking courage, forceful personality, skills of persuasion, and unceasing

70. Among those who have been permitted to leave during the last year are: Iosif Begun, David Goldfarb, Vladimir Feltsman, Georgi Mikhailov, and Lev Blitschtein.

71. N.Y. Times, Feb. 12, 1987, sec. 1, at 1, col. 1.

72. N.Y. Times, Feb. 9, 1987, sec. 1, at 1, col. 2. See also N.Y. Times, April 3, 1987, sec. 1, at 1, col. 1.

aggressiveness in keeping his opponents off balance, make him not only a awe-inspiring politician, but also the type individual who can pull the USSR out of a massive national crisis. In November 1987, Rozanne Ridgway, an assistant secretary of state, commented that Gorbachev has a "very firm grip" on the Soviet Union.⁷³ Others reporting on the last Party Congress feel that Gorbachev is a strong, long term leader, who will provide order and innovation.⁷⁴ On the other side of the prophesying coin, one finds Richard Owen, who is skeptical about the success of Gorbachev's reforms,⁷⁵ and Martin Walker who feels that Gorbachev will succeed only partially.⁷⁶ Standing in the forefront of successors to Gorbachev should he fail, is Yegor Ligachev, who has voiced serious reservations about *glasnost*, stressing the necessity for restraint.⁷⁷ Of course, these are merely predictions, but what is strongly evident is that if Gorbachev fails in his efforts and is subsequently ousted, his human rights policies will not only be swiftly, but also drastically reversed by his successors. One can only quote a cynical dissident when asked how far Gorbachev will go: "we shall see, we shall see."⁷⁸

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73. Denver Post, Nov. 1, 1987, sec I, at 3.

74. See CRS 86, *supra* note 9 (report on the 27th Soviet Party Congress in February and March 1986).

75. See R. OWEN, COMRADE CHAIRMAN: SOVIET SUCCESSION AND THE RISE OF GORBACHEV (1987).

76. See M. WALKER, THE WALKING GIANT: GORBACHEV'S RUSSIA (1986).

77. Time, Oct. 5, 1987, at 40.

78. N.Y. Times, *supra* note 33.

