A STRUGGLE TO PRESERVE ETHNIC IDENTITY: THE SUPPRESSION OF JEWISH CULTURE BY THE SOVIET UNION'S EMIGRATION POLICY BETWEEN 1945-1985

I. Social and Cultural Status of Jews in the Soviet Society Before and After the War

Despite undergoing numerous revisions, neither the Soviet Constitution nor the Soviet Criminal Code ever adopted any laws or regulations that openly or implicitly permitted persecution of or discrimination against members of any minority group.[1] On the surface, the laws were always structured to promote and protect equality of rights and status for more than one hundred different ethnic groups. Since November 15, 1917, a resolution issued by the Second All-Russia Congress of the Soviets called for the "revoking of all and every national and national-religious privilege and restriction."[2] The Congress also expressly recognized "the right of the peoples of Russia to free self-determination up to secession and the formation of an independent state." Identical resolutions were later adopted by each of the 15 Soviet Republics. Furthermore, Article 124 of the 1936 (Stalin-revised) Constitution stated that "[f]reedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens." [3]

[1] *See generally* W.E. Soviet Law (1983) *and* Olympiad S. Ioffe & Peter Maggs, Soviet Law in Theory and Practice (1983) for a thorough discussion of the Soviet legal system and criminal laws.

[2] Sobr. Uzakoneniy RSFSR, 1917, No. 2 Item 18, *reprinted in* USSR: Sixty Years of the Union, 1922-1982: A Collection of Legislative Acts and Other Documents 35 (Mikhail Georgadze ed., 1982).

[3] Konstitutsiia SSSR (1936), *reprinted in* USSR, Sixty Years of the Union 1922-1982 : A Collection of Legislative Acts and Other Documents 229-259 (Mikhail Georgadze ed., 1982).

Despite these elaborate promises, equality among the various social groups within the Soviet Union was always a myth; in the country's brief history, there were numerous examples of deliberate and prolonged discrimination against various non-Russian groups, such as the Ukrainians, the Georgians, and the Armenians. Nowhere is this principle of social inequality quite as prevalent as with Soviet Jews. The long history of Anti-Semitism in czarist Russia, the pogroms, and religious and legal discrimination are all indisputable historical truths that need not be addressed thoroughly in this paper. Despite centuries of violence against the Jewish people, Jews continued to be a sizeable and conspicuous minority within the Russian/Soviet society. The exact number of Jews in the Soviet Union around 1945 is not known, but is estimated at approximately 2 million.[4] Jews were a sizable minority comprising approximately two percent of the total Soviet population of 136 million in the post-war period.[5] The Jewish population continued to grow steadily through the 1950's, 1960's, and 1970's.[6] The 1959 census reported 2,268,000 million Jews in the USSR.[7] Two years later, the 1961 census reported a Jewish population of 2,468,000, and some nine years after that, the 1970 census reported a number of approximately 2,151,000.[8]

Until the beginning of the 20th century, Russian Jews lived primarily in rural, predominantly Jewish communities.[9] However, by the 20th century they accounted for at least 2 percent of the populations in nearly all of the main cities of the USSR including Moscow, Leningrad, Kiev, Odessa, Khar'kov, Minsk, Vilna, Riga, Lvov, Tashkent, Baku, Tbilisi, and Novosibirsk.[10] Their impact on the growth, improvement, and cultural development of these cities was significant. Before the war, 61 percent were employed as artisans or trained (educated) professionals, and only about 30 percent of Jews were performing unskilled manual labor work.[11] Jewish presence and influence in the Soviet post-war society is even more impressive. About 50 percent of the lawyers in Leningrad and Kharkov were Jews.[12] Jews also comprised 10 percent of the members of the Soviet Academy of Science and 34 percent of Soviet film industry personnel.[13]

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[4] S. Levenberg, *Soviet Jewry: Some Problems and Perspectives*, in THE JEWS IN SOVIET RUSSIA SINCE 1917 30, 33 (Lionel Kochan ed., Oxford Univ. Press 3d ed. 1978).

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *See id.* at 34.

[10] *See id.* at 33-34.

[11] *Id.*

[12] *Id.*

[13] *See id.* at 34 for statistics regarding Jewish demographics, occupations, and political representation in various governmental, political, and social organizations.

Despite their strong presence within and contributions to Soviet society, Jews never experienced true freedom or equality within the USSR. Soviet Jews, both before and after the war, were expected to conform to "Russian" norms and culture, to give up their religious practices, to cease speaking Yiddish,[14] and to avoid participating in any groups supporting Jewish self-determination or expressing Zionist ideologies.[15] Furthermore, the Soviet government never acknowledged that the Jews, as an identifiable social and ethnic group, needed adequate political representation within the Soviet government. As a result, Soviet Jews were almost entirely without any political power within the USSR throughout the 20th century. In 1959, of the 457 deputies in Ukraine only one was Jewish, and in Byelorussia, there were only two Jewish deputies out of 407.[16] Of the 5,312 members elected to the Supreme Soviet in the republics by 1967, only 14 were Jewish.[17] The Communist party, in fact, resisted the creation of any elected or appointed organ or group to represent the Jewish people in government, as evidenced by their refusal to grant membership to the Jews within the Council of Nationalities.[18]

Despite the persistence of Anti-Semitism, legal under-representation of the Jews within the Soviet government, blatant discrimination in social organizations, educational facilities, and most areas of employment, as well as the continuous persecution of Jews for their religious and cultural beliefs and practices, the Soviet government has, for the most part, denied them the opportunity to leave the country.[19] No law within the Soviet legal system gave Soviets the right to emigrate for any political, academic, cultural, or religious reason, nor for any other reason whatsoever. There were likewise no legal provisions guaranteeing freedom from prosecution for those who sought refuge outside the USSR. The Soviet government's only response to the so-called "Jewish problem" was to establish the autonomous Jewish republic of Birobidzhan, a measure that

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[14] Levenberg notes that the 1959 census revealed that above 70 percent of Soviet Jews identified Yiddish as their native language, and an even larger percentage believed that Yiddish was the primary language of their culture, suggesting a reluctance to assimilate linguistically, *see id.* at 40.

[15] Laurie P. Salitan, POLITICS AND NATIONALITY IN CONTEMPORARY SOVIET-JEWISH EMIGRATION 1968-89 19-21 (1992).

[16] *See* Levenberg, *supra* note 4, at 39.

[17] *Id.*

[18] *Id.*

[19] The works of Avital Shcharansky and Natan Sharansky offer a detailed description of various patterns of discrimination by the Soviet government against the Jewish people in virtually all spheres of Soviet daily life. *See* Avital Shcharansky, NEXT YEAR IN JERUSALEM (1979); Natan Sharansky, FEAR NO EVIL (Stefani Hoffman trans., 1988).

ultimately proved unacceptable for the majority of the Soviet Jewish population.[20]

Many features of Soviet emigration policy between 1948 and the mid 1980's were paradoxical. They certainly contradicted the country's principal ideology, which reinforced the themes of "comradeship", "solidarity," and "unification."[21] The Communist party always publicized its aim to establish a more "humane" government than had existed under the czar, and its central ideology was to end the suffering of oppressed people worldwide. Yet it showed no compassion for the struggles of between 2-3 million of its Jewish citizens. Even more puzzling is the fact that the Soviet government, while continuing to heavily persecute Jews for creating "social unrest" and for their failure to assimilate within the Soviet society, would nevertheless make substantial efforts to restrict their ability to leave the country.

It may be too simplistic to assume that the Soviet emigration policy was simply an end result of the deep-rooted anti-Semitic traditions of the Russian people. Nor should it be seen merely as a byproduct of Stalinist tyranny, because the policy persevered through both the Khrushchev and Brezhnev regimes. There are several plausible explanations for Soviet emigration policy's restrictions. One reason may be that the Soviet government was nervous about allowing the departure of the Jewish intelligentsia, whose contributions to the fields of science, engineering, and medicine were quite substantial. Another possible explanation could be its fear of international criticism from non-Communist countries – not to mention the criticism from the escapees themselves – that could construe Jewish emigration as a sign of tyranny and discord within the Soviet

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[20] The Jewish Autonomous Region of Birobidzhan was established some time between 1928 and 1934 by Stalin's government in a scarcely populated Siberian region 5,000 miles east of Moscow, initially attracting a large number of Jewish settlers and hosting about nine percent of the Soviet Jewish population, *see* Leonard Schapiro, *Introduction*, *in* THE JEWS IN SOVIET RUSSIA SINCE 1917, *supra* note 4, at 1, 7. Most historians agree that Birobidzhan never became truly autonomous from the Soviet regime and Jews living there never experienced substantial religious freedom, *see* Chimen Abramsky, *The Biro-Bidzhan Project, 1927-1959*, *in* THE JEWS IN SOVIET RUSSIA SINCE 1917, supra note 4, at 64, 64-77. Only 30 to 40 percent of the political officials of this region were Jewish; the political-social structure of Birobidzhan did not really offer Jews an opportunity for meaningful self-determination, *see* Levenberg, *supra* note 4, at 39; *see also* Lukasz Hirszowicz, *The Soviet-Jewish Problem: Internal and International Developments 1972-1976*, *in* THE JEWS IN SOVIET RUSSIA SINCE 1917, supra note 4, at 366, 385-386. *See generally* William Korey, *The Legal Position of Soviet Jewry: A Historical Enquiry*, *in* THE JEWS IN SOVIET RUSSIA SINCE 1917, *supra* note 4, at 78, 81; *see also* Alec Nove & J. A. Newth, *The Jewish Population: Demographic Trends and Occupational Patterns*, *in* THE JEWS IN SOVIET RUSSIA SINCE 1917, *supra* note 4, at 132, 159.

[21] "Proletariat of the world unite!" was the motto of the Soviet Communist party since before 1917. *See* Karl Marx, THE COMMUNIST MANIFESTO 121 (1985).

regime. Or perhaps instances dealing with social unrest and emigration were so thoroughly concealed from the top government officials by lower government bodies, such as the police, that few people with law-making authority fully understood the seriousness or extent of the problem.

Though we cannot be certain about the actual reasons for the restrictive emigration policies, it is undeniable that these policies had a very substantial effect on many groups within the Soviet society, and more particularly, were linked with the suppression of virtually all aspects of Jewish culture and religion within the USSR. In this paper, I will try to provide some insight on the effects of Soviet emigration policy on Soviet Jews. I will start by exploring the Soviet emigration policy under Stalin, discussing the period of 1945-1947, when the borders were initially open. I will show how the post-war period had a "revival" of Jewish culture in the USSR, a time when Jewish leaders and activists enjoyed an unprecedented level of tolerance and support from the Soviet government. I will then show how this post-war period was followed by a virtual disappearance of all Jewish expression whatsoever. I will demonstrate that this disappearance is historically related to Stalin's closing of the borders after 1948. Then, this paper will discuss how the policy fared between 1953 and 1985, and how restrictions and procedures developed under the Khrushchev and Brezhnev regimes also contributed to the suppression of the Jewish culture and expression. In my conclusion, I will attempt to show that, although these policies are no longer effective today, they offer invaluable lessons regarding how restrictions on the fundamental right to emigration may be used by tyrannical governments as a means to silencing and discriminating against vocal and non-conforming minority groups.

II. Before the Borders Were Closed: Soviet Emigration Policy Under Stalin (1945-1947)

May 9, 1945 is a date that is remembered today by the Russian people both as a "Victory Day" and as a day for mourning. Though the USSR had successfully repelled the German invaders and won the war, the Soviets suffered tremendous losses. Between 20-25 million Soviet citizens perished during the war, while millions of others were wounded or otherwise disabled.[22] Numerous towns and villages were wholly destroyed, and the largest Soviet cities like Leningrad, Kiev, and Minsk had to be rebuilt. The Soviet economy, which was the second-fastest growing economy in the world before the war, was now in the midst of a severe recession.[23] Plants and factories were unable to supply the people with even

[22] The Soviet Union suffered an estimated 20-25 million casualties during the course of World War II, *see* Infoplease, *Casualties in World War II* , *at* http://www.infoplease.com/ipa/A0004619.html (last visited March 13, 2005).

[23] For a general discussion of Soviet economics before and after the Second World War, *see* Robert J. Wegs and Robert Ladrech, Europe Since 1945, at 3-5, 28-30, 205-

the basic necessities: there were tremendous shortages of food, medical, and personal items throughout the country. Stalin, who recognized that economic growth, technological progress, and rapid industrialization were essential for the Soviet Union to be a world power, introduced new programs and ideologies in an effort to "unite" all of the country's nationalities. These attempts to unite the now impoverished country affected many aspects of Soviet politics, including the USSR's emigration policy.

The Soviet Jewish emigration policy in the first three years after the end of the war was indeterminate. Article 129 of the 1936 USSR Constitution expressly offered asylum to "foreign citizens persecuted for defending the interests of the working people, or for scientific activities, or for struggling for national liberation" but did not have a provision applying it to the right of emigration for Soviet citizens.[24] Although emigration was never expressly recognized as a "right" by the Stalinist government between 1945 and 1947, it was not expressly prohibited or prosecuted.

During these years immediately after the war, however, there was a strong re-awakening of Jewish identity within the USSR.[25] Due to the effort of Jewish activists like Shmuel Yaffe and influential public figures like Solomon Mikhoels, thousands of Jews were allowed to leave the country. [26] The Soviet government did not make any serious attempt to oppose their departure; in fact, it appears that the Soviet Union had coerced Poland into accepting Jewish immigrants via a reparation agreement that was negotiated between the countries at the end of the war.[27] This first wave of Jewish emigration was known as *briha*, the Hebrew word for escape. [28]

It is not entirely clear why the Soviet government did not make any serious attempt to deter this first wave of immigrants. Some historians believe that the Soviet government wanted the Jews to aide in the con-

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207 (4th ed., 1996). *See also* Yaccov Ro'i, THE STRUGGLE FOR SOVIET JEWISH EMIGRATION 1948-1967, at 13-23 (1991).

[24] Konstitutsiia SSSR (1936), *reprinted in* USSR, SIXTY YEARS OF THE UNION 1922-1982: A COLLECTION OF LEGISLATIVE ACTS AND OTHER DOCUMENTS 256 (Mikhail Georgadze ed., 1982).

[25] Salitan, *supra* note 15, at 26-27

[26] *See* Salo W. Baron, THE RUSSIAN JEW UNDER TSARS AND SOVIETS 241 (1976); Petrus Buwalda, THEY DID NOT DWELL ALONE: JEWISH EMIGRATION FROM THE SOVIET UNION 1967-1900 17 (1997); Lionel Kochan, THE JEWS IN SOVIET RUSSIA SINCE 1917 121 (3rd ed. 1978).

[27] The first such agreement between Poland and the Republics of Ukraine, Byelorussia, and Lithuania was signed in 1944, though an official reparation agreement with the Soviet government was not signed until July 6, 1945. *See* Ro'i, *supra* note 23, at 15-20, 346-347.

[28] For a more thorough discussion of the *briha* and the Soviet emigration policies between 1945-1948, *see* Ro'i, *supra* note 23, at 18-32.

struction of a "new" Poland.[29] Others believe that Stalin felt that the Jews were not a group that would fully abandon its beliefs and practices in favor of communist ideology and would only add to the overall instability of the country.[30]

Another important factor must be considered as a possible reason for the tolerance of the Stalinist regime towards departure of Jews from the USSR. It appears that, at least early on, the Soviet Union was very supportive in regards to the development of a Jewish State. The Soviet representatives to the United Nations strongly supported the UN partition resolution of November 29, 1947, calling for the establishment of the new Jewish state.[31] The Soviet foreign minister, Andrei Gromyko, made it clear in 1947 that the Soviet government believed the Jews had a legitimate claim to the Palestinian territory. In Gromyko's May 29, 1948 speech before the UN Security Council he formally acknowledged the right of the Jewish people to self-determination, through the establishment of a Jewish state:

> The Jewish people had been closely linked with Palestine for a considerable period in history. [. . .] As a result of war, the Jews as a people have suffered more than any other people. The total number of the Jewish population who perished at the hands of the Nazi executioners is estimated at approximately six million. The Jewish people [are] therefore striving to create a state of their own, and it would be unjust to deny them that right.[32]

Other Soviet officials like Counselor Mikhail Mukhin openly expressed a hope that Zionism and Jewish emigration could bring about an end to anti-Semitism.[33] Furthermore, the USSR was one of the first countries to openly receive Israeli delegates; for example, the arrival of Golda Myerson, Israel's first envoy to the Soviet Union, was marked with great enthusiasm, good-will, and friendliness by Soviet officials.

Support for Israel and self-determination of the Jewish people was so pervasive that numerous Soviet Jews began to openly express their loyalty to the Israeli state by publishing Zionist newspapers and participating in synagogue services to celebrate the creation of the Jewish state. Jewish authors like Ilya Ehrenburg and Itzik Fefer, whose writings dealt with Zionism and the struggle for the national liberation of the Jewish people, were published in the Soviet Union uncensored. Historian

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[29] *Id.*

[30] *Id.*

[31] In 1947, the General Assembly set up the United Nations Special Committee on Palestine (UNSCOP) to investigate the cause of the conflict in Palestine and determine a solution. *See* United Nations Information System on the Question of Palestine, *at* http://domino.un.org/UNISPAL.NSF/frontpage5!OpenPage (last visited Feb. 23, 2005).

[32] Quoted in Martin Gilbert, pg. 346.

[33] 1 STATE OF ISRAEL, *Documents on the Foreign Policies of Israel* 658 (1981).

Yaacov Ro'i admits that there is little statistical data to demonstrate the Jewish attitude towards the creation of Israel but "there is ample evidence that enthusiasm for and the sense of personal identification with the new state [was] widespread, and that wherever Jews came together the creation of the state of Israel [. . .] [was] the talk of the day."[34]

III. Closing of the Border: Cessation of Jewish Emigration under Stalin's Regime

With tensions escalating between the United States and the USSR over post-war plans for Germany, the Soviet Union could no longer rely on aid from America as it had throughout the war. Stalin recognized that the USSR was economically weak and could be perceived as vulnerable after being engaged in two substantial military conflicts within its territory in the span of 25 years. Stalin felt that the key to improving the Soviet economy and shielding itself from further attacks was by expanding the Soviet "sphere of influence," including 1) exerting political pressure over most of Eastern Europe and 2) maintaining substantial control over Manchuria, northern Iran, and northern Korea.

As a result, the Soviet government eventually came to adopt a foreign policy designed to conceal the county's economic weaknesses by restricting and limiting all interaction (diplomatic, economic, interpersonal, or otherwise) with countries outside of the "Eastern European bloc."[35] The Soviet Union's isolation from the Western world meant that emigration and travel to any non-Communist, non-ally country would become impossible for nearly all Soviet citizens,[36] a policy that would eventually become known as the "Iron Curtain."[37]

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[34] Ro'i, *supra* note 23, at 27.

[35] The countries that are intended to be covered by the term "Eastern European bloc" are: Soviet Union, Poland, Czechoslovakia, Romania, Bulgaria, Hungary, Albania, Yugoslavia, East Germany.

[36] From 1945 until Stalin's death in 1953 a very limited number of people in certain occupations – professional chess players, for example – were permitted to travel outside of Eastern Europe.

[37] Although "Iron Curtain" certainly can be used specifically within the context of emigration, it actually has a much broader meaning. This term, coined by Winston Churchill in 1946, refers to the broad divide between the Communist and democratic nations, the rigid censorship and secrecy by Eastern European countries, and the political and geographic separation of the Eastern European bloc. For more information, please see the resources available through the Princeton University's Cognitive Science Laboratory, *Overview for "Iron Curtain," at* http://www.cogsci.princeton.edu/cgi-bin/webwn?stage=1&word=iron©urtain (last visited Feb. 23, 2005); University of Calgary Centre for Military and Strategic Studies, at http://www.stratnet.ucalgary.ca/outreach/Module1/Glossary/glossary.html (last visited Feb. 23, 2005). The term continued to be used in connection with the Soviet regime until at least 1985, when Mikhail Gorbachev came to power.

How successful were the Soviet government's efforts to suppress Jewish emigration? Between 1948 and 1953 only 18 permits were granted to Soviet Jews to leave the country, and all of those were to Israel.[38] Furthermore, thousands of Jews were imprisoned for "anti-Soviet" propaganda and activities, a broadly defined crime which included any expression of Zionist ideology or any written or verbal interaction with non-Soviet citizens.[39] Many Jews were arrested for having interactions with visiting Israeli delegates, or participating in Israeli celebrations.[40] Polina Zhemchuzhina, the Jewish wife of Commissar of Foreign Affairs Vyacheslav Molotov, had met with the Israeli delegates and maintained a close friendship with envoy Golda Myerson.[41] But in 1948 she was forced to produce lists of all Soviet citizens that had either communicated with the Israelis or expressed a desire to emigrate to Israel.[42] Other influential Jewish figures were also questioned, arrested, or exiled for showing support for Israel. Scientist Lena Shtern was arrested for participating in Zionist activities and inspiring Soviet Jews to participate in Israel's struggle for independence.[43] The Chairman of the Jewish Anti-Fascist Committee, Solomon Mikhoels, a visible Jewish intellectual leader and a strong advocate for Jewish emigration, was murdered by the secret police in 1948.[44] Avram Shtukarevich, a recognized Jewish activist and author, was arrested for meeting with an Israeli diplomat in Moscow and discussing how the Soviets were prohibiting Jews from either joining or supporting the Israeli military.[45]

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[38] Ro'i, *supra* note 23, at 9.

[39] Boris Morozov, DOCUMENTS OF SOVIET JEWISH EMIGRATION (1999) (Morozov reveals numerous cases where the KGB recommended imprisonment for Jews that received correspondence from friends and relatives living outside the Soviet Union, even when the correspondence did not express any Zionist or anti-Soviet ideas).

[40] In particular, in 1948 between 10,000-20,000 Jews participated in demonstrations celebrating the Jewish New Year and the Day of Atonement. Later, many of the people participating in these celebrations were arrested. *See* Ro'i, *supra* note 23, at 34-54.

[41] Ro'i, *supra* note 23, at 34-35.

[42] *Id.*

[43] Ro'i, *supra* note 23, at 34-35.

[44] *See generally* Korey, *supra* note 20, at 88; *see also* J. B. Schechtman, *The U.S.S.R., Zionism, and Israel*, *in* THE JEWS IN SOVIET RUSSIA SINCE 1917, supra note 4, at 106, 121; *see also* CH. Shmeruk, *Yiddish Literature in the U.S.S.R., in* THE JEWS IN SOVIET RUSSIA SINCE 1917, supra note 4, at 242, 267. Shmeruk goes on to discuss this topic in more detail, *see id.* at 272. *See generally* Reuben Ainsztein, *Soviet Jewry in the Second World War*, *in* THE JEWS IN SOVIET RUSSIA SINCE 1917, supra note 4, at 295, 267; *see also* Hirszowicz, *supra* note 11, at 387. Hirszowicz addresses this topic again later in his article, *see id.* at 400. *See generally* Wikipedia, *Solomon Mikhoels*, *at* http://en.wikipedia.org/wiki/Solomon_Mikhoels (last visited March 13, 2005).

[45] Ro'i, *supra* note 23, at 36-37.

Soviet prisons and labor camps quickly filled with Jewish detainees. Jews were being persecuted, detained, arrested, and imprisoned at a disproportionably high rate despite Article 8 of the law of Fundamentals of Criminal Jurisprudence of the USSR, which emphasized that all Soviet citizens were equal before the courts regardless of ethnicity.[46] Even Jewish soldiers, who had liberated Poland and other European countries during the last year of the war, were subjected to rigorous questioning and labeled as traitors.[47] The Committee for State Security (KGB), meanwhile, was preoccupied with reviewing all of the foreign correspondence addressed to or composed by Soviet Jews. The KGB prepared detailed "top-secret" reports for the USSR Council of Ministers, which in turn shared these findings with the General Secretary of the Communist Party of the Soviet Union.[48]

According to one historian, the atmosphere for Jews in the Soviet Union between 1948 and 1953 was comparable to being stranded in a "cultural desert."[49] The period saw not only the cessation of virtually all Hebrew literature and the closings of Jewish theaters, but also open anti-Semitism and an escalation in discrimination against Jews by virtually every institution within Soviet society. Soviet Jews were effectively silenced between 1948 and 1953 by being censored, repressed, and arrested, while at the same time being denied the opportunity to flee the country.

IV. The Struggle Continues: Soviet Emigration Policy Under Khrushchev and Brezhnev

After Stalin's death in 1953, the newly-appointed President Nikita Khrushchev addressed the Communist party with hopes of uniting the country and setting a new course for the Soviet society. His now infamous "secret speech" aimed to disperse the "cult of personality" [and secrecy] that surrounded Stalin and his administration. Khrushchev exposed the mass murders that were the "Great Purges."[50] He also called for the release and rehabilitation of numerous Soviet political prisoners.

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[46] *See* Lionel Kochan, *supra* note 26, at 91-93 (3rd ed. 1978) and *see, generally,* Butler, *supra* note 1 (for more information on the law of Fundamentals of Criminal Jurisprudence of the USSR). *See* Ioffe & Maggs, *supra* note 1, at 233-46 for a more thorough discussion of how Article 8 was practically interpreted by the Soviet courts.

[47] Ro'i, *supra* note 23, at 39.

[48] Boris Morozov, Documents on Soviet Jewish Emigration, at 141 – 155, 166 - 170 (Frank Cass Publishers, 1999).

[49] Korey, *supra* note 20, at 88.

[50] "Great Purges" is the name given to the events in the Soviet Union during the late 1930s. At that time, due largely to efforts of Nikolai Ezhov, the leader of the Soviet Secret Police (NKVD) and one of the central figures in Stalin's government, an estimated one million people were executed and about 12 million were imprisoned or sent to labor camps. *See* Nation Master Electronic Encyclopedia, *Great*

Throughout the 1950's many Jews that had been imprisoned or exiled for religious activities or for communication with non-Soviet relatives outside the USSR were released and granted amnesty. This time period also marked a significant decrease in open anti-Semitism, anti-Jewish demonstrations, and persecution of Jews for religious or cultural practices. For these, and many other reasons, these years in Soviet history have come to be known as the "thaw period."[51]

Most historians recognize that unlike Stalin, who structured his foreign policy with the goal of concealing insurgency or instability within the Soviet Union, the subsequent policy makers also considered other factors such as the social, economic, and political benefits of Jewish emigration.[52] For various reasons including the desire to avoid Western criticism and negative international publicity Khrushchev oversaw the establishment of the Office of Visas and Registrations (OVIR) by the Ministry of Internal Affairs. The OVIR was the first Soviet organization formed with the express purpose of dealing with the various issues and questions surrounding emigration. After its formation, there was a gradual increase in emigration requests almost every year from the mid-1950's until the mid-1980's. In 1957, 1,185 applications from Soviet Jews petitioned the government for permission to emigrate to Israel, and one hundred exit visas were granted by the Commission for Departures Abroad.[53] By the mid-1960's, when Leonid Brezhnev came to power, the number of exit visas rose to 1,444 in 1965 and 1,892 in 1966.[54] The dramatic increase in exit visas granted shows that the "Iron Curtain" of Soviet politics was diminishing and Soviet Jews were beginning to exert some control over their freedom of expression and beginning to successfully oppose the government's restrictions on their freedom to travel and emigrate.

More importantly, the Soviet government, which was typically critical of Israel, openly granted exit visas to at least some Soviet Jews, particularly those who sought "family reunification." During his visit to Paris in 1966, the Chairman of the Council of Ministers, Alexei Kosygin, proclaimed that the USSR would do everything in its power to help reunite the Jewish families separated because of the war, even if that would require permitting them to leave USSR.[55]

Despite the increased number of requests for permission to leave the Country, the Soviet government did not implement a formal set of laws,

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Purges, *at* http://www.nationmaster.com/encyclopedia/Great-Purges (last visited Feb. 23, 2005).

[51] For a general discussion of Khrushchev's policies in the first several years after Stalin's death, *see* Ro'i, *supra* note 23, at 55-85.

[52] Salitan, *supra* note 15, at 85-94.

[53] Morozov, *supra* note 48, at 30.

[54] Ro'i, *supra* note 23, at 9.

[55] Salitan, *supra* note 15, at 28.

procedures, or rules for emigration.[56] Rather, "everything depend[ed] either upon secret written regulations, or unbridled administrative discretion."[57] Thousands of Jews were denied by OVIR every year without an explanation. Even in the rare cases where permission was granted, it could be revoked if higher authorities believed that emigration of the person in question was unnecessary or undesirable.[58] The people who were commonly denied the right to emigrate were branded as "refusniks."[59] Refusniks included men and women that either 1) received an education in engineering or natural sciences, or 2) had been employed by any branch of the military or government on account that they possessed "classified" information.[60] The Jewish intelligentsia, including artists, musicians, authors, were likewise "guarded" by the Soviet government, and faced heavy restrictions on travel outside the European bloc.[61]

To further complicate matters, the government instituted a number of procedures whose sole purpose was to discourage Jews from even attempting to leave the country.[62] First of all, emigration applications were rarely seriously considered unless they were accompanied by a *vyzov*, a direct invitation from an international relative.[63] To exacerbate matters, vyzovs were often "lost" in Soviet mail during transit. Another obstacle to obtaining an exit visa was the requirement that the applicant present written permission to leave the country from all members of his or her immediate family (i.e., parents, spouse, etc.) If the requirements could not be met for *any* reason, including separation from the spouse or senility of the parents, the emigration request would be denied without any opportunity for meaningful appeal.[64] Furthermore, emigration to

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[56] The procedures and practices of OVIR dealing with the emigration issue were not formalized. They were also subject to many exceptions, and ultimately could be overridden by the interests of the KGB or the Communist party, as evidenced by the writings of many departees.

[57] Ioffe & Maggs, *supra* note 1, at 253.

[58] *See* Avital Shcharansky, *supra* note 19, at 14-15.

[59] *See* Sharansky, *supra* note 19, at 32; *see also* Shcharansky, *supra* note 19, at 124. (the term "refusnik" is found in the works of both Avitail Shcharansky and Natan Sharansky. It is used to refer to people that were repeatedly denied the right to leave the Soviet Union. According to the Sharanskys, many of these people were intellectuals that were openly critical of the government and society within the USSR).

[60] *Id.*

[61] *Id.*

[62] *See* Buwalda, *supra* note 26, at 52 (for a detailed list of the various restrictive policies implemented by OVIR). *See also* Salitan, *supra* note 15, at 53-55.

[63] *See* Buwalda, *supra* note 26, at 78-80 (for more information on *vyzovs*).

[64] A number of Soviet dissidents including the Sharanskys, Dina Beilin, Alexander Lerner, Ida Nudel, etc. attempted to petition the Supreme Soviet after being refused by OVIR. However, I have not been able to uncover a single instance where such petitions resulted in overturning the OVIR's rejection.

non-Communist countries also required paying a substantial fee,[65] in addition to an "education tax," which was collected by the government as reimbursement for the departee's "uncollected" educational costs within the Soviet school systems and higher academic institutions.[66]

Besides the inconveniences mentioned above, there were also substantial penalties for anyone considering emigration. Persons who actively pursued the right to leave the Soviet Union were often accused of espionage and anti-Soviet activities, and often sent to prison. A famous example is the arrest of a group of Jewish activists shortly before President Richard Nixon's 1974 trip to the Soviet Union; the protesters were arrested simply to prevent them from staging a protest at the time of the visit.[67] Although nothing in the Soviet legal code prohibited peaceful assemblies and demonstrations, any Jewish protest could be disbanded and its participants arrested for expressing traitorous and anti-Soviet sentiments. Protesters could then be charged with violating either Articles 64 or 70 of the Soviet Criminal code. An indictment under Article 70 required that the person be found guilty of "agitation or propaganda carried on for the purpose of subverting or weakening the Soviet regime," and was punishable by incarceration and exile to Siberia.[68] Particularly egregious protesters and those who criticized the Soviet government to the international media were charged under Article 64, and accused of "espionage and rendering aid to enemy states," a crime punishable by *rasstrel* (death by firing squad).[69] Though Article 64 was reserved primarily for especially dangerous criminals, such as airplane hijackers, some Soviet Jews were convicted and executed for no reason other than their continuous interaction with the international press and their repeated demands for emigration.[70]

Even Jews that were not formally convicted for their "anti-Soviet" activism faced numerous other punishments.[71] Requesting an emigration application almost always resulted in the person's dismissal from his or her job and made it nearly impossible to find other employment.[72] When employment was not terminated, the applicant was often ostracized by his or her superiors and coworkers.[73] Simply associating with Jews who had requested exit visas could produce negative consequences. For example,

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[65] By 1970 the fee for an exit visa was 360 rubles. *See* Buwalda, *supra* note 26, at 53 (for more information).

[66] *See* Ioffe & Maggs, *supra* note 1, at 253.

[67] *See* Sharansky, *supra* note 19, at 8.

[68] *Id.* at 7.

[69] *Id.* at 13. *See also id*. at 38-39 (Sharansky goes on to discuss this topic in more detail).

[70] *Id.*

[71] *See* Shcharansky, *supra* note 19, at 88-89; *see also* Ioffe & Maggs, *supra* note 1, at 253.

[72] Salitan, *supra* note 15, at 53-55.

[73] *Id.*

Professor Micka Chlenov, whose only "criminal" activity seemed to be his willingness to give private Hebrew lessons to the family of prominent Soviet human rights activist and dissident Natan Sharansky, faced interrogation from KGB officials; his academic reputation was permanently tarnished as a result.[74] Sometimes, emigration requests also led to the revocation of the person's *propiska* (i.e. the right to lodging and residency). This inevitably meant that the person would lose his or her living space in a particular city and be relocated to another city at the discretion of the Soviet government. In extreme cases, the KGB could also deprive a particular person of full citizenship rights by revoking his or her Soviet passport. Since the OVIR denied the overwhelming majority of all applications between the 1950's and 1970's, these penalties effectively dissuaded most Jews from even considering emigration.

The presidencies of Khrushchev and Brezhnev also saw a significant rise in Jewish activism. A number of dissident Soviet Jews openly opposed discriminatory Soviet policies, spoke out against the oppression of the Jews, and demanded that the Soviet government recognize their right to practice Jewish traditions and conduct religious services. Others went even further and demanded exit visas to Israel. For the first time there was organized resistance against the Soviet regime's restrictive emigration policy. As these groups expanded and gained influence, they gained widespread recognition and support from the international community. The Human Rights Commission and the Economic and Social Council of the United Nations gradually became aware of the plight of the Jewish people in the Soviet Union, and since 1962, have actively addressed the issue of Jewish equality within the Soviet society.[75] For example, the international media provided substantial coverage to a petition signed by a group of Jewish activists in which they expressed support for the Jackson-Vanik Amendment, an amendment that would link Soviet-American trade agreements to the issue of human rights.[76] Under the proposed amendment, trade with the U.S. and eligibility for economic aid from the U.S. would be conditioned upon the country allowing its citizens to emigrate to the country of their choice.[77] The proposed amendment gained considerable support from the Soviet Jewry and became one of the central issues in the Jewish dissident movement. By

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[74] Sharansky, *supra* note 19, at 48-49 (Chelnov never formally applied for an exit visa himself and thus was not fired from his job; however, all of his subsequent attempts to defend his doctorate dissertation were rejected, despite its indisputable merits).

[75] *See* Ro'i, *supra* note 23, at 164-178.

[76] Natan Sharansky mentions that more than 60 Jews signed a petition for the Jackson-Vanik Amendment and mailed it to the U.S. Congress. Sharansky, *supra* note 19, at 21-22. *See also* Salitan, *supra* note 15, at 35, 87-89 *and* Petrus Buwalda, *supra* note 26, at 89-112.

[77] *See id.*

the late 1970's many Jewish activists also became members of the Helsinki Watch groups and, with the help of foreign publications, argued that USSR's emigration policy blatantly violated the human rights policies set by the Helsinki Final Act.[78]

Despite the considerable rise in Jewish activism and expression, the Soviet government continued to deny that there was any serious problem regarding to the status of Jews within the Soviet Union. During his visit to the United States in 1959, Khrushchev openly denied all the accusations of the American Jewish Committee, vowing that there was no anti-Semitism in the USSR and no restriction on Jewish culture, and claiming that all ethnic groups of Soviet Union "live in peace and close friendship."[79] Notwithstanding Khrushchev's claims, Jews in the USSR continued to suffer prejudice and persecution and were severely limited in their freedom of expression. Though the Jewish and international media made a substantial effort to penetrate the remnants of the Iron Curtain, the Soviet government refused to let their works appear in the Soviet media. International publications including Jewish novels, histories, prayer books, Bibles, Hebrew textbooks, and newspapers were intercepted and confiscated by the KGB, and any person found in possession of or reproducing such materials could be fined and imprisoned.[80] In fact, virtually all correspondence between Soviet Jews and the state of Israel was carried out through the Dutch consul, who represented Israel's interests in the USSR since the mid-1960s.[81] Nor did the Soviet government acknowledge and recognize requests for emigration to Israel as a viable and legally permissible option for Soviet Jews. Though emigration was not expressly illegal, the government made every effort to dissuade the Soviet Jewry from ever pursuing this option. Indeed, this goal was so significant for the KGB that "any number of bodies (not to mention souls) could be used to achieve it."[82]

More than anything else, the Soviet government seemed to be interested in covering up the plight of the Soviet Jews by depicting them as villains. The newspapers often carried detailed accounts of the convic-

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[78] In 1975, 35 states – excluding Canada and the United States – gathered in Helsinki and formed the Organization for Security and Cooperation in Europe (OSCE). In the Helsinki Final Act, the OSCE nations agreed to implement certain agreements and policies dealing with a variety of issues including human rights, military security, and co-operation in cultural and educational spheres. *See also* Salitan, *supra* note 15, at 57-60 (detailed description of the Helsinki Final Act). *See also* HELSINKI INTERNATIONAL FEDERATION FOR HUMAN RIGHTS *at* http://www.ihf-hr.org/cms/cms.php?sec_id=1&pag_id=2 *and* UNITED KINGDOM'S FOREIGN AND COMMONWEALTH OFFICE *at* http://www.fco.gov.uk/servlet/Front?pagename=openMarket/Xcelerate/ShowPage&c=Page&cid=1097588383786.

[79] Ro'i, *supra* note 23, at 133-145.

[80] Sharansky, *supra* note 19, at 23-28.

[81] Buwalda, *supra* note 26, at 83-84.

[82] Sharansky, *supra* note 19, at 46.

tions of Jewish activists, emphasizing their roles as "spies" and implicating them in a variety of national and international conspiracies.[83] Yet, the most heavily publicized cases were those in which the KGB was able to "break down" the accused and get them to "admit" to the wrong-doing. News stories about the confessions of famous activists like Pyotr Yakir and Viktor Krasin, who agreed to condemn their own activities in exchange for a reduced jail sentence, were printed by virtually every newspaper in the Soviet Union.[84] The government was anxious to show that Jews that abandoned their activism and demonstrations could be effectively rehabilitated into the Soviet society, while those who refused would face long-term imprisonment or be executed. Soviet officials were able to severely repress the presence and viability of the Jewish culture within the USSR by using the media to publicize various punishments for "anti-Soviet" activities including demonstrations, the open celebration of religious or foreign holidays, interaction with non-Communist nationals, possession or reproduction of international publications. Even though emigration was no longer impossible, most people were too fearful of the accompanying changes to their status, acute social criticism and consternation, and being confronted with criminal accusations to even consider emigration as a viable option.

V. Conclusion

In the late 1980's, when Mikhail Gorbachev came to power, Soviet emigration policy became less restrictive. Though emigration procedures were still complicated and burdensome, requiring applicants to quit their job and revoke their Soviet citizenship, Soviet Jews no longer had to fear being arrested for merely expressing their Jewish identity or requesting applications from OVIR. The result can only be characterized as the second exodus: in 1990 and 1991 alone over 500,000 Jews fled from the Soviet Union and in the 15-year period between 1985 and 1990 the number of Jews emigrating exceeded 1.5 million.[85]

Russia's current emigration laws and procedures are almost entirely different from those that were in place in the USSR. Nevertheless, we can still derive many important lessons by studying the history of Soviet emigration policy. First, an autocratic and tyrannical government may be willing to adopt extreme measures, including imprisoning and execution of its own people, simply to prevent exposure of the country's internal weaknesses and unjust social practices to the international community. Secondly, from studying the USSR's emigration policy throughout the years, we can observe how a set of unwritten and virtually inconspicuous laws and procedures can affect the lives of millions of people. And

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[83] Ro'i, *supra* note 23, at 73-75, 113, 129-130, 279, 281-284.

[84] Sharansky, *supra* note 19, at 41-43.

[85] *See* Buwalda, *supra* note 26, at 198-217.

finally, we can understand that by restricting the freedom to emigration of a particular social group, a government can effectively reduce (or even eliminate) that group's ability to attain equality and religious and cultural freedom, and substantially undermine the group's efforts for self-determination.

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