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Box 68, Folder 8, Minority rights under international law, 1985-1986.

REPORT ON THE
CONFERENCE ON THE CONDITION OF MINORITIES IN THE SOVIET UNION
UNDER INTERNATIONAL LAW

by Allan Kagedan

The Conference on the Condition of Minorities in the Soviet Union, held March 19-21 in Bonn, cosponsored by the American Jewish Committee's International Relations Department and the Institute on East European Law of the University of Cologne and funded by grants from the Elson and Volkswagen Foundations, was designed with several goals in mind. These included: to cement ties between American Jews and the German academic and governmental community on a subject of common interest; to foster broader public interest and awareness in West Germany of the plight of Soviet Jews and Germans; to conduct pioneering research in the comparison of the statuses of these two groups in the USSR; to identify their legal status and basis for advocacy on their behalf in bilateral and multilateral settings; to propose remedial measures for these groups; and finally, to lay the basis for future joint ventures between American Jews and Germans on this and other topics.

The meeting marked a significant step forward in West German willingness to place the cause of Soviet Jewry on its public, as well as private, agenda with the Soviet Union. It also encouraged West German leaders to speak out on the Soviet Jewry issue as a whole, not only on individual cases, like that of Anatoly Shcharansky, as had been the case previously.

A month after the Conference, on April 17, the Bundestag, for the first time in its history, unanimously passed a resolution calling on the West German Government to urge the Soviet Government to end discrimination against, and to fully respect the rights of, Soviet Jews. The resolution was based on a text adopted by the Strasbourg-based Council of Europe, whose Secretary General Marcelino Oreja, met with AJC leaders in Washington, D.C. last March for a fuller length discussion of human rights, Soviet Jewry, and international terrorism. During the debate over the Bundestag resolution, the concluding statement of the Conference on Minority Rights was inserted into the Bundestag's official record. Further, Lutz Stavenhagen, Minister of State for Foreign Affairs and Christian Democratic Party (CDU) representative who had tendered the opening reception at the Conference, spoke movingly of the plight of Soviet Jewry (statement attached). CDU member, Dr. Herbert Hupka, in his supporting speech, referred extensively to the conference's findings. In terms of the broader public, the colloquium generated stories in major German newspapers, including Die Welt (3/21/86) and the Kolner Stadtanzeiger (3/23/86), and in several American wire services.

Conference Program

In his opening address to the meeting, Volker Rueue, deputy president of the governing Christian Democratic Party and its chief spokesman for foreign affairs, said: "The Soviet Union must understand very clearly

that the question of disarmament can not be separated from the state of political relations between East and West...including the question of human rights." Moreover, he indicated that Soviet policy on Jewish emigration would be a test of the Kremlin's sincerity about warming East-West relations.

The Conference drew some 50 scholars of international law, and foreign relations, half of them German scholars representing the country's leading research institutions dealing with Soviet affairs. Among the major institutions who participated in the meeting, which adopted a concluding statement (attached) calling for Soviet compliance with accepted standards of international law in its treatment of Soviet Jews and Germans, UN adoption of a Declaration on Minority Rights, and UN Human Rights Commission drafting of a Declaration on the Right to Leave. Clearly, the Conference served to stimulate interest in the Soviet studies and international law communities of the plight of Soviet Jews. The Conference also made a significant scholarly contribution in several areas. This report will now touch on some of the ideas presented in Bonn.

Socio-Cultural Condition

The Jewish and German groups, respectively the 16th and 14th largest ethnic groups in the USSR, both suffer from a lack of a viable territorial unit. This deficiency helps to explain their relatively low level of ethnic language retention (Jews 14%, Germans 57%), and why they have difficulty participating in their ethnic cultures, even to the degree permitted other territorially-based nationalities.

Societal attitudes towards members of both groups are negative. Indeed, in the media and in literature, Jews and sometimes Germans are depicted as alien, suspicious, sinister. This mistrust breeds a climate where it is easy to deny equal opportunity to Jews and Germans in employment and education. The image of the Jews has been tarnished particularly by the large-scale "anti-Zionist" campaign in the USSR. The heavy concentration of the Soviet media on the Soviet victory over "German fascists" has had a negative fallout for Soviet Germans.

Status under Soviet Law

Constitutionally, of the USSR's 101 groups, 58 have territorial units named for them; it is within these units that cultural rights are exercised. Jews have a nominal unit -- Birobidzhan -- Germans have none. The Soviet regime, since the 1920s, has neglected non-territorial ethnic groups.

Soviet citizens do not have the right to learn or use their own languages; what they do possess, formally, are rights to receive the texts of laws in these languages and to use their language in the courts. But in the key -- and burgeoning -- area of administrative law, citizens have no language guarantees. In fact, ethnic language use is permitted in the various nationality republics, but Jews and Germans, who are without viable units, can not benefit from this.

The right to speak Hebrew is not protected under Soviet law. Hebrew is defined as a religious language, not a native language of a group, and therefore it is as falls under the Church-state separation decree, and can not be taught in the schools. This per se should leave the door open to private Hebrew language education. But even here, Soviet authorities can suppress the teaching of a subject by declaring it to be contrary to the "interests of state and society."

Status under International Law

The principal guarantee of minority rights in international law is Article 27 of the International Covenant on Civil and Political Rights, which confers on "persons belonging to [ethnic, religious or linguistic] minorities...the right...to enjoy their own culture, to profess and practice their own religion, or to use their own language." Other instruments, the UNESCO Convention against Discrimination in Education, and the Convention on the Elimination of All Forms of Racial Discrimination, also include minority rights provisions.

Since 1978, efforts have been underway to draft a declaration on minority rights, that would clarify and interpret Article 27's terms. Thus far, a working group of the UN Human Rights Commission has been able to agree only on a preamble for a declaration, even here with phrases not agreed on. With the scholarly community's help, a minority rights declaration can be achieved.

Soviet Jews and Germans would clearly fall under the definition of minorities prepared by Judge Jules Dechenes of Canada, currently under consideration. Furthermore, international law provides a basis for condemning Soviet policy toward the Hebrew language, inasmuch as this policy represents an effort at forcible assimilation.

Freedom of Movement

Historically, freedom of movement reached its acme by World War I; respect for this right declined precipitously thereafter. A major factor in this change is Soviet policy towards emigration, a policy replicated in Marxist-Leninist regimes on every continent. The USSR and its friends resort to sealed borders because as regimes believing in the unity of the individual and the state and pursuing collective goals, they are hostile to those who wish to opt out. This amounts to a re-jection of rule by consent.

Significantly, the restriction of emigration on the purported grounds of the loss of intellectual talent or "brain drain" is made not by truly needy countries, but by those with a collectivist agenda.

There are good reasons for enlightened regimes to reverse their no-emigration policy: releasing the discontented can lead to greater social stability, promote international communication, advance a feeling of cooperation rather than coercion in a society. Indeed, blocking free movement seems to harm the interest of society as a whole -- let alone many individuals -- and this can serve only the interest of a particular ruling group.

In international law, current efforts in the UN to draft a declaration on the right to leave offers the best opportunity in decades to focus international attention on, and adopt more precise standards regarding, this right. Such a declaration should include, first, a reassertion of the primacy of the right itself, and second, make clear that, in interpreting this right, states cannot impose limitations based on activity itself protected by provisions of the Covenant on Civil and Political Rights, and other international instruments.

Specific provisions of the declaration might include: that statutes or administrative regulations governing the right be made public and available to applicants; a time limit for processing an application, normally not exceeding three months; denials of applications should be accompanied by written notification detailing the reasons for refusal; a requirement of appeal procedures publicized; refused applicants should have recourse to judicial or other independent tribunal; foreign exchange or other limits should not have the effect of prohibiting travel or emigration; emigration should not be grounds for denationalization; applications for emigration should be renewable at reasonable intervals, without prejudice.

East-West Relations

Western efforts to aid Soviet Jews and Germans can succeed most feasibly regarding emigration. The Soviet leadership, reluctant to permit exit, would be even more recalcitrant regarding suggestions for changing the internal condition of these minority groups. In the context of talks over arms and other matters, negotiation over emigration is also possible.

One means of encouraging a more liberal emigration policy on the part of Communist regimes was the Jackson-Vanik Amendment, enacted by the US Congress in 1975. This measure, which has clearly beneficial effects regarding Romania and other Soviet bloc states, has also established a link in the minds of Soviet leaders between possible trade benefits to them and freer emigration. Jackson-Vanik, which has survived changes from one U.S. Administration to the next, and shifts in foreign policy priorities within Administrations, has had a beneficial impact with respect to individual cases, may encourage broader policy changes in the future.

* * *

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BUNDESTAG RESOLUTION ON SOVIET JEWRY, 4/17/86

THE GERMAN BUNDESTAG CALLS UPON THE FEDERAL GOVERNMENT
TO URGE THE SOVIET GOVERNMENT:

1. TO PERMIT THE JEWS IN THE SOVIET UNION TO LIVE FREE FROM DISCRIMINATION, TO PRACTICE THE JEWISH RELIGION AND OBSERVE THEIR CULTURAL TRADITION, AND TO TEACH AND LEARN THE HEBREW LANGUAGE;
2. TO DISCONTINUE ANTI-JEWISH PROPAGANDA;
3. TO RELEASE ALL JEWS WHO HAVE BEEN ARRESTED ON IDEOLOGICAL GROUNDS;
4. TO PERMIT THOSE JEWS WHO WISH TO EMIGRATE TO ISRAEL OR OTHER COUNTRIES TO DO SO.

(Translation provided by German Information Service, New York.)

Statements & Speeches



Federal Republic of Germany

Vol. IX

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April 22, 1986

THE SITUATION OF THE JEWS IN THE SOVIET UNION

Statement by Dr. Lutz G. Stavenhagen,

Minister of State in the Federal Foreign Office, in the German Bundestag

April 17, 1986

Editor's Note: On April 17 the Bundestag appealed unanimously to the leadership in Moscow to end discrimination against the approximately two million Soviet Jews. In a resolution passed with the votes of all parties in the parliament, the federal government was called upon to urge Moscow to insure that Jews are permitted the right to the unimpaired exercise of their religion and their cultural tradition.

I am pleased to note that the debate on the draft resolution reflects a large measure of agreement in our assessment of the situation of the Jews in the Soviet Union and of its consequences. The federal government needs no invitation to take action in this respect. It has already spoken up for the Jews in the Soviet Union in bilateral contacts with the Soviet leadership and also through its interventions at the human rights meeting in Ottawa in the framework of the CSCE. That commitment will remain a fundamental concern of the federal government. We regard it as a moral duty and political responsibility.

Everyone will understand our humanitarian efforts being primarily oriented to the manifold problems of ethnic Germans in the Soviet Union. We nonetheless also stand up for the Jews in the Soviet Union, mainly because these two minorities are in a similarly difficult situation. In many respects Jews and Germans there share the same fate. Both are under heavy pressure of assimilation, both are largely denied the right to cultivate their linguistic, cultural and religious identity, and many members of their communities are denied the right to leave the country, a right which is vouchsafed by international agreements.

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We are at the same time conscious of our common destiny with the Jewish people, which has deep historical and spiritual roots but which also bears the dreadful scars of Jewish persecution and destruction under Hitler.

In the final analysis it is a question of respecting human rights. Protecting those rights is today no longer the concern of individual states but a question of international responsibility.

Since the entry into force of the UN human rights convention and the adoption of the CSCE Final Act there exist generally valid rules of law which have also been accepted by the Soviet Union and which we invoke also in our commitment on behalf of the Jews. Soviet arguments that our efforts are tantamount to interference in their internal affairs are therefore unjustified and have no basis in international law.

Let me repeat, of the just under two million Jews in the Soviet Union more than 250,000 have left the country since 1968. Official documents show that over 350,000 who have likewise sought permission to leave have been held back. These figures speak a clear language. The Soviet Union must realize that, in the light of these facts, any attempt to gloss over the problem by supplying distorted accounts through the media can only damage its reputation and credibility.

The federal government calls upon the Soviet leadership to make serious efforts to help all those who, in some cases for more than ten years, have been suffering persecution because they profess to be Jewish, speak the Jewish language and practice the Jewish religion, and because they wish to leave a country in which they see no future for themselves and their families.

We must appreciate, however, that the exercise of human rights can only be achieved in cooperation with, not in opposition to, other countries. It is a bitter but inescapable fact that we cannot force others outside our country to respect human rights. We have to try to convince them and work to ensure that the world does not become indifferent to this problem. That is the purpose of the resolution we have been debating today.

How difficult it is to secure due respect for human rights is shown by the years-long efforts to help Anatoly Shcharansky, whose release was the outcome of the joint efforts of the president of the United States and the federal chancellor.

We remain hopeful that the Soviet leadership will, in their own interest, come to appreciate that the elimination of force and suppression is a precondition for lasting cooperation and the safeguarding of peace. General Secretary Gorbachev has stated on several occasions, and most recently at the Soviet Communist Party Congress, that the Soviet Union attaches fundamental importance to the guarantee of human rights. May these words also be followed by deeds in his country.

Statement of the International Protection of Minorities

An international conference on the rights of ethnic (national) minorities under international law was held in Bonn, FRG, March 19-21, 1986. The Conference, jointly sponsored by the "Institut für Ostrecht" of the University of Cologne and the American Jewish Committee, discussed in particular, the situation of the German and Jewish minorities in the Soviet Union from the standpoint both of international law and of Soviet internal law and practice. Gravely concerned for the fate of these and other ethnic minorities in the Soviet Union and of ethnic minorities everywhere, the participants agreed on the following statement:

Preamble

Convinced:

That the freedom to identify with one's ethnic group is an inalienable element of human dignity and a fundamental human right, and that this freedom includes the group's right to respect for its cultural, religious, linguistic, and other characteristics;

That discrimination or intolerance directed against an ethnic minority or against its members violates their human rights and endangers their tranquil existence within the society;

That the peaceful and fruitful development of a multi-ethnic society can be achieved only when all of its ethnic minorities are assured a status recognized in law and respected in fact to that their members may freely express their communal character;

That, ultimately, a state's relationship to ethnic minorities which is based on respect for human dignity, tolerance and equal treatment, exerts a positive influence on international relations, and reduces tensions with

the governments and nationals of other states bound by sentiment and concern to the particular minority.

A

The Conference called attention to the following principles of international law applicable to the protection of ethnic minorities:

- 1) While prohibiting discrimination against individuals on the basis of their race, nationality, language or religion, international law, acknowledges that the prohibition of discrimination alone, necessary and important though it is, is inadequate to protect them in their group capacity, since it assures them only formal equality with the majority without facilitating their free and full development in their socio-cultural distinctiveness. Accordingly, international law requires states to take in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain ethnic groups and individuals belonging to them.
- 2) The International Covenant on Civil and Political Rights (1966) and the International Convention on the Elimination of All Forms of Racial Discrimination (1965) guarantee to members of ethnic, linguistic and religious minorities the right freely to enjoy their own culture, to profess and practice their own religion, and to use their own language or languages. These guarantees, which are crucial in enabling minorities to achieve genuine protection of their rights under international law, can be enjoyed in fact only if their members have the right to develop and maintain appropriate institutions and infrastructures.

- 3) The effective exercise of these guarantees is dependent, moreover, on other rights in the Covenant on Civil and Political Rights as well as in other international agreements, especially the right to freedom of movement within the state; the right to leave one's country and return to it; freedom of religion or belief; freedom to hold and express opinions; freedom of assembly; and freedom of association. The effectiveness of the rights of ethnic minorities and their members depends also in the right of the family to protection by society and the State, including the right of parents to educate their children in conformity with their own religious and moral convictions. In addition, the International Covenant on Economic, Social and Cultural Rights (1966) obligates all States' Parties to promote, through education of their citizenry, understanding, tolerance and friendship among all nations and all racial, ethnic and religious groups. This Covenant as well as the UNESCO-Convention Against Discrimination in Education (1960) also recognizes the right of individuals and institutions, including members of ethnic, religious, and linguistic minorities, to establish and direct their own educational institutions.
- 4) According to the aforementioned and other internationally recognized human rights, minorities, can be effectively protected only if the States' Parties fulfill their obligations under such provisions as Article 2 (3) of the Convention on Civil and Political Rights, which ensure an effective remedy to persons whose rights have been infringed. Complaints of human rights violations must be heard by independent tribunals according to due process of law and not left to the discretion of administrative officials often applying unpublished directives from higher authorities.

- 5) We call upon the United Nations to adopt a Declaration ensuring adequate cultural, religious and linguistic rights of minority groups and of their members.

B.

Concerned about the special situation of the Jewish and German minorities in the Soviet Union, the Conference agreed as follows:

- 1) Soviet practice in the protection of minorities fails to assure the full exercise of rights nominally guaranteed to them in its own domestic law and falls short of standards, prescribed by international law, to which the Soviet Union has bound itself. That practice is directly contradictory to these prescriptions in major respects, notably, in denying the members of its ethnic minorities the very rights that would enable them to develop their own community life within Soviet society.
- 2) Moreover, by permitting ethnic minorities to engage in the collective development of their communities solely on a territorially administered basis, Soviet law effectively deprives over three-quarters of the more than one hundred "peoples" or "nationalities" living in the Soviet Union of the possibility to lead meaningful lives in the social and cultural spheres. This territorial criterion favors disproportionately the country's more numerous indigenous "peoples" settled in concentrated location, discriminates against the smaller minorities, and contradicts sharply the international law relating to the protection of minorities.

We call upon the Soviet Union, in shaping its internal law, relating to ethnic minorities, to accord them facilities required for the full exercise of their

cultural, religious and linguistic rights.

- 3) The long-standing situation of the German and Jewish minorities explains the special significance to them of the human right of everyone to leave any country, including his own, and to return to it. Their members look to this right to enable them to maintain family contacts, to be reunited with their families, and to enjoy their group culture including the right to do so in their cultural homelands. The right to leave and to return is not guaranteed by the Soviet Constitution, and the largely unpublished legal acts pertaining to this right relegate issuance of permits to administrative officials who are free to exercise their responsibilities arbitrarily. Accordingly, it is urgent that the mandate of the UN Commission on Human Rights to draft a declaration on the right to leave and to return be successfully implemented as quickly as possible. We appeal to all governments to promote energetically the long overdue undertaking of the United Nations to this end. We consider that the declaration adopted at the international colloquium on this subject in Upsala, Sweden, in 1972, provides an excellent basis for this endeavor.
- 4) We disapprove emphatically the Soviet practice of revoking the citizenship of members of ethnic minorities who temporarily leave the country so as to prevent them from returning to their homeland. This practice, which is made possible by the Soviet Union's citizenship law of December 1, 1978 and its implementing regulations, violates the right to citizenship irrespective of ethnic origin. It also violates the prohibition against arbitrary deprivation of citizenship as provided in Article 15 (2) of the Universal Declaration of Human Rights, as well as the human right to return to one's country guaranteed by Article 12 (4) of the Covenant on Civil and Political Rights.

The Conference urged the Soviet Union to cease the practice of forcible revocation of citizenship of the individuals in question and appealed to it to bring its domestic law and practice into consonance with accepted standards of international law.

- 5) The Soviet Union, in contravention of Article 2 (4) of the Covenant on Civil and Political Rights, fails to ensure the members of its ethnic minorities effective legal protection of their group rights or individual human rights.

Soviet legal science long has urged substantial expansion of judicial and administrative protections in accordance with the mandate of Article 58 (2) of the Soviet Constitution of 1977. The Conference appealed to the Soviet government and to the responsible legislative bodies of the country to enact the legal measures required to bring its institutions and procedures for the protection of human rights into consonance with the standards both of international law and of the Soviet Union's own Constitution.

Adopted March 21, 1986.

Press release

Conference on Minority Rights under International
and Soviet Law

Wissenschaft Center, Bonn, FRG
March 19-21, 1986

Sponsors: Institut fuer Ostrecht, University of Cologne
The American Jewish Committee

Ed & Susan Elson

Provisional Program

Wednesday Evening, March 19, 6 P.M.

Chairman:

G. Bruene

Remarks:

Volker Ruehe, Chairman, Committee on Foreign and Security Policy, Christian Democratic Union Caucus, F.R.G.

Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs, U.S. Department of State.

Howard I. Friedman, President
American Jewish Committee

Chairman, Board of Trustees

Edward E. Elson, American Jewish Committee

RECEPTION

Thursday Morning, March 20, 9 A.M.-12 P.M.

Socio-Cultural Situation of German and Jewish Minorities in the USSR

Chairman:

Presentation 1:

German Minority:
Alfred Eisfeld, Osteuropa-Institut, Munich.

Presentation 2

Jewish Minority:
Maurice Friedberg,
Director, Department of Slavic Languages
University of Illinois.

Commentator:

Frank Goldzewski, Hamburg.

General Discussion

Thursday Afternoon, March 20, 2-5 P.M.

Status of Minorities Under Soviet Law, with special reference to Germans and Jews

Chairman

Presentation 1: Minorities in General
Georg Brunner, University of Cologne.

Presentation 2: German Minority
Dietrich Loeber, University of Kiel.

Presentation 3: Jewish Minority
Otto Luchterhandt, Institut fuer Ostrecht,
University of Cologne.

Commentator: Leon Lipson, Professor of Law,
Yale University.

General Discussion

Thursday Evening, March 20, 7-10 P.M.

Chairman

Status of Minorities Under International Law

Presentation 1: Felix Ermacora, University of Vienna

Presentation 2: Louis Sohn, Woodruff Professor of
International Law, University of Georgia.

Commentor: Vratislav Pechota, Assistant Director, Parker
School of Foreign and Comparative Law, and
Lecturer in Law, Columbia University

General Discussion

Friday Morning, March 21

The Right to Leave and Return, 9 A.M. - 11 P.M.

Presentation 1: International Legal Norms and State Practice
Hurst Hannum, Director, Procedural Aspects of
International Law Institute, Washington, D.C.

Presentation 2: Motives and Constraints: Political and Social
Factors
Alan Dowty, Professor of Government, Notre Dame
University

Commentator: Sidney Liskofsky, Director
Jacob Blaustein Institute, American Jewish
Committee

General Discussion

Consideration of Conference Final Statement, 11 A.M. - 12:30 P.M.

Friday Afternoon, March 21, 2-5 P.M. (Closing Session)

Impact of Minority Questions on East-West Relations: Strategies and
Options

MT Chairman

Presentation 1: Richard Loewenthal, Berlin

Panel: Jost Delbrueck, University of Kiel
Karl-Heinz Ruffman,
University of Erlangen, Nuernberg
Hans-Peter Schwartz, University of Cologne
Allan Kagedan, Policy Analyst, American Jewish
Committee.

General Discussion

*- Richie Moss
- Raymond Wisner*

Institut für Ostrecht
der Universität zu Köln
Prof. Georg Brunner
3000 Köln, den 12.2.85

An die
Stiftung Volkswagenwerk
Herrn Dr. Norbert Marahrens
Postfach 81 05 09
3000 Hannover 81

Re: Support for a German-American Conference Concerning the
Status of Minorities in the Soviet Union and International Law

Dear Dr. Marahrens:

The Institute for Ostrecht of the University of Cologne in cooperation with the American Jewish Committee, New York, is planning a conference in the Wissenschaftszentrum in Bonn in March, 1986. The theme of this scholarly conference will be The Status of Minorities in the Soviet Union and International Law. As the German sponsor, I am writing to you to request a grant for this project.

I Goal of the Conference

The problem of nationalities may be the internal problem in the Soviet Union that, in the long run, will be the greatest challenge for the existing system. Therefore, it is of paramount importance to continue in-depth research into the problem in order to properly assess future developments in the Soviet Union. For this reason, there has developed in the United States and Canada, as well as in Israel and other countries, considerable research activity in this field. Recently there has been a similar development of interest in the Federal Republic of Germany as well, where similar initiatives have been undertaken, especially with

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regard to the Baltic region (Funding of the Study Group for Continued Research in the Baltic Region, June 1984) and the German Ethnic Group (Volkswagen supported research activities at the Europa Institute, Munich, from the Permanent Secretariat for the Coordination of federally funded East European Research, working conference regarding Germans in the Soviet Union in February and October, 1982, Cologne). There remains, however, more to be done to relate the German research regarding Eastern Europe to the international standards of research regarding nationalities.

The conference under consideration will continue these activities on an international basis. For this purpose, the condition of two ethnic groups will be compared, and this will be the focus for which both sponsors of the conference are in a position to bring together a group of experts capable of discussing the situation of German and Jewish minorities in the Soviet Union. Both groups belong to minorities which have been discriminated against and share common interests and aspirations. Insofar as they are the only large ethnic groups (with the possible exception of the Poles) for whom there exists a state outside of the Soviet Union to which they could emigrate and from the various standpoints of international law guaranteeing to them by the International Pact for Individual and Political Rights of December 19, 1966, ratified by the Soviet Union, ^{that} they have not only the right to self-determination, Article I Protection of Minorities Act 27, but also the right to emigrate. The legal as well as social and economic situation of both groups will be examined in light of international law, with special attention paid to the possibilities

available under international law to implement these rights and what the consequences of these initiatives would be to East-West relations.

In view of its special competence, the Institut fur Ostrecht, Cologne, will be the appropriate German East-European research representative and bring together for the conference the appropriate scholars in the Federal Republic of Germany especially noted for their research on the situation of Germans in the Soviet Union. The participation of representatives from the Ost Europa Institute in Munich will be of special importance, since they have, along with American participants, been involved in the major research projects funded by the Volkswagen Foundation regarding Germans in the Soviet Union. The American Jewish Committee, on the American side, has available outstanding information regarding Jews in the Soviet Union and is the best qualified organization to bring together a group of experts to discuss this theme.

II. Overall Plan of the Conference

1. Participants

Approximately forty scholars will actively participate, of which 25 will be German, 15 American. They will be experts and will participate as co-discussants or respondents. On the German side, we will consider the possibility of inviting some younger scholars who may be inspired to do further research as a result of the conference. In addition to the active participants, 16 qualified guests will be invited who can, if necessary, respond to special questions. In addition, thought is being given to making the

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opening and closing sessions available to a larger circle in order to reach a larger audience interested in the purposes of the conference.

2. Place, Time, Duration

The Wissenschaftszentrum in Bonn is our suggestion for the site. The Center's outstanding technical facilities guarantee a smooth, trouble-free flow of events which, in view of the international nature of the event, is especially important. Room K-I, with its facilities for translators, is especially desirable in view of the multi-lingual character of the conference.

The conference will run from March _____ to March _____. On the two main days of the conference, the theme will be handled in 4 sections. For the first 3 parts, there will be a presenter and co-presenter, shared by the German and American scholars. Following this there will be a general discussion. In the 4th section, there will be one presentation followed by a panel discussion.

3. Scholarly Conception

The four sections are so constructed thematically that a comprehensive discussion of the entire issue will be possible. In the first section, the position of minorities in the Soviet Union relating to constitutional and international law will be discussed. As a result of this, there will be an understanding of the societal norms and how they impact on the affected groups.

We will attempt to secure as a participant Prof. Dr. Tomuschat, Bonn, who is a member of the Human Rights Commission, established

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as a basis of the international pact regarding personal and political rights, to report from his own experience on the practical results of the conference and especially on the conditions of the Soviet Union in the Ukraine and White Russia, as contained in the report of 1978 and 1984.

The next two sections will be devoted to the status of the German and Jewish groups. In order to present the similarities and differences in a concise fashion, the division will be made not according to groups, but rather from special thematic positions. In the second section, we will deal with the legal status and in the third, with the social and economic status of both groups. In this way, we will attempt to convey the real aspirations of the groups (equality, achievement of individual and collective rights, territorial autonomy, emigration, etc.) and the reaction of the Soviet leadership and its bureaucracy. The presentation in the 4th section will be devoted to the problem of minorities in the Soviet Union in the context of East-West relations. We are considering Prof. Dr. Richard Loewenthal, Berlin, as the presenter. He is not only a well-known reporter of international relations, but also as a result of his Jewish background and his involvement in German and Anglo-American intellectual life, especially qualified for this difficult assignment. Following this, there will be a panel discussion about the whole series of controversies and the available possibilities, strategies and options available to Western countries designed to bring about a realization of human rights for minorities in the Soviet Union.

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III Preliminary Program

The American discussants and co-discussants will be named by the American Jewish Committee. The following will list only the German speakers. These are suggestions, of course, based on additional discussion with the American partner.

Tuesday, 10.12.85

6 p.m. Opening Meeting

Speech by Foreign Minister

A report of each organizer

U.S. Ambassador, etc.

Wednesday 11.12.85

9 a.m. to noon

General legal situation of Minorities

1. Protection of Minorities under International Law

Prof. Dr. Christian Tomuschat, University of Bonn

— Member of the U.N. Human Rights Commission

or

— Prof. Dr. Jost Delbruck, University Kiel

2. The constitutionally guaranteed rights of minorities in the Soviet Union

The American Jewish Committee

Prof. Dr. Georg Brunner, University of Cologne

Afternoon

Legal situation of German and Jewish Minorities in the Soviet Union

1. Legal position of German minority

Prof. Dr. Dietrich Loeber, University of Kiel

2. Legal Position of Jewish Minority

American Jewish Committee and

Dr. Otto Luchterhandt, University of Cologne

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Thursday

Morning

1. Social and Economic ^{Status}~~Situation~~ of German Minorities in the Soviet Union

Dr. Alfred Eisfeld, Osteuropa-Institute, Munich

2. Social and Economic ^{Status}~~Situation~~ of Jewish minority in the Soviet Union

American Jewish Committee

Prof. Dr. Frank Golczewski, Hamburg

Afternoon

Implications of the Minority Question on East-West Relations, strategies and options

Prof. Dr. Richard Lowenthal, Berlin

Panel discussion

IV Preliminary list of participants

15 American participants are to be named by the American Jewish Committee.

Listed below are only prospective German participants:

1. Prof. Dr. Oskar Anweiler, University Bochum
2. Prof. Dr. Georg Brunner, University of Cologne
3. Dr. Arnold Buchholz

R. Dr. Marianna Butenschon, Hamburg

5. Dr. Hermann Clement, Stellv. Director Osteuropa-Institute, Munich

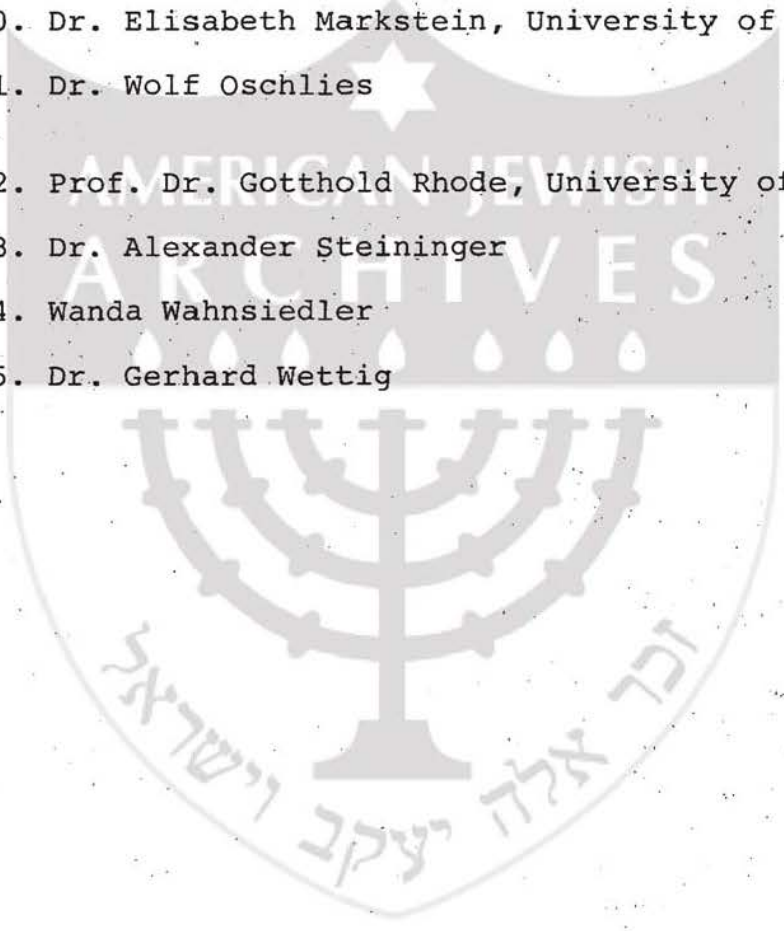
6. Prof. Dr. Jost Delbruck, University of Kiel

- 7. Barbara Dietz, Osteuropa-Institute, Munich
- 8. Dr. Alfred Eisfeld, Osteuropa-Institute, Munich
- 9. Prof. Dr. Felix Ermacora, University of Vienna
- 10. Prof. Dr. Frank Goldzewski,
- 11. Dr. Matthias Hagin
- 12. Lew Kpoëlew, Cologne
- 13. Raissa Kopelew-Orlowa, Cologne
- 14. Egil Levits, University of Kiel
- 15. Prof. Dr. Dietrich Loeber, University of Kiel
- 16. Prof. Dr. Richard Lowenthal, Berlin
- 17. Dr Kronid Lubarsky, Munich
- 18. Dr. Otto Luchterhandt, University of Cologne
- 19. Prof. Dr. Boris Meissner, Cologne
- 20. Prof. Dr. Karl-Heinz Ruffman, Univeristy of Erlangen-Nurnberg
- 21. Prof. Dr. Wilfrieder Schlau, University of Mainz
- 22. Prof. Hans-Peter Schwarz, University of Cologne
- 23. Dr. Gerhard Simon
- 24. Prof. Dr. Christian Tomuschat, University of Bonn
- 25. Dr. Heinrich Vogel
- 26. Prof. Dr. Henn-Juri Uibopuu, University of Salzburg

Guests and Substitutes

- 1. Prof. Dr. Wolfgang Eichwede, University of Bremen
- 2. Prof. Dr. Annelore Engel, University of Hamburg
- 3. Dr. Michael Geistlinger, University of Salzburg
- 4. Dr. Cornelia Gerstenmaier,
- 5. Dr. Uwe-Peter Heidingsfeld

6. Dr. Horst Herlemann, University of Wurzburg
7. Prof. Dr. Wilhelm Kahle, Wittlich
8. Dr. Bernd Knabe,
9. Dr. Thomas Kussmann
10. Dr. Elisabeth Markstein, University of Vienna
11. Dr. Wolf Oschlies
12. Prof. Dr. Gotthold Rhode, University of Mainz
13. Dr. Alexander Steininger
14. Wanda Wahnsiedler
15. Dr. Gerhard Wettig



NEWS

FROM THE

COMMITTEE



THE AMERICAN JEWISH COMMITTEE Institute of Human Relations, 165 E. 56 St., New York, N.Y. 10022, (212) 751-4000

The American Jewish Committee, founded in 1906, is the pioneer human-relations agency in the United States. It protects the civil and religious rights of Jews here and abroad, and advances the cause of improved human relations for all people.

MORTON YARMON, Director of Public Relations

***** ALERT TO EDITORS AND BROADCASTERS *****

WHO: Experts -- from the Federal Republic of Germany and the United States -- in human rights, international law and political science; representatives of the West German and United States Governments, and American Jewish organization leaders

WHAT: Will assemble for a pioneering conference to analyze the condition of minorities -- particularly Germans and Jews -- living in the Soviet Union.

This will be the first public conference since World War II in which Germans and Jews will work together to discuss the problems facing minorities in the U.S.S.R. and their right to leave.

WHEN: March 19-21, 1986

WHERE: Wissenschaftszentrum,
5300 Bonn-Bad Godesberg,
Ahrstrasse 45, Saal K 1
Federal Republic of Germany

Sponsored jointly by the American Jewish Committee, New York, with a grant from the Elson Foundation, Inc., and the Institute for the Study of Eastern European Law of the University of Cologne, the conference will include sessions on: "Socio-Cultural Condition of German and Jewish Minorities"; "Status of Minorities Under Soviet Law, with Special Reference to Germans and Jews"; "Status of Minorities Under International Law"; "The Right to Leave and to Return," and "Impact of Minority Questions on East-West Relations: Strategies and Options." Featured speakers will include: Georg Brunner, Institut fuer Ostrecht, University of Cologne; Volker Ruehe, Christian Democratic Union Caucus; Alfred Eisfeld, Osteuropa-Institut, Munich; Maurice Friedberg, University of Illinois; Frank Goldzewski, Hamburg; Dietrich Loeber, University of Kiel; Otto Luchterhandt, University of Cologne; Leon Lipson, Yale University; Felix Ermacora, University of Vienna; Louis Sohn, University of Georgia; Vratislav Pechota, Columbia University; Alan Dowty, Notre Dame University; Hurst Hannum, Procedural Aspects of International Law Institute; Henjuri Uibopiv, University of Salzburg; Jost Delbrueck, University of Kiel; Karl-Heinz Ruffman, University of Erlangen; Hans-Peter Schwartz, University of Cologne; and American Jewish Committee leaders: Howard Friedman, President; Edward Elson, Treasurer; Leo Nevas, International Relations Commission Chairman; David Gordis, Executive Vice-President; Marc Tanenbaum, Director, International Relations; Sidney Liskofsky, Director, Jacob Blaustein Institute for Human Rights; Allan Kagedan, Policy Analyst, International Relations.

YOUR COVERAGE IS INVITED

CONTACT IN WEST GERMANY

William Trosten
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86-960-47

Howard I. Friedman, President; Theodore Ellenoff, Chair, Board of Governors; Alfred H. Moses, Chair, National Executive Council; Robert S. Jacobs, Chair, Board of Trustees.

David M. Gordis, Executive Vice-President

Washington Office, 2027 Massachusetts Ave., N.W., Washington, D.C. 20036 • Europe hq.: 4 Rue de la Bienfaisance, 75008 Paris, France • Israel hq.: 9 Ethiopia St., Jerusalem 95149, Israel
South America hq. (temporary office): 165 E. 56 St., New York, N.Y. 10022 • Mexico-Central America hq.: Av. Ejercito Nacional 533, Mexico 5, D.F.

THE AMERICAN JEWISH COMMITTEE

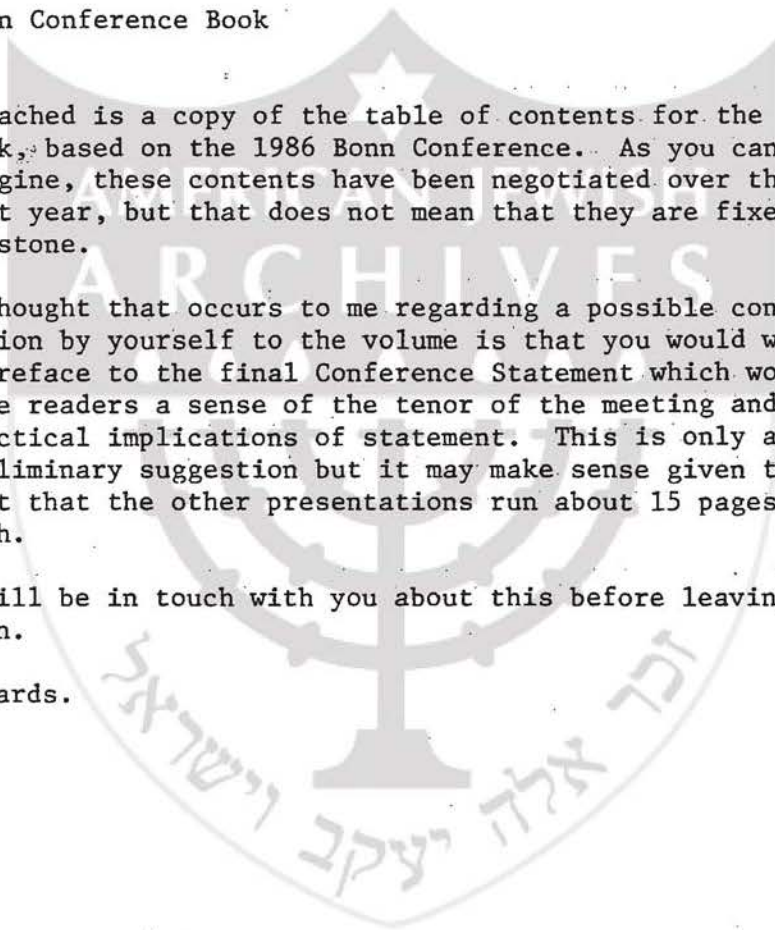
date May 29, 1987
to Marc Tanenbaum
from Allan Kagedan *AK*.
subject Bonn Conference Book

Attached is a copy of the table of contents for the book, based on the 1986 Bonn Conference. As you can imagine, these contents have been negotiated over the past year, but that does not mean that they are fixed in stone.

A thought that occurs to me regarding a possible contribution by yourself to the volume is that you would write a preface to the final Conference Statement which would give readers a sense of the tenor of the meeting and the practical implications of statement. This is only a preliminary suggestion but it may make sense given the fact that the other presentations run about 15 pages each.

I will be in touch with you about this before leaving for Bonn.

Regards.



Conference on Minority Rights under International
and Soviet Law

Wissenschaft Center, Bonn, FRG
March 19-21, 1986

(Sponsors: Institute fur Ostrecht, University of Cologne, and
American Jewish Committee)

Provisional Program

REMARKS Wednesday Evening, March 19, 6 P.M.

REMARKS Keynote Address: Volker Ruhe, Chairman, Committee on Foreign and
Security Policy, Christian Democratic Union Caucus

REMARKS Presentation: Richard Schifter, Assistant Secretary of State for
Human Rights and Humanitarian Affairs, Department
of State.

RECEPTION

Thursday Morning, March 20, 9 A.M.-12 P.M.

SOCIO-CULTURAL
Topic: ~~Economic and Social~~ Situation of German and Jewish Minorities

Presentation 1: Situation of German Minority
- Dr. Alfred Eisfeld,
East Europe Institute, Munich

Presentation 2: Situation of Jewish Minority
- Professor Frank Golczinski, Hamburg

Presentation 3: (Jewish Minority):
Professor Maurice Friedberg,
University of Illinois

Thursday Afternoon, March 20, 2-5 P.M.

Topic: Position of Minorities, Particularly Germans and Jews under Soviet Law

Presentation 1: Status of Minorities under Soviet Law, Prof. Georg Brunner, University of Cologne

Presentation 2: Position of German Minority (under Soviet Law) Dr. Dietrich Loeber, University of Kiel

Presentation 3: Position of Jewish Minority (under Soviet Law) Dr. Otto Luchterhand, Institute fur Ostrecht, University of Cologne

~~2 Presentation: Dr. Georg Brunner, University of Cologne.~~

Commentator: Professor Leon Lipson, Yale University Law School.

General Discussion

Thursday Evening, March 20, 7-10 P.M.

Topic: Status of Minorities Under International Law

Presentation 1: Dr. Felix Ermacora

Presentation 2: Professor Louis Sohn, University of Georgia Law School.

General Discussion

Friday Morning, March 21, 9 A.M.-12 P.M.

Topic: The Right to Leave and Return

Presentation 1: International Law and Practice
 - Dr. Hurst Hannum, Director, Procedural Aspects
 of International Law Institute, Washington, D.C.

Presentation 2: Soviet Law and Practice
 - Professor Alan Dowty, Notre Dame University

COMMENTATOR -

Friday Afternoon, March 21, 2-5 P.M. (Closing Session)

T Topic 1: Impact of Minority Questions on East-West Relations: Strategies and Options

Presentation 1: - Professor Richard ^ELowenthal

o ~~Presentation 2: - TBD~~

Panel Discussion: - Jost Delbruck
 - Dr. Karl-Heinz Ruffman (University of Erlangen)
 - Dr. Heinz Peter Schwartz
 (University of Cologne)

9844-(IRD-4)
 12/11/85 - el

June 1, 1987

Mare -

As requested.

Let's discuss before
I leave for bank

on the 13th.

Allan Koghan;

Publication / Publicity / Chairman /
Budget

Conference on Minority Rights under International
and Soviet Law

Wissenschaft Center, Bonn, FRG
March 19-21, 1986

Sponsors: Institut fuer Ostrecht, University of Cologne
The American Jewish Committee

Provisional Program

Wednesday Evening, March 19, 6 P.M.

Remarks:

Volker Ruehe, Chairman, Committee on Foreign and
Security Policy, Christian Democratic Union Caucus,
F.R.G.

Richard Schifter, Assistant Secretary of State for
Human Rights and Humanitarian Affairs, U.S.
Department of State.

Howard I. Friedman, President
American Jewish Committee

Edward E. Elson, American Jewish Committee

RECEPTION

Thursday Morning, March 20, 9 A.M.-12 P.M.

Socio-Cultural Situation of German and Jewish Minorities

Presentation 1: Situation of German Minority:
Alfred Eisfeld, Osteuropa-Institut, Munich.

Presentation 2 Situation of Jewish Minority:
Maurice Friedberg,
Director, Department of Slavic Languages
University of Illinois, Fellow, Center
for Strategic and International Studies,
Georgetown University.

Commentator: Frank Goldzewski, Hamburg.

Thursday Afternoon, March 20, 2-5 P.M.

Position of Minorities Under Soviet Law, with special reference to Germans and Jews

Presentation 1: Status of Minorities under Soviet Law
Georg Brunner, University of Cologne.

Presentation 2: Position of German Minority under Soviet Law
Dietrich Loeber, University of Kiel.

Presentation 3: Position of Jewish Minority under Soviet Law
Otto Luchterhandt, Institut fuer Ostrecht,
University of Cologne.

Commentator: Leon Lipson, Yale University Law School.

General Discussion

Thursday Evening, March 20, 7-10 P.M.

Status of Minorities Under International Law

Presentation 1: Felix Ermacora, University of Vienna

Presentation 2: Louis Sohn, University of Georgia Law School.

Presentation 3: Vratislav Pechota, Columbia University Law School.

General Discussion

Friday Morning, March 21, 9 A.M.-12 P.M.

The Right to Leave and Return

Presentation 1: International Legal Norms and State Practice
Hurst Hannum, Director, Procedural Aspects of
International Law Institute, Washington, D.C.

Presentation 2: Motives and Constraints: Political and Social
Factors
Alan Dowty, Notre Dame University

Commentator: Sidney Liskofsky, Director
Jacob Blaustein Institute, American Jewish
Committee

LUNCHEON - DOCUMENT & RECOMMENDATION

Friday Afternoon, March 21, 2-5 P.M. (Closing Session)

**Impact of Minority Questions on East-West Relations: Strategies and
Options**

Presentation 1: Richard Loewenthal, Berlin

Panel: Jost Delbrueck, University of Kiel
Karl-Heinz Ruffman,
University of Erlangen, Nuernberg
Hans-Peter Schwartz, University of Cologne
Allan Kagedan, Policy Analyst, American Jewish Committee,
Participant, Seminar on Soviet Nationality
Problems, Columbia University

*Concluding document
recommendations*

file - Germany - Atlantik

Bruecke DRAFT

Atlantik Bruecke

The American Jewish Committee and the Atlantik Bruecke are pleased to announce the establishment of a cooperative relationship aimed at fostering understanding between American Jews and the Federal Republic of Germany.

Both our institutions have long conducted programs aimed at improving American Jewish-German relations, a goal which our agreement is intended to advance. As a first step, we plan to hold two conferences on American Jewish-German relations. The first will take place in Bonn, November 21-23, 1987; the second is projected for New York for 1988.

In building positive relationships between the American Jewish community and the Federal Republic of Germany, we must confront the lessons of our recent history, as well as current and future reality of a free and democratic Germany, a vital member of NATO. We believe that our common interests are served in sustaining strong ties between the United States and the Federal Republic, links rooted in our commitment to the protection and advancement of constitutional democracy and civil and political liberties.

Walther Leisler Kiep
Chairman
Atlantik Bruecke

Theodore Ellenoff
President
American Jewish Committee

7121-(IRD-2)
4/16/87 -/SMM

6/4 - file - Germany - Atlantik - Bruecke

**Proposal for a Conference on Relations Between the American Jewish
Community and the Federal Republic of Germany**

**Co-sponsors: American Jewish Committee
Atlantik Bruecke**

The relationship since 1945 between the Federal Republic of Germany, a democracy arisen out of the Nazi era, and the American Jewish community, the largest and most influential postwar Jewish community, has been characterized by distance and some tension. For many American Jews, Germany's image is locked in time: Germany engineered the destruction of European Jewry; its forty years of democracy is neglected. For many Germans, the American Jewish community is an enigma: it is Jewish and pro-Israel, yet thoroughly American; it is a vibrant and influential community that is integrated into the mainstream of American life in a manner unfamiliar to Europeans.

If, given the events of 1933-1945, the ambivalent relationship between FRG and the American Jewish community is not surprising, it is nonetheless troubling. American-German relations, so vital to the Western democratic alliance, are harmed by disagreements between American Jews and the Federal Republic. Bitburg proved this. More recently, American press reports of a debate in Germany over national identity and how to deal with the Nazi era have reignited the possibility of contention.

The nature of the relationship between American Jews and the Federal Republic of Germany and how it can be improved is the subject of the

proposed conference. This conference will mark the beginning of a process of consultation and dialogue between the American Jewish Committee and the Atlantik Bruecke on matters of common concern. We intend to publish the conference proceedings and make programmatic recommendations, to be referred to a working group. This group would endeavor to coordinate further efforts in Germany and in America in this area. The following are a series of issues that an initial meeting might address.

I. Historical Overview, 1945-1984.

- a) Holocaust-related contacts
- b) Foreign Policy issues
- c) Programs to promote understanding

II. Bitburg

- a) American Jewish and German perceptions of the ceremony's significance
- b) The media's role
- c) The impact of Bitburg on relations

III. Foreign Policy

- a) Middle East: arms sales, peace process
- b) Soviet Bloc: East-West relations and human rights

c) German-Israel economic, cultural, political relations

IV. Emerging Issues

- a) Germans, American Jews and the Nazi Era: The question of Group Identity
- b) Positive Programs: Exchange, Education
- c) Foreign Policy

V. Programmatic Recommendations



7256-(IRD-2)

3/9/87: tp

Notes for possible use by Edward Elson at Bonn Conference opening

1. It is a pleasure to welcome this distinguished group of scholars, community leaders and government officials to our conference on "The Condition of Minorities in the Soviet Union Under International Law."

2. The rights of religious and ethnic groups in Eastern Europe has always been at the heart of the American Jewish Committee's work. The AJC was founded 80 years ago, in response to the Kishenev pogrom. Some thirty years ago, AJC published a pioneering study on Soviet Jews, documenting the extensive violations of their human rights.

The AJC has a long-standing interestⁱⁿ using international law to address the plight of minorities. AJC leaders participated in drafting minority rights treaties at the 1919 Paris Peace Conference; for several decades thereafter, AJC monitored their effectiveness through authoritative studies. More recently, AJC's Jacob Blaustein Institute has devoted attention to a right of critical importance to minorities in the USSR -- and to all peoples -- the right to leave, producing in 1972 the Uppsala Declaration, a standard reference for scholars and policy-makers.

3. At this critical juncture in East-West relations, when a new Soviet leader is gaining hold of his country, we felt that it was necessary to re-examine systematically the question of the rights of Soviet minorities, to help us devise strategies for improving their condition.

4. The fact that this Conference is being held in the Federal Republic of Germany holds special significance. The Jewish minority in the Soviet Union

was decimated by Hitler's genocidal campaign. The war also led to the brutal deportation of the USSR's German minority from its homeland on the Volga River to far off Kazakstan. Both minorities still bear the scars of those tragedies.

Beyond this, for the past generation, Jews and Germans have been seeking to come to terms with the events of those terrible years, efforts that can and must continue. But this Conference represents perhaps the first time that Jews and Germans have met not to discuss relations between one another, but rather the problems facing their bretheren and other ethnic groups in the USSR.

One cannot but hope that this historic step forward will open a new chapter in Western efforts in the cause of human rights. There can be no more important task. As Andrei Sakharov has written, only if human rights in the Soviet Union are guaranteed can our quest for peace truly succeed.

Allan Kagedan
March 7, 1986

cc: Marc Tanenbaum
Sidney Liskofsky
Bill Trosten

Statement on the International Protection of Minorities

An international conference on the rights of ethnic [national] minorities under international law was held in Bonn, FRG, March 19 - 21, 1986. The Conference, jointly sponsored by the "Institut fur Ostrecht" of the University of Cologne and the American Jewish Committee, discussed in particular, the situation of the German and Jewish minorities in the Soviet Union from the standpoint both of international law and of Soviet internal law and practice. Gravely concerned for the fate of these and other ethnic minorities in the Soviet Union and of ethnic minorities everywhere, the participants agreed on the following statement:

Preamble

Convinced:

That the freedom to identify with one's ethnic group is an inalienable element of human dignity and a fundamental human right, and that it includes the group's right to respect for its cultural, religious, linguistic, and other attributes which, together, describe and define it;

That discrimination or intolerance directed against an ethnic minority violates its human rights and endangers its tranquil existence within the society;

That the peaceful and fruitful development of a multi-ethnic society can be achieved only when all of its ethnic minorities are insured a recognized and secure legal status, so as to permit their members freely to practice their group customs, both individually and collectively;

That, ultimately, the relationship of a State to ethnic minorities which is based on respect for human dignity, tolerance and equal treatment, exerts a positive influence on international relations, and reduces tensions with the governments and the nationals of other states that are bound by sentiment and concern to the particular minority.

Operative Part A

The Conference called attention to the following principles of International Law applicable to the protection of ethnic minorities:

- 1) International Law prohibits discrimination against individuals on the basis of their race, nationality, language or religion. At the same time, it acknowledges that the prohibition of discrimination alone is inadequate to protect them in their group capacity, since it assures them only formal equality with the majority without facilitating their free and full development in their socio-cultural distinctiveness.

2) Members of ethnic minorities have an irrevocable right to autonomy with respect to the use of their group languages, their members' education, and the expression and enjoyment of their group culture. They also have the right to develop also appropriate institutions and infra-structures to aid them in exercising this right in accordance with Article 27 of the International Covenant on Civil and Political Rights (1966), which guarantees to members of ethnic, linguistic and religious minorities the right: freely to enjoy their own culture, to profess and practice their own religion, and to use their own language. The guarantees in this article are crucial in enabling minorities to achieve genuine protection of their rights under international law.

3) The effective exercise of the guarantees in Article 27 are dependent, moreover, on other rights in the aforementioned Covenant as well as in other international agreements, especially the right to freedom of movement within the state (Article 12 (1)); the right to leave one's country and return to it (Article 12 (2)); freedom of religion or belief (Article 18); freedom to hold and express opinions (Article 19); freedom of assembly (Article 21); and freedom of association (Article 22). The effectiveness of Article 27 depends also on the right of the family to protection by society and the State (Article 23), including the right of parents to educate their children in conformity with their own religious and moral convictions (Article 18 (4)). In addition, the International Covenant on

Economic, Social and Cultural rights (1966) obligates all States Parties, to promote, through education of their citizenry, understanding, tolerance and friendship among all nations and all racial, ethnic and religious groups (Article 13 (1) and (3)). It also recognizes the right of individuals and institutions, including members of ethnic, religious, and linguistic minorities, to "establish and direct" their own educational institutions (Article 13 (4)).

- 4) The protection of minorities, according to the aforementioned and other internationally recognized human rights, can be effectively ensured only if the states parties fulfill their obligations under this Covenant's Article 2 (3), which and Political Rights, ensures an effective remedy to persons whose rights have been infringed. Complaints of human rights violations must be heard, whenever possible, by independent tribunals and not relegated to the discretion of administrative officials acting according to unpublished directives from higher authorities.

Operative Part B

Concerned about the special situation of the Jewish and German minorities in the Soviet Union, the Conference agreed to the following:

1) That Soviet standards relating to the protection of ethnic minorities are well below those prescribed by international law, to which the Soviet Union has bound itself. In major respects, its practices are directly contradictory to these prescriptions, notably, in denying its citizens the very rights which would enable the members of its ethnic minorities to develop their own community life within Soviet society.

2) Moreover, by permitting ethnic minorities to engage in the collective development of their "communities" solely on a territorially administered basis, Soviet law effectively deprives over three-quarters of the more than one hundred "peoples" or "nationalities" living in the Soviet Union of the possibility to lead meaningful lives in the social and cultural spheres. This territorial criterion favors disproportionately the country's more numerous indigenous, and settled "peoples," discriminates against the smaller minorities, and contradicts sharply the international law relating to the protection of minorities including the right of every ethnic minority to recognition as a juridical personality.

We call upon the Soviet Union, in shaping its internal law, applicable to ethnic minorities, to accord them the right to such recognition [if they so desire]. Such a development would contribute significantly to satisfying the needs and wishes of the German, Jewish and other ethnic minorities to linguistic, educational and cultural autonomy.

3) The long-standing situation of the German and Jewish minorities explains the special significance to them of the human right of everyone to leave any country, including his own, and to return to it. Their members look to this right to enable them to maintain family contacts, to be reunited with their families, and to enjoy their group culture including the right to do so in their cultural homelands. The right to leave and to return is not guaranteed by the Soviet Constitution, and the largely unpublished laws pertaining to this right relegate issuance of permits to administrative officials who are free to exercise their responsibilities arbitrarily and unmonitored. Accordingly, it is urgent that the mandate of the UN Commission on Human Rights to draft a declaration on the right to leave and return be successfully implemented as quickly as possible. We appeal to all governments to promote energetically the long overdue undertaking of the United Nations to this end. We consider that the declaration adopted at the international colloquium on this subject in Upsala, Sweden, in 1972, provides an excellent basis for this endeavor.

4) We disapprove emphatically the Soviet practice of revoking the citizenship of members of ethnic minorities who temporarily leave the country so as to prevent them from returning to their homeland. This practice, which is made possible by the Soviet Union's citizenship law of December 1, 1978 and its implementing regulations, violates the right to citizenship (nationality?) irrespective of ethnic origin in the sense of Article 5 (d) of the International Convention on the Elimination of All Forms of Racial Discrimination. It also violates the prohibition against arbitrary deprivation of citizenship as provided in Article 15

(2) of the Universal Declaration of Human Rights, as well as the human right to return to one's country guaranteed by Article 12 (4) of the Covenant on Civil and Political Rights.

The Conference urged the Soviet Union to cease the practice of forcible revocation of citizenship of the individuals in question and appealed to it to bring its domestic law and practice into consonance with accepted standards of international law.

5) The Soviet Union, in contravention of Article 2 (4) of the Covenant on Civil and Political Rights, fails to ensure the members of its ethnic minorities effective legal protection of their collective group rights as a group or their individual human rights.

Soviet legal science long has urged substantial expansion of judicial and administrative protections in accordance with the mandate of Article 58 (2) of the Soviet Constitution of 1977. The Conference appealed to the Soviet government and to the responsible legislative bodies of the country to enact the legal measures required to bring its institutions and procedures for the protection of human rights into consonance with the standards both of international law and of the Soviet Union's own Constitution.

9571 (IRD-5)

2/20/86 e1

TEILNEHMERLISTE
LIST OF ATTENDEES

Die Lage der Minderheiten in der Sowjetunion und das Völkerrecht

The Condition of Minorities in the Soviet Union under International Law

Amerikanische Teilnehmer
American Attendees

- ✓ Prof. Alan DOWTY, Professor of Government, Notre Dame University, Notre Dame, Indiana
- ✓ Edward E. ELSON, Treasurer, American Jewish Committee, New York
- ✓ Susan ELSON
- ✓ Prof. Maurice FRIEDBERG, Director, Department of Slavic Languages and Literatures, University of Illinois
- ✓ Howard I. FRIEDMAN, President, American Jewish Committee, New York
- ✓ Wilma FRIEDMAN
- ✓ Jerome GOLDSTEIN, American Jewish Committee, New York
- ✓ David GORDIS, Executive Vice-President, American Jewish Committee, New York
- ✓ Hurst HANNUM, Director, Procedural Aspects of International Law Institute, Washington D.C.
- Helen ISENBERG
- ✓ Allan KAGEDAN, Policy Analyst, International Relations Department, American Jewish Committee, New York
- ✓ Marcia LAZAR, American Jewish Committee, New York
- ✓ Ellie LAZARUS, American Jewish Committee, New York
- ✓ Leon LIPSON, H.R. Luce Professor of Jurisprudence, Yale University, New Haven, Connecticut
- ✓ Sidney LISKOFKY, Director, Jacob Blaustein Institute for Human Rights, American Jewish Committee, New York
- ✓ Richard MAASS, American Jewish Committee, New York
- ✓ Prof. Theodore MERON, Columbia University, New York
- Louis SOHN, Woodruff Professor of International Law, University of Georgia
- ✓ Marc TANENBAUM, Director, International Relations Department, American Jewish Committee, New York
- ✓ Bill TROSTEN, American Jewish Committee, New York
- ✓ Jenette TROSTEN
- ✓ Maynard WISHNER, Honorary President, American Jewish Committee, New York

Deutsche Teilnehmer

German Attendees

- ✓ Prof. Dr. Georg BRUNNER, Direktor des Instituts für Ostrecht, Universität zu Köln
- ✓ Dr. Hermann CLEMENT, Osteuropa-Institut, München
- ✓ Barbara DIETZ, Osteuropa-Institut, München
- ✓ Prof. Dr. Alfred EISFELD, Osteuropa-Institut, München
- Dr. Ingeborg FLEISCHHAUER, Bonn
- ✓ Prof. Dr. Frank GOLCZEWSKI, Universität der Bundeswehr, Hamburg
- ✓ Prof. Dr. Andreas KAPPELER, Direktor des Seminars für osteuropäische Geschichte, Universität zu Köln
- Prof. Dr. Eckart KLEIN, Universität Mainz
- ✓ Egil LEVITS, Institut für Ostrecht, Universität Kiel
- Prof. Dr. Dietrich A. LOEBER, Direktor des Instituts für Recht, Politik und Gesellschaft der sozialistischen Staaten, Universität Kiel
- Prof. Dr. Richard LÖWENTHAL, Berlin
- ✓ Dr. Otto LUCHTERHANDT, Institut für Ostrecht, Universität zu Köln
- ✓ Prof. Dr. Boris MEISSNER, Emeritus, Institut für Ostrecht, Universität zu Köln
- ✓ Volker RÜHE, MdB, Stellvertretender Vorsitzender der CDU/CSU-Bundestagsfraktion, Bonn
- ✓ Prof. Dr. Karl-Heinz RUFFMANN, Universität Erlangen-Nürnberg
- Prof. Dr. Wilfried SCHLAU, Universität Mainz
- ✓ Dr. Gerhard SIMON, Bundesinstitut für ostwissenschaftliche und internationale Studien, Köln

Österreichische Teilnehmer

Austrian Attendees

- Prof. Dr. Felix ERMACORA, Mitglied des UN-Komitees für Menschenrechte, Universität Wien
- Prof. Dr. Henn-Yüri UIBOPUU, Universität Salzburg

Gäste

Guests

VLR Günter ALTENBURG, Auswärtiges Amt, Bonn
Ashot AMIRDJANIN, Osteuropa-Redaktion der Deutschen Welle, Köln
Dr. Heinrich BARTEL, Ostkolleg der Bundeszentrale für politische Bildung, Köln
Ulrike BAUMANN, Institut für Ostrecht, Universität zu Köln
Heinrich-W. BEUTHNER, Auswärtiges Amt, Bonn
Rudolf BINDING, MdB, SPD-Fraktion, Arbeitsgruppe Menschenrechte, Bonn
BREITENBACH, Voice of America, Bonn
Hermann BÜNZ, Friedrich-Ebert-Stiftung, Bonn
Marcel BULLA, Institut für Ostrecht, Universität zu Köln
Mario CEBULLA, Institut für Ostrecht, Universität zu Köln
VLR Helmut ELFENKÄMPER, Auswärtiges Amt, Bonn
Rajmund GATZKA, Institut für Ostrecht, Universität zu Köln
Dr. Harald GEISS, Bundeszentrale für politische Bildung, Bonn
Dr. Micha GUTMANN, Kommentarmedaktion des Westdeutschen Rundfunks, Köln
Gudrun HASSINEN, New York City Tribune, Bonn
VLRI Dr. Eberhard HEYKEN, Auswärtiges Amt, Bonn
Dr. P. HÜBNER, Bundesinstitut für ostwissenschaftliche und internationale Studien, Köln
Hans-Jürgen KAACK, Referent bei der CDU/CSU-Fraktion des Deutschen Bundestages, Bonn
RD Dr. KRISTOF, Bundesministerium für innerdeutsche Beziehungen, Bonn
Ernst LEVÝ, Frankfurter Allgemeine Zeitung, Frankfurt
Hans-Günther PARPLIES, Geschäftsführer, Stiftung Ostdeutscher Kulturrat, Bonn
Andreas REMIN, Institut für Ostrecht, Universität zu Köln
Carmen SCHMIDT, Institut für Ostrecht, Universität zu Köln
Peter SCHNEIDER, Friedrich-Ebert-Stiftung, Bonn
Ingeborg SCHUBBE, Stiftung Ostdeutscher Kulturrat, Bonn
LRI Dr. Dietmar STÜDEMANN, Auswärtiges Amt, Bonn
Peter THELEN, Friedrich-Ebert-Stiftung, Bonn
Andrzej URDZE, Institut für Soziologie, Universität Mainz
AOR Dr. Alexander USCHAKOW, Institut für Ostrecht, Universität zu Köln
✓ Wanda WAHNSIEDLER, Internationale Gesellschaft für Menschenrechte e.V., Frankfurt

Conference on Minority Rights
under International and Soviet Law

March 19-21, 1986 in Bonn

Position of the German Minority under Soviet Law

Dietrich A. Loeber
University of Kiel

Documents

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Resettlement of Volga Germans

Decree of 1941

Text from: Conquest R., The Soviet Deportation of Nationalities (London, 1960) 49-50. The original Russian text was published in: Vedomosti Verkhovnogo Soveta SSSR 1941 No. 38 p.4 col. 4.

According to trustworthy information received by the military authorities there are among the German population living in the Volga area thousands and tens of thousands of diversionists and spies who on a signal being given from Germany are to carry out sabotage in the area inhabited by the Germans of the Volga.

None of the Germans living in the Volga area have reported to the Soviet authorities the existence of such a large number of diversionists and spies among the Volga Germans; consequently the German population of the Volga area conceals enemies of the Soviet people and of Soviet authority in its midst.

In case of diversionist acts being carried out at a signal from Germany by German diversionists and spies in the Volga German Republic or in the adjacent areas and bloodshed taking place, the Soviet Government will be obliged, according to the laws in force during the war period, to take punitive measures against the whole of the German population of the Volga.

In order to avoid undesirable events of this nature and to prevent serious bloodshed, the Presidium of the Supreme Soviet of the U.S.S.R. have found it necessary to transfer the whole of the German population living in the Volga area into other areas, with the promise, however, that the migrants shall be allotted land and that they should be given assistance by the State in settling in the new areas.

For the purpose of resettlement, areas having much arable land in the Novosibirsk and Omsk provinces, the Altai territory, Kazakhstan and other neighbouring localities have been allotted.

In connexion herewith the State Committee of Defence has been instructed to carry out urgently the transfer of all Germans of the Volga and to allot to the Germans of the Volga who are being transferred lands and domains in the new areas.

President of the Presidium of the Supreme Soviet of the U.S.S.R.:

(Signed) M. KALININ.

Secretary of the Presidium of the Supreme Soviet of the U.S.S.R.:

(Signed) A. GORKIN.

Moscow: Kremlin, August 28, 1941.

Restrictions for Ethnic Germans Partly Lifted
Unpublished Decree of 1955

Text from: Heitman S., The Soviet Germans in the USSR Today (Cologne, 1980) 60 (Berichte des Bundesinstituts... 35-1980), reproduced from: Conquest R., The Nation Killers. The Soviet Deportation of Nationalities (New York, 1970) 180-181. The original Russian text was published in: Biulleten' tekushchego zakonodatel'stva SSSR .. (Moscow) No. 5 (December 1955) 3. The Bulletin was published "For official use" only. The Edict is marked "Not for publication in the press".

AMERICAN JEWISH

Decree of the Presidium of the Supreme Soviet of the USSR of 13 December 1955 - On the Revocation of the Restrictions in the Legal Position of Germans and their family dependents now in conditions of Special Settlement:

Considering the fact that the existing restrictions in the legal position of German special settlers and members of their families, who were deported to various regions of the country, are no longer necessary in future, the Presidium of the Supreme Soviet of the USSR decides:

1. Germans and members of their families who at the time of the Great Patriotic War were exiled to a Special Settlement are to be released from attachment to the Special Settlement and freed from the administrative control of the organs of the MVD. The same is valid for German citizens of the USSR who after their repatriation from Germany were put in a Special Settlement.

2. It is laid down that the revocation of the restrictions on the Germans connected with Special Settlement does not imply the return of the property confiscated in connection with the deportation, and further that they do not have the right to return to the regions from which they were deported.

Accusations Against Ethnic Germans Retracted

Decree of 1964

Text : VVS SSSR 1964 No. 52 item 592. Translation from: Heitman S., The Soviet Germans in the USSR Today (Cologne, 1980) 60-61 (Berichte des Bundesinstituts.. 35-1980), reproduced from: Conquest R., The Nation Killers. The Soviet Deportation of Nationalities (New York, 1970) 183-185

Decree of the Presidium of the USSR Supreme Soviet:

On introducing amendments into the decree of the Presidium of the USSR Supreme Soviet of 28 August 1941 'On Resettling the Germans Living in Districts Along the Volga'.

Accusations of actively helping the German-Fascist invaders and complicity with them were raised in the ukase of the USSR Supreme Soviet of 28 August 1941 'On Resettling the Germans Living in Districts Along the Volga' with respect to large groups of Germans who were Soviet citizens.

Life has shown that these indiscriminate accusations were unfounded and were an instance of arbitrariness during the period of the cult of Stalin's personality. In fact, during the Great Patriotic War, the overwhelming majority of the German population, together with the entire Soviet people, facilitated the victory of the Soviet Union over Fascist Germany with their labour and in the postwar years actively participated in Communist construction.

Thanks to the great help of the Communist Party and the Soviet State, the German population has firmly taken root in its new places of residence in the years which have elapsed and enjoys all the rights of the USSR citizens. Soviet citizens of German nationality are conscientiously working at enterprises, sovkhozes, kolkhozes, and establishments and are actively participating in public and political life. Many of them are deputies to supreme or local Soviets of the RSFSR, Ukrainian, Kazakh, Uzbek, Kirgiz, and other Union Republics and hold leading posts in industry and agriculture and in the Soviet and Party apparatus. Thousands of Soviet German citizens have been awarded USSR decorations and medals for successes in labour and have honorary titles awarded by Union Republics. In the districts, a number of regions, territories and republics with a German population there are primary and secondary schools where instruction is carried out in the German language or where study of the German language has been organized for children of school age, and there are regular radio broadcasts and newspapers in German and other cultural activities are carried out for the German population.

The Presidium of the USSR Supreme Soviet decrees:

1. To abrogate the part of the ukase of the Presidium of the USSR Supreme Soviet of 28 August 1941 'On Resettling the Germans Living in Districts Along the Volga' (Protocol of the Session of the Presidium of the USSR Supreme Soviet, 1941, No. 9, art. 256) which contains sweeping accusations against the German population living in districts along the Volga.

2. Considering the fact that the German population has taken root in its new place of residence on the territories of a number of republics, territories and regions of the country, whereas the districts where it formerly resided have been settled, the Councils of Ministers of Union Republics are instructed, with the aim of further developing areas with a German population, to continue rendering help and assistance in economic and cultural construction to the German population living on the territory of their republics, taking their national peculiarities and interests into consideration.

Chairman of the Presidium of the
USSR Supreme Soviet,
A. Mikoyan
Secretary of the Presidium of the
USSR Supreme Soviet,
M. Georgadze

Moscow, the Kremlin, 29 August 1964.



Restrictions of Residence Rights for Certain Groups of Citizens

Unpublished Decree of 1972

Text from: A Chronicle of Human Rights in the USSR (New York) No. 11-12 (September-December 1974) 55-56. Another translation appeared in: A Chronicle of Current Events No. 34 (1974) (London, 1978) 90-91

Documents Concerning the Revocation of Certain Discriminatory Restrictions

Order (*Prikaz*)
of the General Procurator of the USSR
November 9, 1972 No. 54 City of Moscow

In promulgating as classified [not for publication] the decree (*ukaz*) of the Presidium of the USSR Supreme Soviet dated November 3, 1972, "On the Revocation of Restrictions on Domicile for Certain Categories of Citizens," I shall supervise its implementation, State Councillor of Justice First Class M. Malyarov, Acting USSR General Procurator.

Not for publication

DECREE

Of the Presidium of the USSR Supreme Soviet, "On the Revocation of Restrictions on Domicile for Certain Categories of Citizens."

The Presidium of the USSR Supreme Soviet resolves:

1. To revoke the restrictions on domicile stipulated in the Decree of the Presidium of the USSR Supreme Soviet dated December 13, 1955 with respect to Germans and members of their families, and in the Decree of September 22, 1956 with respect to former Greek and Turkish citizens and Iranian subjects who are stateless persons.
2. To declare that persons to whom the aforementioned restriction applied (and also the members of their families) who are citizens of the USSR enjoy, like all other citizens, the right to choose their place of residence anywhere on the territory of the USSR in accordance with current legislation on job placement and the passport system, while aliens and stateless persons [have the right to choose their place of residence] in accordance with legislation on the procedure governing residence in the USSR for aliens and stateless persons.
3. To entrust the USSR Ministry of Justice, acting jointly with the USSR Ministry of Internal Affairs and the Committee of State Security of the USSR Council of Ministers, to submit suggestions for declaring void those legislative acts stipulating restrictions on place of residence for certain nationalities who were earlier resettled from their places of domicile to other regions of the USSR.

Moscow, the Kremlin, 3/XI/72 No. 3521-8

Chairman of the Presidium of the USSR Supreme Soviet
N. Podgorny
Secretary of the Presidium of the USSR Supreme Soviet
M. Georgadze

Berücksichtigung der Nationen und Völkerschaften der UdSSR
im Rahmen des Sowjetföderalismus und der Sowjetautonomie
 Volkszählung 1979

	Anzahl in 1000	Anteil in %	Gebiets- einheit	Status	Mehrheit
Russen	137 397	52,42	UR	abs.Mehrh.	
Ukrainer	42 347	16,16	UR	abs.Mehrh.	
Usbeken	12 456	4,75	UR	abs.Mehrh.	
Weißrussen	9 463	3,61	UR	abs.Mehrh.	
5. Kasachen	6 556	2,50	UR	Minderheit	Russen (rel.)
Tataren	6 317	2,41	AR	rel.Mehrh.	
Aserbaidschaner	5 477	2,09	UR, AR ⁴	abs.Mehrh. abs.Mehrh.	
Armenier	4 151	1,58	UR aG ²	abs.Mehrh. abs.Mehrh.	
Georgier	3 571	1,36	UR AR ³	abs.Mehrh. abs.Mehrh.	
10. Moldauer	2 968	1,13	UR	abs.Mehrh.	
Tadschiken	2 898	1,10	UR aG ⁴	abs.Mehrh. abs.Mehrh.	
Litauer	2 851	1,09	UR	abs.Mehrh.	
Turkmenen	2 028	0,77	UR	abs.Mehrh.	
Deutsche	1 936	0,74	-		
15. Kirgisen	1 906	0,73	UR	rel.Mehrh.	
Juden	1 811	0,69	aG	Minderheit	Russen (abs.)
Tschuwaschen	1 751	0,67	AR	abs.Mehrh.	
Völkerschaften Dagestans, und zwar	1 657	0,63	AR	abs.Mehrh.	
Awaren	483	0,18			
Lesgier	383	0,15			
Darginer	287	0,11			
Kumücken	228	0,09			
Laken	100	0,04			
Tabassaraner	75	0,03			
Nogaier	60	0,02			
Rutuler	15	0,01			
Tsachurier	14	0,01			
Agulier	12	0,00			
Letten	1 439	0,55	UR	abs.Mehrh.	
20. Baschkiren	1 371	0,52	AR	Minderheit	Russen (rel.)
Mordwinen	1 192	0,45	AR	Minderheit	Russen (abs.)
Polen	1 151	0,44	-		
Esten	1 020	0,39	UR	abs.Mehrh.	
Tschetschenen	756	0,28	AR-Co ⁵	abs.Mehrh.	
25. Udmurten (Wotjaken)	714	0,27	AR	Minderheit	Russen (abs.)

	Anzahl in 1000	Anteil in %	Gebiets- einheit	Status	Mehrheit
Mari (Tscheremissen)	622	0,24	AR	Minderheit	Russen (rel.)
Osseten	542	0,21	AR ⁶ aG ⁷	abs.Mehrh. abs.Mehrh.	
Koreaner	389	0,15	-		
Bulgaren	361	0,14	-		
30. Burjaten	353	0,13	AR ⁸ aB ⁹ aB ¹⁰	Minderheit abs.Mehrh. Minderheit	Russen (abs.) Russen (abs.)
Griechen	344	0,13	-		
Jakuten	328	0,12	AR	Minderheit	Russen (abs.)
Komi (Syrjänen)	327	0,12	AR	Minderheit	Russen (abs.)
Kabardiner	322	0,12	AR-Co ¹¹	rel.Mehrh.	
35. Karakalpaken	303	0,12	AR	Minderheit	Usbeken (rel.)
Uiguren	211	0,08	-		
Zigeuner	209	0,08	-		
Inguschen	186	0,07	AR-Co ⁵	Minderheit	Tschetschenen (abs.)
Gagausen	173	0,07	-		
40. Ungarn	171	0,07	-		
Tuwinen (Sojoten)	166	0,06	AR	abs.Mehrh.	
Komi-Permjakten	151	0,06	aB	abs.Mehrh.	
Kalmücken	147	0,06	AR	Minderheit	Russen (rel.)
Karelier	138	0,05	AR	Minderheit	Russen (abs.)
45. Karatschaier	131	0,05	aG-Co ¹²	Minderheit	Russen (rel.)
Rumänen	129	0,05	-		
Kurden	116	0,04	-		
Adygejer	109	0,04	aG	Minderheit	Russen (abs.)
Türken	93	0,04	-		
50. Abchasier	91	0,03	AR	Minderheit	Georgier (rel.)
Finnen	77	0,03	-		
Chakassen	71	0,03	aG	Minderheit	Russen (abs.)
Balkaren	66	0,03	AR-Co ¹¹	Minderheit	Kabardiner (rel.)
Altaier	60	0,02	aG	Minderheit	Russen (abs.)
55. Dunganen (Hui)	52	0,02	-		
Tscherkessen	46	0,02	aG-Co ¹²	Minderheit	Russen (rel.)
Perser	31	0,01	-		
Nenzen (Jurak-Samojeden)	30	0,01	aB ¹³ aB ¹⁴ aB-Co ¹⁵	Minderheit Minderheit Minderheit	Russen (abs.) Russen (abs.) Russen (abs.)

	Anzahl in 1000	Anteil in %	Gebiets- einheit	Status	Mehrheit
Abasinen	29	0,01	-		
60. Ewenken (Tungusen)	27	0,01	aB	Minderheit	Russen (abs.)
Assyrier (Aramäer)	25	0,01	-		
Taten	22	0,01	-		
Chanten (Ostjaken)	21	0,01	aB-Co ¹⁶	Minderheit	Russen (abs.)
Belutschen	19	0,01	-		
65. Tschechen	18	0,01	-		
Schoren	16	0,01	-		
Tschuktschen	14	0,01	aB	Minderheit	Russen (abs.)
Ewenen (Lamuten)	12	0,00	-		
Nanai (Golden)	10	0,00	-		
70. Slowaken	9	0,00	-		
Korjaken	8	0,00	aB	Minderheit	Russen (abs.)
Mansen (Wogulen)	8	0,00	aB-Co ¹⁶	Minderheit	Russen (abs.)
Wepsen	8	0,00	-		
Uden	7	0,00	-		
75. Dolganen	5	0,00	aB-Co ¹⁵	Minderheit	Russen (abs.)
Niwchen (Giljaken)	4	0,00	-		
Selkupen (Ostjak-Samojeden)	4	0,00	-		
Oltschen	3	0,00	-		
Karäer	3	0,00	-		
80. Chalcha-Mongolen	3	0,00	-		
Saami (Lappen)	2	0,00	-		
Udehe	2	0,00	-		
Eskimos	1	0,00	-		
Itelmen (Kamtschadalen)	1	0,00	-		
85. Orotschen	1	0,00	-		
Keten (Jenissej-Ostjaken)	1	0,00	-		
Nganasanen (Tawgy-Samojeden)	1	0,00	-		
Jukagiren	1	0,00	-		
Tofalaren (Karagassen)	1	0,00	-		
90. Aleuten	1	0,00	-		
Negidanen	1	0,00	-		
sonstige Völkerschaften	69	0,03	-		
insgesamt	262	085			

Abkürzungen

aB autonomer Bezirk
aG autonomes Gebiet
AR Autonome Republik
Co zwei Titularnationen
UR Unionsrepublik

Anmerkungen

1. Autonome Republik Nachitschewan. Aserbaidsschanische Exklave
2. Autonomes Gebiet Nagorno-Karabach in der Aserbaidsschanischen Unionsrepublik
3. Autonome Republik Adscharien in der Georgischen Unionsrepublik. Die Adscharen sind mohammedanische Georgier, deren Zahl unbekannt ist
4. Autonomes Gebiet Gorno-Badachschan in der Tadschikischen Unionsrepublik
5. Tschetschenisch-Inguschische Autonome Republik
6. Nordossetische Autonome Republik
7. Südossetisches autonomes Gebiet
8. Burjatische Autonome Republik
9. Burjatischer autonomer Bezirk Ustj-Ordynskij
10. Burjatischer autonomer Bezirk Aginskoje
11. Kabardinisch-Balkarische Autonome Republik
12. Karatschaisch-Tscherkessisches autonomes Gebiet
13. Jamalo-Nenzischer autonomer Bezirk
14. Nenzischer autonomer Bezirk
15. (Dolganisch-Nenzischer) autonomer Bezirk Tajmyr
16. Chantisch-Mansischer autonomer Bezirk

Verteilung der autonomen Gebietseinheiten
auf die Unionsrepubliken

	AR	aG	aB	insgesamt
RSFSR	16	5	10	31
Georgien	2	1	-	3
Aserbaidsschan	1	1	-	2
Usbekistan	1	-	-	1
Tadschikistan	-	1	-	1
insgesamt	20	8	10	38

АНКЕТА-ЗАЯВЛЕНИЕ
О ВЫХОДЕ ИЗ ГРАЖДАНСТВА СССР

Место Platz
для für
фото- Photo
карточки

(Schreiben Sie bitte deutlich, unbedingt mit Tinte oder auf der Schreibmaschine)
(deutlich schreiben, unbedingt mit Tinte oder auf der Schreibmaschine)

1. **Фамилия** Familiennamen (für Frauen - auch den Mädchennamen angeben) Schreibmaschine
для женщины - указать и девичью фамилию
2. **Имя и отчество** Vorname und Vatersname
3. **Год, число, месяц и место рождения** Jahr, Tag, Monat und Ort der Geburt

4. **Национальность** Volkszugehörigkeit

5. **Социальное положение** Soziale Stellung

6. **Образование (общее, специальное)** Bildung (höhere, spezielle)

7. **Профессия (основная)** Beruf (Hauptberuf)

8. **Чем занимаетесь, в качестве кого и где работаете (в настоящее время), на какие средства живете** Womit beschäftigen Sie sich, in welcher Eigenschaft und wo arbeiten Sie (gegenwärtig), mit welchen Mitteln bestreiten Sie Ihren Lebensunterhalt

9. **Состояли ли под судом и следствием, когда, где и за что** Haben Sie vor Gericht gestanden und hat gegen Sie ein Untersuchungsverfahren stattgefunden,

10. **Служили ли в армиях и войсках, когда и в каких** Haben Sie in Armeen und Streitkräften gedient, wann und in welchen

11. **Отношение к воинской повинности в настоящее время** Unterliegen Sie gegenwärtig der Wehrpflicht

12. **Были ли в СССР (или России), где именно, когда, при каких обстоятельствах и по какому документу выехали. Ваш последний адрес в СССР (или России)** Sind Sie in der UdSSR (oder in Rußland) gewesen, wenn ja, wo; unter welchen Umständen und aufgrund welchen Dokuments sind Sie ausgereist. Ihre letzte Adresse in der UdSSR (oder Rußland)

13. **Имеется ли у Вас лично или у Ваших близких родственников какое-либо имущество, денежные вклады и проч. в СССР и за границей, какое и где именно (указать точно)** Besitzen Sie persönlich oder Ihre nahen Verwandten irgendein Vermögen, Geldeinlagen usw. in der UdSSR und im Ausland, wenn ja, was und wo (genau angeben)

14. **Какое гражданство ждете принять** Welche Staatsbürgerschaft wollen Sie erwerben

15. **Причины выхода из гражданства Союза ССР** Gründe für die Entlassung aus der Staatsbürgerschaft der Union der SSR

№ 197 г.

Консульство СССР в

16. Кто из Ваших родственников проживает в СССР (указать: родство, фамилию, имя, отчество, время и место рождения, гражданство, занятие и точный адрес) Welche Ihrer Verwandten leben in der UdSSR (anzugeben sind: Verwandtschaft, Familienname, Vorname, Vatersname, Zeit und Ort der Geburt, Staatsbürgerschaft, Tätigkeit und genaue Adresse)
17. Кто из Ваших родственников проживает за границей (указать: родство, фамилию, имя, отчество, время и место рождения, гражданство, занятие и точный адрес) Welche Ihrer Verwandten leben im Ausland (anzugeben sind: Verwandtschaft, Familienname, Vorname, Vatersname, Zeit und Ort der Geburt, Staatsbürgerschaft, Tätigkeit und genaue Adresse)

ЗАЯВЛЕНИЕ

Antrag

Сообщая о себе вышеуказанные сведения, прошу Президиум Верховного Совета СССР решить мне выход из гражданства Союза Советских Социалистических Республик.

Одновременно со мной прошу разрешить выход из гражданства Союза ССР следующих, находящихся при мне, несовершеннолетних лиц:

Indem ich obige Angaben zu meiner Person mache, bitte ich das Präsidium des Obersten Sowjet der UdSSR, meine Entlassung aus der Staatsbürgerschaft der Union der Sozialistischen Sowjetrepubliken zu genehmigen. Ich bitte, die Entlassung aus der Staatsbürgerschaft der Union der SSR für folgende, sich bei mir befindliche minderjährige Personen gleichzeitig mit meiner Entlassung zu genehmigen:

№№ п/п.	Фамилия, имя, отчество	Дата рождения	Родственные отношения	Примечание
No.No. in der Reihenfolge	Familienname, Vorname, Vatersname	Zeitpunkt der Geburt	Verwandtschaftliche Beziehungen	Bemerkung

Прилагаются следующие документы: Folgende Dokumente werden beigelegt:

_____ 197 г.

Подпись заявителя Unterschrift des Antragstellers

Адрес заявителя Adresse des Antragstellers

THE AMERICAN JEWISH COMMITTEE

date July 19, 1985

to Leo Nevas and Marc Tanenbaum

from Sidney Liskofsky

subject UN Subcommittee on Discrimination: Right to Leave Report

The attached is an advance copy of the "progress" report of the UN Subcommittee on Discrimination's Special Rapporteur (the member from Zambia) who is engaged in preparing a study of the right of emigration (and related issues). As expected, considering the realities of the Subcommittee's political composition, it is cautiously drawn, a desirable posture at this intermediate stage of the study.

Even so (leaving aside the "soft" reasoning and the sometimes inelegant writing), the report does identify key human rights issues to be dealt with in the final report, for example: abuses by low-level officials and the need for review of administrative procedures (para. 15); the national security excuse for restricting free movement (para. 17); the requirement to renounce citizenship as condition for emigrating; the exit tax device and the general question of permissible (and impermissible) limitations on the right to leave (para. 20-21); the moral-legal claim of countries of origin to the skills and talents of would-be emigrants (para. 35).

A favorable portent is the reference to the goal of an international declaration which for many years had been virtually given up as hopeless. Note the explicit statement (p. 10) that the final report will consider "Mr. Ingles's Draft Declaration on the right to leave and return and the Uppsala Declaration on the same matter, with a view to submitting a draft declaration as requested by Commission on Human Rights resolution 1985/22." If a satisfactory declaration (a fortiori a legally binding convention) spelling out the main elements of the right to leave one's country is achieved, the JBI will have a provable claim to the credit for initiating and nurturing the idea.

Though the Special Rapporteur is theoretically an independent expert, the eventual direction of the study will depend, in considerable part, on the trend of discussion in the Subcommittee. Hopefully, he will be able to resist Soviet/Arab interferences. In any event, for a certainty, he will have been substantially educated and influenced by our earlier Uppsala study and our current PAIL study. Our contacts with him and with the relevant UN Secretariat staff have been particularly friendly. In this connection, I draw attention to page 9 of the report for the sole source reference, i.e., our Uppsala volume.

SL/DG

MEMORANDUM

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Thirty-eighth session
Item 6 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF
APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE
SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Analysis of the current trends and developments regarding
the right to leave any country including one's own, and
the right to return to one's own country, and some
other rights or considerations arising therefrom

Progress report prepared by Mr. Mubanga-Chipoya

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1. This progress report has been prepared by the Special Rapporteur pursuant to Sub-Commission resolution 1984/2 of 29 August 1984.

Background

2. At its twelfth session, in 1960, the Sub-Commission on Prevention of Discrimination and Protection of Minorities decided, in resolution 5 (XII), to initiate a study of discrimination in the matter of the right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights. The Sub-Commission appointed one of its members, Mr. José D. Inglés, as Special Rapporteur to carry out the study.

3. The final report of the study was presented to the Sub-Commission at its fifteenth session, in 1963 (United Nations publication, Sale No. 64. (XIV.2)). At that session, the Sub-Commission, after examining a series of draft principles submitted by the Special Rapporteur in chapter VI of the report, formulated draft principles on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and transmitted them to the Commission on Human Rights for further consideration and adoption. The Commission was able to consider the study only at its twenty-ninth session, in 1973. At that time it also considered documentation relating to new developments in the field, prepared by the Secretary-General (E/CN.4/1042 and Add. 1-4).

4. On the recommendation of the Commission, the Economic and Social Council, in resolution 1788 (LIV) of 18 May 1973, expressed its warm appreciation to the Special Rapporteur, affirmed the need for Governments to bear in mind the relevant decisions and resolutions of the United Nations with respect to the enjoyment of the right of everyone to leave any country, including his own,

and to return to his country; and drew the attention of Governments, international and regional intergovernmental organizations and other institutions and bodies concerned to the draft principles which had been prepared and adopted by the Sub-Commission (ST/HR/3, p.6-9). In accordance with this resolution, the Secretary-General brought the draft principles to the attention of the States ~~Parties~~ ^{International} to the ~~Covenant~~ on Civil and Political Rights at their first meeting. The Council further decided that the Commission on Human Rights should retain this question on its agenda and consider it at three-year intervals coinciding with its discussion of the periodic reports on civil and political rights.

5. By its resolution (XXIV) of 9 September 1981, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General to submit to the Sub-Commission at its thirty-fifth session a concise note informing the Sub-Commission of the consideration which has been given by the Commission on Human Rights and Economic and Social Council to the Study of Discrimination in respect of the "Right of Everyone to Leave Any Country, including His Own, and to Return to His Country" presented to the Sub-Commission at its fifteenth session in 1963 by the Special Rapporteur, Mr. José D. Inglés.

6. At its thirty-fifth session, the Sub-Commission, in its resolution 1982/23 of 8 September 1982, noted the report of the Secretary-General (E/CN.4/Sub.2/1982/27) submitted pursuant to Sub-Commission resolution 7 (XXXIV) of 9 September 1981, and requested Mr. Mubanga-Chipoya to prepare an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, and to have the possibility to enter other countries, without

discrimination or hindrance, especially of the right to employment, taking into account the need to avoid the phenomenon of the brain drain from developing countries and the question of recompensing those countries for the loss incurred, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights.

7. At its thirty-sixth session, the Sub-Commission, in its resolution 1983/5 of 31 August 1983, recommended, through the Commission on Human Rights, that the Economic and Social Council endorse the appointment of Mr.

Mubanga-Chipoya. The Economic and Social Council in its resolution 1984/29 of 24 May 1984, having noted Commission on Human Rights resolution 1984/37 endorsed the appointment by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of Mr. Mubanga-Chipoya to prepare an analysis of current trends and developmensts in respect of the right of everyone to leave any country, including his own, and to return to his country, and to have the possibility to enter other countries, without discrimination or hindrance, especially of the right to employment, taking into account the need to avoid the phenomenon of the brain drain from developing countries and the question of recompensing those countries for the loss incurred, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights, and requested the Rapporteur to present to the Sub-Commission at its thirty-seventh session for its consideration recommendations for promoting and encouraging respect for and observance of this right.

8. At its thirty-seventh session, the Sub-Commission, in its resolution 1984/21 of 29 August 1984, having considered the preliminary report and the questionnaire submitted by the Special Rapporteur (E/CN.4/Sub.2/1984/10), requested the Special Rapporteur to continue his important work in order to

present to the Sub-Commission at its thirty-eighth session for its consideration a progress report and at its thirty-ninth session his final report, including recommendations for promoting and encouraging respect for and observance of that right.

9. The Commission on Human Rights, in its resolution 1985/22 welcomed the progress made so far by the Special Rapporteur and requested the Sub-Commission to consider the next report by the Special Rapporteur as a matter of priority, with a view to submitting to the Commission as soon as possible a draft declaration on the right of everyone to leave any country, including his own, and to return to his country.

I. SCOPE OF THE PROGRESS REPORT

10. At its thirty-seventh session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities approved the questionnaire contained in document E/CN.4/Sub.2/1984/10 dated 9 July 1984, prepared by the Special Rapporteur to elicit information from Governments, relevant United Nations bodies and specialized agencies as well as intergovernmental and non-governmental organizations concerned, on current trends and developments regarding the right to leave any country, including one's own, and the right to return to one's own country, and some other rights or considerations arising therefrom.

11. A number of Governments (see Annex II) have responded to the questionnaire. Although most of the replies have not directly addressed the issues raised by the study, a number of them have been extremely beneficial to the analysis. There were no responses from relevant United Nations bodies,

specialized agencies, intergovernmental and non-governmental organizations at the time of the preparation of the progress report. Given the small number of replies received and realizing that the bulk of them are yet to be received by the Secretariat, the Special Rapporteur hesitates to draw any final conclusions although there seem to be certain trends and developments regarding the right to leave any country, including one's own, and other aspects of the study. At this stage it is urged that the Secretariat send out reminders to the relevant institutions and Governments, which have not yet responded to the questionnaire to do so for inclusion in the next report. The situation is therefore still fluid and more information is sought after, including the advice that will come from discussion of this matter by the Sub-Commission.

12. The present report will touch on the normative aspects within the purview of international law, will shed some light on replies received and will indicate some issues to be considered in the final report.

13. For analysing the current trends and developments regarding the right to leave and other aspects of the study since Mr. Ingles's report, the Special Rapporteur wishes to make use of the replies given by Governments to Mr. Ingles's questionnaire ^{in order} to trace what legislative or administrative developments have occurred since Mr. Ingles submitted his report to the Sub-Commission in 1963.

II. THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN

14. The right to leave any country, including one's own and the right to return to one's country as enunciated in Article 13 (2) of the Universal Declaration of Human Rights has found substantial endorsement in many

international and regional legal instruments, inter alia, the International Covenant on Civil and Political Rights (Article 12); the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 (d) (ii)) and the Fourth Additional Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 2). Yet, despite this apparent world-wide acknowledgement of the right to leave any country, including one's own, and the right to return to one's country, the question might be asked as to whether it has become a right which should be enforced, or is it rather a mere human attribute without any reliable legal means of enforcement as ~~it~~ is exemplified by the human rights situation of the black population in South Africa. From the replies received so far the answer would appear to depend on whether in a particular country the supremacy of law, as expressed by the courts, exists and, even more important, on whether and when the relevant municipal law prohibits denial of the right to leave and return.

15. In nearly all replies ~~that~~ ^{that} address the question of the right to leave, it has been stated that this right is guaranteed by constitutional provisions or ~~some~~ other national statutes. A number of them ~~has~~ ^{have}, however, referred to certain administrative procedures which have to be fulfilled before a citizen or foreigner may leave the country concerned. These procedures range from mere attainment of a valid passport to heavy travel payments, according to information received from some countries. These procedures open the way to abuse by officers if these procedures are not constantly verified by the competent authorities.

16. For example, in some countries a citizen travelling abroad may be required to deposit a sum of money, especially ~~if~~ ^{if} it is feared that he might become destitute abroad. This money could be used to meet the cost of his repatriation in case he runs into problems abroad; if not, the money could be

deposited on his behalf. While recognizing the humanitarian aspect of this procedure, it should also be ^{noted} ~~noticed~~ that, on the other hand, such a procedure could be considered a clear violation of the right to leave; for those who would not be able to raise the required sum, would not be allowed to travel abroad.

17. Other restrictions seem to include the requirement to provide alimony for one's spouse or young children, in paternity cases under municipal law. Most countries may also be reluctant to allow mass emigration of citizens, particularly if they have extensively invested in the education and/or professional formation of their citizens, and if certain citizens have acquired valuable skills in industry or in other fields. Of course, there are still other reasons restricting the right to leave: quarantine regulations, imprisonment by courts of record, and, according to information received from one country, where national security or national interests are involved. Governments all over the world have given ^{a number of} ~~numerical~~ reasons for partial or total restriction of the free movement of some members of the community.^{1/}

^{1/} See generally: "The Right to Leave and to Return", Papers and Recommendations of the International Colloquium held in Uppsala, Sweden, 19-21 June 1972; edited by Karel Vasak and Sidney Liskofsky. The American Jewish Committee, 1976.

18. On the other hand there are current developments which facilitate the enjoyment of the right to leave, e.g., in countries which have ^{mutually} agreed ^{to} abolish visa requirements for citizens of their countries when travelling to ~~those~~ ^{covered by the agreement} countries. These arrangements have generally been made between countries of identical social and political backgrounds though this is not a general rule. However, this development seems to have led to other types of restrictions whereby some countries would be excluded in a travel document. A citizen can therefore only travel to countries specified in the passport or other travel document.

19. The Special Rapporteur hopes ~~that~~ ^{that} he will be able to ~~finally~~ ^{in due course} examine ^{the} prevailing international legal instruments for the purpose of reappraising and reinforcing the right to leave and return. He would also like to examine new trends and developments in national legislations enacted with regard to the right to leave and return. Furthermore, the replies received might reveal the substance of prevailing legislative practices in various countries in order to facilitate the description or definition of the right in the context of current norms of international law.

20. The following issues will also be addressed in the final report:

(a) Consideration of Mr. Ingles's Draft Declaration on the right to leave and return and the Uppsala Declaration on the same matter, with a view to submitting a draft declaration as requested by Commission on Human Rights resolution 1985/22.

(b) Must the right to leave depend on a corresponding right to enter another country?

(c) The incidence and effect of the requirement to denounce one's citizenship before emigration is allowed?.

(d) Must there be any restriction on the issue of passports to citizens?

(e) Should a time limit be established for a period within which a citizen may be allowed to stay abroad?

(f) The effect of imposing taxes before one is allowed to travel.

(g) Apart from those grounds accepted under Article 12 (3) of the International Covenant on Civil and Political Rights are there still other reasons which would justify refusal to leave a country?

(h) Consideration of some of the most urgent alleged violations of the right around the world.

III. EXTENT AND EFFECT OF RESTRICTIONS UNDER ARTICLE 12 (3) OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

21. While conceding some restrictions on the right to leave on certain members of their communities, some countries have asserted that in so doing they had acted within the proper internal prerogative of a sovereign State and in accordance with provisions directed and reflected by international law in relevant instruments such as, inter alia, Article 12 of the International Covenant on Civil and Political Rights. Therefore, some legislation had been enacted to regulate the entry and exist of both citizens and foreigners in conformity with current international law principles. The study should take a close ~~examination~~ ^{look at} of the provisions of Article 12 (3) of the International Covenant on Civil and Political Rights and Article 29 (2) of the Universal Declaration of Human Rights to determine the extent of their effect on the enjoyment of the right to leave and return. Have these provisions withered away or emasculated the right to a mere human attribute void of legal enforcement in case a Government opposes it? In considering the extent and

effect of these internationally recognized restrictions, it will be vital to recall that, as it was pointed out by the Sub-Commission last year when it discussed this matter, the restrictions have to be understood and interpreted in the context of respect and enjoyment of human rights. This should be the case, otherwise any country would curtail the right to leave and return on the grounds of expediency.

22. However, the question that arises is: has the time come for the community of nations to elaborate an instrument stating when such restrictions may be permissible under current international law? In a world of permanently changing situations, would it help to observe the right? Some may ^{well} ask

IV. POSSIBILITY TO ENTER ANOTHER COUNTRY

23. It is well established that there is no legal right for a ^freigner to enter another country. In most of the replies received from Governments thus far, it has also clearly been emphasized that, unless ~~it exists~~ ^{exists} a bilateral or other agreement with the country of the person seeking entry into another State, it is exclusively within the national juridical competence of a State to approve or reject the application. The basic criterion on which a non-citizen will be allowed to enter the country is to possess a valid passport and/or a visa. However, entry may still be refused despite a valid Visa in light of certain personal deficiencies of the applicant. Such deficiencies might be: a bad criminal record, suffering from a contagious disease, lack of means of sustenance forcing ^{the applicant} ~~him~~ to seek employment, and other similar considerations. The criteria for admission are so exclusively dependent on the domestic law that according to one reply "public policy" or "public good" may be reasons for a rejection. These general requirements equally apply to a tourist if he is requesting ~~to get~~ residence status.

24. In a genuine case of flight based on ^{the} well-founded fear of persecution on grounds of race, religion, political belief, membership of a particular social group or nationality, parties to the United Nations Convention on Refugees 1951 and its Protocol of 1967 will receive the applicant or at least allow him to get to another country than his own.

25. While there is a human right to leave any country, including one's own and the right to return to one's country, there is no corresponding right to enter another country except ~~it would be~~ ^{as} determined by the domestic law of the country concerned. In practice, however, it appears that Governments will not bar the entrance of an applicant with a valid visa, ~~if required,~~ except for weighty considerations which disqualify the applicant.

26. As already indicated, bilateral or regional agreements between States may provide for travel between those States without the need to obtain valid visas.

27. The final report will consider in greater detail all the matters touched upon as well as: entry of migrant workers; entry of refugees ~~and asylees~~; entry of professional people or experts on skills or trade; entry of people of different races, religious belief, and whether there is any objection to acceptance ^{of applicants} of either sex ~~of the applicant~~ and other relevant matters which space and time will allow to include in the study.

V. RIGHT TO EMPLOYMENT

28. Although one country communicates that ^cone a person is admitted to the country he becomes entitled to employment, the majority of the replies indicate that there is no such a right to non-citizens. Indeed, the Universal Declaration of Human Rights does not seem to recognize such a right for immigrants. Even where employment may be offered to immigrants, many replies indicate →

that preference will be given to citizens if qualification^s required for employment is equal with that of an immigrant. Certain types of employment are not available to immigrants; in some countries immigrants may not be employed in the civil service.

29. The final report will consider all the issues in greater detail, including,

1. Disparity in remuneration between citizens and immigrants;
2. Exclusion of immigrants from certain types of employment;
3. The extent and nature of the right to employment of immigrants in those countries where this is recognized;
4. Extent and incidence of bonded labour in payment for entry into a country;
5. The practice of issuance of work permits or work visas to immigrants, its incidence and benefit to immigrants;
6. Is there a right to employment of all the people in the country?
7. What is the effect of the provisions of the ILO Conventions and Recommendations concerning migrant workers and ^{related} ~~similar~~ matters?
8. Do Governments reject the right on the grounds of expediency considering the difficulty of providing full employment?
9. Does Article 2 (2) and (3) of the International Covenant on Economic, Social and Cultural Rights ^{by inference} ~~inferentially~~ impose a duty on developed countries, ~~Parties~~ to the Convention, to guarantee rights, recognized in the instrument, of non-nationals in their borders?
10. Article 6 of the International Covenant on Economic, Social and Cultural Rights recognizes the right to work, does it also apply to non-nationals?

VI. RIGHT TO RETURN TO ONE'S COUNTRY

30. The Universal Declaration of Human Rights (Article 13 (2)), the International Covenant on Civil and Political Rights (Article 12 (4)); the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 (d) (ii)) and regional instruments such as the African Charter of People's and Human Rights, the European Convention on Human Rights and its Fourth Protocol and other human rights instruments, have broadened the scope of the right to return to one's own country. It seems, however, that this right is not yet fully respected by all nations. There are indications that some nations would require particular proof of citizenship in the absence of a passport, and failure to furnish such a proof would lead to ~~refusal of~~ ^{refusal of} entry into one's country. If there is a possibility of appeal against such a decision, this could nevertheless lead to delays of court proceedings, while the applicant may be ~~sequestered~~ ^{detained} in order to prevent him from disappearing.

31. In the final report an attempt will be made to find out whether ^{any} ~~countries~~ exist which would repatriate their nationals if they became destitute abroad, ~~or have~~ ^{or have} ~~and other countries~~ ^{the} constitutions ~~of~~ which prohibit sending nationals into exile or deporting them. Furthermore, steps taken in case ^{when} ~~an~~ alleged citizen cannot provide documentary proof of his citizenship, will also ^{be} ~~be~~ closely examined.

VII. PHENOMENON OF ^{THE} "BRAIN DRAIN" OR THE OUTFLOW OF TRAINED PERSONNEL FROM DEVELOPING COUNTRIES

32. The first thought that comes to mind when considering this multi-faceted and complex subject of the phenomenon of ^{the} brain drain is that there is a strong tendency of conflict between various human rights. On the one hand, the rights of the individual who wants to migrate to "greener pastures", and on the other hand, those of the community he is expected to leave behind. His Excellency, President Hosni Mubarak of Egypt stated, at the International Labour Conference in 1983:-

"This problem poses a dilemma to developing countries, a difficult option between respecting the human right to choose the place and type of job and the need to give priority to overall socio-economic development in societies which cannot offer living standards and working conditions to match those prevailing in developed countries."

But what are these conflicting rights? Article 29 of the Universal Declaration of Human Rights provides that:

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the rights and freedoms of others and of meeting the first requirements of morality, public order and the general welfare in democratic society." ...

33. Emphasizing the legal principle that natural resources, including acquired resources, are the inalienable property of the community, Article 1 (2) of International Covenant on Economic, Social and Cultural Rights states that:-

"All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence"

34. It is conceded that while acquired skills and training, the assets lost by developing countries through^{the} "brain drain", may not be the wherewithal^{through which} a community earns its subsistence. Their loss is quite a retarding blow to their programmes of development in most cases. The same Covenant further declares in Article 25 that:-

"Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources."

35. These statements and others from other normative international instruments clearly establish that a community has some legal claim on skills and talents developed by members in that community. This legal community claim is even more clearly brought out in the African Charter of Peoples' and Human Rights.

36. On the other hand it cannot be disputed that each member of a community has certain economic duties towards his immediate family and himself. Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights puts it this way:

"The State parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on consent."

And Article 7 provides:

"The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular (a) (ii) a decent living for themselves and their families in accordance with the provisions of the present Covenant."

37. This might imply that if these benefits are not attainable in his country, for whatever reason, an individual may go in pursuit for them beyond national borders. These are perhaps quite obvious conclusions from the premises. What is sometimes not so obvious is that such an outflow of trained personnel should be based on an exchange basis, like any other exchange of goods or services in a given market. Just as foreign labour is paid for in developing countries, similar labour from developing countries ~~practiced~~ ^{provided} in developed ones should also earn developing countries a price, not based on a notion of charity but on the basis of value for value received. The fact that a clear way has not yet emerged how such an exchange could be handled, should not diminish the inherent ~~work~~ ^{worth} of the claim.

38. The exported manpower could be considered as a commodity for which foreign exchange becomes due to the skill-sending country. The compensation paid to a country should at least cover the domestic loss. A system similar to double taxation arrangements could be made in which part of taxation paid by such personnel is sent to the skill-sending country. Payment of lump sums could also be considered or payments spread over long periods. In this way the conflicting legal claims of the individual and those of the community could find mutual accommodation.

39. The final report will discuss more complex issues and will suggest other ways of solving the problem. The types of manpower lost in this way will also be discussed and a more detailed analysis will be ^{made} ~~given~~ of what causes this new type of population migration, and the question will ^{be} ~~(examined)~~ whether there is a contradiction between the request that receiving countries should provide employment to immigrants and the appeal or the demand that those countries should pay skill-losing countries for such labour?

AMERICAN JEWISH
ARCHIVES
ANNEX I
QUESTIONNAIRE

I. The right to leave any country, including one's own

Information concerning any measure taken, especially recently, to facilitate implementation of the right of everyone to leave any country, ~~including~~ ^{including} ~~and~~ one's own. This would include information on any constitutional, legislative and regulatory provisions, administrative practice, and court decisions with regard to both nationals and non-nationals. Please indicate whether or to what extent and under what conditions foreigners are freely allowed to leave your country, particularly whether they are required to get exit visas.

II. Extent and effect of restrictions under article 12 (3) of the International Covenant on Civil and Political Rights

(1) Information on the law and practice and concerning the extent of any restrictions which might be placed upon the right to leave any country, including one's own, in accordance with the provisions of article 12 (3) of the International Covenant on Civil and Political Rights, in order to protect national security, public order, public health or morals, or the rights and freedoms of others.

(ii) Information on the law and practice regarding grounds for restrictions, if any, other than those enumerated in article 12 (3) of the Covenant.

III. Possibility of everyone to enter another country

(i) Information on basic constitutional provisions, other laws, regulations, administrative practice and court decisions relating to the entry into your country of non-resident foreigners. Please specify whether there are any differences in this respect on grounds of, or in relation to, race, colour, sex, language, religion, political belief, level of education, nationality, country of origin of the immigrant, or on any other grounds.

(ii) Information concerning the entry into your country of refugees.

(iii) Information concerning any restrictions which might limit the possibility of immigration into your country.

IV. Right to employment

Information concerning legal provisions and practice on the right to work. This Information would deal particularly with any legal or moral duty or practice to provide employment for immigrants.

V. Right to return to one's country

Information concerning any grounds or circumstances on the basis of which a national may be refused to return to his own country. This would also include those cases under which a national wishes to enter your country without authenticating his identity by passport, laissez-passer, visa, or other travel documents.

VI. ^{the} Phenomenon of "Brain Drain" or the outflow of trained personnel from developing countries

- (i) Information concerning measures taken to reconcile fairly the right to leave one's own country in order to seek more remunerative employment in other countries or to achieve further personal, social and economic development and the need for social and economic development of the community left behind.
- (ii) Comments or views concerning any system which would seek to provide a form of replacement or compensation for expertise, social and economic losses incurred by developing countries as a result of such emigration.



ANNEX II

Communications received

States

Barbados	3/1/85
Belgium	19/4/85
Burkina Faso	19/11/84
Chad	29/11/84
Colombia	18/9/84
Cyprus	19/11/84
Czechoslovakia	January 1985
Denmark	12/12/84
El Salvador	14/12/84
Finland	15/1/85
German Democratic Republic	5/3/85
Germany, Federal Republic of	9/4/85
Greece	3/1/85
Israel	8/3/85
Japan	21/2/85
Lebanon	15/10/84
Philippines	11/12/84
Portugal	8/3/85
Rwanda	8/3/85
Sri Lanka	21/1/85
United Kingdom of Great Britain and Northern Ireland	2/11/84
Venezuela	31/1/85
Zambia	21/1/85

Excerpts from a letter addressed to J. Kovadloff by Prof. Dr. Esteban Veghazi,
B'nai Yisroel, Santiago, Chile, dated February 27, 1986

"The University of Muenster and ADLAF, the German Research Association on Latin America, are planning a Sociocultural Conference on Latin America in 1987. Following discussions with the institutions' leadership, it has been agreed to accept my proposal to establish a Special Workshop on 'German and Central European Jews in Latin America -- Destiny and Adjustment of the Emigrants.' I am in charge of coordinating and preparing the workshop, and will also be giving a lecture on the subject.

"ADLAF's President, as well as Dr. Achim Schrader, chairman of the Conference's Program Committee, have asked me as per letter of February 18, 1986, to advise them which Jewish institutions would be interested in participating in the aforementioned Workshop. In my opinion, the Latin American Department of the AJC should be a participant as the foremost institution in the educational/cultural arena and in working towards the furtherance of human coexistence.

"Before replying to Prof. Schrader, I should like to have your agreement to participate, which is what prompted me to write you. I hope there will be no problem in this regard."

JAN 21 1986

FOR YOUR INFORMATION

1/21/86

Marc,



FYI.

Sidney

From Sidney Liskofsky

The Jacob Blaustein Institute
for the Advancement of Human Rights

THE JACOB BLAUSTEIN
INSTITUTE FOR
THE ADVANCEMENT
OF HUMAN RIGHTS of THE AMERICAN JEWISH COMMITTEE
165 EAST 56 STREET, NEW YORK, N.Y. 10022 • CABLE WISHCOM, NEW YORK • TEL. PLAZA 1-4000

January 21, 1986

Dr. Morton Blaustein
One North Charles
The Blaustein Institute
Baltimore, Maryland 21203

Dear Morton:

At last week's Blaustein Administrative Council meeting, you asked about the Helsinki issue.

The enclosed are several items that offer excellent background on the history and basic issues of the Helsinki Accords.

The New York Times op-ed columns give the crux of the current pro-con debate around the question of US policy. The US GAO item provides a concise overview of the history of the Helsinki Accords as well as of the US Congressional-Executive Commission mandated to "monitor and promote" compliance with the Accords.

The enclosures include copies of the prefaces and participant lists of the 1978 Aspen Institute colloquium which we subvented, and which was preparatory to Aspen's follow-up colloquium in Berlin the year after. (Please note the references to the Blaustein Institute.) If you would like copies of the full brochures, I would be happy to send them to you. In reviewing these materials, I was most impressed with their high quality and with the qualifications of the colloquium participants.

As you might expect, the literature on the subject is huge, including an important legal volume by Tom Buergenthal, a JBI Council member, and, on a lesser level, two longish studies I wrote in the 1976-78 period. It would be punishment to impose them on you.

Best wishes.

Sincerely yours,

Sidney
Sidney Liskofsky

cc: David Hirschhorn

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New York Times 8/1/85

To Many, 'Helsinki' Means Hope

By Jeri Laber

Critics of the Helsinki process, who see it as a cynical charade enacted at the expense of human rights in the Eastern bloc, would like to see the United States nullify the accords. This would be a grave mistake.

It is true that the accords have been violated, almost from the moment they were signed. It is also true that the human rights situation in several Warsaw Pact countries is much worse today than it was 10 years ago. Repression has been brutal, blatant and often in arrogant defiance of Helsinki meetings in progress at the time. But these abuses, distressing as they are, make it all the more imperative that the Helsinki process continue. It is, after all, the only official East-West forum at which human rights violations are discussed.

Beyond this, and still more significant, the accords have provided a rallying point for people struggling for freedom and peace in the signatory countries. They have done so by encouraging private citizens in all European countries to "know and act upon their rights" by monitoring their own governments' behavior.

True, many of the citizens who took up this challenge soon became victims themselves. More than 50 Helsinki monitors in the Soviet Union are in prison or internal exile; others have been intimidated into si-

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lence or forced to emigrate. In Czechoslovakia, the authorities continue to persecute the more than 1,000 people who signed Charter 77 upholding Helsinki principles. The Polish Helsinki Committee, which operated openly during the Solidarity period, has been forced underground. A group that attempted to form in Rumania was snuffed out before it even began.

Nor is repression confined to the Warsaw Pact countries. In Turkey, 23 members of the executive committee of the Turkish Peace Association have been sentenced to eight years in prison.

Nevertheless, despite all this, courageous individuals continue to speak out, keeping the record and bearing witness to the sufferings of others. As recently as March, a group of Charter 77 signatories issued an appeal citing the Helsinki standards. Meanwhile, they and other human rights activists throughout the repressive countries of Europe continue to address their reports and appeals to the Helsinki forum. I have seen the Helsinki spirit at work in meetings with activists in Moscow, Prague, Warsaw, Budapest, Bucharest, Belgrade and Istanbul. Voices may lower but eyes light up when the word "Helsinki" is mentioned. To these people, "Helsinki" means hope.

If the United States were to pull out of the Helsinki process, this country would be abandoning these people and others like them who put their faith in the accords, sacrificing their freedom and sometimes their lives. We would also be squandering the moral force that the Helsinki accords have acquired as a result of those sacrifices. For the Russians, our withdrawal would be an ideological victory — a victory they in no way deserve. □

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Assessing the Helsinki Final Act, 10 Years After

A Loss For the West

By Richard Pipes

CHESHAM, N.H. — The Soviet Union won important psychological and moral victories with the signing of the Helsinki accords 10 years ago. What the West gained is by no means apparent.

As has been the case with nearly all major moves affecting East-West relations since 1945, the initiative for what became the Final Act came from Moscow. As early as 1954, the Kremlin proposed a "collective security system" in Europe. The suggestion came to fruition 19 years later, in 1973, when members of the North Atlantic Treaty Organization and the Warsaw Pact and the neutral states of Europe convened in Helsinki to discuss European security and cooperation.

The Soviet initiative was initially intended to forestall the consolidation of NATO and the remilitarization of West Germany. But after Leonid I. Brezhnev assumed power in 1964, Soviet diplomacy shifted its emphasis from military affairs to politics and economics. The Russians had in mind nothing less than blurring, if not wiping out, the lines separating the two blocs. This was, paradoxically, to be accomplished through international legitimization of the status quo in Europe, including the division of Germany. Their long-term hope was to decouple the United States from Western Europe.

The United States reacted to Moscow's proposals with great skepticism.

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Marc Taffer

Not so Western Europe. The Europeans have long suffered from a sense of impotence in the confrontation between Washington and Moscow — a rivalry they are unable to influence but whose outcome could decisively affect their destinies. The Soviet proposals, which called for an elaborate mechanism to mitigate East-West tension, promised greatly to enhance the Europeans' international role. Under their prodding, the United States eventually agreed to join in the process of negotiating an agreement, but it insisted on Soviet concessions in matters affecting human rights.

True, from the Soviet point of view, the Final Act of 1975 cannot be regarded as an unqualified success: NATO retains its cohesion and the United States has not been eased out of Europe. Nevertheless, on balance, Moscow has good reason to feel pleased with the outcome of its audacious initiative.

Indeed, it was nothing short of audacious to ask the European democracies to sign a document that pretends to make the Soviet Union — the only conceivable threat to Europe's security — a co-guarantor of that security. The Final Act contains

an astonishing affirmation that the democracies and the countries opposed to everything that democracies stand for share "a common history" and recognize "the existence of elements common to their traditions and values." This alleged common heritage served as the basis for the claim that Europe East and West, is an entity with common security interests.

The net effect of these provisions has been to promote on the Continent a sense of complacency — an illusory security quite at odds with the Kremlin's military preparations. For the sake of maintaining this illusion, Western Europeans have been exerting pressure on Washington to accommodate Moscow. In some respects, they have secured something like a veto on American policies toward Moscow everywhere save in the third world. Needless to say, no comparable pressures are exerted on Moscow either by America's allies or the Kremlin's own dependencies.

The other Soviet success at Helsinki has been of a moral nature. What could Western statesmen have had on their minds when they solemnly agreed to clauses committing the Soviet Union to "respect human rights and fundamen-

tal freedoms, including the freedom of thought, conscience, religion or belief" as well as the right of peoples to "self-determination"? These statesmen knew that Moscow would not — indeed, could not — abide by such promises, for to have done so would have caused the subversion of the Soviet regime and the dissolution of its empire. Whether they realized it or not, therefore, they prostituted Western values by tacitly confirming Moscow's view that human rights are nothing but "bourgeois hypocrisy."

In this respect, Western behavior at Helsinki recalls Yalta. No one can realistically claim that anything in Eastern Europe would have turned out differently if President Franklin D. Roosevelt had not, at Yalta, acknowledged it as a Soviet sphere of influence. But was it really necessary for him to pretend that democracy was possible under Stalin's rule? There would have been no free elections in Poland no matter what transpired at Yalta. But by taking Stalin's empty promises at face value and then wringing our hands when they were violated, we became accomplices in the rape of Poland and the rest of Eastern Europe. We helped Moscow demonstrate that where our short-term interests are involved we take self-determination no more seriously than we take human rights. In other words, we effectively implied, at bottom there is no difference between democracy and Communism.

Such defeats are costly to the West because its strength ultimately resides in its moral values — values that it emphatically does not share with the Communist bloc and that it must not cheaply trade away as it did at Helsinki 10 years ago. □

Some Gains for The West

By F. Stephen Larrabee

When the Helsinki Final Act was signed 10 years ago today, it was heavily criticized in some circles in the West as a sellout and a Soviet victory. Such charges are as groundless today as they were then. Indeed, a decade later, many Soviet officials undoubtedly regret that Moscow ever signed the agreement.

The Russians' main gain — the one most vociferously denounced by Western critics — was the formal ratification of the postwar status quo in Europe. In fact, however, the postwar borders had been observed and implicitly accepted by the West for nearly two decades. They had also been explicitly acknowledged in the eastern treaties signed by West Germany and its eastern neighbors in the early 1970's. Thus, the West "gave away" nothing at Helsinki that had not already been agreed to and accepted. Moreover, in calling the frontiers "inviolable" instead of "unchangeable," as the Soviet Union originally wanted, the Final Act preserved the possibility of a peaceful change of the borders at a later date — and thus kept open the theoretical possibility of German reunification.

In return, the West got the Soviet Union to agree that human rights and other humanitarian concerns were an important component of East-West security. To be sure, the Soviet record of compliance on humanitarian issues has left much to be desired. But the very fact that Moscow signed the agreement has given the West an important diplomatic means by which to hold Moscow accountable for its actions. It provided a mutually agreed upon yardstick for measuring compliance and put Moscow on the defensive diplomatically.

Even on human rights, however, the record has not been entirely negative. On some issues, such as reunification of families and working conditions for journalists, there has been important progress. Moreover, in contrast to the Soviet Union, the

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compliance record in some East European countries, such as Hungary, has been quite good. In short, the Iron Curtain has not come down, but it has become more porous.

There have also been modest improvements on military matters. The Final Act contained provisions for a number of voluntary confidence-building measures — such as prior notification of troop movements and the sending of observers to maneuvers — designed to reduce the danger of surprise attack and diminish the prospects that a conflict would arise out of accident or miscalculation. Compliance by the Soviet Union and its allies has been less than perfect, but on the whole the act has led to more openness and predictability in military activities — two of its primary goals. Moreover, the agreement prepared the way for a set of more stringent and politically binding measures, now being negotiated in Stockholm.

On the economic level, a visible increase in East-West trade and investment has contributed in small but im-

Moscow may regret signing it

portant ways to opening up the countries of the Eastern bloc. This interaction has not, however, proved to be the economic bonanza that Moscow anticipated. On the contrary, East-West trade has actually declined since 1980 as a result of the debt problems in Eastern Europe and the recession in the West.

Finally, the Helsinki experience has had a unifying effect within the Western alliance, leading to improved policy coordination and a greater say for the Western Europeans in allied consultative bodies. It has forged a new sense of cohesion and unity among the smaller, neutral countries of Europe and given them a forum for articulating their security concerns. It has meant new room to maneuver for the more independent Warsaw Pact countries like Rumania and strengthened the constraints against intervention by other pact members.

In short, the balance is far from negative. Rather than renouncing the agreement, as some critics demand, the United States should build on what has already been achieved and continue to press for improvements in those areas where compliance has been faulty. □

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Czechoslovakia, the authorities continue to persecute the more than 1,000 people who signed Charter 77 upholding Helsinki principles. The Polish Helsinki Committee, which operated openly during the Solidarity period, has been forced underground. A group that attempted to form in

BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Chairman Of The Commission
On Security And Cooperation In Europe

Helsinki Commission: The First 8 Years

The Commission on Security and Cooperation in Europe was established by law in 1976 to monitor and promote compliance with the human rights and other provisions of the international Helsinki accords of 1975 and to monitor and encourage U.S. governmental and private programs seeking to expand East-West economic and cultural cooperation. The Commission--composed of 12 members of Congress and 3 executive branch representatives--has concentrated largely on the first of those mandates.

With a small professional staff, the Commission has (1) actively promoted a strong U.S. human rights policy in the Helsinki process, (2) played a major role in planning and conducting U.S. Helsinki diplomacy, (3) made itself a principal Western source of information on Soviet and East European violations, and (4) helped resolve numerous family reunification cases for Eastern victims of Communist repression.



GAO/NSIAD-85-57
MARCH 1, 1985

CHAPTER 1

INTRODUCTION

On August 1, 1975, after nearly 2 years of negotiations, 35 heads of state or government--representing the United States, Canada, and every state in Europe except Albania--met at Helsinki and signed the Final Act of the Conference on Security and Cooperation in Europe (CSCE). For the Soviet Union, the ceremony climaxed more than a decade of diplomatic and propaganda effort to confirm the territorial and political status quo in Eastern Europe. Whether the Final Act actually provided that confirmation has been a subject of debate. In any event, the West exacted a price: the Final Act also spelled out the signatories' political commitment to respect basic human rights--and established for the first time an agreed procedure by which their performance would be subjected to systematic review, criticism, negotiation, and public pressure. The "Helsinki process" became a new factor in East-West relations.

To both monitor and stimulate that process, the United States--alone among the signatories--established an independent government agency. What and how well that agency, the Commission on Security and Cooperation in Europe ("Helsinki Commission"), has done in its 8 years to date is the subject of this report.

THE HELSINKI PROCESS: ITS NATURE AND RATIONALE

The Final Act is a 40,000-word declaration of the parties' intentions to expand cooperation in military, economic, and humanitarian affairs and to "respect and put into practice" certain basic principles, including those of human rights. The Final Act is generally acknowledged to be "politically" rather than legally binding. It consists of four major sections, the first three of which became known informally as "baskets."

Basket I comprises commitments to certain "confidence-building" measures in the field of military security (e.g., advance notification of troop maneuvers) and a declaration of 10 guiding principles. The latter include, among others, territorial integrity of states; peaceful settlement of disputes; nonintervention in signatories' internal affairs, whether by the threat or use of armed force, political or economic coercion, or assistance to terrorist activities; self-determination of peoples; and (in Principle VII) "human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief."

Basket II--the longest and least controversial--enumerates measures the signatories contemplate to expand cooperation in economic, scientific, technological, and environmental affairs.

Basket III provides for cooperation in "humanitarian and other fields." Its centerpiece is the section on human contacts, in which the parties undertake to facilitate emigration for the reunification of families and binational marriages and travel for personal or professional reasons. These clauses have provided the basis for Western representations to the Communist governments on behalf of thousands of individuals and a humane resolution for many of them. Basket III also contemplates improvements in the dissemination of information and in cultural and educational exchanges.

The concluding section of the Final Act provides for the perpetuation of the Helsinki process. The parties would "proceed to a thorough exchange of views both on the implementation of the provisions of the final Act and of the tasks defined by the Conference..."

The first review meeting was held at Belgrade, from October 4, 1977, to March 9, 1978, with a 4-week Christmas recess. The second was held intermittently in Madrid between November 11, 1980, and September 9, 1983. A third follow-up meeting is scheduled for November 1986 in Vienna. (For a list of all past and scheduled Helsinki international meetings, see app. I.)

In sum, the Helsinki process comprises a range of political commitments and a series of follow-up review meetings in which the signatories collectively and bilaterally appraise their compliance records and seek ways to improve cooperation. The process has become a forum in which the West focuses attention on the Eastern governments' violations of the human rights provisions and their mistreatment of ethnic or religious minorities and political dissidents.

The Helsinki process is not without its critics. They maintain that the Final Act sanctified the European frontiers of Soviet hegemony in exchange for Soviet commitments on human rights and humanitarian issues which the Kremlin had no intention and indeed little ability to honor. The follow-up review meetings are seen as exercises in futility--refining or enlarging empty promises, aggravating the plight of Eastern human rights activists, and rekindling the unproductive rhetoric of the Cold War.

To the advocates of the Helsinki process, however, there is another side of the coin. As President Reagan said in commenting on the Madrid meeting, the United States upholds the Helsinki process not because it entertains illusions about the nature of the Soviet system but because the Helsinki and Madrid accords set forth "a clearer code of conduct for all 35 CSCE states--a set of standards to which we and the other Atlantic democracies will continue to hold all those who will have pledged their word..." Furthermore, Soviet and East European human rights activists testifying before the Commission appeared

unanimous in the view not only that the Helsinki process is indispensable to long-term progress, but that their own plight had been eased rather than aggravated as a result of it.

Despite some division of opinion, all Western signatory governments have remained actively committed to the Helsinki process. State Department and congressional officials we consulted are confident that the Helsinki process and U.S. participation will continue.

CREATION OF THE COMMISSION

The bill to create the Commission on Security and Cooperation in Europe received the unanimous endorsement of Congress and was signed into law (Public Law 94-304) on June 3, 1976. The State Department had advised against the bill on the ground that the Commission's functions could be adequately carried out by the Department and existing committees or subcommittees of Congress. Furthermore, the State Department said in a letter (January 19, 1976) to the two foreign relations committees that the Commission's "extraordinary composition would not seem to provide an appropriate or effective means for coordinating or guiding our efforts." The reports of the foreign relations committees of both houses, however, made clear the congressional belief that although State would also monitor compliance, such a commission was needed to assure that both U.S. policy and public discussion would give appropriate emphasis to the human rights provisions of the Final Act.

The statute authorizes and directs the Commission:

"to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act...with particular regard to the provisions relating to Cooperation in Humanitarian Fields...

"to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West...

"to report to the House of Representatives and Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested...[and to] report on its expenditures..."

The Commission comprises 15 members---6 members of the House of Representatives and 6 members of the Senate, appointed respectively by the Speaker of the House and the President of the Senate, and one representative each from the Departments of

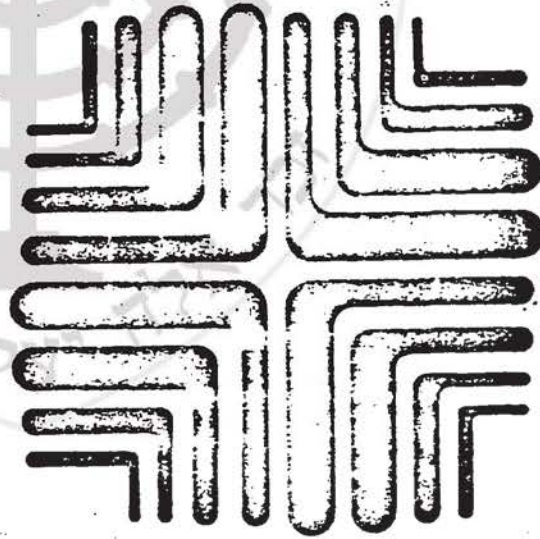
Aspen Institute for Humanistic Studies

Report from Aspen Institute Berlin 80/1 and the
Program on Justice, Society and the Individual



The Road to Madrid
**Developing a Western Consensus
on Human Rights**

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Preface

THE ASPEN Institute Berlin and the Justice Program of the Aspen Institute cosponsored a conference in Berlin, December 2-5, 1979, on *The Road to Madrid: Developing a Western Consensus on Human Rights*. The participants, drawn from West Europe, Canada and the United States, are identified in the Appendix to this report, along with the observers who attended most sessions. Also included in the Appendix is the text of the Helsinki Final Act.

This conference in Berlin was the second in a two-part series planned and carried forward by the Aspen Institute's Justice Program. The first, in cooperation with The Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, took place in New York City in November 1978. At that conference, human rights experts from the public and private sectors in the United States considered how best the United States might plan for its participation in the Review Conference on the Helsinki Final Act to be held in Madrid beginning in November 1980. The report of that meeting, *The Road to Madrid: Recommendations for United States Human Rights Policy*, was published in early 1979 and presented to appropriate United States officials in Vice President Walter F. Mondale's office.

The conference at Aspen Institute Berlin was a natural sequel to the initial meeting, bringing together representatives of Western nations to discuss mutual concerns and to assist in the formulation of common approaches to the Madrid Conference. As in the New York meeting, both the private and public sectors were represented, providing an opportunity for an informal exchange of views, free from the pressures of more formal encounters of an official nature.

For Aspen Institute Berlin, the December 1979 meeting was a further manifestation of its continuing interest in the Helsinki Final Act and the ongoing process. Reports of earlier meetings of Aspen Institute Berlin include the following:

Helsinki, Belgrade and Detente, the report of an East-West Journalists Conference, October 18-21, 1976.

Options for Belgrade, the report of an international conference, April 12-14, 1977.

To ensure a frank exchange of views at the meeting reported here, it was agreed that no statement would be attributed to any participant without authorization. Similarly, no attempt was made to reach consensus or to make formal recommendations. It should also be noted that both the Soviet intervention in Afghanistan and the arrest and internal exile of dissident Andrei Sakharov occurred after the meeting. These events, in the view of some participants, may make the road to Madrid even more difficult to traverse. Nonetheless, the discussion was so vital and informative that it seems desirable to communicate something of the sense of the meeting on the important issues there considered.

Funding for the conference and publication of this report was provided by Aspen Institute Berlin and by a grant from the Rockefeller Brothers Foundation to the Justice Program. James A. Cooney, Assistant Director of Aspen Institute Berlin, provided valuable help and advice in the preparation of the conference and the report.

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April 1980

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Developing a Western Consensus on Human Rights"
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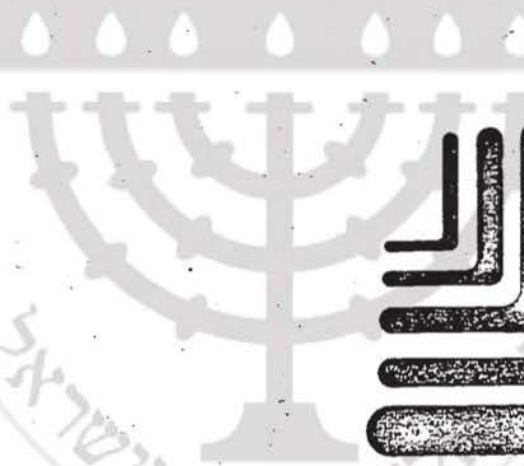
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THE ROAD TO MADRID

Recommendations for United States
Human Rights Policy

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PREFACE

THE JUSTICE PROGRAM of the Aspen Institute for Humanistic Studies, in cooperation with The Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, held a two-day meeting in November 1978 on "United States Human Rights Policy: From Belgrade En Route to Madrid." The meeting's purpose was to explore the policies and programs that the United States should pursue in furtherance of the Helsinki Accords and to consider what the United States should do in preparation for the second review conference scheduled for November 1980 in Madrid.

The 34 participants* are all professionally concerned with human rights, many of them engaged in shaping national human rights policy in government or in the private sector. They were invited not in a representative capacity but as individuals who brought to the discussion varied experiences and insights. No attempt has been made to distill or articulate a consensus of the meeting on all issues. While other aspects of the Helsinki Final Act were discussed, the focus in this report is on human rights. Its recommendations are part of a larger and continuing effort by the Aspen Institute and others to translate the humane aspirations of the Helsinki Final Act into national policy.

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*A list of the participants appears at the end of the report.

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