

May 19, 1986.

THE AMERICAN BAR ASSOCIATION: DUPED BY THE SOVIETS?

INTRODUCTION

Accelerated cultural, academic, and professional exchanges between the United States and the Soviet Union have been the major concrete result of last November's superpower summit. Such exchanges, if properly designed, should be welcomed and could improve U.S. and Soviet understanding of each other. The American Bar Association (ABA), however, is about to provide a sorry example of how not to conduct exchanges with the Soviets.

On May 26, an ABA delegation departs for Moscow to meet with the "Association of Soviet Lawyers." To all appearances, this will be a meeting between two equivalent professional associations--attorneys from two different countries. Here, however, the appearances deceive. There is little equivalence between the U.S. association and the Soviet association. What has happened, in fact, is that the ABA has been duped. In being lured to Moscow, the ABA is extending the mantle of legitimacy to the Soviet legal system. It is a system of organized illegality, constantly used throughout its history and until the present day by the Communist Party and secret police to suppress basic freedoms in disregard of the letter of Soviet law. The Soviet legal system, for example, has never acquitted a defendant charged with a political offense. Trials of political offenders in the Soviet Union are uniformly characterized by a mockery of justice, with evidence in favor of the defendant ignored by the judges, and the sentence predetermined by the KGB secret police.

Within this sham Soviet legal system, the Soviet attorney is a willing accomplice of the repressive state. There is no similarity between the members of the Association of Soviet Lawyers and their counterparts in the U.S., Britain, France, Italy, or anywhere else in the West. By treating the Association as if there are similarities, the American Bar Association violates and undermines the very goal of

cultural exchanges--to improve U.S. understanding of the Soviet Union. Instead, the ABA contributes to the continued misperception in the U.S. of the nature of the Soviet legal system.

WHAT IS THE ASSOCIATION OF SOVIET LAWYERS?

Unlike the ABA, which is a working organization of American lawyers, the ASL is not simply an organization created to pursue the professional interests of its members. Rather, the ASL was organized specifically in the mid-1970s to conduct Soviet propaganda in foreign countries. According to Dina Kaminskaya, a former defense attorney in the Soviet Union, who was forced into exile because of her defense of Soviet human rights activists, those invited to join the ASL were among the most "politically reliable" lawyers. Not a single lawyer who had shown even minimum independence regarding the KGB was included in the ASL.

ASL AND HUMAN RIGHTS

From the very beginning, the ASL has concentrated on fomenting anti-American spy mania and anti-Semitism in the Soviet Union. In 1979, the ASL published the White Book on Soviet Jewry. In it, Soviet Jews who sought to emigrate were said to be inspired by Western "intelligence services," while American newsmen George Krimsky and Alfred Friendly, Jr., were branded "CIA agents." The ASL book described Western tourists who meet Soviet Jews as subversive agents, and Jewish activists as Western spies.¹

Last year, just as the American Bar Association was signing its May 2 agreement with the ASL that led to this month's trip to Moscow, the ASL was teaming up with the Soviet Anti-Zionist Committee, one of the most virulent anti-Semitic operations since the defeat of Hitler, to publish the second edition of the White Book. In the preface, A. Sukharev, now ASL president, and D. Dragunskiy, a Soviet Army general who chairs the Anti-Zionist Committee, praised the 1975 U.N. resolution equating Zionism with racism and called upon "the Soviet people...to rebuff Zionist provocateurs." According to the book, Soviet Jews who have sought to emigrate but have been refused permission to do so (so-called refuseniks) are living in luxury because of the "presents" they receive from "foreign Zionists." Teaching Jewish children Hebrew and Judaism, states the ASL-Anti-Zionist Committee book, is "a blatant attempt to affect the

1. Belaya kniga (Moscow: Yuridicheskaya literatura, 1979), pp. 172-230.

psyche of minors in a religious and nationalistic way." And the United States, declares the book, is a land of government-sponsored anti-Semitism.² Although there are tens of thousands of Soviet Jews who want to leave the Soviet Union, the ASL's White Book states that Jewish emigration has ended.

Publication of this book is part of a new KGB campaign to demoralize Soviet Jews and extinguish their hopes for preserving their religious and cultural identity. It is reported that the American Bar Association's officials were aware of the books' existence when they planned this month's visit to the ASL.

What the Americans certainly should have known was the ASL's whitewashing of Soviet human rights violations. ASL President A. Sukharev addressed an April 1986 special meeting of "journalists" from communist and pro-communist Third World nations. He lectured on the need to promote the Soviet concept of human rights, which ignores the fundamental freedoms including the rule of law at the heart of Western civilization.

WHAT ASL REALLY DOES

Unlike the American Bar Association, which is a completely private group, the ASL is part of Soviet officialdom. Its President, A. Sukharev, is Minister of Justice of the Russian Federation (the largest of the Soviet republics) and thus is directly responsible for administering Soviet-style "justice." His previous job was as a bureaucrat on the Central Committee of the Communist Party. His deputy at ASL, Samuil Zivs, also serves as Vice President of the Soviet Anti-Zionist Committee and has written a number of attacks on Soviet human rights activists.

The ABA treats Zivs as a colleague. Yet Zivs has stated that Andrei Sakharov, perhaps the Soviet Union's most famous persecuted dissident, has been sent into internal exile in "full conformity with...the legal norms." In truth, Sakharov never has been charged with any crime, never has faced any court of law, and never was given a chance to defend himself. Though Sakharov has been forced to live in isolation and has been subjected to mental and physical torture by the KGB, Zivs describes his treatment as "lenient." As for the Jewish refusenik Anatoly Shcharansky, who was imprisoned for nine years before being allowed to emigrate, Zivs calls him a paid agent of the CIA. And when Anatoly Koryagin, a Soviet doctor, was thrown into prison for speaking out against Soviet abuses of psychiatry for

2. Belaya kniga (Moscow: Yuridicheskaya literatura, 1985), pp. 10, 13, 249-251, 58-60, 90.

punishing dissidents, Zivs accused him of preparing to engage in terrorism. Zivs even has lashed out at Amnesty International for "poisoning people's minds with the disinformation about the Soviet Union."³ Does the American Bar Association's delegation to Moscow know what kind of individuals they are embracing as colleagues when they meet Sukharev and Zivs?

ASL OBJECTIVES

Ostensibly, the ABA is going to Moscow to promote cooperation "in the areas of mutual professional interest." The ASL, of course, is not interested in educating Soviet lawyers about the guaranteed liberties in the U.S. Bill of Rights or the independent U.S. judiciary. The ASL has other goals. First, with the collapse of the mass "peace movements" in the West, the Soviet propaganda machinery has shifted to target elite professional groups in democratic countries to manipulate them into supporting Soviet international objectives. Second, the Soviets seem determined to counter the increasingly widespread recognition throughout the world that Moscow massively violates the human rights of its citizens. A critical element of what Soviets call their "counterpropaganda offensive" to gain respectability is contact with Western groups that creates for the Soviet Union the aura of moral equivalence with the West. This Moscow has achieved with the ABA-ASL exchange agreement that equates the perpetrators of illegalities in the Soviet Union with American lawyers.

CONCLUSION

The American Bar Association's pact with the ASL, says Harvard law professor Alan Dershowitz, "has made a mockery" of the cause of "thousands of political prisoners, religious dissidents, human rights activists, and refuseniks...who risk their freedom and life on a daily basis precisely to show the world that the Soviet legal system deserves no mutual respect from freedom-loving systems like our own." In short, it gives legitimacy to the Soviet system of judicial terror. In fact, the ABA connection already has won an ASL delegation, including Sukharev and Zivs, a visit with Chief Justice Warren Burger at the Supreme Court. And subsequently, Burger's office proposed to the State Department a Soviet-American exchange program on "penal reform."

3. Samuil Zivs, The Anatomy of Lies (Moscow: Progress, 1984), pp. 103, 46, 154.

There is a fundamental asymmetry in exchanges between U.S. public groups and Soviet pseudo-public groups. The former almost surely are driven by curiosity, good-intentions, or self-interest. The latter are guided solely by Kremlin foreign policy needs. As the ABA-ASL agreement demonstrates, an American public group with little understanding of Soviet affairs can undermine U.S. objectives of promoting and defending human rights and fundamental freedoms while the objectives of a foreign government hostile to American security and values are advanced.

It would be very inappropriate for the U.S. government to restrict the freedom of American citizens to meet with official Soviet groups such as ASL. Yet U.S. groups could be given authoritative, sophisticated, and unbiased advice on the nature of Soviet organizations. With such information, U.S. groups could make wiser decisions regarding exchanges with the Soviets. To this end, the U.S. Congress should consider establishing a bipartisan Advisory Board on U.S.-Soviet Exchanges, comprised of representatives of government and the private sector.

In the short run, if the ABA respects the principles of law that it represents as well as the interests of the free world, it should cancel its exchange with the ASL. The ABA then should insist that any future exchanges with the Soviets not be conducted through the ASL and that they include, on the Soviet side, independent individuals committed to furthering human rights inside the U.S.S.R. as guaranteed by the 1975 Helsinki Final Act which Moscow signed. Delegations of U.S. attorneys to the Soviet Union should have the same access to individuals as do Soviet delegations to the U.S. To settle for anything less is to mock the purpose of cultural exchanges and to ask to be duped by Moscow.

Mikhail Tsypkin, Ph.D.
Salvatori Fellow in Soviet Studies