American and Soviet Perspectives on Human Rights

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With the rapidly increasing interdependence of all people who inhabit the planet Earth, it has become widely accepted that the ways in which a country acts toward its own citizens may also have important consequences for citizens of other countries. More particularly, a state that systematically represses the fundamental rights of its own subjects is apt to be viewed as a potential threat to the peace and security of other states as well. This view is supported by the United Nations Charter, which expressly links the cause of human rights with the cause of world peace.

G.I. Tunkin, a leading Soviet writer on international law, has put the matter very well. "Contemporary international law," he writes, "proceeds from the fact, and this is highly important, that a close link exists between a state's basic human rights and freedoms and the maintenance of international peace and security. This link is expressed in many international conventions...and in United Nations General Assembly resolutions." Similar statements have been made by American writers on international law and by political leaders of the United States and of the Soviet Union as well as of many other countries. A new kind of international humanitarian law seems to have emerged, a humanitarian law of peace, under which states have agreed to be internationally accountable for violations of the fundamental rights of their own citizens.

On the other hand it is also widely accepted that excessive concern on the part of one state with violations of human rights on the part of another may itself endanger peaceful international relations. Such excessive concern may turn into a self-righteous crusade. It will be recalled that in the late 1940's and early 1950's the United States objected strenuously to Soviet support of American organizations that were attacking racial discrimination and class exploitation; this was called "subversion" of the American form of government by "foreign agents." Also, the United States continues to oppose Soviet support, given in the name of justice for the oppressed, to Communist parties in other countries, especially in Latin America. Similarly, especially in recent years, the Soviet Union has objected strenuously to what it calls "agitation and propaganda" against its form of government sponsored or supported—also in the name of justice for the oppressed—by the United States. In both cases the efforts of one country to promote its version of human rights within another country or countries have been viewed by the latter as an unwarranted interference in the internal affairs of sovereign states.

Thus the doctrine of the international accountability of every country for its violations of the human rights of its own citizens may clash with the doctrine of noninterference in the internal affairs of another country. Put another way, the interests of justice may clash with the interests of peace. Conversely, excessive concern for maintaining peaceful relations may lead one state to ignore, or acquiesce in, or even cooperate with, what may amount to a kind of internal aggression by another state against its own citizens.

The Helsinki Final Act of 1977 illustrates but does not resolve this dilemma. On the one hand it reaffirms the linkage of peace and security with fundamental rights. On the other hand it also reaffirms the principle of noninterference by one country in the international affairs of another. How are these two apparently conflicting affirmations to be resolved?

Their resolution is made difficult, in the first instance, by disagreements among nations concerning (a) the nature of human rights as rights; (b) priorities among human rights; and (c) proper procedures for enforcing human rights. These disagreements are especially sharp between the United States and the Soviet Union.

a. There is a sharp difference between the traditional American concept, reflected in the United States Con-

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stitution, that fundamental rights of individual persons exist independently of the state and in some contexts are even superior to the power of the state, and the Soviet concept, reflected in the USSR Constitution, that all rights are granted by the state and are inevitably subordinate to the power of the state.

In the United States Constitution rights are expressly phrased in terms of what the state is forbidden to do. Thus it is provided that "Congress shall make no law...abridging the freedom of speech, or of the press," that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated...," that "No person shall be...deprived of life, liberty, or property, without due process of law," that "No state...shall deny to any person...the equal protection of the laws," etc. These formulations imply that a constitutional right is something that exists prior to the state and that limits the state, and they presuppose that if such a right is infringed, even by the state itself, the victim of the infringement will have a legal remedy.

In the Soviet Constitution, on the other hand, rights are phrased in terms of what a citizen may do, not in terms of what the state is forbidden to do. They are facilitative rather than restrictive of state power. They have the character of a program, or a set of goals, to which the state has committed itself. Thus it is provided that "Citizens of the USSR shall have the right to work, that is, to receive a guaranteed job with payment for work...at a rate not lower than the minimum established by the state...including the right to choice of profession...," that "Citizens of the USSR shall have the right to protection of health...," that "Citizens of the USSR shall have the right to education...," that "In accordance with the interests of the people and for the purposes of strengthening and developing the socialist system, citizens of the USSR shall be guaranteed freedom of speech, of the press, of assembly, of meetings, of street processions and demonstrations...," that "Citizens of the USSR shall be guaranteed inviolability of the person. No one may be subjected to arrest except on the basis of a judicial decision or with the sanction of the procurator," that "The personal life of citizens, secrecy of correspondence, of telephone conversations, and of telegraphic communications shall be protected by law," etc. All of these rights are in the nature of commitments by the state to enact laws that will secure certain kinds of benefits to its citizens. If the state should fail to enact a law securing a particular benefit promised by the Constitution, the aggrieved citizen may have no legal remedy; if the state itself, acting through its highest agencies, violates a law securing a particular benefit, the aggrieved citizen may have no legal remedy. These are weaknesses of Soviet law, in comparison with American law, from the point of view of the individual citizen whose constitutional rights may be violated by the state. On the other hand it is a strength of Soviet law, in comparison with American law, from the point of view of groups of citizens, that the Soviet state has committed itself to the implementation of their rights—not merely to remedying violations of them but to developing means for their affirmative exercise. Thus the elimination or reduction of widespread urban crime, child abuse, functional illiteracy, unemployment, and other social evils is considered, in the Soviet concept, to be the direct responsibility of the state.

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b. With regard to priorities among human rights, the American emphasis is upon the priority of civil and political rights over economic and social rights, whereas the Soviet emphasis is upon the priority of economic and social rights over civil and political rights. This contrast is sometimes characterized as a contrast between "procedural" rights and "substantive" rights, and sometimes also as a contrast between "individual" rights and "collective" rights. It has been discussed and analyzed so often that it does not need an extensive elaboration here. Two points, however, may be noted. First, the differences in priorities are determined in part by the differences in the concept of the nature of rights. Indeed, from the classical American point of view such economic and social rights as the right to work and the right to medical care were not considered "rights" at all, and it is only during the past forty or fifty years that Americans have gradually come to consider them such, partly under the influence of comprehensive economic and social programs adopted by the federal and state legislatures and partly under the influence of international opinion and international law itself. Second, any effort to rank human rights according to an abstract system of priorities seems misguided. In practice, different countries have different needs, and even the same country has different needs at different times. The priority at any given time and place should be given to those rights that are being denied. Moreover, in practice, the various kinds of rights are usually interdependent; the argument that civil and political rights have little meaning for people who are starving ignores the fact that often it is only by exercise of freedom of speech and of assembly that the political system that perpetuates their poverty can be changed. Finally, although it is tempting for

various schools of legal philosophy to assert that various kinds of human rights are more important or more basic than others, international law itself treats them all as—in theory—equally important and equally basic.

c. With regard to procedures for enforcing human rights, the United States characteristically emphasizes judicial remedies, including injunctive relief, invoked by individual victims of violations and imposed against offending government officials, while the Soviet Union characteristically emphasizes administrative and supervisory remedies, including investigation by verification agencies (especially the Procuracy) followed by protests of those agencies, where necessary, to higher administrative authorities. This contrast, too, reflects the differences in the two countries' concepts of the nature of human rights as rights as well as in the priorities they assign to particular kinds of rights. In other words, to the extent that rights are viewed as grants by the state intended primarily to confer economic and social benefits upon citizens—to the extent, that is, that they are viewed as programmatic and teleological in character, rather than as vested and natural—the appropriate mode of enforcement is by agencies that act in a "watchdog" rather than a judicial capacity. Coupled with this is a rejection of the theory of a judiciary that is independent of the state itself, that is, of the legislative and executive authority.

These differences in viewpoint concerning domestic enforcement of human rights affect the attitudes of the two countries concerning enforcement in the international sphere as well. United States spokesmen often take the position that ideally, at least, individual victims of violations of human rights should be able to bring their claims against their respective governments before an impartial international tribunal or other agency. Soviet spokesmen not only doubt the applicability of international law to claims of individuals all together (and, *a fortiori*, to claims of individuals against their own governments), and not only doubt the possibility of genuine impartiality on the part of the international tribunal or other agency, but also take the view that the most effective way of combating violations of human rights in the international sphere is for the international community to investigate such violations and, if they represent the systematic policy of the offending state, condemn them.

In view of these basic differences concerning the concept of human rights, concerning priorities among human rights, and concerning proper procedures for enforcing human rights, it is impossible for either the United States or the Soviet Union to meet the other's standards of compliance with the International Covenants on Human Rights. There is nothing that either could do to satisfy the other, short of adopting the other's system of political institutions and political values. By the same token, the charges of noncompliance leveled by each against the other have no validity in the eyes of the other, since each bases such charges on standards the other does not accept. Each country therefore considers such charges an unwarranted interference in its internal affairs.

A possible solution to this dilemma is, first, to measure compliance in terms of progress toward a goal rather than in terms of adherence to a rule, and second, to evaluate the progress of each country in terms of its own historically developing system of political institutions and political values.

The adoption of the criterion of progress rather than the criterion of adherence would make it possible to judge each country's performance in the light of its own previous performance rather than in the light of a nonexistent common standard. For example, the United States might be asked to report on what it has done in a given period to reduce unemployment, to eliminate malnutrition, to make health services available to the poor, to remove racial discrimination, etc., while the Soviet Union might be asked to report on what it has done in a given period to increase freedom of emigration, to expand the permissible limits of religious activities, to reduce restrictions upon freedom of expression of nonconforming opinions, to increase the independence of the judiciary in cases involving ideological crimes, etc.

The International Covenant on Economic, Social, and Cultural Rights does, in fact, make progress the key to compliance with a great many of its provisions. For example, with regard to the right of everyone to work, it is provided that certain steps should be taken "to achieve the full realization of this right." With respect to the right of everyone to adequate food, clothing, and housing, it is provided that measures should be taken "to improve methods of production, conservation, and distribution of food." With regard to education, it is provided that there should be "a progressive introduction of free [secondary and higher] education." The International Covenant on Civil and Political Rights, however, is formulated for the most part in terms of adherence to positive rules, subject to broad exceptions for national security, "public order" (*ordre public*), and the like. Thus a country that permits emigration except on grounds of national security and public order may be in technical compliance with the Covenant (Article 12) even if the exceptions are used to prevent any emigration whatsoever. On the other hand a country that gradually reduces its restrictions on emigration, permitting more and more of its citizens to leave, technically has not changed its position with regard to compliance. A standard of progress, rather than adherence to a rule, would make it possible to distinguish between moving toward the goal of free emigration and moving away from it.

In determining whether progress toward the goal has been made, and how substantial that progress has been, measurement should be in terms, once again, of each country's own system of institutions and values. It would make no sense to charge the Soviet Union with failure to make substantial progress toward establishing a two-party or multiparty system of politics, or to charge the United States with failure to make substantial progress toward government employment of steelworkers. By the same token, each country must be judged—within the framework of the international covenants—according to its own concept of rights, its own priorities of rights, and

its own system of enforcement procedures. It is useless, for example, to complain that the Soviet courts have not declared Article 70 of the RSFSR Criminal Code, prohibiting anti-Soviet agitation and propaganda, to be a violation of the Soviet Constitution and hence unenforceable, since under the Soviet Constitution the courts do not have the power of judicial review of the constitutionality of legislative acts; or that the U.S. attorney general's office has not set up a system of inspection of local jails, since under the U.S. Constitution that is not normally within the federal jurisdiction.

On the other hand a purely relative standard of progress is in danger of being no standard at all. To avoid that danger it is necessary to start from the fact that each of the two countries accepts the goals stated in both of the International Human Rights covenants and further, that each views itself as being in the course of a historical development in the direction of meeting those goals. It is true that the acceptable rate of such development cannot be stated with precision. Nevertheless, a comparison of countries in terms of their respective rates of development in this regard would have considerable value. One could at least compare the rate of development of a country in one period with its rate of development in another period. Such a rate of moral growth could take its place alongside the rate of economic growth as a criterion of the success of a government in meeting the needs of its people.

If the criterion of progress is applied to the United States and to the Soviet Union, it is apparent that during recent decades each country has made substantial progress in its protection of certain kinds of human rights but not of others. In the sphere of civil and political rights, the United States suffered in the late 1940's and early 1950's from acute racial discrimination against nonwhites and also from acute political discrimination against persons who could be charged with having unorthodox political beliefs (so-called McCarthyism). Such discrimination not only adversely affected its victims' opportunities for employment but also sometimes took the form of criminal repression. In 1954 there began a reversal of policy with regard to both racial and political discrimination. The Supreme Court decision of that year declaring racial segregation in the schools to be unconstitutional gave a strong impetus to the growing Civil Rights Movement, and in the next fifteen years virtually all forms of governmentally supported discrimination against nonwhites, as well as many forms of private discrimination, were eliminated. Also in 1954 the Eisenhower administration's exposure of the demagoguery of Senator Joseph McCarthy inaugurated a period of broad protection of expression of dissident views of all kinds, which in 1968 reached the point of securing the right of assembly, in Washington, D. C., of over half a million protestors against U. S. participation in the Vietnam war. Another example of progress in the protection of civil and political rights since the mid-1950's is the judicial acquittal of a considerable number of political dissidents charged with various crimes: the Chicago Seven, Angela Davis, the Black Panthers, Benjamin Spock, and others.

Progress in the sphere of civil and political rights in the United States has not been matched, however, by progress in the sphere of economic and social rights, as these are defined in international law. The migration of substantial numbers of impoverished blacks and Hispanics from the Southern states of the United States and from Puerto Rico to the large industrial cities of the North resulted in intensification of economic and social hardship in so-called black ghettos. The abuse of drugs became an acute problem among both nonwhites and whites. These and other sources of alienation contributed to an increase in the amount of criminal violence in the cities, to the point where it often became unsafe to walk in the streets and parks. Economic recession in the 1970's struck the poor with much greater force than the well-to-do, and unemployment reached a level of 7, 8, and at one point 9 per cent of the labor force. It is said that in 1979 about 40 per cent of black youth in the cities are without work. There is malnutrition and functional illiteracy on a substantial scale. Urban housing has deteriorated. Although in terms of overall statistics the United States has never been more prosperous, nevertheless the poorest groups in the country—the millions who live in abject poverty—have probably never been so depressed both economically and spiritually.

Turning to the Soviet Union, we find that there, too, dramatic progress has been made during the past twenty-five years in the protection of civil and political rights. The repression of such rights under Stalin had been most severe in the mid-1930's but had continued also in the postwar period of the late 1940's and early 1950's. With Stalin's death in 1953 there began a substantial movement for law reform in many spheres, including a gradual introduction of legality into the political and ideological sphere. The Special Board of the state security agencies, which had been the chief legal instrument of terror under Stalin, was abolished and some millions of people who had been wrongfully condemned to labor camps were rehabilitated (in many cases posthumously). More objective standards were established for judging people charged with crimes against the state. It remained such a crime to circulate statements that defame the Soviet system, but the scope of permissible criticism gradually became larger and larger, starting in 1954 with the publication of Ilya Ehrenburg's *The Thaw* and continuing in the late 1950's, 1960's, and 1970's, almost without letup. It is true that as greater and greater freedom of speech was exercised, there was greater and greater control of speech at the boundaries between its permissible and impermissible uses. Also, as control of impermissible speech was vested more and more in judicial agencies, there was increasing abuse of judicial independence, principally by the state security agencies. Nevertheless, in light of the collectivist character of the Soviet political, economic, and social system, and in light of the turbulence of Soviet history since 1917, the striking fact is not that political and ideological speech is still strictly controlled but that such speech has become substantially

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and increasingly freer in the past two-and-a-half decades.

Substantial progress in the sphere of freedom of speech has been accompanied by a dramatic strengthening of other democratic aspects of Soviet government, including an increasing popular participation in governmental processes at lower levels and a broadening of the group of participants in governmental processes at higher levels.

Connected both with increasing freedom of speech and with increasing democratization of governmental processes is the perhaps even more dramatic increase in contacts and exchanges between Soviet citizens and foreigners during the past twenty-five years. In the summer of 1955 tourists from nonsocialist countries were permitted to visit the USSR for the first time since before World War II; since 1955 they have visited in rapidly growing numbers, and Soviet citizens have also been permitted to travel to nonsocialist countries in increasing (albeit in far fewer) numbers. There has also been greater access on the part of Soviet citizens to nonsocialist literature and art from abroad. In the late 1960's the jamming of Russian-language radio broadcasts from the West substantially diminished. Contacts between Soviet citizens and Western visitors and residents in the USSR, including visiting scholars, newspaper correspondents, and others, have steadily increased in frequency and intimacy. Emigration of Soviet Jews, ethnic Germans, and Christians (especially Baptists and Pentecostals), as well as of Soviet citizens who have married foreigners, which was virtually at a level of zero in the period before 1953, became a trickle of dozens or occasionally hundreds per year in the later 1950's and 1960's, and has risen to a level of tens of thousands per year in the 1970's.

We have noted that the increase in contacts and exchanges of Soviet citizens with foreigners is connected with the increase in freedom of political and ideological criticism as well as with the increase in democratization of governmental processes. It is also important to note that all of these are connected with the development of more peaceful international relations. An East German writer on human rights has correctly remarked that the repression of freedom in the United States in the period of McCarthyism was intimately related to the cold war policies of the United States Government at that time. Similarly, the repression of freedom in the Soviet Union in the period of Stalinism was intimately related to the cold war policies of the Soviet Government at that time. It is clearly more than a mere coincidence that in both countries substantial increases of freedom of speech began to take place in the mid-1950's at the same time the first steps were taken to end the cold war. The gradual ending of the war in Vietnam in the period after 1968 was also a signal for both a relaxation of tensions between the two countries and a relaxation of tensions within each.

In the sphere of economic and social rights, progress in the Soviet Union was also substantial in the later 1950's and early 1960's, but appears to have fallen off in some areas in the later 1960's and 1970's, particularly in housing, food, and medical care. Prior to Stalin's death, housing was grossly neglected; thereafter a housing boom was inaugurated, but it failed to keep up with the population growth. The excessive crowding of people in apartment houses, a substantial percentage of which still have communal kitchens, remains an important cause of family instability in the Soviet Union. Food shortages continue to plague the poor. For example, in the winter of 1978-79 reportedly over a hundred thousand people came into Moscow every week, from as far away as three hundred kilometers, to find meat and other items. In addition, medical care is abundant but inadequate; many important drugs are in short supply and patients in many hospitals must still rely on their relatives and friends to bring them food. In these aspects of human rights as well there is a close connection with international relations, for the Soviet Union spends as much or more on military preparation as the United States, although it has only about half the gross national product of the United States.

The above sketch of progress and regress in the protection of human rights both in the United States and in the Soviet Union is intended to be only the barest indication of some of the factors that should be considered in drawing up a balance sheet—or, rather, two balance sheets, since the primary purpose is not to compare the situation in one country with that in the other country but instead to compare the situation in each country with what it was in that same country in a previous period. The purpose is to assess the progress that each has made. The comparison is a comparison of the rate of growth in human rights—the rate of moral growth—in the two countries. From that point of view,

worse may be better: The terrible experiences the Soviet Union suffered in the course of World War I, the October Revolution, and the Civil War, the famine of the 1920's, the collectivization of agriculture, the Stalin terror of the 1930's, World War II, and the postwar remobilization of the society from 1945 to 1953—these form a basis of comparison with the post-Stalin period that would make the establishment of even the most elementary civil and political rights appear to be a considerable advance. On the other hand such a calculation must also take into account the fact that it is indeed an extraordinary achievement to loosen the hold of such experiences upon the institutions of a people and, above all, on their ways of thinking and feeling. Similarly, the American experience of two-and-a-half centuries of chattel slavery, of the Civil War and of so-called Reconstruction, followed by more than two generations of compulsory segregation and open discrimination, left a heritage of deep racial antagonism in light of which even common decency in race relations appears as substantial progress and is, in fact, a signal achievement.

Conversely, from the standpoint of progress, better may be worse: Given the enormous wealth and power of the United States at the end of World War II, it seems inexcusable that so little was done in the ensuing decades to eliminate the many pockets of illiteracy, malnutrition, inadequate medical care, and abject poverty that blemished and continue to blemish our economic and social system.

The use of the criterion of progress as a test of compliance with international standards of human rights thus requires an analysis of the conditions that existed in the base period in order to determine the extent to which they were favorable or unfavorable for progress. Here two principles, or "laws," may be said to operate. The first is that the less favorable the conditions—that is, the greater the efforts required in order to make progress—the higher the value to be attached to any progress that is made. This is implicit in the very concept of progress, as distinguished from mere change, at least in the moral sphere.

A second "law" of progress in the protection of human rights is that expectations of progress accelerate as more progress is achieved; that is, progress creates a demand for more progress and more rapid progress. If the rate of progress does not increase, it is no longer viewed as progress by those who have grown used to the earlier rate. Thus we must run faster even to stay in the same place. This, too, is implicit in the very concept of moral progress.

The law of acceleration is particularly applicable to progress in the sphere of economic and social rights in the United States, where (as we have indicated) the continued existence of abject poverty and racism is increasingly felt to involve intolerable injustices, even though they affect a gradually diminishing percentage of the population. The law of acceleration is also particularly applicable to progress in the sphere of civil and political rights in the Soviet Union, where the continued existence of repression of nonconforming opinion, restrictions on emigration, and abuses of legal procedures is also increasingly felt to involve intolerable injustices, even though the situation with respect to these practices has been improving steadily.*

The main purpose of this paper has been to suggest some ways of reconciling the apparent conflict between the doctrine of a state's accountability to other states for violations of the human rights of its own citizens and the doctrine of a state's immunity from intervention by other states in its own internal affairs. To resolve this conflict it is necessary also to overcome the impasse that exists between American and Soviet perspectives on human rights.

We started from the premise that denunciations of each country by the other, however richly deserved, for failing to live up to the rules laid down in the international covenants do no good whatsoever. If there is to be effective communication, each must not only indicate what it believes to be the failings of the other but must also acknowledge the other's progress where it has occurred and recognize that there is disagreement between the two concerning the concept of human rights, concerning priorities of human rights, and concerning proper enforcement procedures. Each must also acknowledge its own failings. Each must attempt to assess its own as well as the other's rate of progress.

If this approach is taken, dialogue between the two countries on the subject of human rights can become a basis for improving relations between them rather than an occasion for increasing mutual antagonism. At the same time, such dialogue may provide an opportunity for each to deepen its own understanding not only of the other but of itself. The goals established by the international law of human rights will not be realized without a modicum of humility on the part of all nations, and especially on the part of those that wield the greatest power.

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*The following was among the footnotes included in the article distributed to participants at the IPSA Congress in Moscow.

Of special importance in this connection is the formation of voluntary associations by groups of Soviet citizens for the purpose of calling attention to violations of human rights by the Soviet Government as well as by other governments. These include the Moscow Human Rights Committee, formed in 1970; the Evangelical Baptist Council of Relatives, formed in 1971; the Soviet group of Amnesty International, formed in 1974; the Moscow, Ukrainian, Lithuanian, Georgian, and Armenian Helsinki Watch Groups, formed in 1976 and 1977; the Christian Committee for Defending the Rights of Believers, formed in 1976; the Working Commission to Investigate the Misuse of Psychiatry for Political Purposes, formed in 1977; the Free Trade Union Association, formed in 1978; and the Adventist Legal Struggle Group, formed in 1978. These groups have been sharply criticized by Soviet officials but have not been declared illegal, and for the most part they continue to exist and to circulate handwritten and typewritten reports (so-called *samizdat*). However, many of the leaders of these groups, including some twenty or more leaders of Helsinki Watch Groups, have been prosecuted and convicted, and in some instances deprived of their Soviet citizenship and

expelled from the country, on other grounds—chiefly for violating laws prohibiting the circulation of statements defaming the Soviet system. Their trials have generally been characterized by gross abuses of Soviet legality, including control of the proceedings by the Committee on State Security, denial of the right of the accused to defense counsel of his choice, refusal to call necessary witnesses who would testify in behalf of the accused, exclusion of relatives and friends of the accused from the courtroom, tolerance by the court of behavior by spectators in the courtroom in a manner highly prejudicial to the accused, and, most important, exclusion of evidence that would support the defense that the alleged defamatory statements were not made with intent to undermine the Soviet system and that they were not false (although these are both valid defenses under the wording of the law on anti-Soviet agitation and propaganda).

Most of those who have been accused in these cases have been sentenced to long periods of deprivation of freedom, to be served under very harsh conditions of hunger and hard labor. The fact that a number of them are scientists has caused special concern among scientists of other countries—so much concern, in fact, that in response to one such conviction, that of the distinguished physicist, Yuri Orlov, some two thousand scientists in the United States, and many in other countries as well, have signed statements pledging not to cooperate further with Soviet scientists until Orlov is released. Orlov, a former corresponding member of the Armenian Academy of Sciences, was sentenced in 1978, at the age of fifty-three, to seven years' deprivation of freedom in a labor colony under a "strict regime," where he has been prevented from doing scientific work even in his free time. The seven-year term is to be followed by five years of exile to a remote place within the Soviet Union.

There has been a similar revulsion to the trial of the biologist Sergei Kovalev, a Russian Orthodox believer whose conviction in 1975, at the age of forty-three, was based chiefly on his circulation of literature reporting official abuses of the religious freedom of Roman Catholics in the Lithuanian SSR. Kovalev was also sentenced to a labor colony for seven years, under a "strict regime," to be followed by three years of internal exile.

Among other cases that have attracted even more international attention are a dozen or more involving persons convicted because of various actions or activities connected with their efforts to effectuate their right to emigrate, including the cases of Anatoly Shcharansky, Ida Nudel, Vladimir Slepak, Iosif Mendelevich, Yuri Fedorov, Aleksei Murzhenko, and others; the case of Aleksander Podrabinek, who exposed conditions in Soviet psychiatric hospitals involving persons committed on the ground that their political disaffection is a symptom of a mental disorder requiring hospitalization; the case of the eighty-three-year-old Vladimir Shelkov, a leader of a dissident group of Seventh Day Adventists, who in March, 1979, was sentenced to a labor colony for five years, under a "strict regime," for his denunciations of what he called "repressions and tyranny" of "the dictatorship of State Atheism" in the Soviet Union; and others.

These and similar cases have led many people to deny that the Soviet Union is making substantial progress in the protection of human rights. Such a judgment, however, does not sufficiently take into account the situation in the 1960's, when the permissible scope of criticism of official policies was much narrower and when voluntary associations such as those that have been mentioned would probably have been considered illegal and in any event could probably not have been formed. The fact that progress has been made, and is continuing to be made, is not, however, a complete answer, since under the criteria proposed in the text it is also necessary, first, to assess the rate at which progress has been and is being made and, second, to judge that rate in the light of heightened expectations of its acceleration.

In the course of the discussion, S. L. Zivs of the Soviet Institute of State and Law contended that the facts stated in the above footnote are distorted, and he singled out the Shelkov case as an example of what he called "disinformation" perpetrated by Western experts in Soviet law. He said that Shelkov supported the Nazis during World War II and was a collaborator in war crimes against Soviet people. He stated further that it is irresponsible to rely on reports by dissidents for information about such matters. The true facts about the Shelkov case could have been found, he said, in articles in the Soviet newspapers *Izvestia* and *Pravda Vostoka*. Yet long experience has shown that factual accounts of Soviet political trials by accused persons and their sympathizers have, on the whole, been much more reliable than accounts by the Soviet press, which, in most instances, does not report the trials at all and, when it does, presents only what the Soviet authorities wish to have presented. In fact, it does not appear either from what Dr. Zivs said or from any other source, official or unofficial, that Shelkov was ever prosecuted for being a Nazi supporter or collaborator. The references in the Soviet press to such support or collaboration seem to have arisen from Shelkov's contacts during World War II with Germans who were, like him, Christian pacifists and hence anti-Nazi. However, what Shelkov did in World War II seems to have little relevance to the charges against him in 1979. According to what appears to be a detailed eyewitness transcript of his trial, Shelkov was accused and convicted of illegal performance of religious ceremonies and of circulation of anti-Soviet statements. This and other similar accounts will remain the best available evidence unless and until they are refuted by publication of official records of the proceedings. WV