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RUSSIA’S LAW “ON REHABILITATION OF VICTIMS OF POLITICAL REPRESSION”: 1991-2011

AN ENDURING ARTIFACT OF TRANSITIONAL JUSTICE

An NCEEER Working Paper by

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Executive Summary

This is the first of two Working Papers on the twenty-year history of Russia's Law 1761-1, "On Rehabilitation of Victims of Political Repression," which was passed in the last months of the Soviet regime by the Supreme Soviet of the RSFSR, and signed on October 18, 1991, by RSFSR President Boris Yeltsin. The law, amended 16 times, continues to be in force today.

This paper focuses on the origins of the law. The law emerged out of the contest between Communist Party (CPSU) leaders and more progressive elements in late Soviet society and politics. I highlight here the law's embodiment of an historical reckoning with the abuses of the Soviet era and the law's challenge to the Soviet regime's control over information. This Working Paper thus stresses the most positive aspects of the law's history.

The second Working Paper from this project addresses the record of the law's implementation from the perspective of beneficiaries, their advocates, and the state personnel who administer the law. Because of fundamental changes in the language of the law and in the benefits it offered by legislative amendments in 2005, the second Working Paper records the decline in 2005-2011 of the law's contribution to transitional justice and the rule of law during the tenure of Vladimir Putin as president of the Russian Federation.

Policy Implications from this Working Paper:

- 1) Key individuals within the Soviet state government opened the way for a reckoning with the Soviet past. They persisted in promoting transparency about Soviet abuses when political expediency dictated retreat and their fellow statesmen resisted transparency. Even within a sclerotic, closed political regime, such attention to the human consequences of state abuse exists to be tapped.
- 2) The media, public activists, and citizens exerted effective pressure on state actors, once the state began to engage the question of past abuses, forcing the expansion of the state's agenda and eventually overrunning it. Momentum built over four years, culminating in an expansive historical reckoning with Soviet abuses. Fundamental change takes time.
- 3) Key elements in the emergence of the law and of its enduring terms were: the destruction of keystones in the Soviet system of information control, the acknowledgment of Soviet official lies, and the provision of information to survivors and deceased victims' relatives of formerly top secret information and documents. This enabled the establishment of non-state archives of Soviet documents, which endure to this day. The publication of those documents inside post-Soviet Russia, on the internet, and in other countries continues to act as a hurdle to the Putin administration's efforts to control the historiography of the Soviet era within Russia. Equally, research by European and North American scholars, largely funded by their national governments, has also yielded rich materials which stand as a check on Russian official efforts to establish a monopoly on the historiography of the Soviet Union. Such support of research on and inside Russia is

essential to the interests of national governments who aspire for a post-Soviet world allied with western political and human rights values and institutions.

- 4) The juxtaposition of Soviet abuses of its citizens through repression with Soviet victory over the Germans in World War II was a continuous thread of debates about LoR. In the lead-up to Putin's plan for a grandiose celebration of the 70th anniversary in 2015 of the end of the war, the contest over historical memory will intensify. This may increase state pressures on those institutions, laws, and memorials connected with LoR and the history of Soviet repression.

Introduction

For the last 22 years, the federal and local administrative and judicial branches of government in the Russian Federation have applied a Soviet law, “On the Rehabilitation of Victims of Political Repression,” which acknowledged the political abuses of Soviet citizens by the Soviet regime and provided them redress. This time span is almost equal to a full generation of post-Soviet Russian citizens. When the Supreme Soviet of the Russian Soviet Federative Socialist Republic (RSFSR) passed the law on October 18, 1991, the failed putsch by Communist hardliners against Mikhail S. Gorbachev was two months in the past, and the collapse of the USSR was still two months in the future. The law “On Rehabilitation” (hereafter: LoR) was the product of a specific transitional moment in the USSR’s demise. One manifestation of that transition was its legislative home – the Supreme Soviet of the RSFSR, rather than the Supreme Soviet of the USSR. By October 1991, Boris Yeltsin, president of the RSFSR, had successfully made the RSFSR (the largest constituent republic in the USSR) his political base for challenging Gorbachev and pressing for accelerated political change, including the demotion of the Communist Party as the monopoly source of policy making.¹ Law 1761-1 bears the signature of Boris Yeltsin, President of the RSFSR, not Mikhail Gorbachev, President of the USSR and General Secretary of the Communist Party.

The successor Russian Federation retained the law. Thus LoR became an artifact of the transition from the Communist party-state’s rule to the post-Soviet political and legal system. The government of the post-Soviet Russian Federation amended LoR sixteen times by 2011. In the first twenty years of its existence, LoR guided the rehabilitation applications or

¹ To review this history, see Timothy Colton, Yeltsin. A Life (New York: Basic Books, 2008); Archie Brown, The Gorbachev Factor (New York: Oxford University Press, 1997).

administrative decisions for roughly six million citizens, resulted in the rehabilitation of some 4 million of those cases. LoR also generated dozens of cases before the Supreme Court and the Constitutional Court of the Russian Federation.² Throughout post-Soviet Russia, staff members in social welfare departments at the provincial and city levels oversaw the distribution of the law's promised benefits to those who had been rehabilitated. As recently as 2006-2008, the Ministry of Internal Affairs fielded 381,953 requests for rehabilitation.³

LoR bore the birthmarks of the specific political and historical moment on the eve of the Soviet Union's demise, as well as of the seventy-four years of Soviet rule that preceded it. It became an enduring artifact of the Russian Federation's reckoning with its Soviet past, its move toward a law-governed polity, and the most important gesture extended to the Soviet state's victims. Regrettably – LoR is also an indicator of the Russian state's retreat beginning in 2005 from the law's promises, near the end of Vladimir Putin's first of three terms (so far) as president of the Russian Federation. LoR's twenty-year record from 1991 through 2011 serves as a gauge of the ebb and flow of Russia's transitional justice, legal culture, and social welfare system.

This paper examines three aspects of the law's early history:

- How did this law take shape between 1988 and 1991, and why did the Supreme Soviet of the RSFSR pass this law in October, 1991?
- How did this law embody a historical reckoning with the abuses of the Soviet regime?

² Doklad komissii pri Prezidente Rossiiskoi Federatsii po reabilitatsii zhertv politicheskikh repressii [unpublished/typescript report](October 19, 2009), 4; A. G. Petrov, Reabilitatsiia zhertv politicheskikh repressii: opyt istoriko-pravovoga analiza(Moscow: INION RAN RF, 2005); "O khode ispolneniia Zakona Rossiiskoi Federatsii "O reabilitatsii zhertv politicheskikh repressii" Doklad Komissii pri Prezidente Rossiiskoi Federatsii po reabilitatsii zhertv politicheskikh repressii (M 2000) .

³ Doklad komissii pri Prezidente Rossiiskoi Federatsii po reabilitatsii zhertv politicheskikh repressii [Unpublished; typescript report] (October 19, 2009), 7.

- How did this law transform the state's control over sensitive information about the Soviet past, and how did that release of information facilitate enduring dissemination of information about Soviet abuses of human rights?

Stakeholders, Political Realities and LoR's Passage

The factors contributing to the passage of LoR after four years of state activity and public debate were:

- Mikhail S. Gorbachev's decision in 1987 to establish a commission in the Politburo of the Communist Party of the Soviet Union (CPSU) to complete the work of rehabilitating unjustly punished victims of Stalinist political repression, and to make news of his charge to the commission's public.
- Alexander N. Yakovlev's assumption of the chairmanship of that commission in 1988 and tenure as chair through 1991.
- Press coverage of the Politburo commission's work, questions related to rehabilitation, and Stalinist repression.
- Citizens' letters to the Politburo Commission (PC).
- The emergence of non-governmental groups advocating for the commemoration of victims of Soviet repression and compensation to survivors or deceased victims' relatives. Memorial was the most important such organization.
- The political struggle between Gorbachev and Boris N. Yeltsin, with Yeltsin's development of his political base in the RSFSR (Russian Republic).
- The emergence of the Supreme Soviet of the RSFSR in 1990 as a rival to the Supreme Soviet of the USSR. The decision of that body's Committee on Human Rights to prepare legislation on a Law on Rehabilitation, under the chairmanship of Sergei A. Kovalyov.
- The failed putsch in August 1991 by conservative elements in the CPSU, KGB, and Defense sectors.

The factors listed above contributed to the dismantling of the following elements of late Soviet authoritarian rule:

- The CPSU's monopoly on policy-making.

- The CPSU's monopoly over information (including history), exercised through the KGB, Ministry of Justice, press, and state archives.
 - The principle of the primacy of the state and society over the individual.
-

By October 1991, a broad range of stakeholders in a law that would recognize and compensate victims of Soviet political repression had already been discussing the need to address victims' fates for four years. Stakeholders spoke in several sectors: at the highest level of the (Communist Party of the Soviet Union) CPSU -- the Politburo, in the mass media, in the most important non-governmental organization established to identify and commemorate victims -- Memorial, in the USSR Supreme Soviet, and in the RSFSR Supreme Soviet. Some victims who were still alive also spoke, as well as children and grandchildren of those who had died, by sending thousands of letters from across the Soviet Union to the various institutions and organizations debating policies.

The Politburo became a forum for discussion after September 28, 1987, when Gorbachev ordered the formation of a CPSU commission to examine remaining questions related to the political repressions of "the 1930s-1940s and early 1950s."⁴ He urged the Party Plenum, "[T]he time has come to establish a description of the Party's history in which the events of the past and the significant deposit of documents that have not yet been subjected to scholarly analysis would

⁴ Kathleen E. Smith, Remembering Stalin's Victims. Popular Memory and the End of the USSR (Ithaca: Cornell University Press, 1996), 49; Reabilitatsiya: Kak eto bylo. Dokumenty Politbyuro TsK KPSS, stenogrammy zasedaniya Komissi Politbyuro TsK KPSS po dopolnitel'nomu izucheniyu materialov, svyazannykh s repressiyami, imevshimi mesto v period 30-40-kh i nachala 50-kh godov, i drugie materialy. Tom 3. Seredina 80-kh godov – 1991 in the series Rossiya XX vek (Moscow: Materik, 2004), 16. (Hereafter: Kak eto bylo)

be correctly reflected.”⁵ Rehabilitation of victims of unfounded repression during the Stalin years had been a priority during Nikita S. Khrushchev’s tenure as General Secretary of the CPSU, but the CPSU’s retreat from de-Stalinization under Leonid Brezhnev reduced the pace significantly. From 1953 to 1962, the state had rehabilitated 1,197,847 victims of political repression; over the next twenty-one years (1962-1983) a total of only 157,055 were rehabilitated.⁶ Millions remained for consideration.

The press picked up on the Politburo Commission’s (hereafter: PC) establishment. Gorbachev’s policy of transparency/glasnost was already animating journalists. The illustrated magazine Ogonyok became the standard bearer of glasnost under Vitaly Korotich’s editorship. By 1989, its circulation had grown from 500 thousand in 1986 to over three million. Similarly, “Readers’ letters increased from twenty to eight hundred a day.”⁷ Many of those letters concerned Stalinist repression and the need to complete the rehabilitation processes begun in 1953.

The public’s interest in reviving study of Soviet political repression was also evident by late 1987. In August, a group who would soon coalesce into the non-governmental organization Memorial put forth the proposal for a monument to victims of Soviet repression during a conference in Moscow.⁸

⁵ “Iz vystupleniya M.S. Gorbacheva na Oktyabr’skom (1987 g.) Plenumе TsK KPSS,” 21 October 1987, Kak eto bylo, (2004) 21.

⁶ “Zapiska V. M. Chebrikova v TsK KPSS ‘Ob ispol’zovanii arkhivov organov gosbezopasnosti,’” 3 June 1988, Kak eto bylo (2004), 77.

⁷ Cathy Porter, “Introduction,” The New Soviet Journalism. The Best of the Soviet Weekly *Ogonyok*, Vitaly Korotich and Cathy Porter, editors (Boston: Beacon Press, 1990), 2.

⁸ Smith, Remembering Stalin’s Victims, 83-84.

The alternative authority of survivors themselves and their advocates was also challenging the Communist Party's prerogatives in policy making related to rehabilitation. Memorial and the Moscow Association of Victims of Political Repression were especially influential in establishing survivors' expectations for justice and compensation.⁹ From their founding, they pressed on the CPSU's consciousness. When A. S. Kapto reported to the PC on behalf of the Ideological Department of the CPSU Central Committee on the meeting of 338 representatives of the newly-formed Memorial network in August 1988, he stressed those aspects of their activities most likely to complicate the work of the Politburo Commission. The very fact that 338 representatives from Moscow and 58 other cities of the USSR met to discuss organization, principles, and goals of this non-governmental society devoted to memorializing victims of Soviet repression and proposing rehabilitation measures, pointed to their geographic reach. The speeches and discussions at the Memorial meeting illustrated how the Party was losing its grip on public opinion. Fully 55 Memorial representatives spoke in sessions Kapto described as "unruly and undisciplined."¹⁰

Citizens also sent letters to the newly-formed Politburo commission. By January 1, 1989, the Commission had received 6,587 letters.¹¹ Even more citizens were writing to the Procuracy,

⁹ For a history of Memorial's founding, see Smith, Remembering Stalin's Victims; for a history of Vozvrashchenie's founding, see Nanci Adler, The Gulag Survivor. Beyond the Soviet System (New Brunswick, NJ: Transaction Publishers, 2004).

¹⁰ "Zapiska A. S. Kapto v TsK KPSS 'O sobranii aktivistov obshchestva 'Memorial' 29-30 Oktyabrya 1988 g.'" Kak eto bylo, 135-137.

¹¹ "Zapiska B. K. Pugo v Komissiyu Politbyuro TsK KPSS po dopolnitel'nomu izucheniyu materialov, svyazannykh s repressiyami, imevshim mesto v period 30-40-kh I nachala 50-kh gg. 'O pis'makh, postupivskikh v adres Komissii Politbyuro,'" 12 January 1989, Kak eto bylo, (2004) 181.

which bore the responsibility for judicial review of cases; over the course of 1988, 17,253 letters arrived there. In the first three months alone of 1989, a further 26,000 arrived.¹²

From the members of the CPSU Politburo to survivors and their relatives, the stakeholders focused on specific functions of the law in its formulation, seeing in them hazard, promise, or both. LoR was the culmination of competing motivations and demands. The law that resulted included a preamble stating its premises, followed by articles spelling out who qualified as a “victim of repression,” forms of compensation, and procedures for receiving the status of “rehabilitated” victim eligible for that compensation.

The Members of the Politburo commission and other Communist Party members shared with victims’/survivors’ advocates a focus on the law’s role as an official declaration on the Soviet record of repression. They had opposing goals. The CPSU wanted the reckoning to be as narrowly defined as possible in terms of forms of repression, years when the Soviet state practiced repression, and categories of victims of Soviet repression. Memorial and other groups interested in human rights aimed for the broadest possible reckoning in these three aspects. The CPSU wanted to protect any surviving official practitioners of repression in various bureaucracies from punishment, indeed from exposure, while victims’ advocates hoped at the very least to identify those responsible. The compilers of the documentary record of the Politburo’s work declare this act to have been the “legislative foundation for the final resolution of questions on the rehabilitation of victims of political repression in Russia.”¹³ One of the key Memorial participants recently explained, “In principle, the law...has enormous ideological

¹²“Stenogramma zasedaniya Komissii Politbyuro TsK KPSS po dopolnitel’nomu izucheniyu materialov, svyazannykh s repressiyami, imevshimi mesto v period 30-40-kh I nachala 50-kh gg.” 12 April 1989, Kak eto bylo, (2004), 204.

¹³ “Vvedenie,” Kak eto bylo(2004)., 9.

significance in this sense....We simply believed that this would be the first law to call the past to account.”¹⁴

LoR went beyond Gorbachev’s initial vision. It broke with the Soviet past in its definition of repression and in the chronology it legislated when it set the dates of Soviet repression as 1917 - 1991. LoR also broke with the Soviet past in the procedures it prescribed for rehabilitation. It granted citizens access to previously “top secret” state files, thus breaking the Soviet Party-state’s lock on information. Politburo members reflexively sought to keep those files and archives closed, even as victims/survivors and the media pressed ever more insistently for full disclosure of information about individuals’ experiences and fates at the hands of the Soviet system. The outcome in the law proved to be in the victims’/survivors’ favor, which contributed to not only the historical reckoning for the transitional polity, but also to profoundly personal reckonings as survivors and/or their children and grandchildren came to face-to-face with the decades-old, blood-stained case files prepared during interrogation.

The least controversial aspect of debates about how to confront the human legacy of Soviet political repression was compensation. Because the Soviet regime had offered compensation as part of earlier rehabilitation policies dating to the mid-1950s after Josef Stalin’s death, and because social welfare benefits were part and parcel of the social and political contract between the party-state and Soviet citizens through the Brezhnev era, all parties agreed that rehabilitation would bring special social welfare benefits.¹⁵ The points of contention concerned specific types of compensation and their extent.

¹⁴ Arsenii Borisovich Roginskii, Interview with Elena A. Bogdanova, Moscow, December 2013.

¹⁵ For a discussion of earlier rehabilitation policies, see: Kathleen E. Smith, Remembering Stalin’s Victims. Popular Memory and the End of the USSR (Ithaca: Cornell University Press, 1996); for a discussion of the social welfare

Drafting an Historical Reckoning

Neil Kritz identifies four “basic objectives of any transitional justice program”: Truth, justice, meaningful democratic reform, and a durable peace. The first of these is truth, that is, “to determine the truth by establishing a record of human rights abuses.”¹⁶ Gorbachev viewed his charge to the Politburo to revisit abuses by the Soviet regime as part of his project to revitalize the Soviet system, not to undermine it. As he explained to a plenary session of the CPSU in October 1987, “An honest understanding of past misfortunes will provide a genuine moral landmark for the future. ... It is necessary to provide a political evaluation, to straighten up, and by doing this work to restore the meaning of life. Without this, perestroika will not happen.”¹⁷

The PC originally included eight members under the chairmanship of M. S. Solomentsev, who was then Chair of the Council of Ministers of the USSR. These elderly men on the verge of retirement had little stomach for their task or understanding of the scope of what lay ahead.¹⁸ Given the Politburo Commission’s charge to complete rehabilitation of victims from “the 1930s-1940s and early 1950s” and Gorbachev’s references to the “Party’s history,” the members

contract, see Linda Cook, *The Soviet Social Contract and Why It Failed. Welfare Policy and Workers’ Politics from Brezhnev to Yeltsin* (Cambridge: Harvard University Press, 1993).

¹⁶ Neil Kritz, “Policy Implications of Empirical Research on Transitional Justice,” in Hugo Van der Merwe et al, editors, *Assessing the Impact of Transitional Justice. Challenges for Empirical Research* (Washington, DC: United States Institute of Peace Press, 2009), 13.

¹⁷ “Iz vystupleniya M.S. Gorbacheva na Oktyabr’skom (1987) Plenumе TsK KPSS” 21 October 1987, *Kak eto bylo* (2004), 20.

¹⁸ CHAIRMAN: Mikhail Sergeevich Solomentsev, (b.1913)then Chair of the Party Control Committee of the TsK KPSS [retired 1988]; Alexander Nikolaevich Yakovlev (b.1923): then Secretary of the Central Committee of the KPSS;V. M. Chebrikov (b. 1923): then Chairman of the KGB and Secretary of the Central Committee of the KPSS [retired 1989]; P. N. Demichev: (b.1918): then First Deputy Chairman of the Presidium of the Supreme Soviet of the USSR [retired 1988]; A. I. Luk’yanov (b. 1930): then Secretary of the TsK KPSS, First Deputy Chair of the Presidium of the Supreme Soviet of the USSR, and Director of the Administrative Organs of the TsK KPSS G. P. Razumovskii (b. 1936): then Secretary of the TsK KPSS and Director of the Department of Organizational-Party Work TsK KPSS, and Director of Party Development and Cadres TsK KPSS; V. I. Boldin (b. 1936): then Director of the General Department of the Ts KPSS; G. L. Smirnov (b. 1922).

expected that they would be reviewing the cases of CPSU members who were victims of the most famous show trials during the Stalin era. The stenographic record of their meetings reveals that they were not even aware of how many show trials had occurred during those years. When researchers reported to the Commission on what they were finding in the files of the security police (KGB) and judiciary (Procuracy), the wholesale fabrication of most cases also came as a shock. Victims' advocates on the other side of the debates were also unaware of what the full "truth" comprised. As one of them explained in 2013, "One must mention that ... at that time, well, there was a lot we did not know, just in terms of facts. . . . the knowledge of the history of the terror was rather weak. . . . I was one of the best specialists, but I knew very little by comparison with what has become clear today with the opening of the archives"¹⁹

As that history began to become more visible within the PC through their encounter with top secret files, and outside the Politburo in the media, conferences, and activities sponsored by Memorial and other victims' associations, the contest was on among the Party's guardians in the Politburo, victims' and human rights advocates, and journalists. The questions were how much of the history would be revealed, who would reveal it, what the chronology and definitions would be of repression, what evidence would be available and considered legitimate, and who would be permitted to see the state's most secret evidence. The answers as they appeared in the law in October 1991 came only after fierce debate inside the Politburo; stalling in the CPSU, Supreme Soviet of the USSR, and the Supreme Soviet of the RSFSR for over a year; and the catalytic events of August 1991. Twenty-three years later, the debate continues about how much the law accomplished in the historical reckoning.

¹⁹ Interview with Roginskii, December 2013.

The PC's unapologetic stance and proprietary attitude toward information stranded the Party and contributed in no small part to the ascendancy of the Russian Soviet Federative Socialist Republic within the USSR at the expense of the USSR's own survival. Much discussion in the early PC meetings revolved around the question of how much the public should learn about the Commission's work and its findings. The original chair, Solomentsev, was seventy-five years old when the Commission began its work; he displayed a conservative approach to guarding information. He resisted allowing any journalists to attend Commission meetings, arguing that they could report on cases still under discussion. "They'll record it on tape and publish it the next day in the newspapers. But the Politburo, the Commission will not have completed their consideration of these questions. People will develop an opinion."²⁰ Too much information might confuse the people, or it might distract them from doing what they needed to do to make perestroika – as defined by the Party – a success. The foreign press was also a concern, especially in the Commission's consideration of the trials of N. I. Bukharin and the "Leningrad Affair," first on their agenda. Secret documents had to remain secret; "Under no circumstances give them the case files," Solomentsev insisted.²¹ V. I. Terebilov, invited to attend the meeting as the Chairman of the Supreme Court of the USSR, agreed: "The documents are top secret. They should go nowhere. There must be no leaks of any kind."²²

Citizen access to the state's information is essential to transitional justice. Bill Rosenberg aptly argued, "Laws and archival regulations that assure open access to essential records and guarantee their preservation are absolutely essential to the ability of a free society to understand

²⁰ "Stenogramma zasedaniya Komissii Politbyuro TsK KPSS po dopolnitel'nomu izucheniyu materialov, svyazannykh s repressiyami, imevshimi mesto v period 30-40-kh i nachala 50-kh godov," 5 January 1988, Kak eto bylo, (2004) 36.

²¹ *Ibid.*, 38.

²² *Ibid.*, 39.

itself and its pasts and assure its freedom in the future.”²³ To permit citizens to see what the Politburo members were seeing would have removed one of the core elements of the CPSU party-state’s control over information, which dated to the Soviet government’s monopoly on archives established in a June 1, 1918 decree, which had “extended government control over *all* archives within the new Soviet state, abolishing the very possibility of independent or private collections.”²⁴ As Uriel Procaccia so aptly said in his discussion of the absence of the tradition of contract law in Russia, this was and is a “concessionary state” which concedes privileges, but does not recognize rights.²⁵ The “right to know” did not exist in the Soviet Union. The more the PC members themselves came to know during their work, the stronger their impulse became to be limit what to reveal. They tried to do whatever was most expedient, and preferably to close the book on the whole matter. The most striking expression of this desire came in a PC meeting on 29 May 1990, when V. A. Kryuchkov, then Chairman of the KGB, offered advice from an unexpected source.

Recently I had a meeting with representatives of the special services of Spain... Well, the conversation was, of course, not open. I was interested in how they had managed the issue of Franco in Spain. After all, when he was in power, hundreds of thousands were hanged and shot. He said, “You know, we thought about this, and we decided to draw a line under it, not to rummage around in either one side or the other. And, moreover, we put up a monument to both the one side and the other. And now we have no questions of any kind.” . . . In my opinion, we really do need to issue a decree, draw a line, and move on.²⁶

²³ William G. Rosenberg, “Politics in the (Russian) Archives: The ‘Objectivity Question,’ Trust and the Limitations of Law,” *The American Archivist* Vol. 64, No. 1 (Spring/Summer, 2001), 94.

²⁴ William G. Rosenberg, 79.

²⁵ Uriel Procaccia, *Russian Culture, Property Rights, and the Market Economy* (Cambridge: Cambridge University Press, 2011).

²⁶ “Stenogramma zasedaniya Komissii Politbyuro TsK KPSS po dopolnitel’nomu izucheniyu materialov, svyazannykh s repressiyami, imevshimi mesto v period 30-40-kh I nachala 50-kh gg.” 29 May 1990, *Kak eto bylo* (2004), 450.

By May 1990, drawing a line was no longer possible, because stakeholders outside the CPSU were determined to broaden and prolong the historical reckoning, in another “conversation” that was, in fact, quite “open.”

Even as the PC members were trying to get a grip on just how many Party members alone had been victims of fabricated accusations and show trials, journalists at Ogonyok were expanding the categories of Soviet citizens who qualified as victims of political repression. Victims of the military purge of 1937-1938 garnered early coverage. Ogonyok published excerpts of Vasilii Grossman’s Life and Fate in October 1987, even before the novel was published in the journal Oktyabr.²⁷ The editors chose the chapters revolving around the heroic tank commander Novikov as he launched the counteroffensive at the battle of Stalingrad. The editors pointed out that “At the end of the 1930s, the army was decapitated,” referring to the military purges, which opened the way for the emergence of a young officer such as Novikov.²⁷ Almost from the very start, here and elsewhere, the intersection of terror and World War II surfaced in appraisals of the Soviet past.

Another source of Soviet pride – scientific achievements – came under scrutiny. Prominent scientists soon gained attention in Ogonyok. The cover story of the 21-28 November 1987 issue of Ogonyok hailed the 100th anniversary of the birth of the geneticist and botanist Nikolai Ivanovich Vavilov, arrested in 1940. The editorial introduction to the article praised, “The experience of his struggle for truth, his struggle against false demagoguery ... against the phenomena of the personality cult in science and in life – which we disdain today in light of our

²⁷ “Zhizn’ i sud’ba. Vasilii Grossman. Glavy iz romana,” Ogonyok, No. 40 (3-10 October, 1987): 19.

rethinking of the past and the present, and our search for a worthy future.”²⁸ Feature articles on the tragic history of Lysenkoism’s baneful effect on genetics and Soviet science in general;²⁹ repression in nuclear physicist Lev Landau’s life;³⁰ and the purged agronomist A. V. Chayanov followed. All of these articles represented journalistic rehabilitation, often including the publication of previously unpublished documents.³¹

The public activities of Memorial also made clear that controlling the archives no longer guaranteed a control over history. The so-called Week of Conscience sponsored by Memorial to commemorate victims of Stalinist repression, held in Moscow in November 1988, drew thousands. Olga Nemirovskaya conveyed the sentiments of the citizens who came to the events in her article in Ogonyok. “People crowd together, reading, thinking, looking. . . .The information center in the hall is overflowing with people bearing documents and information about those killed. Wives, children, grandchildren, relatives, and friends stand in silent lines in front of the desks.”³² Memorial’s influence over the relationship between the applicants for rehabilitation and the government offices dealing with them became apparent by early 1989. At the April 12, 1989, PC meeting, then chair of the Party Control Committee, B. K. Pugo, informed the group that Memorial had begun to send official requests to the Commission. He continued, “Sometimes they are completely impudent in character, but we must not simply

²⁸ Sergei Dyachenko, “Podvig,” Ogonyok No. 47 (21-28 November 1987): 10.

²⁹ Valerii Soifer, “Gorkii plod,” Ogonyok, No. 1 (1- January, 1988): 26-28; No. 2 (9-16 January 1988): 4-7,31.

³⁰ No. 3,(16-23 January 1988)13-15.

³¹ Pavel Penezhko, “Kak udarili po “chayanovshchine,” Ogonyok No. 10 (5-12 March 1988): 6-8.

³² Olga Nemirovskaya, “The Week of Conscience,” in Korotich and Porter, The New Soviet Journalism, 164)

ignore their questions and requests, because that attitude will be harmful. Civic organizations are becoming more active and, probably, we should keep that in mind.”³³

By that time, the PC had changed significantly under the chairmanship of Alexander Nikolaevich Yakovlev, Secretary of the Central Committee of the CPSU. Yakovlev first chaired a PC meeting on 11 October 1988. A key contributor to Gorbachev’s policies of perestroika and glasnost/transparency, Yakovlev chaired the PC through the collapse of the USSR, and continued as chair of the Presidential Commission on the Rehabilitation of Victims of Political Repression established by Boris Yeltsin as President of the Russian Federation.

Decidedly attuned to political expediency in the late 1980s, Yakovlev also was among the first CPSU leaders to support special social welfare benefits for victims of political repression. Compensation through a law on rehabilitation was one of the early and persistent demands from public activists. As early as October 1989, Yakovlev asked the Council of Ministers to work out a special category of benefits for victims of political repression. Yakovlev’s closing lines revealed his attention to expediency and justice: “In the Commission’s opinion, the resolution of these questions would be a fulfillment of the moral debt to the illegally repressed victims, and would lower the political heat around these problems, which are so weighty in all aspects.”³⁴ Over the next twenty years, the willingness of the Soviet and post-Soviet Russian governments’ willingness to acknowledge a “moral debt” to repression’s victims proved to be a barometer of transitional justice in this domain. LoR’s passage in 1991 would be a high point of

³³“Stenogramma zasedaniya Komissii Politbyuro TsK KPSS po dopolninitel’nomu izucheniyu materialov, svyazannykh s repressiyami, imevshimi mesto v period 30-40-kh I nachala 50-kh gg.” 12 April 1989, Kak eto bylo, (2004) 212.

³⁴“Zapiska A. N. Yakovleva N.I. Ryzhkovu o predlozheniyakh po voprosam pensionnogo, zhilishchnogo I sotsial’nogo obespecheniya reabilitirovannykh I chlenov ikh semei, vozmeshcheniya im material’nogo I moral’nogo ushcherba,” 21 October 1989, Kak eto bylo, 306-07.

acknowledgement of “moral debt”; the major amendments to the law passed in 2004 and in force since 2005 would erase “moral debt” from the calculation and reduce the state’s commitment to compensation for even the material harms suffered by the Soviet state’s victims.

We have evidence that Yakovlev was operating not only from his political instincts to defuse the political pressure on the party, but also from his personal anguish over the revelations to which he was privy as chair of the Commission. In January 1990, he confessed, in an interview for the newspaper Moscow News, that the personal impact of his work on the Commission was “Very hard. Perhaps because in my personal traits, to use a boxer’s vocabulary, I cannot take a blow well. All of this is creating a terrible impression on me...”³⁵

Political developments beyond the CPSU in 1989 – 1990 joined Yakovlev’s influence inside the Politburo, and the Memorial movement’s establishment as an officially-approved, non-governmental organization to alter the trajectory of official rehabilitation efforts. The Congress of People’s Deputies, elected from expanded lists of candidates, some of whom were not members of the CPSU; a crescendo of calls for independence in the Baltic republics; and the political contest between Gorbachev and Yeltsin pressed hard on the slow-moving PC. Public calls for legislation to condemn political repression and to define broad benefits for victims and their closest relatives, as well as complaints about how long central and regional state offices and CPSU branches were taking to decide cases made it clear that society was moving ahead of the Party-state, threatening to leave the USSR bureaucracy and PC behind.

³⁵ “Beseda A. N Yakovleva s glavnym redaktorom gazety “Moskovskie novosti” o deyatel’nosti Komissii Politbyuro TsK KPSS po dopolnitel’nomu izucheniyu materialov, svyazannykh s repressiyami, imevshimi mesto v period 30-40-kh I nachala 50-kh gg.” 7 January 1990, Kak eto bylo, 321.

The PC and the government agencies with whom they were cooperating in the review of repression cases – the Procuracy, Supreme Court, and KGB – fully recognized that they were moving at a pace so slow that it was becoming politically hazardous for the regime. In 1988, state organs rehabilitated 13,535 citizens.³⁶ The scale of repression and the fraudulence of the processes in the original cases surprised those doing the work. They came to the conclusion that the vast majority, if not all, the cases from the 1930s through the 1950s which had been decided by extra-judicial organs – most obviously the “troikas” and “dvoikas” – constituted summary justice without adequate evidence of a crime or acceptable judicial procedures. Eager to unload the massive caseload awaiting review, they decided to issue an automatic rehabilitation for all victims of such extra-judicial decisions. Key members of the commission presented a proposal to this effect to the Central Committee of the Communist Party on December 25, 1988.³⁷ The decree was issued on January 16, 1989. By July 1, 1989, 280,000 case files had been reviewed, and 343,580 victims rehabilitated.³⁸

Such a move signaled the degree to which the CPSU via the PC and the men at the highest levels of the relevant USSR organs acknowledged the abuses of the Soviet regime during the Stalin era. This emboldened civic activists in Memorial and the Moscow Association of Victims of Political Repression, as well as journalists and members of the Committee on Human Rights in the Supreme Soviet of the RSFSR to press harder. Their position was that such abuses

³⁶ [Prilozhenie] Informatsiya o rezul'tatakh provedennoi v pervom polugodii 1989 goda raboty pravookhranitel'nykh, sovetskikh i partiinykh organov po rassmotreniyu voprosov, svyazannykh s reabilitatsiei lits, podvergavshchikhsya repressiyam v period 30-40-kh i nachala 50-kh godov," Kak eto bylo (2004), 280.

³⁷ "Zapiska A. N. Yakovleva, V. A. Medvedeva, V. M. Chebrikova, A. I. Lukyanova, G. P. Razumovskogo, B. K. Pugo, V. A. Kryuchkova, V. I. Boldina, G. L. Smirnova v TsK KPSS 'Ob antikontitutsionnoi praktike 30-40-kh i nachala 50-kh godov,'" 25 December 1988, Kak eto bylo (2004), 154.

³⁸ "[Prilozhenie] Informatsiya o rezul'tatakh provedennoi v pervom polugodii 1989 goda raboty pravookhranitel'nykh, sovetskikh i partiinykh organov po rassmotreniyu voprosov, svyazannykh s reabilitatsiei lits, podvergavshchikhsya repressiyam v period 30-40-kh i nachala 50-kh godov," Kak eto bylo (2004), 280.

extended across the full Soviet era, that is -- from 1917 through the 1980s, and that they characterized the vast majority of all remaining cases to be reviewed. The PC felt this pressure, and tried to come up with a way to close the discussion as quickly as possible. At their meeting of 29 May 1990, Yakovlev led a discussion of whether they should call for a decree from Gorbachev or issue a declaration. “We would have to present the declaration to the Supreme Soviet, and it would drag on again....We need to finish this with one decree.....The main thing is that we complete a big, an enormous political step...Furthermore, the decree must settle the question of the peasants. People are giving speeches about this in the Supreme Soviet, and so are all our writers and other comrades.”³⁹

By the time Yakovlev mentioned such “speeches,” the first session of the Congress of People’s Deputies had met on May 16, 1990; Boris Yeltsin had been elected Chairman of the Supreme Soviet of the RSFSR, and he was on the verge of nominating the long-time dissident, Gulag survivor, and human rights activist Sergei A. Kovalyov as chair of the Committee on Human Rights in the Supreme Soviet of the RSFSR. Among the issues Kovalyov listed as urgent in his first address to the Soviet as Chair was compensation for victims of political repression.⁴⁰ For Kovalyov, the legislation to be crafted on behalf of victims of Soviet political repression was one of several projects he oversaw as part of a transitional justice program that would entail a full reckoning by the entire population with its Soviet past, the inclusion of the defense of civil and political human rights in the new Russian constitution, and a major reform of the penal system to improve the lives of inmates.

³⁹ “Stenogramma zasedaniya Komissii Politbyuro TsKKPSS po dopolnitel’nomu izucheniyu materialov, svyazannykh s repressiyami, imevshimi mesto v period 30-40-x i nachala 50-kh gg.” 29 May 1990, Kak eto bylo (2004), 449.

⁴⁰ Emma Gilligan, Defending Human Rights in Russia. Sergei Kovalyov, Dissident and Human Rights Commissioner, 1969-2003 (London and New York: Routledge Curzon, 2004), 93-95.

Gorbachev, as president of the USSR, followed the PC's recommendation and issued the decree "On the Restoration of the Rights of all Victims of Political Repressions in the 1920s-1950s" on August 13, 1990. The men in the RSFSR Supreme Soviet who were drafting the future LoR "smiled a bit, because it was clear that it was now a matter of the Russian (RSFSR) organs overtaking the Soviet (USSR) ones."⁴¹ As members of the Committee on Human Rights in the Supreme Soviet of the RSFSR, they had already received their charge a week earlier from the RSFSR Supreme Soviet to prepare a draft law. Gorbachev was now playing catch-up.

Two years of PC deliberations and public debate had forced him in his August 13 decree to acknowledge four elements of Soviet political repression beyond the Party's expectations or intentions: that the chronology of the repressions extended back into the mid-1920s, that forced collectivization had constituted repression, that national and religious repression fell under the umbrella of political repression, and that the resulting harms were both moral and material. Gorbachev used several key phrases that would later appear in the 1991 LoR: mass repressions, illegality, and arbitrariness (*proizvol*) as characteristics of Stalinist rule; the restoration of justice (*spravedlivost'*) as rehabilitation's goal; and the concept of civil and socio-economic human rights (*grazhdanskie, sotsio-ekonomicheskie prava cheloveka*) as the rights violated by the Soviet state.⁴² Gorbachev ordered the Council of Ministers of the USSR to draft a law by October 1, 1990, which would acknowledge the illegality of the acts of repression in the 1920s-1950s and fully restore the rights of all those repressed for "political, social, national or other" reasons. He excluded from eligibility for rehabilitation those guilty of acts of treason committed before,

⁴¹Roginskii, Interview, December 2013.

⁴² For a discussion of the concept of "spravedlivost'" see Natalia Pecherskaya, "Spravedlivost' [justice]: the origins and transformation of the concept in Russian culture," *Jahrbucher fur Geschichte Osteuropas*. Neue Folge, Bd. 53, H. 4 (2005),: 545-564.

during, and after the Great Patriotic War for which there was sufficient evidence of a crime; his decree ordered the Council of Ministers to draft that legislation also.⁴³

During the summer of 1990, the future law was under discussion as prospective legislation in the Council of Ministers of the USSR; the Committee on Legislation and the Legal System in the Supreme Soviet of the USSR; and the Committee on Human Rights in the Supreme Soviet of the RSFSR. One of the experts on the RSFSR Committee recalls the complexity of the task before them. “Well, it was clear that we had to do a great deal. We had to define the concept . . . of political repression. . . . Then we had to provide a definition of this very concept of political motive. . . . Well, and then we had to write not only who would be rehabilitated and who would not be rehabilitated, but we also had to prescribe the consequences of rehabilitation.”⁴⁴ By 17 September 1990, the Committee on Human Rights in the Supreme Soviet of the RSFSR had completed their draft law, which they presented to the RSFSR Supreme Soviet and the RSFSR Congress of Peoples Deputies.⁴⁵ On 11 October 1990, the USSR Council of Ministers followed by presenting to the Supreme Soviet of the USSR their draft legislation on the categories of crimes from the 1920s-1950s which would not be eligible for rehabilitation. The Supreme Soviet of the USSR received a draft law on rehabilitation from their Committee on Legislation and the Legal System only nine months later, in July 1991.

This sequence of legislative actions displayed the intensifying tug-of-war between those leaders at the federal level of the USSR, who were still trying to limit the law’s scope as an

⁴³ “Ukaz Prezidenta SSSR ‘O vosstanovlenii prav vsekh zertv politicheskikh repressii 20-50-kh godov,” 13 August 1990, *Kak eto bylo* (2004), 521-522.

⁴⁴ Roginskii, Interview, Moscow, December 2013.

⁴⁵ The members were: S. A. Kovalyov, Chair; A. L. Kononov, S. V. Sirotkin, S. M. Baranchyonkov, I.S. Vlasov, M. E. Petrosyan, I. B. Mikhailovskaya, and representatives of Memorial.

historical reckoning, and leaders at the level of the RSFSR and in non-governmental organizations, who were trying to broaden the law's scope. Specifically, the latter intended to extend its historical timeline, the categories of victims defined as eligible for rehabilitation, and the rights of those who received the status of rehabilitated victim of political repression. This multiplicity of drafting bodies was also emblematic of the jurisdictional confusion that had taken hold in the USSR by the summer of 1990, with many republics becoming more assertively independent, beginning with the The Act of the Re-Establishment of the State of Lithuania in March 1990. By the time the USSR Supreme Soviet got around to discussing a draft law on rehabilitation, Ukraine had already passed their own law on rehabilitation in April 1991.

The divergence between the Council of Ministers' quick drafting of the legislation defining which crimes would not be eligible for rehabilitation and the RSFSR Supreme Soviet's quick progress on drafting an expansive definition of repression, categories of eligibility, and forms of compensation for "moral and material harm" highlighted a deep divide in historical consciousness. One enduring point of contention was World War II. Soviet victory over the Germans in The Great Patriotic War, as the Soviet government called it, had served as the vindication of the Soviet system, and of Stalinism in particular. It was sacrosanct. War veterans enjoyed the most generous social welfare benefits in the USSR. The war was also significant for the history of repression and the Gulag, however. The population of the GULAG was at its highest levels during and after the war, due to the incarceration of accused war mongers, suspected collaborators, returned P.O.W.s from German camps and other citizens charged with undermining the war effort. For defenders of the Soviet system and the CPSU, it was essential to protect the sanctity of the war against any inroads via rehabilitation of victims of unfounded repression. The draft RSFSR law, however, made the suffering of those subject to political

repression commensurate with veterans' contributions to the war effort. Their draft called for granting rehabilitated victims of political repression social welfare benefits equal to those received by war veterans.

The USSR Supreme Soviet's decree began in its long Article 1 with "Those persons who were justifiably sentenced for committing crimes against the Motherland and the Soviet people during the Great Patriotic War, as well as in the pre-war and post-war years (20s-50s) are not eligible for rehabilitation." Six paragraphs followed, describing in greater detail the types of crimes this article covered, taking up more than half of the decree. The remaining articles described the process for reviewing and appealing such cases, all of which had to be decided in court. The decree further called on the key government agencies to design the details for implementation: the USSR Supreme Court, USSR Ministry of Justice, USSR Ministry of Defense, Ministry of Internal Affairs, and the KGB.⁴⁶

By contrast, the RSFSR draft law's article on ineligibility excluded "persons accused of murder and other serious crimes against the person,"⁴⁷ while calling for a review of all cases involving accusations of crimes against the state when there was reason to suspect political repression as the reason behind the accusation. Article 9 of the RSFSR draft law also stated that "Those among the rehabilitated who served sentences of incarceration, internal exile, or exile abroad, have the right to receive the benefits established for participants in the Great Patriotic War. Those among the rehabilitated who became invalids during the period of their repression

⁴⁶ "Zapiska N. I. Ryzhkova v Verkhovnyi Sovet SSSR s prilozheniem proekta postanovleniya Verkhovna Soveta SSSR 'O poryadke priznaniya lits, sovershivshikh prestupleniya v 20-50-e gody, ne podlezhashchimi reabilitatsii,'" 11 October 1990, [Kak eto bylo](#) (2004), 532-533.

⁴⁷ "Poyasnitel'naya zapiska Komiteta po pravam cheloveka Verkhovnogo Soveta RSFSR k proektu Zakona RSFSR 'O reabilitatsii zhertv politicheskikh repressii' s prilozheniem zakonoproekta," 17 September 1990, [Kak eto bylo](#) (2004), 530.

have the right to benefits established for invalids of the Great Patriotic War.”⁴⁸ While the USSR Supreme Soviet acted quickly to protect the primacy of World War II and the needs of the state over the person, the RSFSR thus rested on the supremacy of the individual as the object of legal protection, while raising terror and repression to the status of the war in Soviet history.

The RSFSR draft law also made explicit the legislators’ ambitious agenda of calling the Soviet system to full account. The key lines appeared in the draft preamble:

During the years of Soviet power, millions of people became victims of the state’s arbitrariness, were subjected to repression for their political and religious convictions, for social, national and other reasons. Condemning the many years of terror and mass persecution of our own people as incompatible with the idea of law and justice, the RSFSR Supreme Soviet bows down before the memory of those who guiltlessly suffered and perished, expresses its deep sympathy to the victims of these repressions and expresses unwavering effort to achieve the eliminate their consequences and the reestablishment of justice and civil rights.

The draft preamble continued by saying that the law’s goal was to rehabilitate all persons subject to such repressions “from 25 October (7 November) 1917 up to the implementation of this law.”⁴⁹ During his presentation of the draft law to the Supreme Soviet, its primary author, Anatoly L. Kononov, underscored the law’s purpose as “the condemnation on principle of the terror and political repressions.”⁵⁰ The active participation by members of Memorial, notably Oleg P. Orlov, in discussions with members of the RSFSR Supreme Soviet Committee on Human Rights about the law influenced their decision to date the terror and repressions from the

⁴⁸ “Poyasnitel’naya zapiska Komiteta po pravam cheloveka Verkhovnogo Soveta RSFSR k proektu Zakona RSFSR ‘O reabilitatsii zhertv politicheskikh repressii’ s prilozheniem zakonoproekta,” 17 September 1990, Kak eto bylo (2004), 531.

⁴⁹ “Poyasnitel’naya zapiska Komiteta po pravam cheloveka Verkhovnogo Soveta RSFSR k proektu Zakona RSFSR ‘O reabilitatsii zhertv politicheskikh repressii’ s prilozheniem zakonoproekta,” 17 September 1990, Kak eto bylo (2004), 529.

⁵⁰ “Poyasnitel’naya zapiska Komiteta po pravam cheloveka Verkhovnogo Soveta RSFSR k proektu Zakona RSFSR ‘O reabilitatsii zhertv politicheskikh repressii’ s prilozheniem zakonoproekta,” 17 September 1990, Kat eto bylo (2004), 526.

October Revolution in 1917, that is, from the very founding of the Soviet regime under Bolshevik rule, and up to the moment of the law's passage.⁵¹ The draft law condemned the entire Soviet era.

Following the first reading of the law by the RSFSR Supreme Soviet, the Committee on Human Rights in the RSFSR Supreme Soviet undertook wide-ranging discussions with a large number of committees in the RSFSR Supreme Soviet; RSFSR ministries; staff members at the USSR Procuracy, Supreme Court, and KGB; and representatives of Memorial. They presented their revised draft law in June 1991. A. L. Kononov again introduced the law, explicating revisions and additions. The new version was longer and more detailed, expanding from a Preamble and 11 articles to a four-part law (General Provisions/Definitions, Procedure for Rehabilitation, Consequences of Rehabilitation, and Concluding Provisions), which together comprised a Preamble and 21 articles. In terms of the law's function as an historical reckoning, three changes were noteworthy.

First, changes in the preamble reduced the rhetoric of repentance, added the term "totalitarian" to describe the government, and added relatives and loved ones of the victims of repression as persons deserving sympathy. Furthermore, it referred to human rights, rather than civil rights, as the RSFSR Supreme Soviet's goal. Finally, it introduced the terms of compensation. The resulting statement was:

During the years of Soviet power, millions of people became victims of the arbitrary rule of the totalitarian state, and were subjected to repressions because of their political and religious convictions, and according to social, national, and other indicators.

Condemning the many years of terror and mass persecution of our people as incompatible with the ideas of law and justice, the RSFSR Supreme Soviet expresses its

⁵¹ Olga Noevna Kosorez, Interview, Moscow, June 2012.

deep sympathy to the victims of unjustified repressions, and to their relatives and loved ones, and declares its unwavering efforts to achieve real guarantees of legality and human rights.

The purpose of the present law is to rehabilitate all victims of political repressions on the territory of the RSFSR since 25 October (7 November) 1917, up to the date this law goes into force, to restore their civil rights, to provide compensation for material and moral harm at a level that the state can achieve at the present time, and to eliminate other consequences of arbitrary rule.⁵²

Second, in Article 4, the definition of who was ineligible for rehabilitation went beyond the first draft's exclusion of murder and crimes against the person to include the types of crimes during World War II which the USSR Supreme Soviet's decree on ineligible crimes had listed. This protected the law's chances against charges that it would open the gates for rehabilitation of citizens who had undermined the war effort. The proposed compensation for victims of political repression who had been incarcerated, subjected to exile, and become invalids during their sentences remained, however, at the levels of benefits for participants in the war and war invalids.

The third consequential change for the historical reckoning appeared in Article 12, which provided to rehabilitated persons or to their relatives in the event of the victims' death, or with their permission, the right to see the case files for closed cases, and to receive a copy of the procedural documents. In addition, rehabilitated persons and their heirs also received the right to receive from those files "manuscripts, photographs, and other personal documents."⁵³ This opening up of the state's secret archives to citizens, who could then disseminate the copies and the original personal papers they retrieved, struck at the heart of the Soviet system. Such access would simultaneously force the Soviet state to reveal its lies and fraud, break the state monopoly

⁵² "Poyasnitel'naya zapiska Komiteta po pravam cheloveka Verkhovnogo Soveta RSFSR k proektu Zakona RSFSR 'O reabilitatsii zhertv politicheskikh repressii' s prilozheniem zakonoproekta," 8 June 1991, Kak eto bylo (2004), 565.

⁵³ "Poyasnitel'naya zapiska Komiteta po pravam cheloveka Verkhovnogo Soveta RSFSR k proektu Zakona RSFSR 'O reabilitatsii zhertv politicheskikh represii' s prilozheniem proekta zakona," 8 June 1991, Kak eto bylo (2004), 568.

on archival documents first established in 1918, and permit citizens to begin to construct an alternative family and national narrative against the grain of the official version of the Soviet era.

This provision and the labeling of the entire Soviet period, from 1917 to 1991, as one of arbitrary totalitarian rule characterized by terror and repression generated the most distress and resistance to the law's passage. As one of its authors recalled, "It's completely clear what this means; the Communists could not like it. And if this 25 October, well, of course. This was absolutely everything, it was like drawing a line under the discussions which had been going on for several years....The law has enormous ideological significance in this sense, you understand. So, the Communists were strongly opposed. ... because, in essence, the law cancelled Soviet power. When, when it stated this formula in the Preamble: 'condemning the many years of terror and mass repressions' and then there was this 25 October. Well, it was clear when the many years of terror began, they began from the first day."⁵⁴

Anxiety and distress suffused the debate a month later at the USSR Supreme Soviet, when A. E. Sebentsov presented the USSR Committee on Legislation and the Legal System's draft law on rehabilitation to the USSR Soviet's full session. One can detect panic in the transcript, when Sebentsov implores the body to take up the draft law even before discussing the other critical item on the agenda: the new Union Treaty to determine the status of the independence-minded republics in a revised federal union system.⁵⁵ "The problem of rehabilitation of the victims of political repression is connected with overcoming the burden of

⁵⁴ Roginskij, Interview, Moscow, December 2013.

⁵⁵ Two months later, the prospect of that Union Treaty galvanized the conservative forces to try to topple Gorbachev and restore order as they understood it through the putsch of 18-21, 1991. The failure of the putsch, in turn, galvanized reluctant deputies in the RSFSR to pass the law "On Rehabilitation" still two months later, on 18 October 1991. Thus, these two critical legislative prospects continued to be twinned in deciding the fate of the Soviet system.

the past, with the necessity of cleansing our conscience, of rethinking our past. . . . The failure to resolve these problems on the USSR/Union level and the hope of more quickly and truly resolving them at the republics' level --- this is one of the important psychological factors of the country's political life."⁵⁶ In her response to the law from the floor, I. A. Andreeva echoed these two concerns, "I believe that this law will hammer one of the nails into the lid of the coffin of that past of which we should be ashamed. I don't believe that we should be ashamed of our entire past, but one of the terrible, tragic pages, unfortunately very long, one of which is this page of repressions, murders and injustice for millions of our people. . . . And the law should be passed today, because we are monstrously late."⁵⁷

The authors of the USSR version aimed primarily to accomplish four things: establish a federal law to bring the various Republics' laws into alignment; to solidify the rehabilitation process by legislating a law, rather than the previous series of executive decrees and orders; to spell out the procedures for rehabilitation applicants and the relevant bureaucratic offices to follow; and to provide the budget for the rehabilitation compensation and benefits. A less explicit, but clear goal was also to preserve legitimacy for the Soviet system by refusing to open the eligibility period in October 1917. The project did extend the period of political repressions through the 1980s, but it insisted on 1920 as the opening date for political repression.⁵⁸ Even with this hesitation, Article 6 of the USSR version of the law detailed procedures for citizens' access to the case files. This article included a provision that would enable the republics' bodies

⁵⁶ Verkhovnyi soviet SSSR, *Pyataya sessiya verkhovnogo soveta SSSR. Stenograficheskii otchet. Chast' XVIII, 3-8 Yulya 1991 g.* (Moscow, 1991), 277.

⁵⁷ Verkhovnyi soviet SSSR, 301.

⁵⁸ Verkhovnyi soviet SSSR, 279.

to establish temporary limits to such access, in order to protect against “revenge and other exacerbation of tensions which might arise in society upon acquaintance with the documents.”⁵⁹

In the discussion of the law that followed, lasting into the night, Deputy N. N. Engver, a prominent economist who had spent years of his childhood in Gulag installations with his inmate mother, passionately addressed the need to pass the law.⁶⁰ He urged the USSR Supreme Soviet to extend the category of victims eligible for rehabilitation and compensation to child survivors such as himself. Yet he insisted on the need for constraint and limits on calling specific individuals to account for their roles in the terror and repression, seeing no purpose in persecuting such “old people.” He also cautioned against permitting citizens to see the case files. “People who are alive today must not look at these documents – neither those who lived through this, nor their relatives. I was unlucky, and I had to acquaint myself with these kinds of files, and I tell you that people with a normal psyche will not be able to sustain it – neither relatives, nor strangers. Time should pass – 20, 30, 40 years....You lose your faith in humanity. . . .And no one will preserve a normal understanding of humanity, neither of themselves, nor of those near and dear to them, nor of their acquaintances. This should be stated in the law on archives, and the current formulation should be completely removed from this draft law.”⁶¹

The failed putsch by conservative elements in the CPSU, KGB, and military on 18-21 August 1991, shortly followed by RSFSR President Yeltsin’s dissolution of the CPSU, proved to be the final catalyst for the law’s passage in the RSFSR Supreme Soviet. Not only was Communist resistance now a moot point; many of those RSFSR delegates who had resisted the

⁵⁹ Verkhovnyi soviet SSSR, 280.

⁶⁰ N. N. Engver, *Nepopravimost’ zla* (Moscow, Iuridicheskii tsentr press)

⁶¹ Verkhovnyi soviet SSSR, 291.

law's passage voted for it out of personal considerations. "But the law was passed, and could not have NOT been passed, after the putsch. Because, in the putsch's wake, when, in fact, they were all wildly afraid that, tomorrow, they would be arrested again. Because, an enormous number of these deputies, in their souls, really, fully, and out of practical considerations, in some way, of course, had supported the putsch. Well, so, what now? Gorbachev won, but it was still not clear who would...remember, this was October, it was not clear at all who – Gorbachev – or some kind of Yeltsin -- who would rot in the future. They practically said this outright, that we are today all potential victims of political repression, therefore we should immediately . . . the Communists did not win support, and the law was passed on 18 October."⁶²

"[I]t was not clear at all...." The contingency of the historical moment which Boris Yeltsin's signing of the law "On Rehabilitation" marked was evident in the mixed expectations, almost all of them inaccurate, which stakeholders held for its future. Within the RSFSR Supreme Soviet's Committee on Human Rights, the authors of the law anticipated that the law was a short-term, transitional vehicle. Kononov predicted that the work of the Commission on the Rehabilitation of Victims of Political Repression established by the law would finish the work of monitoring the rehabilitation process for remaining victims in two years.⁶³ Anatoly Roginskii reports, "We simply believed that this was the first law to enact a reckoning with the past, so to say, but it turned out that it was the first, and it was the last."⁶⁴ The urgency of passing the law at the time trumped the need to refine it, much less to perfect it. Olga Noevna Kosorez,(a lawyer who contributed to early discussions of the draft law; worked for more than

⁶² Roginskii, Interview, December 2013.

⁶³"Poyasnitel'naya zapiska Komiteta po pravam cheloveka Verkhovnogo Soveta RSFSR k projektu Zakona RSFSR 'O reabilitatsii zhertv politicheskikh repressii' s prilozheniem zakonoproekta," 17 September 1990, Kak eto bylo (2004), 528.

⁶⁴ Roginskii, Interview, Moscow, December 2013.

twenty years as a lawyer assisting applicants for rehabilitation; and addressed Russian legislators, presidents, and judges in connection with the law), expressed the commonly held view that, “I must say that the law was very far from ideal. Life showed that it needed many amendments.”⁶⁵ Looking back on the hopes Memorial activists attached to the law in 1991, Irina Flige, current director of the St. Petersburg branch of Memorial, is one of the sharpest critics of its impact as a vehicle for a full historical reckoning and transitional justice: “The law closed down discussion.”⁶⁶

Flige believes that the “emerging new political elite” of 1991 was closer to “power” than to victims, and too ingrained with the vocabulary of Soviet rehabilitation to imagine a law that would have fully opened the Soviet record to scrutiny. The authors of the law in the RSFSR were trying to solve a pressing problem, rather than launch an unconstrained inquiry by the public into Soviet abuses and the individual persons who committed them. This was especially true of Sergei Adamovich Kovalyov, who was Chair of the RSFSR Supreme Soviet Committee on Human Rights and in a position to influence the legislation. He did not support lustration, fearing that a “witch hunt” would ensue, which in turn would worsen the political instability of 1991, rather than improve it or the lives of victims.⁶⁷

The very choice of the word “rehabilitation” also revealed Soviet continuities in language and a state-centered approach. Victims again were objects of the state’s agency: they became “rehabilitated” by receiving a “certificate of rehabilitation” which, in turn, granted them “miserly social benefits” as compensation. The state continued to grant or withhold “rehabilitation” into a

⁶⁵ Kosorez, Interview, Moscow, June, 2012.

⁶⁶ Irina A. Flige, Interview, St. Petersburg, March 2013.

⁶⁷ Gilligan, 5-6 ; Flige, Interview, March 2013.

status of full citizenship, just as the state had earlier repressed, tortured, and killed. Furthermore, once such a victim accepted the state's certificate of rehabilitation and its accompanying benefits, the victim had no further claims against the state. For the majority of applicants whose original repression had come through extra-judicial organs, the process occurred within the state's offices by staff members, who mailed the certificate. This enabled the state to dispense with the case without encountering individual survivors or their relatives, or prolonging the process of conceding the Soviet system's misdeeds. Certificate issued. Case closed. Discussion over. Historical reckoning contained.

Second, Flige and others object to the limits the law placed on who could see the case files, and to the prohibition in the law against any violation of the rights of the persons "involved in the case," that is, the individuals named in the files as arresting officers, interrogators, and executioners or other personnel of the security organs. Indeed, this protection of the perpetrators enrages many survivors, their relatives, and their advocates to this day.⁶⁸ Whereas KGB director Kryuchkov and members of the PC had hoped to draw a line under the past, considering Spain's approach to the Franco era worthy of imitation, survivors and their advocates repeatedly mention the Nuremberg Trials as the benchmark Russia has failed to reach. Because the Soviet government played a leading role in documenting the "Holocaust by bullets" on Soviet territory and in prosecuting the Nuremberg defendants, the deflection of prosecution of Soviet perpetrators of human rights abuses against Soviet citizens is especially galling.⁶⁹ Even so,

⁶⁸ Valentin Tikhonovich Muravsky, Interview, St. Petersburg, March 2012.

⁶⁹ Survivors and advocates in Russia display little to no knowledge of critical appraisals of the Nuremberg trials, or of the periodization of Germany's reckoning with the Holocaust over the last 7 decades. They have an idealized view of the trials and impatient understanding of the time required for full reckoning. For the Soviet role, see Francine Hirsch, "The Soviets at Nuremberg: International Law, Propaganda, and the Making of the Postwar Order," *The American Historical Review*, Vol. 113, No. 3 (Jun., 2008), pp. 701-730.

granting access to the case files to survivors or dead victims' relatives placed the fraudulent, indeed murderous, lies of the regime which had shocked even the Politburo's PC when they first learned the details in 1988 and 1989, in the public domain.

Article 11 of the law stated:

Rehabilitated individuals, and, with their consent, or in the event of their death, their relatives, have the right to examine the materials from the closed criminal and administrative cases and to obtain copies of the documents of a non-procedural nature. Other individuals are allowed to see the materials according to the policy established for familiarization with materials from capital state archives. The use of the information to the detriment of the rights and legal interests of the individuals involved in the case, or their relatives, is not allowed and is prosecuted according to the procedure established by law.

Rehabilitated individuals and their heirs have the right to obtain manuscripts, photographs, and other personal documents kept in the files.

Having received such documents, those who reviewed the case files not only had their own personal archives, but could and often did donate the materials to Memorial and such other victims' organizations as The Return.

Acknowledging the Soviet State's Lies

A full historical reckoning would have depended upon open access to the archives beyond the survivors and their relatives. Furthermore, to gain access to the case files, the survivors or relatives had to have a certificate of rehabilitation in hand, already. This meant that the state had "settled accounts" with victims, survivors and their relatives before the latter had an opportunity to see the details of the Soviet government's fraud and physical abuse. Indeed, a survivor could be asked to sign a document waiving any further claims against the state after

reviewing the files. In 2007, Maya Levitina recounted the following scene from her visit to read her father's files at the KGB offices in Smolensk in the early 1990s. After she had read the materials and taken notes from the file, the KGB officer in charge of the process asked her:

‘Well, have you familiarized yourself with everything?’ I said, ‘Yes, I have already familiarized myself with it.’ He gave me this, well, paper and said, ‘And now, please write that you have no claims against us.’ . . . And I said that I had no claims against him personally. I said, how was I to say I had no claims against the security organs? I said, ‘I will never sign this.’ . . . He said, ‘Well, that’s your business.’ And that was all. Nothing else. He was very dissatisfied, but he didn’t . . . he did not react in any way. I even came home and thought, ‘Now, maybe, they’ll get me for that’; but this passed.⁷⁰

Indisputably, the protections included in the law for the perpetrators, and the limit of direct access to the case files to persons beyond the survivors themselves or the deceased victims’ relatives, coupled with the de facto preemption of any suits against the state or its personnel ensured that the procedures for rehabilitation of victims of political repression would not lead to an unfiltered, fully public historical reckoning. Even with these limits, however, the law was a major step away from the state-protected lies and fraud that had characterized Soviet repression.

We have evidence from several sources of the power these case files had to stun those who read them and to destroy utterly any vestiges of respect for, much less trust in the state. Furthermore, reading the case files for some survivors or their heirs bestirred them, inspiring them to become civic activists. At the very top of the Soviet system, A. N. Yakovlev read the case files for years as the chairman of the Politburo Commission on rehabilitation and its successor, the Presidential Commission on Rehabilitation in the Russian Federation under Boris Yeltsin. He left this account of the files’ impact on him:

⁷⁰ Maya Rudolfovna Levitina, Interview, Smolensk, November 2007.

To descend step by step down seventy years of Bolshevik rule into a dungeon strewn with human bones and reeking of dried blood is to see your faith in humankind dissolve. ... More and more bloodstained documents pile up on my desk....Nothing I have ever read comes close to the horror of these semiliterate compositions of the secret police and these covert denunciations of informants, or 'well-wishers.' I ought to be used to them by now. I'm not. Too much gets in the way: pity, bitterness, indignation, disillusionment.⁷¹

Maya Levitina, daughter of an esteemed physician, shared Yakovlev's disgust at the low quality of the interrogation techniques, the education of the interrogator, and the very paper itself when she read her father's files in Smolensk.

So they wrote that the eighth department . . it was opened on November 30, and on December 15, the case was closed, that means that they deprived a person of his fate in the course of 15 days. (sigh) Who ran this case? (In an acidic, contemptuous tone) Sergeant of State Security Ivanov (pause). That means that the fate of a director and professor, one can say, of a world-famous institute, was decided by Sergeant of State Security . . . Ivanov. So. And they had issued the order for my father's arrest on November 28 (coughs). In the order it was written that enough had been uncovered to prove that he was a participant in a revolutionary organization. (pause) . . .

And if only you could see this file. The file looked like this: two terribly dirty sheets of paper . . . Here, and here, there's more personal information, it's written that they took from him at the time of his arrest a fountain pen with a gold nib, then a brand-name watch, then something else, it was all written here, then information about the family, here, here it is all written down. . . . There was more on these two terribly dirty sheets of paper. It had such an effect on me, that I don't even know how to . . how to tell you what it was like . . .⁷²

Natalia Kruk first viewed her executed father's files in 1993 in St.Petersburg, also under the watchful eye of a security police officer. Like many children who sought information about

⁷¹ Alexander N. Yakovlev, A Century of Violence in Soviet Russia (New Haven and London: Yale University Press, 2004), 3.

⁷² Levitina, Smolensk, 2007.

their dead fathers' fates in this way, she noted the deterioration of the accused, evident in his signature at the bottom of each interrogation session from September 1937 to January 1938.⁷³

One must stress that the character of the accused's answers changed sharply during this interrogation. At the beginning of the interrogation, he denied any spying activity. But he soon confessed fully to spying for Poland. Furthermore, S. P. Kruk's signature changed a lot on each page of the interrogation: if on the first pages, his first name and patronymic were very carefully written, then further on there was a very-much-altered, ordinary scrawl. Very heavy thoughts arise.⁷⁴

Not all the documents in the file were available for Natalia Kruk's examination. As most survivors who have taken this step report, she found that many documents were stapled together so that she could not see them.

Kruk returned a second time to view the files in 1999. By then, she had applied her professional skills developed as a librarian at the Library of the Academy of Sciences to doing research for Memorial-St. Petersburg in retirement. She arrived on her second visit with Memorial directors in tow, carrying a portable photocopier.⁷⁵ Here we see the immediate connection between LoR's granting of access to criminal case files of the victims of Soviet political repression and the development of independent, non-state archives of Soviet repression. We also see evidence of how viewing the files transformed a woman who had studiously maintained silence about her father's history through decades of employment at a state institution

⁷³ A group of 9 beneficiaries of LoR, interviewed at Memorial-St. Petersburg on October 17, 2013, universally referred to the pain they experienced when they saw the decline in their fathers' signatures in the case files they reviewed after 1991. Some of these beneficiaries wept as they recounted the experience.

⁷⁴ Natalia Kruk, "Sledstvennoe delo kak istochnik biograficheskikh svedenii," in Pravo na imya. Biografika 20 veka (Conference proceedings published by NITs Memorial St. Petersburg and the European University in St. Petersburg), St. Petersburg, 2010, 188.

⁷⁵ Kruk, "Sledstvennoe delo," 185.

into a researcher in a human rights NGO and disseminator of information about Soviet repression.⁷⁶

A similar process occurred with Valentin T. Muravsky. Muravsky lost his father to summary execution in 1937 in Leningrad. In the late 1980s, when Gorbachev's policy of glasnost' took hold, and the PC began its work on rehabilitation, Muravsky was a decidedly apolitical worker without higher education. His entry into transitional justice activities was purely personal: he wanted to know his father's fate. Across the few pages in his father's case file, he observed the transition from confessed innocence to a weakly-signed confession to all accusations. "So, they – excuse me, I won't tell you what I really call these scum, they beat this testimony out of him. I read this. And how do I feel about all of this? [...] I won't read it a second time. That is, I know the essential, how this is all done, how all of this is extracted through beatings. Now, I'm a grown man, it's not so much that it upsets me, as it stuns and depresses me."⁷⁷

Muravsky felt a deep need to locate his father's grave. For relatives of victims of summary execution, the vacuum of information about their loved ones' death and burial was a gnawing uncertainty decades after the victims disappeared into the state's penal system. The official policy the Soviet government followed was to lie to relatives of executed victims of political repression. At the time of arrest and execution, relatives received the false information that their loved ones had been sentenced to ten years in the camps without the right to correspondence. During and after the war, another practice took shape: telling them that the

⁷⁶ Natalia S. Kruk, Interview, St. Petersburg, February 2007. In her interview with Cathy Frierson, Kruk stressed how she only revealed her status as a child of an "enemy of the people" in her final years of employment.

⁷⁷ Valentin T. Muravsky, Interview, St. Petersburg, February 2007.

victim had been sentenced to ten years in a corrective labor camp and had died in their place of incarceration. This practice was formalized by a KGB decree in 1955.⁷⁸ So jealous were state officials of their information about summary execution and burial that they often sent agents to the surviving relatives with false stories about having been in the camps with the political prisoners and reports of their well-being. Irina Dudareva received just such a visit in Yelnya at the end of the war, when a person she later presumed to have been an NKVD operative arrived at her home to tell her and her daughters that he had been with her husband in the camps, and that he had been well when he had last seen him.⁷⁹ In 1954, she wrote to the government in search of her husband, who had been arrested in 1934, explaining that, “For all these 18 years, neither I nor my daughters have known anything about our husband and father, except that he was sent to the department of special regime camps for ten years, and we firmly believed and do believe that we will find traces of him that will remind us of a person who disappeared without a trace.”⁸⁰

The death certificates with false information provide macabre illustrations of the Soviet system’s fabrication of official “truth.” Brain fevers, tuberculosis, heart failure, typhus, pneumonia, stomach ulcers, and any number of other maladies were the official causes of death on the falsified death certificates of the 1940s, 1950s and 1960s. Consider the two death certificates issued for Kaium Bagoutdinov: the 1942 version, sent to the family in 1961, stated he had died of “sarcoma of the bones and internal organs” in “a place of imprisonment.”⁸¹ The

⁷⁸“Zapiska M. S. Solomentseva v TsK KPSS ‘O proyadke razresheniya zayavlenii grazhdan o sud’be lits, rasstrelyannykh po resheniyam nesudebnykh organov,” 22 August 1988, Kak eto bylo (2004), 117.

⁷⁹ Galina V. Dudareva, Interview, St. Petersburg, February 2007.

⁸⁰ Private archive of Galina V. Dudareva, St. Petersburg.

⁸¹ Memorial NITs-St. Petersburg, Fond B-1, delo Bagautidnov Kayum, l. 1.

second, issued upon request to his daughter, Saira Kaiumovna, in 1992, stated, “Executed by shooting in the city of Gorky on 08.01.1938.”⁸²

Saira Kaiumovna received the corrected death certificate thanks to Article 11 of LoR, which forced the state to provide the truth about the ultimate fate of its victims. It read:

Upon receipt of a petition from the applicants, the organs providing for archival storage of the files relating to the repressive measures must report to them the time and cause of death and the place where the rehabilitated individual is buried.

By the end of 1999, over 115,000 persons had gone to FSB offices in person to search for information, often to establish the fate of their relatives.⁸³ Thousands of others wrote for the information, often with the assistance of their local Memorial offices. Further documentation of the state’s lies thus came to be stored in personal and NGO archives (and thence on the internet), where the false death certificate and the corrected, post-LoR death certificate appear in succession in a victim’s file. This outcome had been a distressing specter on the horizon for the gatekeepers of Soviet history in the Politburo as early as 1988.

From the start of its work, the PC had received hundreds of letters from surviving relatives asking for assistance in locating their deceased relatives’ burial sites.⁸⁴ Soon the issue of victims’ graves intersected with nationalist movements within the USSR; Lithuanian officials demanded information about the location of mass graves of those Lithuanians deported to special

⁸² Ibid., l. 10.

⁸³ Doklad Komissii pri Prezidente Rossiiskoi Federatsii po reabilitatsii zhertv politicheskikh repressii o khode ispolneniia Zakona Rossiiskoi Federatsii “O reabilitatsii zhertv politicheskikh repressii (Moscow, 2000), 9-13.

⁸⁴ “Zapiska B. K. Pugo v Komissiyu Politbyuro TsK KPSS po dopolnitel’nomu izucheniyu materialov, svyazannykh s repressiyami, imevshim mesto v period 30-40-kh I nachala 50-kh gg. ‘O pis’makh, postupivskikh v adres Komissii Politbyuro,’” 12 January 1989, Kak eto bylo, (2004) 181.

settlements in Siberia in 1940-1941, and, once those sites were established, demanded repatriation of the remains.⁸⁵

Valentin Muravsky chose a different route. He placed a notice in a Leningrad newspaper, asking if anyone had information about the ultimate fate of his father. Out of the responses to that notice, a network of orphans of political repression found each other and established the organization Poisk, The Search, to lobby for disclosure of information about their parents' burial locations. By 1989, they had located the mass graves just beyond the Leningrad city limits where the bodies of the victims of the terror operations of 1937-1938 in Leningrad had been dumped – Levashovo.⁸⁶ Through LoR, Article 11, survivors were able to learn the details of their relatives' interrogation, execution, and disposal in a mass grave. With that knowledge, they have gone to the forest at Levashovo ever since to visit and memorialize their dead. Levashovo is now an official memorial park, open to the public, and accessible by city bus. The mounds of earth scattered throughout the trees hold an estimated 20,000 corpses of the terror's dead.⁸⁷

Entry into Levashovo, and thereby education about Soviet political repression, is free. I visited in mid-October 2013, as one of the last steps in my research on LoR. I had been invited to join a group of high school seniors, whose history teachers had arranged a full-day tour on sites of trauma and mourning in St. Petersburg's history. The guide was herself a Gulag survivor. The students had begun their tour with visits to sites related to the Siege of Leningrad during World War II, including the mass graves of famine victims at Piskaryovskoe Cemetery.

⁸⁵ "Postanovlenie Politbyuro TsK KPSS 'O Prevozke dlya prezakhoreneniya v Litovskoi SSR ostankov repressirovannykh grazhdan," 24 August 1989, Kak eto bylo, (2004) 270-271.

⁸⁶ Irina Paperno, "Exhuming the Bodies of Soviet Terror," *Representations*, Vol. 75, No. 1 (Summer 2001): 89; Denis Kozlov, "The Leningrad Martyrology: A Statistical Note on the 1937 Executions in Leningrad City and Region," *Canadian Slavonic Papers / Revue Canadienne des Slavistes*, Vol. 44, No. 3/4 (September-December 2002): 180.

⁸⁷ <http://visz.nlr.ru/eng/pm/levashovo/history.html>

The teachers and guide agreed that every person who visits St. Petersburg who goes to Piskaryovskoe must also go to Levashovo to gain an understanding of St. Petersburg's Soviet past. In this way, they rejoined the controversy which had plagued the composition of LoR on the commensurability of suffering in World War II and suffering due to Soviet political repression. For this group of seventeen-year-olds, the immediate encounters with the physical graves of those who had died in these two landmark episodes in Soviet history were nearly simultaneous. Several students had brought flowers to place in Levashovo. "These are our relatives, our families," they explained to me.

Where to place the flowers required some thought. Should they go on an unmarked mound of overgrown earth? Or should they go beneath a victim's photograph nailed to a tree? Levashovo is a mass grave site very different from Piskaryovskoe in the individualized commemoration of the dead. Piskaryovskoe is in every aspect a mass burial ground of the anonymous hundreds of thousands of Leningrad's war dead, distributed among carefully maintained, well-mown, geometrically regular, rectangular mounds, each marked by a small square plaque noting the year of burial. Levashovo is personal and disorderly. The bodies lie as they were dumped at the end of each day's executions, in random mounds under the trees extending from the access road from the city's center deep into the edges of the forest. Given this randomness of disposal, the state could not inform relatives of specific locations of any given victim. In response, surviving relatives have chosen their own sites to honor the individuals they have lost. They are idiosyncratic and often instructive.

As one looks across the forested grounds of Levashovo, one sees portraits and photographs nailed to tree trunks, crosses stuck in the ground, wreathes of flowers hung from

various trees or crosses, and more substantial monuments erected by such official entities as the national government of Ukraine. The phrase “magical realism” comes to mind. To see all the memorials, one must leave the paths and walk across the uneven ground beneath the trees to reach those tucked into the shade of deeper spaces. The encounter with the victims of political repression becomes more personal. Often, survivors have sought to teach a lesson by including not only the dates of the victim’s life, but also the dates of his or her arrest and execution, or simply the word “Rasstrelyan” (Executed by shooting), thus pointing to the summary nature of justice and death in the Soviet regime. For example, the sign nailed to a tree to honor Isaac Aleksandrovich Ratkevich includes his photograph and the following information:

Born 1905
Arrested 17.08.1937
Convicted 02.12.1937
Executed by shooting 10.12.1937
Rehabilitated 04.11.1957

An artificial daisy was tucked into the top of this sign on the day I visited Levashovo. The students in our group left Levashovo empty-handed, their flowers joining those left by other visitors on the victims’ individualized, modest, home-made memorials.

Conclusion: LoR as an Enduring Vehicle for Transitional Justice and Historical Reckoning

As a student of Russian and Soviet culture, I have walked through other graveyards across Russia for the last 30 years. A memory from my first research visit to the Soviet Union, funded by IREX and Fulbright in 1984-1985, came to mind as I walked through Levashovo. On Easter Eve, 1985, I went with several other IREX scholars to observe the midnight procession around the Russian Orthodox church in the Smolensk cemetery in our Leningrad neighborhood.

We found ourselves in a scene so disturbing that we left, because, as one of our number put it, “I feel like a voyeur.” Having stumbled through the unlit cemetery, where vodka and beer bottles littered the graves marked by broken and listing gravestones, we came upon the church itself. There we saw Komsomol (Communist Youth League) members joined in a chain of linked arms with red arm bands around the church, taunting the elderly believers, mostly women, who were trying to enter the church’s candlelit sanctuary. Sometimes an elderly woman approached on the arm of a younger man, perhaps her son, to press against the Komsomol ring of taunting youths, who pushed them back into the mud. Men in plain clothes stepped out of the darkness to take the men by the arm, leading them into the darkness of the littered graves, demanding to see their documents. Easter Eve, 1985. Leningrad.

Mid-October, 2013, a generation later, I was in the company of students the age of those Komsomol members of 1985, respectfully walking among the jumbled graves of victims of Soviet repression and laying flowers before the personalized memorials they found most touching. Not desecration and thuggish intimidation by Soviet youth shouting epithets at Soviet citizens, but commemoration by Russian youth of the Soviet regime’s victims defined the scene. The late Soviet law 1761-1 “On Rehabilitation of Victims of Political Repression” contributed to this transformation.

LoR was the product of an intensely contingent, transitional moment. It took shape in a contest that pitted CPSU forces who wanted to draw a line under the history of repression and move on to revive their power against forces in society and politics who wanted to expose that history fully, condemn it, and to compensate and memorialize the Soviet regime’s victims. For both sides, the question of where to place repression relative to Soviet victory in World War II

was a concern. Both sides also understood the importance of the difference between a decree or order issued by the CPSU or its General Secretary and a law approved by elected representatives of the citizenry. The Politburo Commission favored a decree; the members of the Committee on Human Rights in the Supreme Soviet of the RSFSR were determined to address repression, rehabilitation and compensation with a law. As one of its authors explained in 2013, “The president’s decree of August 13, 1989 was very similar ideologically. But we were writing precisely a law. This was a difference in principle.”⁸⁸ They saw their work as part of the effort to develop the rule of law, rather than the “arbitrary actions” of the totalitarian state. Like all laws, this legislation was neither perfect nor complete. Yet its authors were correct in anticipating that a law would prove more enduring than a decree whose authority rested with its one-person-signature.

The impulses at play in 1988 – 1991, as well as some of the key actors in the law’s development, are still evident in the Russian Federation. When Vladimir Putin paid his first visit to the Presidential Commission on Rehabilitation of Victims of Political Repression after his initial election as president of the Russian Federation in 2000, he displayed the same desire to draw a line under this history that his boss at the KGB in 1990, Kryuchkov, had expressed to the PC. Putin announced his impatience over the fact that the Commission still had work to do almost a decade into its existence. He demanded that the members tell him then and there how many victims of repression there had been and how many remained to be dealt with. When the members tried to explain to him that the figures were neither precisely known nor knowable because of the nature of repression through summary execution, mass deportations, mass death in special settlements, and so on, Putin ordered them to come up with a figure and to complete

⁸⁸ Roginskii, Interview, Moscow, December 2013.

their work. End of discussion. President Putin left the meeting.⁸⁹ Both the St. Petersburg offices and the Moscow offices of Memorial have been raided by police (SWAT or Tax) armed units: St. Petersburg in December 2008 and Moscow in March 2013. The Kremlin and Duma have set out to retake control of history in various ways, from criminalizing any “falsification” of the history of The Great Patriotic War to commissioning one official history textbook to be used in all Russian schools. They have established the Russian Historical Association with the Chairman of the Duma, Sergei Naryshkin, as its President, aiming to ensure appropriate historiography of WWII and the Soviet era, as well as to define who is a legitimate historian whose work should be published in the Russian Federation.⁹⁰

Yet, Memorial has survived. Equally important, if not more important for world history, the alternative archive they have developed through Article 11 of LoR has gained some permanence through the support of the National Endowment for Democracy. Following the police raid in December 2008, NED provided Memorial-St. Petersburg a major grant to digitize its entire collection, thus removing the immediate threat of destruction by Russian police forces. Semyon S. Vilensky, member of the Presidential Commission on the Rehabilitation of Victims of Political Repression and director of the historical-literary society, The Return, made similar arrangements with a research center in the Netherlands to scan the hundreds of folios in his apartment-office, where he has gathered victims’ and survivors’ memoirs, diaries, correspondence, and copies of files they acquired via LoR, Article 11. Thus, these records of Soviet political repression have also made their way out of the reach of the Russian police, should they decide to seize them. As of late 2013, the Memorial archive in Moscow had yet to

⁸⁹ Semyon S. Vilensky, Interview, Moscow, May 2012.

⁹⁰ “Naryshkin: ‘Istoriya VOV iskazhaetsya dlya izmeneniya balansa sil,” [Vzglyad/Delovaya gazeta](#) (17 June 2013).

receive the funding to make such digitization possible. This is a serious concern. Even so, Memorial-Moscow's website "Remembering the Gulag" regularly posts archival documents and reports of events they have sponsored via Facebook and other internet venues, reaching researchers and students around the world, far from the reach of the Russian government figures who want to draw a line under this history. Research by European and North American scholars, largely funded by their national governments, has also yielded databases of oral history interviews and other sources on the history of Soviet repression. These will continue to bear witness even if the Russian government succeeds in minimizing or erasing the record of Soviet abuses of human rights in Russian historiography.

Finally, Levashovo and similar mass grave memorial sites across Russian territory remain open and under local government protection. The mass graves in the forest of Makarikha on the edge of the city of Kotlas are remarkably similar to those in Levashovo. Mounds of overgrown graves, here holding the remains of victims of mass dekulakization, deportation of suspect ethnic groups from the western borderlands, and members of the military and professions from the Baltic States and eastern Poland after the signing of the Molotov-Ribbentrop Pact and Soviet invasion of the territories. As in Levashovo, families have traveled to Makarikha to place portraits on trees, crosses in the earth, and flowers before the monument the local Memorial organization placed to victims of Soviet political repression. And, as in Levashovo, local students visit the site with their teachers, honoring the victims of Soviet repression, understanding that, "These are our families, our relatives."