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Let Those Orthodox Jewish Books Go

By Michael Bohm

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The decades-old legal battle over the "Schneerson library" reached a new peak after a U.S. district court in Washington ruled last week that Russia must pay an unprecedented fine of $50,000 every day until it returns the 12,000 religious books and 25,000 pages of handwritten manuscripts to Chabad-Lubavitch, a group of ultra-Orthodox Jews based in Brooklyn.

For the past 25 years, Chabad has tried to retrieve the books and manuscripts, most of which are several centuries old and of priceless religious value to Chabad believers, the largest group within Hasidic Orthodox Judaism.

The collection is called the Schneerson library because it was bequeathed to the Schneerson family, a dynasty of Chabad rabbis who lived in the Russian Empire's Pale of Settlement since the18th century. Rabbi Menachem Schneerson — born in Nikolayev, Ukraine, in 1902 and the fifth in a direct paternal line of Schneerson rabbis — inherited the library. But after the Bolshevik Revolution, a significant portion of the collection was nationalized and transferred to the Lenin Library.

After being forced to leave the Soviet Union in 1927, Schneerson took the portion of the religious books and manuscripts that remained in his possession to Poland, where they were later seized by the Nazis during World War II and brought to Germany. (Even the Nazis recognized the historical value of these books.) In 1945, the Red Army seized the Schneerson collection from Germany and brought it back to Moscow, where the books and manuscripts were added to the existing collection in the Lenin Library and the State Military Archive.

The Kremlin has always insisted that the collection belongs in Russia, arguing that it is "a part of Russia's cultural heritage and belongs to the Russian people." Yet claiming that an obscure collection of ultra-Orthodox Hasidic books belongs to the Russian people sounds a bit strange, given the minuscule Chabad population remaining in Russia, not to mention Russia's difficult history of state-sponsored anti-Semitism in the Russian Empire and the Soviet Union.

In an odd gesture, Russian authorities gave Vice President Al Gore one of the Schneerson books in 1993, when he visited Moscow. The next year, Russia gave President Bill Clinton seven of the Chabad books. So much for protecting "Russia's culture heritage." This is somewhat like when U.S. Presidents Richard Nixon, Jimmy Carter and Ronald Reagan visited the Soviet Union, during which the Kremlin would often let a few hundred Jews leave the country — also as a "good-will gesture."

Clearly, Moscow's interest in keeping the Schneerson library has less to do with its affected respect for Jewish culture and history and more to do with a banal desire to get something in return for this highly valuable collection. The problem is that the U.S. doesn't have Russian war booty that it could exchange for the Schneerson library in an equal trade. It is true that there are a large number of Russian icons that were brought to the U.S. during the Bolshevik Revolution and civil war that followed, but most of these were privately owned by White Russians and others fleeing the revolution. Their descendents wouldn't be too excited about exchanging them for the Schneerson library.

Deputy Culture Minister Grigory Ivliyev said last week that if Chabad has legal complaints against Russia's right to hold the Schneerson collection, it should sue the government in a Russian court. We've heard this line before. Recall when the Kremlin said the same thing to opposition activists who wanted to file vote-rigging charges against election officials after the last State Duma and presidential elections.

Having exhausted attempts to reach a settlement with Russian authorities directly and having little faith in the independence of Russian courts, Chabad turned to a U.S. court. Based on ownership documents presented in court, Judge Royce Lambert ruled in 2010 that the Schneerson collection should be turned over to Chabad in Brooklyn. Notably, the defendant in this case, the Russian Federation, refused to take part in the trial, citing its sovereignty.

After Russia did not comply with court's 2010 decision, Lambert ruled last week that the country should pay a fine of $50,000 per day until the collection is returned to the Chabad organization. Not surprisingly, Russia was livid about Lambert's ruling on these damages. The Foreign Ministry called the ruling "an absolutely unlawful and provocative decision" and threatened a "tough response" if the U.S. authorities tried to seize Russian property in the

United States in lieu of the fine.

Culture Minister Vladimir Medinsky chimed in, calling Lambert's decision a "Russophobic show." This sentiment was echoed by many in the Russian blogoshpere, who made ridiculous claims that Judge Lambert himself is an ultra-Orthodox Hasidic Jew — just look at the black robe he wears! — and that U.S. financier George Soros and "the Rothschilds" paid all Chabad's legal bills to help the Orthodox Jews "pilfer Russia's national treasure."

What's more, the Foreign Ministry argued that the U.S. had no jurisdiction in this case. Indeed, the U.S. Foreign Sovereign Immunities Act, or FSIA, usually excludes U.S. citizens from collecting damages from foreign governments in U.S. courts. But Lambert made an exception in this case because the disputed property involved Soviet war booty and property gained illegally through Bolshevik nationalization. (Interestingly, the U.S. Justice Department disagreed with Lambert's legal interpretation and said the court could not use this exception to the FSIA to assess damages against Russia.)

Another reason the Kremlin may be so adamant about not returning the collection is the fear that this might open up a Pandora's box by setting a precedent for the return of countless amounts of property that was illegally expropriated by the Bolsheviks and Communists.

There have been other casualties in the Schneerson case as well. Since 2010, Russia has canceled exhibits to the U.S. from state-run museums such as the Hermitage, the Pushkin Museum and the Tretyakov Gallery for fear that the artwork may be attached by U.S. authorities.

Looking back over past decades, Russia never took Chabad's claims to the Schneerson collection seriously. Part of this has to do with Russia's lack of understanding of Chabad's ultra-Orthodox Jewish culture in general and its sacred religious objects, including the Schneerson library, in particular. (To make matters worse, the name Schneerson, along with Rabinovich, has always been a favorite caricatural personage in Russian jokes about Jews.) Perhaps one of the motives of Lambert's unprecedented $50,000-per-day fine was to prod Moscow to treat the Chabad claims more seriously.

Nonetheless, it is highly unlikely that a U.S. court will ever enforce Lambert's judgment by attaching Russia's state-owned property in the U.S.; even Chabad suggested this week that it doesn't want to push the issue that far.

The best outcome of the latest round in the 25-year-old legal battle over the Schneerson library would be for Russian authorities to finally agree to return the collection to Chabad headquarters in Brooklyn — not in exchange for another art collection, a big foreign investment project or some other quid pro quo, but for the simple reason that it is the right thing to do.

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