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## The Right to Freedom of Conscience and of Confession in Late Imperial Russian Public Discourse

(The View of a Legal Historian)

*Although freedom of conscience and of confession were essential to modernizing Russia and creating a civil society, the tight bonds between church and state complicated efforts to implement such reforms under the autocratic system and the constitutional monarchy that succeeded it.*

The contemporary scholarly literature reveals an abiding interest in the exercise of civil rights and freedoms in the Russian Empire. Problems fueling the fire of discussion include the crisis in the imperial system with respect to confession [*veroisповедание*] at the end of the nineteenth century and Russian society's ability to adapt to the contemporary realities of religious life.

An important indicator of the crisis in the empire's religious system was the instability of society's ethno-confessional structure—compounded by legal disparities among faiths in the practice of their respective religions and by civil and political inequalities stipulated by religious affiliation. Religious inequality, rooted in Russia's state and social traditions, no longer served the contemporary

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English translation © 2013 M.E. Sharpe, Inc., from the Russian text, “Pravo na svobodu sovesti i veroisповедaniia v obshchestvennom diskurse Rossii kontsa XIX–nachala XX v. (vzgliad istorika prava).” Translated by Liv Bliss.

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challenges of state development, since it fostered opposition to the monarchy, even among the loyalist faithful (Old Believers, Muslims, etc.).

A significant portion of both Russian and foreign scholars trace the crisis to false notes in the traditional “symphony” of state and church authority caused by the Petrine reforms and only intensified thereafter. They blame the state for having failed to create conditions conducive to the harmonious development of the Russian Orthodox Church (ROC).<sup>1</sup> Special mention in this regard must go to the work of the American historian Gregory Freeze, who has demonstrated that the policy of late imperial Russia, on the one hand, favored the modernization of church–state relations and, on the other, tended to exacerbate the crisis within the ROC and the radicalization of the clergy.

In “Religious Toleration in Late Imperial Russia,” Peter Waldron attributes the unsuccessful outcome of the Stolypin government’s attempts to expand religious freedom for the country’s non-Orthodox to the contradictory policy of the autocracy, which wanted to institute changes in the religious sphere during its last decade yet feared that such changes would weaken the ROC as the spiritual underpinning of the state’s political system.<sup>2</sup>

Without denying the significance of tradition in maintaining the stability of—or, by contrast, effecting reforms in—the existing state–confessional relations in imperial Russia, we should acknowledge that the modernization of the religious system in the early twentieth century definitively hinged on changes in social relations associated with objective processes in Russia’s socioeconomic development; the emergence of bourgeois legality, which asserted individual religious freedom; and the formation of civil institutions predicated on the growth of legal consciousness and political culture among Russians.

The role played by civil society in reforming the imperial system of state–confessional relations was of fundamental importance. Russia’s lack of institutional guarantees for a civil society as canonized in Western political thought (a strong middle class, security of person and property, etc.) has prompted some writers to conclude that the Russian Empire’s civil institutions were weak. But others view the Russian model of a civil society as a special archetype that emerged at the intersection of Eastern and Western cultures and in distinctive historical, sociocultural, and ethnocultural conditions involving the atrophy of the social principle and the hypertrophy of its state counterpart, which made that archetype so unique and inimitable.

So, Lutz Häfner and Alan Kimball characterize civil society in the tsarist regime’s last decade as relatively weak. They insist that important attributes of a civil society—such as civil rights, religious and ethnic tolerance, the supremacy of the rule of law, the inviolability of private property, and the autonomy of the private sphere—are either lacking or only minimally present in an authoritarian structure.<sup>3</sup> The Russian scholar Andrei Medushevskii explains that the civil

institutions of the late nineteenth century were weak because they were unsupported by political reform (i.e., a transition from autocracy to a representative system of government in the form of a constitutional monarchy).<sup>4</sup>

While acknowledging that the ideology and institutions of civil society were weakly rooted in early twentieth-century Russia, it is also important to note educated Russian society's intense interest in the introduction of equal civil rights and political freedom and the reform of the political system. In his study of the ideology of Russian academia, David Wartenweiler correctly observed that the ideas and values of a civil society were indeed characteristic of prerevolutionary liberal professors and the liberal community overall. They were also clearly evident in scholarly and journalistic works published by Russia's academic elite, which had a soft spot for demands for civil and political freedoms.<sup>5</sup>

We can see vivid proof of this in the debate about freedom of conscience and state–confessional relations that unfolded in Russian society at the end of the nineteenth century. An understanding of the crisis facing the empire's religious system united diverse social forces (representatives of various faiths, secular society, and the bureaucracy), which offered their own versions of the way to escape the current impasse in public discussion, print, comments from highly prominent members of the Orthodox Church and other faiths, political platforms, and legislative initiatives from the government and the State Duma. Public opinion also exerted substantial influence on the preparation and content of religious reforms; Russian society supplied the framework within which the theoretical infrastructure that would secure its right to freedom of conscience and the implementation of that right in legislation and enforcement took shape in the early twentieth century.

Despite much criticism, the early twentieth-century reforms substantially expanded religious freedom in Russia. They became one of the foundations of an incipient civil society and of the ROC's transformation into a social institution independent of the state.

### **General Observations on Imperial Russia's Religious Policy**

The foundations of Russia's religious system were laid in the eighteenth and the first half of the nineteenth centuries, a time of rapid expansion on the country's western, southern, and eastern frontiers that transformed it into a multiethnic and multiconfessional imperial state. The populace of the annexed western regions included Catholics, Protestants, Uniates, and Jews. The empire's expansion to the south, to the Black Sea and the Sea of Azov, brought in the inhabitants of the southern steppes, which since the late eighteenth century had been peopled by German colonists who belonged to

various evangelical sects. Eastward growth added Muslims and pagans to the empire's population.

The first national census, conducted in 1897, provides precise information on the number of individuals of various faiths. The 125,700,000 persons of both sexes (excluding those living in Finland) included 87,384,480 (about 70 percent) Orthodox, plus 2,173,738 (2 percent) Old Believers; 10,420,927 (8.3 percent) Catholics; 3,743,200 (3 percent) Protestants; 1,121,516 (0.9 percent) members of other Christian denominations; 13,829,421 (11 percent) Muslims; 5,189,404 (4.1 percent) Jews; and 655,503 (0.05 percent) pagans.<sup>6</sup>

Despite the complexity of the Russian Empire's ethno-religious configuration, the eighteenth- and nineteenth-century rulers sought legal ways of ordering society that would allow the new peoples to be added to the mix while preserving the dominant position of the eponymous (Russian) nation and the ROC. Religion, the glue that held the vast and multinational Russian Empire together, served as an important factor preserving its social stability by permitting the integration of new ethnic groups into the empire and including them in the framework of the imperial system of governance, while protecting the interests of the dominant Russian nation and countering any tendencies toward the expansion of the influence of "subject" nations and nationalities [*natsii i narodnosti*].

Ethnic relations were regulated by including the national religions in the system of governance, which gave the state control over the spiritual lives of the empire's peoples. Religious governing bodies were assigned certain official duties: maintaining registers of births, marriages, and deaths; exercising spiritual censorship; and maintaining jurisdiction over marital questions. Russian law declared the emperor the head of all officially recognized ecclesiastical organizations and made their clergy administratively and legally subject to the monarch.<sup>7</sup>

The state did not welcome new, untraditional religious movements based on society's spiritual requirements rather than the heritage of a nation (nationality); such sects were, in fact, strictly suppressed, with religious tolerance being extended only to national groups with a historical pedigree. If an individual converted to a faith proscribed by law, this was deemed a breach of national-confessional identity. The only exceptions were conversions to Orthodoxy, which the state encouraged, and conversions from one non-Orthodox Christian religion to another that was also officially sanctioned. Adherents of non-Christian creeds (Jews, Muslims, and pagans) could be accepted into a Christian faith, but conversion from a Christian to a non-Christian faith was unconditionally prohibited, as was conversion from one non-Christian creed to another.<sup>8</sup>

In contrasting the Orthodox faith, the foundation of the Russian nation, to other creeds—the "alien" faiths (Russian law labeled even creeds that were

Christian but non-Orthodox “foreign”), the law equated the preaching of religion with the promotion of nationalist aspirations. The state welcomed the preaching of Orthodoxy, which it identified with Russification, but there could be no advocacy of other faiths. The promotion of Catholicism was identified with Polonization; of Protestantism, with Germanization; of the Talmud, with Judaization. As the law professor Mikhail Reisner has correctly noted, the interests of the dominant nationality were counterposed against any tendency to reinforce the influence of “subject nationalities,” which the law segregated into distinct, enclosed spiritual corporate bodies that were not entitled to promote their doctrines of faith.<sup>9</sup>

In legal terms, the empire’s religious system rested on the principle of Orthodox confessionalism, whereby the law secured the ROC’s supremacy over other faiths, its monopoly right to promote its own doctrines, and its privileged position in various areas of state and society, while encouraging conversion to Orthodoxy from other religions and more.

Other countries also recognized a state religion. So, for example, Great Britain had long imposed legal restrictions on Catholics. They paid a tax that benefited the Anglican Church, but they could not hold government positions (the ban on Catholics running for parliament was not lifted until 1829). In some Scandinavian countries, the law excluded from politics anyone who was not a member of the state church: Denmark instituted laws against the free churches that maintained their independence from the dominant Lutheran Church in 1866, Sweden followed suit in 1868 and 1873. In fact, Sweden did not adopt a law on freedom of confession that placed the free churches on an equal legal footing with the official religion until 1951.<sup>10</sup>

Religious communities in the Russian Empire did not enjoy equal legal status, since Russian law established a clear hierarchy that linked the range of privileges extended to individual creeds to the political significance of the nationalities professing those creeds. Orthodoxy was deemed the paramount and dominant religion; and the rest were divided into those tolerated and acknowledged by law, those tolerated but not acknowledged by law, and those neither tolerated nor acknowledged by law. Membership in the last group was a punishable offense. The *Digest of Laws of the Russian Empire* [Svod zakonov Rossiiskoi imperii] made no provision for Russian subjects professing no religion at all.

Confessions tolerated and acknowledged by law included the non-Orthodox Christian creeds (Roman Catholic, Armenian Catholic, Armenian Gregorian [Apostolic], Evangelical Lutheran, Evangelical Reformist, and Uniate) and non-Christian creeds (Islam, Judaism, Buddhism or Lamaism, and pagan beliefs). The appropriate statutes on foreign creeds in volume 11 of the *Digest* defined the legal position of these faiths.

Confessional groups tolerated in practice but not judicially acknowledged included the Old Believers and individual Protestant communities (Menonites, Herrnhuters [members of the Moravian Church], etc.). The Old Belief, lowest in the hierarchy of tolerated creeds, comprised heterogeneous communities, with greater or lesser affinity to the doctrine of the Orthodox Church, that rejected Patriarch Nikon's ecclesiastical reforms. Most of the laws on Old Believers were found in the third section of chapter 3 of the Statute on Preventing and Curtailing Crimes [Ustav o preduprezhdenii i presechenii prestuplenii] (volume 14 of the *Digest*), titled "On Preventing and Curtailing the Dissemination of Schisms and Heresies among the Orthodox" [O preduprezhdenii i presechenii rasprostraneniia raskolov i erezsei mezhdu pravoslavnyimi].<sup>11</sup>

Not tolerated were doctrines that endangered lives, one's own or others', castration, or patently immoral conduct, but the roster of such doctrines was never clearly defined. In the mid-nineteenth century, those not tolerated ("most pernicious") sects included the "spiritual Christians" who had separated from the Old Belief (the Skoptsy [Castrates]; the Molokans [Milk Drinkers]; the Dukhobors [Spirit Wrestlers]; the Khristovery [Believers in Christ], also known as the Khlysty [Flagellants]; and the Subbotniki [Sabbatarians]) and whose doctrines had diverged substantially in content from Orthodoxy and from Christianity overall. In the late nineteenth century, certain Protestant denominations (the Stundists, Baptists, and Mormons) were also categorized as "most pernicious."

Orthodox confessionalism found expression in a system of official institutions that shaped and implemented religious policy. The Most Holy Synod dealt with matters pertaining to the ROC, while the Ministry of the Interior's Department of Foreign Creeds handled non-Orthodox and non-Christian faiths and the Old Belief. The Interior Ministry's competence extended to monitoring infidels [*inovertsy*] and supporting the "principle of full tolerance, insofar as such tolerance can be reconciled with the interests of good government."<sup>12</sup>

A unique system of "dual power" [*dvoevlastie*] that differed from the organizational practices applied to religion in the European countries thus took shape in Russia's official management of religious creeds. Since the European populations were predominantly monoconfessional, religion there could be managed by a single body, usually a ministry with links to other administrative branches. Hence in Prussia, the ministry that dealt with public education and medicine also governed ecclesiastical matters; the Austro-Hungarian Empire and Norway handled religion and public education together; Iceland, and France until 1894, oversaw religion within the justice department; after 1894, France moved religious administration into the interior department.<sup>13</sup>

The direction taken by the Russian Empire's religious policy in each

historical phase had to accommodate the personality of the ruling monarch—worldview, culture, upbringing, and chosen course in domestic and foreign policy. Rulers tackled the tasks of building and consolidating the empire and protecting the dominant Orthodox faith predominantly through a policy of Christianization and Russification, intended to reinforce Russian influence at the empire's center and periphery and to prevent any growth of national religious separatism.

Meanwhile, the demands of modernization—out of the question while Russia remained closed to the outside world and relatively intolerant in terms of its social organization—facilitated the legislative consolidation of the principles of religious tolerance. Peter I had taken certain steps in that direction long ago when, in an edict dated 16 April 1702, he promised “not to constrain the human conscience” and “to afford every Christian . . . [the right] to care for the beatitude of his own soul.” Religious freedom was, however, extended only to Europeans, whose services Peter wanted to use in effecting his proposed reforms.<sup>14</sup>

Catherine II was the one who officially acknowledged religious tolerance as a foundation of imperial policy. The historian Dmitrii Arapov justifiably states that Catherine II's view on relations with various confessions was pragmatic, dictated by her understanding of the need for tolerance as crucial to any empire's stability.<sup>15</sup>

The policy of tolerance made further strides in the reign of Alexander I, who accorded Catholics and Lutherans a broad array of rights in the recently annexed Kingdom of Poland and Grand Duchy of Finland.<sup>16</sup> The 1804 Order on the Accommodation of the Jews [Polozhenie ob ustroistve evreev] forbade the harassment of Jews in the exercise of their faith. Any complaints of harassment were to be prosecuted “to the full extent of the laws established for all Russian subjects” (paragraph 44).<sup>17</sup>

The first codification of religious legislation came during the reign of Nicholas I. *The Digest of Laws of the Russian Empire*, drawn up in 1832 and put into effect in 1835, incorporated all then-current normative documents, systematized by field. Fifteen volumes bound into eight books contained the legislative norms and legal institutes adopted at various times that defined the rights and duties of various confessions. Basing herself on the alphabetical index appended to the *Digest*, Liubava Romanovskaia has calculated that Catholics alone were mentioned in more than three hundred articles.<sup>18</sup>

The *Digest* opened with the “Fundamental Laws of the Russian Empire” [Osnovnye zakony Rossiiskoi imperii], articles 40–46 of which covered faith and the Church. Throughout the nineteenth century and into the twentieth, these seven articles defined the general principles governing the relations between church and state.<sup>19</sup> The *Digest* also provided a detailed exegesis of

religious crimes. Volume 15, the *Digest of Criminal Law* [Svod zakonov ugovolnykh], contained a section “On Crimes Against Faith” [O prestupleniakh protiv very] (section 2). The Statute on Preventing and Curtailing Crimes, volume 14 of the *Digest*, also contained a section “On Preventing and Curtailing Crimes Against Faith” [O preduprezhdenii i presechenii prestuplenii protiv very] (section 1). Religious crimes were also reflected in the *Code of Punishments Criminal and Corrective* [Ulozhenie o nakazaniakh ugovolnykh i ispravitel'nykh] published in 1845 and in the Statute on the Spiritual Affairs of Foreign Creeds [Ustav dukhovnykh del inostrannykh isповedanii] issued in 1857.

Close ties between the legal system and the dominant religion were thus definitively established in the nineteenth century, and secular law became the primary source of norms defending religion and the Church. The religious protections developed at this time featured “police oversight of religious life in society and the defense not of religious freedom but of the religious bedrock of the state and the rights and privileges of the dominant church.”<sup>20</sup>

Having set the goal of creating a religiously homogenous empire, Nicholas I undertook a series of discriminatory steps against non-Orthodox and non-Christian faiths. For example, the Polish Uprising of 1830 gave rise to anti-Catholic laws aimed at closing Catholic monasteries and deporting Polish monastics to Russia’s hinterland.<sup>21</sup>

Nicholas I’s policy also discriminated against Jews. Scholars calculate that in his thirty years in power, he promulgated six hundred laws and edicts to restrict the rights of Jews, undermine their economic activity and communal self-government, and disperse them among the empire’s multiconfessional populace.<sup>22</sup> The policy regarding Old Believers also became stricter: official documents again labeled them “schismatics” [*raskol'niki*], and many *Digest* articles were reinterpreted to increase the penalties for schism. Old Believers could not occupy public positions, receive decorations and medals, or join merchant guilds. The prohibition on building new synagogues and even registering existing ones was confirmed.<sup>23</sup>

Nicholas I’s government took active steps to extend Orthodoxy’s influence in the western provinces. The Uniates were attached to the Orthodox Church in 1839 in a major political undertaking preceded, two years earlier, by the transfer of all Uniate affairs from the Interior Ministry to the Synod.<sup>24</sup> As Mikhail Dolbilov, a noted scholar of imperial religious policy in Russia’s Northwest, observes: “Orthodoxy is presented as ethnic Russians’ principal and at times all-inclusive property; and the religious definition of Russian selfhood [*russkost'*] overrides other definitions (the culturo-linguistic definition, for example), leading to the ready identification of adherence to a non-Christian faith with enmity to the nation. Hence an ‘alien’ faith came to symbolize not

only disloyalty to the monarch by a given community's spiritual elite but also cultural retardation, social deficiencies, and civic impairment, which were now regarded as characteristics of the confession itself (and sometimes of a good number of its faithful)."<sup>25</sup>

Religious policy in Alexander II's reign was largely driven by external events. After the Polish Uprising of 1863–64, the rights of Polish Catholics (who made up the bulk of Poland's landowners) in the Western territory were restricted: they were forbidden to buy and lease land in the nine western provinces and could not be appointed to most governmental positions. Virtually all Catholic monasteries in the area were closed.<sup>26</sup>

Alongside repression of the Catholic clergy, the authorities developed and implemented long-term measures that even included proposals to abolish the Catholic Church in the Russian Empire.<sup>27</sup>

A radical act of religious compulsion directed against "Latinism" was the conversion of over seventy thousand Catholics, mostly Belorussian peasants, to Orthodoxy. Even in the late 1860s, after the government had somewhat modified its policy toward Catholicism, the authorities—although they had rejected forced conversion to Orthodoxy and were instead expecting much from the introduction of the Russian language into the Catholic liturgy—remained mired in "powerful nationalist prejudices and therefore refused to acknowledge that prayers made in Polish and the overall legacy of the *Rzeczpospolita* were part of the traditional religious identity."<sup>28</sup>

The state also applied its policy of implanting Orthodoxy to the Muslims of the Volga–Kama region. Konstantin Petrovich von Kaufman, the first governor-general of Turkestan, expressed the essence of the official position when he announced that a Christian state could not expect to make peace with Islam and should therefore look for ways to combat it. Kaufman recommended tolerating but not protecting Islam and refusing to acknowledge its religious hierarchy; he argued that Islam would disintegrate as a result of the "scorn declared and maintained toward it."<sup>29</sup>

The government did, however, take a line on the Jews appreciably more liberal than that of the previous administration, because the bureaucracy had changed its position. Officials now believed that according Jews equal rights with the empire's other inhabitants would make them useful members of society and improve their relationship with Christians. Interior Minister Petr Aleksandrovich Valuev, Chairman Girs of the Committee on the Jewish Question, Governor-General Aleksandr Grigorievich Stroganov of Novorossiisk all expressed this opinion, which soon won over Alexander II himself.<sup>30</sup>

Alexander II's edicts removed several of the most odious restrictions on Jews' freedom to change their place of residence and to travel. As a result, Jews moved into medicine, the law, and other professions; talented young Jews entered

higher education; Jewish merchants began to trade more actively; and individuals with advanced degrees (and, later, those with a higher education) took part in academic projects and government service outside the Pale of Settlement.<sup>31</sup>

Ecclesiastical reforms enacted during Alexander II's reign also improved the legal situation of Old Believers, primarily by validating their civil status documents.<sup>32</sup> The policy on Old Believers showed some flexibility in the 1880s, too. An 1883 law "On Granting Schismatics Certain Civil Rights and Rights to Conduct Occasional Religious Offices" [O darovanii raskol'nikam nekotorykh prav grazhdanskikh i po otravleniiu dukhovnykh treb] removed restrictions on commerce, artisanal trades, and movement for disciples of the Schism (excluding the "pernicious" Skoptsy, Beguns [Runners], and Khlysty).<sup>33</sup> They gained the right to hold public prayer services in private homes, Old Believer chapels, and cemeteries, to join icon-painting workshops, to open new houses of prayer (with permission from the chief procurator of the Synod and the Interior Ministry), and to repair existing ones. Sergei Mel'gunov, a noted expert on the Old Belief, has grounds for his view that this document introduced into Russian law "some scintillae of religious tolerance" of Old Believers and entitled them to worship freely.<sup>34</sup>

Relations between church and state were never more acrimonious than in Alexander III's reign. Konstantin Petrovich Pobedonostsev, chief procurator of the Synod from 1880 to 1905, directed religious policy in a manner that reflected his political views and was defined by his desire to make the Church a bulwark of conservatism while keeping it under strict government oversight. Staunchly opposed to freedom of conscience, he noted that "every doctrine of faith, chiefly in the sense of a church, is at daggers drawn against every other" and believed that freedom of conscience could only cause "our enemies [to] purloin multitudes of Russian people from us and make them Germans, Catholics, Mohammedans, and the like, and we will forever lose them for the Church and the fatherland."<sup>35</sup>

Under Pobedonostsev's influence, the state's religious policy intensified repression of non-Christians. As Petr Zaionchkovskii aptly noted, this period saw a "massive [*velikoderzhavnyi*] assault on the rights of the non-Orthodox population."<sup>36</sup>

In sum, by the early twentieth century, the borderlands of the Russian Empire housed a significant number of people prevented from pursuing a normal religious life and unhappy with the government's religious policy. Religious restrictions drove a wedge between the government and many previously loyal people and converted religious ferment into social and political unrest. One example was the clergy-led armed uprisings in Turkestan. The Andizhan Uprising of 1898 disturbed the authorities greatly, casting into doubt the validity of Kaufman's "ignore Islam" approach.<sup>37</sup>

## Religious Freedom in Russian Legal and Social Thought

The debate over religious freedom and tolerance that broke out in late nineteenth-century Russian society yielded two basic approaches to assessing law and state policy on freedom of confession and of conscience. In essence, the first position held that Russian law already provided sufficient freedom of belief to all non-members of the ROC: that because legal restrictions on non-Orthodox creeds were in line with the actual religious life of the Russian people and its historical experience, they should be left alone. Supporters of the second view pointed to the inequality among confessions and the restriction of civil rights based on faith to argue for legal reform and a reorientation of the state's religious policy toward real religious freedom.

Professor Francesco Ruffini of Turin University's *La libertà religiosa: Storia dell'idea*, published in St. Petersburg in 1914 but known in Russia much earlier, exerted a substantial influence on Russian sociopolitical and legal thought. Ruffini's book presented an overview of how the idea of religious freedom developed from ancient times to the late nineteenth century.

Viewing "religious freedom" as a historical term with a meaning that changed over time, Ruffini introduced two other concepts, "religious toleration" and "freedom of conscience," to aid in its definition. He interpreted religious toleration (or simply "toleration" or "tolerance") as the first stage in the development of the idea of religious freedom, characteristic of most European states until the mid-nineteenth century. The idea of religious toleration assumes that one religion will occupy an exclusive position within the state—being acknowledged as the true religion, instituted by God, and the only one capable of "procuring eternal salvation." That religion is deemed the official, dominant, and, ultimately, state religion. But when the state, after throwing its support behind that belief system, is forced by dint of circumstances to accommodate other belief systems within its boundaries, "it will not be able to do so without disapproving them and regarding them with a certain pious aversion; in other words, it will *tolerate* them."<sup>38</sup>

Ruffini cautioned against identifying the concept of "religious toleration" with that of "religious freedom." He also asserted that religious toleration could not be among the principles endorsed by a developed state based on law [*pravovoe gosudarstvo*]:

The modern State can, and eventually must, bow to some of the demands of that which is the religion of the great majority of its subjects, adopting, for example, its calendar as official. but from this it must not by any means be inferred that the State should regard all the other minority beliefs with less respect and sympathy. . . .

To sum up: the modern State can no longer have cognizance of *toleration* but only of *liberty*, because the former means a gracious concession made by the State to the individual; while the latter, on the contrary, is a duty of the citizen towards the State.<sup>39</sup>

Ruffini identified two basic elements in the concept of religious freedom that characterized the state of his time. The first, which underscored the individual nature of that freedom, consisted in freedom of conscience (in Ruffini, also called liberty of belief or of worship), defined as “the privilege of the individual to believe in what religion he pleases, or, if he prefers, to believe in none.” The second bore on collective manifestations of that liberty, the “propaganda and exercise” of a given religious belief that Ruffini named the liberty of worship. To bring the law to bear in ensuring freedom of conscience and overcome the “ancient obstacles” to the free manifestation of religious feeling, Ruffini proposed introducing “a threefold series of dispositions” into civil legislation. The first, which concerned criminal penalties, involved removing religiously motivated punishments and inequalities. The second, the civil dispositions, would be designed to regulate relations between the individual and the state, so that the life of the former could “run its course from the cradle to the grave without receiving from the State any disturbance or impulse of a religious character,” which would include transferring the registration of civil status from the Church to the civil authorities, recognition of “nonreligious public education, the institution of civil marriage, . . . the secularization of *assistance publique*,” and so on. The third would proclaim and protect the right to freedom of conscience in the state constitution.<sup>40</sup>

The significance of Ruffini’s work to Russian scholars and politicians went beyond the theoretical, allowing them to test his postulates in a practical setting, since the Russian government’s religious policy—founded on the principle of tolerance that, according to Ruffini, constituted the first stage in the development of religious freedom—supplied fertile soil for such an analysis. Ruffini’s study also permitted predictions of the paths that the country might take toward actualizing the principle of religious freedom and moving from mere religious tolerance to full freedom of conscience.

Legal and sociopolitical publications of the early twentieth century contained a significant number of articles clarifying what constituted freedom of conscience and evaluating Russian legislation as to its potential to implement that freedom. An appreciable contribution to shaping the views held by educated Russian society and the government bureaucracy on freedom of conscience was made by legal scholars of a liberal bent, notable among them Mikhail Reisner, professor of law at Tomsk University, considered an authority on relations between church and state; and Sergei Poznyshev, a private tutor at

Moscow University whose scholarly interests focused on legislation concerning religious crimes. The leitmotif of their works was an idea articulated by Reisner in *The State and the Believer* [Gosudarstvo i veruushchaia lichnost’]: that the principle of tolerance underlying Russian religious law did not meet the requirements for the development of the Russian state and church and was due for replacement with the principle of freedom of conscience.

Liberal theoreticians of law acknowledged freedom of conscience as a compelling requirement of personal development and accorded it a special place in the roster of inalienable rights and freedoms of men and citizens. As Reisner noted, “although the right of personal inviolability, freedom of movement, and freedom of speech, the press, and association are no more than a legal protection for the natural activities of a man’s life and the unimpeded development of his moral strengths and spiritual gifts, freedom of conscience is . . . a right, because it is . . . man’s moral duty.” Reisner also mentioned the constitutional nature of the right to freedom of conscience, as outlined “in almost all the constitutions of the West European peoples” and even acknowledged by certain states that did not yet have a constitutional order.<sup>41</sup>

We must also note the influence exerted on Russian legal thought by the historical experience and legal traditions of Western Europe and the United States, which since the late seventeenth century had made the transition from a confessional to a secular state.<sup>42</sup> The movement toward freedom of conscience in the West formed part of the broader transition to democracy. Most of the constitutional documents that guaranteed freedom of confession and established equality in civil rights regardless of religious affiliation were adopted either during a bourgeois revolution (the French Revolution of 1789, the Belgian Revolution of 1830, and the European revolutions of 1848–49) or as part of a set of measures taken to democratize society and state.

For example, freedom of conscience in Great Britain came when a series of legal documents adopted in the 1820s–30s abolished legal restrictions on civil status triggered by confession. These included the Catholic Relief Act of 1829 and the Marriage Act of 1836, which permitted civil marriages as well as religious unions. The United States banned laws establishing a state religion or forbidding the free exercise of religion, first in the constitutions of individual states in the 1780s, then in the 1791 Bill of Rights. The Frankfurt Constitution (1849) proclaimed freedom of conscience and equal civil and political rights regardless of religion. The Austrian Constitution of 1867 enshrined the equal religious rights accorded to Austrian citizens and the right to worship publicly granted to the major confessions in 1849.<sup>43</sup> Thus, by the end of the nineteenth century, tolerance remained the basis for religious legislation in only two European regions—Scandinavia and the Iberian peninsula—and in the Russian Empire.

Turning now to Russian legal thought, we note that the interpretations of the elements that constituted the semantic field of the concept “freedom of conscience” (freedom of confession, religious freedom, and religious tolerance) varied in the works of prerevolutionary legal scholars and differed substantially from the modern understanding of these terms, which prerevolutionary Russian jurisprudence often equated. One definition that approximates the modern view on freedom of conscience comes from Poznyshev, who interpreted that concept as the “freedom to declare oneself a supporter or opponent of any religious belief and . . . to declare one’s negative attitude toward religion in general.” Freedom of conscience, according to Poznyshev, signified both “faith or lack thereof, as inward spiritual acts” and the outward manifestations of those acts, which included the “freedom to affiliate oneself with a given religious party and to declare that affiliation or of one’s lack of faith . . . in conversation, speech, sermon, or treatise.”<sup>44</sup>

In summarizing their theoretical constructs, these jurists concluded that both freedom of conscience and freedom of confession were absent from Russia. There was only religious tolerance, controlled by the state and regulated to the hilt. Religious tolerance as the principle behind state law on faiths assumed that confessions were unequal and not free to manage their own affairs and conferred broad prerogatives on the religious police.

The jurists often called the Russia of their time a “police state,” because it “enjoins on its citizens, or prohibits them from, a given belief” (Poznyshev).<sup>45</sup> It also “shows mercy to some creeds and punishes others . . . ; turns religious communities into an obedient hierarchy of spiritual authorities . . . ; has oversight of them and directs them, supervises their doctrine, their worship, and their internal discipline; and does not balk at coercive measures” (Reisner).<sup>46</sup> The Church was a “branch of the bureaucracy, one of the numerous departments of the complex mechanism of state” that had absorbed the “ideas of the old regime” and had “used its spiritual authority to preserve the decrepit underpinnings of society’s life” (Mel’gunov).<sup>47</sup>

The actualization of freedom of conscience needed a state based on law capable of shaping a free moral person and willing to acknowledge freedom of confession as a fundamental and natural right.<sup>48</sup> Official protection of religion through enjoining or prohibiting beliefs and imposing criminal and other legal penalties for any deviation from its injunctions was acknowledged as inappropriate in a state based on law.<sup>49</sup>

The reform of church–state relations became linked to the creation of a secular state. Mel’gunov, for instance, asserted, “only the separation of church and state, the nullification of the very idea of a state Church, can really ensure complete freedom of conscience for the heterodox.”<sup>50</sup> Sergei Kotliarevskii adopted a similar stance, holding that the “implementation of complete freedom

of conscience . . . demands the separation of church and state. Furthermore, all civil relations in which the Church has heretofore participated—such as the registration of births, the solemnization of marriages, and the like—will be purely secular.”<sup>51</sup>

Yet liberal legal scholars disagreed about several fundamental points relating to the achievement of religious freedom in Russia. For example, they did not agree on the boundaries of religious freedom. One group proposed that religious freedom should be full and unlimited for all confessions, bounded “only by the requirements of social and state self-preservation, understood in the literal, rather than in the broader, sense.” Professor Vladimir Spasovich expressed a similar view in a speech to the St. Petersburg Juridical Society.<sup>52</sup> So did Professor V.K. Sokolov in the newspaper *Vestnik prava*<sup>53</sup> and Sergei Kotliarevskii in the anthology *The Free Conscience* [Svobodnaia sovest’].<sup>54</sup>

A second group adopted a more circumspect stance, asserting (with reason) that there are no unlimited rights, because every right delimits someone’s interests, and hence no absolute freedom of conscience. Reisner, for example, proposed as eminently sensible the following limitations on rights: (1) “No one, by citing the requirements of freedom of conscience, should be able to free himself altogether from the behests of the state and its laws”; and (2) “No one should be able, by citing the same, to violate the existing rights of corporate bodies recognized by the state or the rights of private parties.”<sup>55</sup>

Conservative thinkers in Russia also paid more attention to confessional issues in the context of religious freedom. With due consideration of the close ties between church and state, they structured their plans for church reform to preserve the foundations of autocracy. The main postulates of the conservative program were: (1) exempt the Church from the dictates of state authority; (2) restore the patriarchate; (3) combat the bureaucratization of the Church by incorporating the electoral principle into ecclesiastical self-government; (4) strengthen the authority of the Orthodox clergy; and (5) enlist Old Believers and Muslims in the fight against revolutionaries, sectarians, and atheists.<sup>56</sup>

The conservatives’ general approach to the achievement of religious freedom found expression in Il’ia Stepanovich Berdnikov’s seminal *Our New Laws and Bills on Freedom of Conscience* [Nashi novye zakony i zakonoproetky o svobode sovesti] (Moscow, 1914). Berdnikov took issue with Reisner, arguing that the ideas of freedom of confession and of conscience had arisen not in response to the real wants and needs of Russian society but because certain theorists had been inspired by Europe’s revolutionary experience. According to Berdnikov, these freedoms inevitably led to anarchic religious thinking and indifferentism [*indifferentizm*]. Freedom of conscience, he wrote in sum, contradicts the Christian viewpoint and the political order of contemporary Russia, whose citizens “profess . . . in the main the Orthodox Christian faith.”<sup>57</sup>

Berdnikov supported preserving the tolerance that was the foundational principle of the state's religious policy. The system of religious tolerance was, he asserted, "based on the most intimate unity of the state and the Orthodox Church," which "alone is the teacher of faith and Christian law." He strongly opposed depriving the ROC of the secular authorities' patronage and even more so separating it from the state. In his view, enhancing the Church's role in the state, strengthening its influence on the government's religious policy, and according the religious confessions some autonomy in the conduct of their internal affairs would rectify specific negative aspects of current church–state relations.<sup>58</sup>

Berdnikov's stance resembled the preservationist views of Pobedonostsev, who formulated his perspective on the tasks of official religious policy as the "preservation of the Orthodox faith against vacillation and assault from any quarter is Russia's crucial historical duty, a requirement of its life." He also said:

Russia must remain fixed on its own first principles. What would happen to Russia if—surrounded to the east and west by dozens of nationalities and creeds and having, bit by bit, afforded them safe haven—it vacillated in perplexity between one and another? Muslim influences come from Asia; the Western creeds have never here been free of their secular variants; Catholicism is permeated with Polonism; and Lutheranism, in the guise of the erstwhile Knights of Livonia, is fighting for exclusive supremacy in the region with the indigenes who are seeking unification with Russia.<sup>59</sup>

Yet in its views on religious freedom and its prospects in Russia, the conservative camp was also divided. Conservatives, like liberals, had actively inserted themselves into the discussion of issues pertaining to church reform, the organization of an Assembly of the Russian Orthodox Church, and the restoration of the patriarchate. The existing system of state oversight of the Church drew criticism from such ecclesiastical authorities as Metropolitan Antonii (Vadkovskii), Archbishop Antonii (Khrapovitskii), and several other members of the clergy.<sup>60</sup>

Archbishop Antonii was unsparing in his critiques of the Synod, which he viewed as an institution contrived to "weaken and defile" Orthodoxy and to which the Orthodox Church had "been delivered into servitude."<sup>61</sup> His successor, Archbishop Andrei (Ukhtomskii), held a similar view: "The Church should be free, . . . should be governed by a council."<sup>62</sup> Further support for church reform came from the conservative thinkers Lev Aleksandrovich Tikhomirov, Mikhail Osipovich Men'shikov, and Aleksandr Alekseevich Kireev.<sup>63</sup>

Conservatives also discussed religious freedom within the tighter framework of the state's attitude toward the Old Believers, a topic broached by Ivan

Sergeevich Aksakov, Konstantin Nikolaevich Leont'ev, Fedor Mikhailovich Dostoevsky, Sergei Fedorovich Sharapov, and others. Sharapov, a well-known columnist and social activist who in 1905 founded the Union of Russian People [Soiuz russkikh liudei], called for a change in attitudes toward the Old Belief, which he saw as an embodiment of tradition and robust vitality. He held coercion in matters of faith to be incompatible with the spirit of Christ's teaching and identified true Orthodoxy with "freedom in Christ" and "complete and absolute religious tolerance," except for some restrictions on non-Christian propaganda.<sup>64</sup>

The famous Slavophile Ivan Aksakov took a stance on confession similar to Sharapov's. Aksakov was an energetic supporter of religious freedom in all its manifestations, from religious tolerance all the way to freedom of conscience. He criticized the contemporary model of the church–state relationship, seeing the state's interference in church life as the root of the evil. The state misunderstood its role in church affairs, he said, and therefore its methods were faulty. Aksakov regarded the Statute on Preventing and Curtailing Crimes in volume 14 of the *Digest* as the distillation of state coercion in matters of faith. He called the statute the "policemen's Book of the Covenant," in which "all and every most negligible religious manifestation of the spirit is captured, foreseen, and formulated in police regulations that are spelled out in articles, clauses, and paragraphs." Eloquent proof of the untenability of oversight in issues of faith lay, in his opinion, in the fifteen-million-strong army of Russian Old Believers, sectarians, and schismatics.<sup>65</sup>

### **The Issue of Freedom of Conscience in the Religio-Philosophical Assemblies**

The prospects for freedom of conscience in Russia were of interest not only to scholars and politicians but also to educated society as a whole. That issue was raised in the Religio-Philosophical Assemblies [Religiozno-filosofskie sobraniia] (below, "Assemblies") held in St. Petersburg in 1901–3, which were an important milestone in the history of Russian God-seeking [*bogoiskatel'stvo*] and of the Russian Church in the Synodal period.<sup>66</sup> They were a meeting place for, and a venue for disputes among, laypersons with ties to the Church (church historians, theologians, philosophers, and writers; theological school professors and teachers) and members of the monastic and parish clergy. A manifestation of the Russian intelligentsia's growing interest in religio-philosophical topics, the Assemblies were called on to mitigate the "disunion and mutual misunderstanding" between the clergy and the laity that hindered their constructive discussion of the Church's role and place in the contemporary state.<sup>67</sup>

The Assemblies were officially sanctioned. In their meeting room—the small hall of the Imperial Geographical Society in the Ministry of Education building on Teatral'naia Street—the clergy sat to the right of the podium and the intelligentsia to the left. As Zinaida Gippius attests, the Assemblies were the place where two worlds collided and there was no good reason to expect mutual understanding between them. In fact, the two sides hardly knew each other, “the people of the Church” seeing the intelligentsia “as a single compact mass of ‘worldly atheists.’”<sup>68</sup> The poet Andrei Belyi, an Assembly attendee, singled out among their participants a “circle of secular writers” (including Vasilii Vasil'evich Rozanov, Dmitrii Sergeevich Merezhkovskii, Nikolai Maksimovich Minskii, Vasilii Vasil'evich Uspenskii, and Anton Vladimirovich Kartashev) and “Orthodox representatives of an eternal tradition” (Bishop Sergii [Starogorodskii], Archimandrite Antonin [Granovskii], and the Reverend Mikhail [Semenov]), as well as members of circles in Moscow and Vyshnii Volochek “devoted to the deeper exploration of ecclesiastical issues” (including Lev Aleksandrovich Tikhomirov, the Reverend Iosif Fudel', Bishop Nikon [Rozhdestvenskii], Viktor Mikhailovich Vasnetsov, and Evgenii Mikhailovich Pogozhev).<sup>69</sup>

Freedom of conscience was discussed at three Assemblies in the winter of 1901. The discussion opened with a plenary address by Prince Sergei Mikhailovich Volkonskii, a well-known literary critic and a notable in the theater, titled “Toward a Description of the Public's Opinion on Freedom of Conscience” [K kharakteristike obshchestvennykh mnenii po voprosu o svobode sovesti]. He acknowledged that he had been alerted to the problem by a 1901 speech made to a congress of proselytizers in Orel by Mikhail Aleksandrovich Stakhovich, marshal of the nobility for Orel province, which had made quite a stir in the secular as well as the religious milieu. Stakhovich had called for the establishment of freedom of conscience and the abolition of criminal penalties for defection from Orthodoxy. Members of the Assemblies who had attended the Orel congress rejected this proposal, and Stakhovich's speech met with a sharply negative reaction in church and proselytizer circles, where it was seen as an open appeal to let crime go unpunished, allow laxity, encourage the anticlerical movement, and undermine Russian statehood. Only two priests spoke in favor of the freedom to choose and profess any faith.

In his address, Prince Volkonskii adduced several arguments in support of Stakhovich, asserting:

Coercion and duress in matters of faith are repugnant to the spirit of Christianity. A Church into whose bosom one may enter but which one is forbidden to leave squanders its inner organic strength. The compulsion to

profess a state religion has a debilitating and corrupting effect on the public conscience. A man's concern becomes an outward maintenance of appearances, rather than the attainment of an inward quality. When defection is forbidden, hypocrisy is abetted. . . . Freedom of conscience is needed for a healthier conscience on every level of society.<sup>70</sup>

Volkonskii's address split the Assemblies into supporters and opponents of the introduction of freedom of conscience and those who held the middle ground. An analysis of the arguments made by each of those three positions is, in our view, of extraordinary interest, since it reflects the general gamut of views on religious freedom in Russian society during the period under study.

The following Assembly members were active supporters of Volkonskii's stance: the writer Dmitrii Merezhkovskii; Vasilii Vasil'evich Uspenskii, a writer and professor at the St. Petersburg Theological Academy; the journalist E.A. Egorov; and the cultural historian Fotii Nikolaevich Beliauskii. Merezhkovskii, for instance, directly identified the theses of Volkonskii's address with what the religious thinker Vladimir Sergeevich Solov'ev (an authority better known to Russian society) had said about freedom of conscience. He proposed resolving the issue of freedom of conscience on the grounds of Christian doctrine and the "basic divine properties." "Where Christ is, there is no coercion but only freedom and love," he said. "We oppose coercion, so that the power of God may act."<sup>71</sup> Turning to the clergy in attendance, E.A. Egorov observed, "coercion is being perpetrated in the name of Christ; and therefore it is you, the exponents of Christ's teaching, rather than the laity, who should be speaking out for freedom of conscience."<sup>72</sup>

Vasilii Mikhailovich Skvortsov was the most consistent of all in his opposition to Volkonskii. An intimate of Pobedonostsev and employed by the chief procurator of the Synod for special assignments, editor of *Missionerskoe obozrenie*, and an expert in criminal proceedings against Old Believers and sectarians, Skvortsov saw Volkonskii's address as rife with "profound untruth, both factual and juridical." Referring to article 45 of the Fundamental Laws, which proclaimed that "freedom of belief is accorded to all" and to the Senate's rulings on appeals, which in most instances favored the sectarians, Skvortsov argued that Russian subjects already had the right to profess the religion of their forebears. To introduce freedom of conscience would, he avowed, be tantamount to shaking the foundations of the existing relations between church and state and of Russian statehood: "church and state are too closely melded in Orthodox and autocratic Russia to repudiate the one while leaving the other untouched." He used the people's substandard awareness of the law to bolster his argument that freedom of conscience was inappropriate

for Russia. “Anyone who knows the logic of the people (and I lived among the people for twelve years),” he observed, “will agree that for it, whatever is not forbidden is deemed permissible.”<sup>73</sup>

Skvortsov’s arguments were supported by Archpriest Aleksei Sergeevich Lebedev, a theology professor at the Academy of Military Medicine. Insulating the Church from false doctrines, he maintained, was not coercion but a necessary pedagogical intervention into the life of the people, which, by dint of its benightedness and ignorance, was “legally incompetent to have charge of itself” and was therefore in need of oversight.<sup>74</sup>

The rationale of those who opposed introducing freedom of conscience in Russia was summed up in a concluding address delivered by Valentin Aleksandrovich Ternavtsev, a Synod official, who asserted, “the dispute about freedom of conscience is a dispute about the state and its religious calling.” He named freedom of conscience one of the chief principles of revolution and urged that the issue of the need to introduce that freedom be redirected to members of the secular power structure, which had “once and for all championed its religious independence despite the clergy and those it governs” and was unable “to set for itself any ultimate end other than the ideal of a ‘righteous land.’”<sup>75</sup>

Certain members of the church hierarchy—Archimandrite Antonin (Granovskii), who was senior censor of the Spiritual Censorship Committee in St. Petersburg; Bishop Sergii (Starogorodskii), doctor of theology and rector of the St. Petersburg Theological Academy (and later patriarch of Moscow and all Russia); and Sergei Aleksandrovich Sollertinskii, archpriest of the Naval Cathedral of St. Nicholas and the Epiphany and professor at the St. Petersburg Theological Academy—were on the fence as regards freedom of conscience. While conceding the possibility of individually pursuing the principles of freedom of conscience, which would involve priests acting on their own account and appealing directly to the secular power structure, they denied that the right of religious freedom had any foundation in law.<sup>76</sup> “It is, in the present situation, unnatural for us to desire the proclamation of a freedom that we ourselves do not enjoy,” said Bishop Sergii, going on to explain that “I see constraint in the fact that the Church is being assigned tasks that are unchurchly in nature, while the Church’s own ideal is not acknowledged to be of unqualified significance. The Church is at the service of the state; if freedom of conscience were to be declared for all, the result would be to untie everyone else’s hands but leave the hands of churchmen tied.” “The Church here has of late accepted too many commissions that redound purely to the interests of the civic body and the state. This is due to the weakness of the state. I think that now the Russian state is sufficiently buttressed that it may return to the Church its freedom,” V.P. Gaideburov maintained.<sup>77</sup>

Active members of the ROC were therefore unprepared to embark on introducing freedom of conscience in Russia because the ROC's own position in Russian society was not what it should be. It was their opinion that not until the Church was reformed and liberated from the state's direct control could society be liberated. In the final analysis, the church hierarchy was not the inaugurator of religious freedom; as history has shown, that function was instead assumed by state authority.

Pobedonostsev kept a wary eye on everything that happened in the Assemblies, becoming increasingly irritated by the course of the discussion and ever more convinced that the meetings were turning into a "parliament for freedom lovers" that endangered both church and state.<sup>78</sup> Seeing the Assemblies as a threat to the current relationship between church and state, he did all he could to have them shut down, a goal he attained in April 1903. On 17 December 1903, the Synod issued a secret edict banning records of Assembly meetings from publication in the magazine *Novyi put'* or as individual pamphlets. But even after being shut down, the Assemblies continued to have broad public repercussions. The problems raised in their discussions persistently came up for debate in both secular venues (the magazines *Novyi put'*, and *Voprosy zhizni* and the anthologies *Landmarks* [Vekhi] and *Problems of Idealism* [Problemy idealizma]) and in theological periodicals (*Bogoslovskii vestnik*, *Vera i razum*, *Tserkovnyi vestnik*, etc.).<sup>79</sup>

### **The Mobilization of the Party-Affiliated Public in Preparation for Religious Reforms**

The Manifesto of 17 October 1905 ("On the Improvement of the State Order" [Ob usovershenstvovanii gosudarstvennogo poriadka]) began the institutionalization and legalization of political parties in the Russian Empire and brought to the attention of the incipient party organizations the reform of religious law, in the spirit of the freedom of conscience declared in the manifesto. As soon as the State Duma began its work, the programs of the leading political parties on issues of religious freedom were articulated in bills and discussed by Duma factions and commissions in session. An analysis of the parties' declarations on the paths and prospects for modernizing religious law is vital here.

The party platforms tied the religious issue to the national question. So, for example, the conservative-monarchist politicians' approach to the national question was characterized by attempts to preserve the existing unitary state structure, including the primacy and dominance of the Russian nation and the ROC. Ideas pertaining to a unitary and confessional state were cohesively presented in the programs of rightist organizations. With their view of the ROC

as the crucial consolidating social institution, they consistently criticized the way it was being destroyed and its canons abandoned, but they did not discount the possibility of reforming it on neoconservative principles.

The involvement of ROC prelates in the right-monarchist parties accorded them a particular weight and influence there. So, for instance, two metropolitans and nine archbishops and bishops served as honorary and actual chairmen of branches of the Union of the Russian People [Soiuz russkogo naroda] (URP), the largest of these organizations and the most influential in ideological and political terms.<sup>80</sup> The URP's motto was "For Faith, Tsar, and Fatherland."

The URP proclaimed itself tolerant of non-Orthodox confessions. The monarchists acknowledged the right of the non-Orthodox to freedom of worship and religious practice in the Russian Empire but wanted to stop them from promoting their doctrines, which they saw as the exclusive privilege of the ROC.<sup>81</sup> Of the non-Christian religions, the URP singled out the Muslims as recipients of their special "goodwill." The party's print publications stated that any revolutionary stirrings in the Muslim milieu were being censured by the Muslim clergy. In fact, the draft URP charter announced that "members of Muslim branches attached to the URP are afforded all civil rights equally with Orthodox Russians."<sup>82</sup>

The URP had adherents among conservative Old Believers and, for its part, supported them, viewing them as custodians of the traditional and fundamental principles of Russian life, culture, and piety. Old Believers were in the overwhelming majority in certain branches of the URP, whose charter envisaged an ROC consisting of the Orthodox, their co-religionists, and Old Believers affiliated with them on an equal legal footing.<sup>83</sup>

The elections to the First State Duma, which also involved the non-Russian population of the borderlands, affected the position of those who took a rightist stance on issues of nationality and confession, since the Russian nationalists' traditional motto—Russia for the Russians—was not apt to garner them any popularity among the grass roots there. In the pre-election platform adopted in September 1906, the URP leaders abandoned their demands that privileges be limited to the Russian population. The program emphasized that all the peoples of Russia, except the Jews, should enjoy equal rights while expanding and honing the URP's anti-Jewish slogans. In its election platform for the Second State Duma, the URP ideologists called the Jews "misanthropes" and described them as vocal in their implacable hatred for Russia and everything Russian and capable of countenancing all manner of lawlessness and violence against Christians, up to and including murder.<sup>84</sup> The URP urged the rigorous application of restrictive legislation against the Jews, including preserving the pale of Jewish settlement and depriving them of all political, civil, and property rights. The tightening of laws relative to the Jews was viewed as a

motivation to involuntary Jewish emigration from Russia. The URP program supported Zionism.<sup>85</sup>

The nationalists' "recipe" for resolving the religious question, meanwhile, was close to what the Black Hundreds might have proposed. The ideology of Russian nationalism was expressed in the program of the Russian National Union (RNU), the largest political organization during the Third of June Monarchy and one of Petr Arkad'evich Stolypin's principal supporters in the Third Duma, which the prime minister valued for its refusal to compromise with the opposition on matters of nationality and religion. That platform was also articulated in the speeches and public statements of such ideologists of nationalism as Petr Nikolaevich Balashev, Mikhail Osipovich Men'shikov, Anatolii Ivanovich Savenko, and Pavel Ivanovich Kovalevskii.

As an ideological and political tendency that occupied the middle ground between the right monarchists and the liberal conservatives (the Union of 17 October [the Octobrists]), the RNU was distinguished by its aspiration to achieve a symbiosis of liberal and conservative principles. But the contradictions in the views of this party of Russian nationalists were evident in the way it interpreted the issue of church and religion. While categorizing themselves as proponents of freedom of confession and equal rights of citizens under the law, the RNU's leaders worked hard to reconcile those principles with their postulates on the official status of the ROC and the dominance of the Russian nation. This gave rise to a differentiated approach to freedom of confession, which was interpreted in terms of political expediency, the social benefit of a given belief, doctrines on the Christian state, and the unity of the Russian state and the ROC.

"The nationalists are proclaiming the inception of a somewhat limited freedom of belief," said Lev Viktorovich Polovtsov, a leader of the RNU faction in the Third Duma, in clarification of that party's position.<sup>86</sup> As Balashev, another leader of the RNU and the Russian national faction in the Third Duma, pointed out: "Freedom of confession should be put into effect, and all draft legislation touching on that freedom will be supported by the faction. But it is an entirely different matter when, under the guise of bills on freedom of confession, drafts are proposed that serve not ideological but political interests, in which separatist ideas predominate over ideas of religion. In such instances, the moderate-right faction will vote . . . against them."<sup>87</sup> "All religions in Russia are entitled to profess and to preach within the confines of their church," Pavel Kovalevskii remarked, "provided that those religions are not harmful to mankind and the state."<sup>88</sup>

From their interpretation of Orthodoxy as the Russian people's national religion that had bound the Russian nation together spiritually in the past and was ensuring the ideological and spiritual integrity of the Russian state in the present, the nationalists derived their thesis of the advantages offered

by the ROC as the empire's state religion. Chief among these advantages was the ROC's monopoly in public preaching and proselytizing. The nationalists denied non-Orthodox and non-Christian doctrines the right to preach publicly. Declaring their commitment to the platform of the edict of 17 April 1905 "On Reinforcing the Principles of Religious Tolerance" [Ob ukreplenii nachal veroterpimosti], the nationalists favored prohibitions on legal conversion from Christianity to a non-Christian religion, which would have legitimized the principle of religious indifferentism [*besrazlichie*] that entailed the equal entitlement and equal value of Christian and non-Christian doctrines.<sup>89</sup>

The nationalists tried to bring historical tradition to bear in substantiating their views. As Archbishop Evlogii (Georgievskii) of Kholm, a member of the RNU's governing council and chairman of the Third Duma's Commission on Religion, later recalled:

Freedom of confession had been limited in Russia down the centuries. Conversion from Orthodoxy to another creed was considered a crime. To cede this position unconditionally seemed short-sighted. . . . From my experience in Kholm, I recognized the meaning of unconditional freedom of belief, with no attention given to infidel psychology or the actual circumstances under which people of various confessions collide. While not fundamentally opposed to "freedom," I was all for a gradual approach. Stolypin had mapped out that gradual path; he wanted to grant "freedom of conscience" yet did not want to grant freedom to promote one's religion—i.e., to grant internal freedom—but wanted, rather, to restrict the right to campaign on behalf of a given creed. . . . Perhaps it was wrong to cling to those old positions, to fear the promotion of [other] religions, but we, alas, did not then know that Godless campaigners would come to profane and expunge the very concept of God from Russian souls.<sup>90</sup>

Although invoking the defense of Orthodoxy at the Russian Empire's center and on its borderlands as their programmatic slogan, the RNU activists were still far from idealizing the ROC; they were prepared to stipulate that it was in trouble. Criticism was leveled at the Synod, which the RNU ideologists viewed as the focal point of the ecclesiastical officiousness that hindered the ROC from carrying out its lofty religious and national missions. The increasing amount of administrative meddling in the Church was another cause for displeasure. The nationalists spoke in favor of reforming the ROC on canonical principles, of returning it to the ancient canonical order of pre-Petrine Rus (when the government did not interfere in the ROC's canonical life), of restoring the patriarchate, of strengthening and broadening the conciliar principle [*sobornoe nachalo*] within the Church, and of energizing Orthodox parishes.<sup>91</sup>

The RNU's leaders ranked the religious community of Old Believers second

after the ROC in the Russian Empire, since that community had contrived to preserve archetypically Russian national sentiments and traditions and the lifeways of the people. It suggested that the Old Believers be granted no fewer rights than those enjoyed by Catholics and Protestants. The Moscow branch of the RNU also called on the Duma nationalist faction to make every effort to produce laws that would allow the Old Believers to worship unhindered and proposed granting the Old Believers more privileges than other doctrines (except Russian Orthodoxy, since the ROC's primary and dominant position was never in dispute).<sup>92</sup> The RNU's attitude toward Orthodox sectarians and Baptists was negative.

The liberal parties' interpretation of religious freedom was an important component of the liberal model for restructuring Russian society and the state. They viewed the idea of ensuring individual rights and freedoms as a strategic task in the construction of a civil society and a state based on law in Russia. The demand to accord full freedom of person, religion, and conscience backed by legal guarantees appeared in a seminal article "From Russian Constitutionalists" [*Ot russkikh konstitutsionalistov*] published in the journal *Osvobozhdenie* in 1902 (no. 1).<sup>93</sup> That article, penned by Pavel Nikolaevich Miliukov, was the first step in developing a liberal model for restructuring Russian society.

The need for freedom of conscience also came up at a zemstvo congress held in St. Petersburg on 6–9 November 1904, which broke new ground in openly demanding constitutional reforms from the government and outlining a way to effect those reforms. As a result of a proposal made by Vladimir Dmitrievich Kuz'min-Karavaev and taken up by the congress, that "freedom of confession should be referenced after freedom of conscience, since those concepts are not identical," the two freedoms began to be mentioned together in liberal programs. The zemstvo delegates construed freedom of conscience and of confession as indispensable to the "full development of the people's spiritual strengths, the universal ascertainment of social needs, and the unhindered expression of public opinion."<sup>94</sup>

A thorough case for the principle of freedom of conscience was made at the Third Congress of the Union of Liberation [UL] (the forerunner of the Kadet Party), held in Moscow in March 1905; and that freedom became one of the UL's programmatic slogans. In formulating its religious demands, the UL advocated for an end to religious persecution and for freedom of choice in religion: "No one can be forced to profess any doctrine or belong to any religious organization; everyone has the right freely to choose a given doctrine and to affiliate himself with a given religious association."<sup>95</sup>

Freedom of choice in religion is, as we know, an element of the freedom of confession. Yet the drafters of this platform did not restrict themselves to

freedom of confession but went significantly farther, proclaiming a man's right to define his own attitude toward religion and to reject "any doctrine and cease to belong to the Church of which he had been deemed a member"—that is, the right to freedom of conscience. The recognition of freedom of conscience entailed, in the UL ideologists' words, the liberation of ecclesiastical associations from state oversight and the liberation of the state from subordination to any ecclesiastical interests. The registration of civil status was declared a matter for the civil authorities throughout the empire. The UL's program also envisaged the abolition of the provisions of the Criminal Code [Ugolovnoe ulozhenie] of 1903 that ran counter to the principles of political freedom.<sup>96</sup>

That the liberals' political tenets included propositions on freedom of choice both in religion and elsewhere and on the liberation of the Church from state oversight and interference was a signal of their readiness to reexamine the existing model of church–state relations and to construct a belief-neutral secular state.

The draft "Fundamental Laws of the Russian Empire" [Osnovnoi zakon Rossiiskoi imperii], drawn up by a group of moderate liberals and accepted at a meeting of the Bureau of Zemstvo and Urban Congresses on 6 July 1905, spoke predominantly of freedom of confession. It declared the empire's citizens entitled to the freedom to choose or change religions and to freedom of worship: "All Russian citizens are free to profess their faith. No one can be persecuted for the beliefs or convictions he professes or forced to practice religious rites, and no one is precluded from leaving and relinquishing the faith he professes. Liturgies and religious rites shall be freely conducted, and the doctrine professed by each person shall be freely disseminated, insofar as the actions taken therein violate no general laws."<sup>97</sup>

These propositions on freedom of confession and conscience were brought together in the platform of the Constitutional Democratic Party [Kadets], the most radical of the liberal political organizations. The Kadet platform stated: "Every citizen is accorded freedom of conscience and confession. No prosecution for the profession of beliefs and convictions or the changing or rejection of a doctrine is permitted. Religious and liturgical rites shall be freely performed and doctrines shall be freely disseminated, provided only that the actions taken therein do not constitute any general crimes contemplated in criminal law. The Orthodox Church and other creeds ought to be freed from state oversight." The platform also mentioned the equality of all Russian citizens under the law—with no distinction by gender, confession, or nationality—and the abolition of restrictions on the person or property of Poles, Jews, and all other population groups, without exception.<sup>98</sup>

The propositions on freedom of conscience in the program of the Union of 17 October, a moderate-conservative liberal party, were not as well presented

as those of the Kadets, their political opponents on the left. While asserting their adherence to the principles of the Manifesto of 17 October 1905, the Octobrists did not produce a properly argued position on how to implement religious freedom, limiting themselves to a general declaration in their platform that recognized the need to defend religious freedom through criminal legislation and to define its boundaries.<sup>99</sup>

The Octobrists, however, did make confession a priority. A national congress of Octobrist delegates in Moscow in February 1906 set up an ad hoc commission to work on the problem. The commission engaged in education, the organization of lectures, and the public reading of reports on ecclesiastical and religious problems. The Octobrists' assumption was that what the human spirit needed would come from neither the right nor the left but from the sincere conviction, the personal conscience of each individual. It announced as its aim the creation of an "extra-party or intra-party organization where all progressive elements of the spiritual and secular intelligentsia . . . might reach agreement and unite on a terrain that is equally important and equally neutral to them all: the terrain of ecclesiastical and social reform."<sup>100</sup>

The Octobrists offered a package of measures to enhance the ROC's authority: (1) a reform of the Synod that would limit the chief procurator's functions; (2) an increased role for Orthodox parishes, which would be granted extensive property rights; (3) a "respectable salary" for the rural clergy; (4) the reorganization of theological schools; (5) the abolition of political and civil restrictions after mandatory or voluntary defrocking; and (6) the right of believers to convert from one confession to another.<sup>101</sup>

The Party of Legal Order (PLO) [*Partiia pravovogo poriadka*] was close to the Octobrists on the religious issue. Set up in October 1905, it was on the far right of the liberal camp and sided with the right-wingers on an array of issues, in particular that of the unity and indivisibility of the Russian state. The PLO proclaimed freedom of conscience but interpreted it as freedom of confession—that is, freedom of choice only within the confines of a religious mindset (the freedom to profess a religion and to convert unmolested from one religion to another). It did not mention the right to have no confession at all.<sup>102</sup>

The parties that stood for democratic reforms and for peaceful renewal occupied a centrist position among liberal organizations and were united by their consensus on religious freedom. Both proclaimed the equality of Russian citizens under the law with no distinction as to confession. They favored the inclusion of freedom of conscience and confession in the Fundamental Laws, with all due legal protections. The Party of Peaceful Renewal also favored the removal of legal restrictions in education on grounds of confession.<sup>103</sup>

The Progressive Party, founded in 1912, took the religious issue somewhat

farther than had its ideological predecessor, the Party of Peaceful Renewal. In a resolution passed in November 1912, for instance, a Progressist congress demanded not only freedom of conscience but also ecclesiastical freedom. The Progressives also called for a halt to infringements on the national traits, cultural selfhood, native languages, and religions of the empire's various nationalities.<sup>104</sup>

The most radical model for resolving the religious question came from the socialist parties, whose point of departure was a reform of Russian nationhood as a whole and of its unitary structure in particular that would be not evolutionary but revolutionary—a federative arrangement that would accord the nationalities a right to self-determination that even included political secession.

As interpreted by the socialist parties, the democratization of society and state assumed the overthrow of the tsarist autocracy and its replacement with a republic whose constitution would provide unlimited freedom of conscience and the full equality of all citizens regardless of religion or nationality. These principles were incorporated into the platform of the Russian Social Democratic Labor Party [RSDLP] that was adopted at its second congress in the summer of 1903 and had featured in the platform of the Marxist Emancipation of Labor Group. The Social Democrats also made a fundamentally important demand for the separation of church and state and of the schools from the Church.<sup>105</sup>

Ideas proclaimed by the Socialist Revolutionary [SR] Party included “full freedom of conscience,” the “complete separation of church and state and the declaration that religion is every individual's private affair,” and the “establishment of secular education for all at state expense.” The Popular Socialist Labor Party, which was close to the Socialist Revolutionaries, advocated for (1) the inalienable right to full freedom of conscience and of confession for all citizens of Russia; (2) equality of citizens under the law regardless of religious affiliation (“Orthodox, Catholic, Lutheran, Mohammedan, Old Believer, Stundist—they should all be granted equal rights”); and (3) the separation of church affairs from the state and the independence of schools and schooling from the Church.<sup>106</sup>

The constitutional modernization of the state and especially the preparations for the convening of the State Duma, which was to include representatives of various peoples and confessions, energized party political life in the national regions and contributed to the emergence of a national component in Russia's multiparty system. A significant number of socialist national parties—Polish, Lithuanian, Latvian, Estonian, Ukrainian, Armenian, Georgian, Jewish, and Muslim—formed in 1905–7, and their platforms gave pride of place to issues of nation building and confessional relations. As Rustem Tsiunchuk has

established, the ideological foundations of the national political parties had two main components: first, the establishment of national and confessional equality before the law; and second, the achievement of national organizational autonomy.<sup>107</sup>

Most of the national political organizations (Dashnatsutiun in Armenia, the Ukrainian Radical Democratic Party, the Jewish Socialist Workers' Party, the Georgian Socialist-Federalist Revolutionary Party) advocated full freedom of conscience and complete legal equality irrespective of national or confessional affiliation. Individual organizations also spoke out for the separation of church and state (Dashnatsutiun, the Jewish Socialist Workers' Party, and others) and the disengagement of religion from nationality, the recognition of ecclesiastical and religious communities as private associations entrusted with the independent management of their own affairs, and the subordination of churches to the civil government (the Jewish Socialist Workers' Party and others).<sup>108</sup>

### **A Summary of the Public Discussions on Implementing Religious Freedom**

As Russian society's legal consciousness and political culture developed, it grew increasingly ill at ease in a confessional state based on a system of religious tolerance. A significant portion of the public viewed the legal inequality of diverse confessions as weakening the existing political regime and the integrity of the state and not conducive to a conflict-free resolution of the national issue in a multiconfessional empire. Arguments in favor of replacing legislative measures to preserve religious tolerance with others that would introduce freedom of conscience gained momentum.

Legal experts and social and political activists, liberal and conservative alike, offered suggestions for modernizing religious law. The secular authorities also understood the contemporary relevance of the religious issue—as evidenced by the stand taken by Nikolai Bunge, chairman of the Committee of Ministers, who had made the “expansion of religious tolerance” a priority as early as the 1890s. In the early twentieth century, an array of government figures—often as openly hostile to one another as were Sergei Witte and Viacheslav von Plehve—recognized the importance of religious reform and changes in the traditional confessional policy.<sup>109</sup>

Some conservatively minded members of the secular and religious public came out in favor of maintaining religious restrictions in matters of faith and bringing the government's power to bear in defending the interests of the dominant Church, substantiating their position on the grounds of the traditional relationship between church and state in Russia, the special role played

by Orthodoxy in the development of the Russian state, and the fact that the populace was generally undereducated in matters of religion. That said, though, outright doubt was also cast on the naturalness of, and the need for, direct state control over the ROC, especially by members of the Orthodox clergy.

In sum, a good number of the party platforms proclaimed the need to broaden religious freedom even during the First Russian Revolution [of 1905–7—Ed.]. The various understandings of where the boundaries of that freedom lay made for some fierce discussions of confessional issues when legislation aimed at implementing freedom of conscience was drafted.<sup>110</sup> Yet the link between the reform of church–state relations and the democratization of the political regime, which was becoming increasingly evident in the early twentieth century, placed the prospects for the implementation of freedom of conscience in Russia in doubt and largely predetermined the course, content, and contradictory nature of religious legal reform going forward.

Watershed moments in the reform of religious relations came with the edicts of 17 April 1905 (“On Reinforcing the Principles of Religious Tolerance”), of 17 October 1905 (“On the Improvement of the State Order”), and of 17 October 1906 (“On Arrangements for the Formation and Functioning of Old Believer and Sectarian Communities” [O poriadke obrazovaniia i deistviia staroobriadcheskikh i sektantskikh obshchin]).

The edict of 17 April 1905 resulted in permission being granted to change confessions and to leave Orthodoxy (which rendered it impossible to force an individual into any confession), the legalization of the Old Believer and sectarian clergy by approximating its legal status to that of other non-Orthodox Christian clergy, and the granting to members of Old Believer and sectarian communities of the right to freedom of worship. An important consequence of that edict was the reform of laws on religious crimes to decriminalize conversion from Orthodoxy to another confession. The articles in the Code of Criminal and Corrective Punishments, which had severely penalized the abandonment of Orthodoxy for another Christian confession as well as the abandonment of Christianity for a non-Christian faith, were abolished. Already in the spring and summer of 1905, individuals convicted of a raft of religious crimes were freed.

The Manifesto of 17 October 1905 proclaimed freedom of conscience to be a fundamental principle of the state’s religious policy. The edict of 17 October 1906 afforded apostates from Orthodoxy the right to openly profess their religion and to come together in religious associations, and it legalized Old Believer and sectarian communities as well as their doctrines of faith.

The next stage in the reform of religious legislation, which began in June 1906 and ended in March 1907, was defined in seven bills approved by the Council of Ministers. Under Stolypin’s leadership, the Ministry of the Interior

interpreted freedom of conscience far more broadly than had the edict of 17 April 1905: as the right of every individual to declare his faith, to preach it, and to convert unhindered from one confession to another. As the revolutionary fervor on the streets began to fade, however, the Interior Ministry's position became more conservative; and it began striking from its bills some important components of freedom of conscience—the freedom of religious self-definition; the legal recognition of nonconfessionality; marriage and public record keeping as civil acts; and the abolition of legal restrictions triggered by confession. Stolypin's religious reform ultimately consisted in stripping the law of the articles that placed the greatest restrictions on religious freedom while establishing freedom of conversion from one confession to another of equal or higher status in the hierarchy of religions, permitting conversion from a Christian to a non-Christian faith, and improving legal conditions for tolerated creeds by affording them the right to promote their doctrines and appreciably liberalizing the laws on mixed marriages.

But when that bill came up in the State Duma, it met with opposition from all Duma factions, from the right wing to the centrists and the leftist radicals. The conservatives criticized Stolypin's bill for making overly sweeping concessions to the principle of religious freedom. At the same time, though, in the minds of the left-wing Duma members who championed freedom of conscience, Stolypin's declared idea of a Christian state revived familiar scenarios of religious persecution.

A study of the legislative activity of all four State Dumas allows us to identify the two main competing views of church–state relations in imperial Russia—the monarchist and the liberal—around which Duma discussions revolved. The monarchist parties advanced the first, and the Kadets the second. Evidence that the first theory, built on the idea of a confessional state, was already in crisis is that it did not lead the various political groups in the Duma to a consensus on religious freedom. Instead, each center of political power held to its own point of view.

The nature of the Duma discussions of proposed legislation on religion is proof that Russia stood in great need of liberalization in church–state relations if it was to achieve equality in civil rights. In the Russian Empire, however, where a system of religious tolerance and a “ranking” of confessions was an important component of government operations, the radical overhaul of religious law necessarily entailed a thorough modernization of the entire edifice of Russian statehood, which was farther than government authorities were willing to go.

The Provisional Government implemented the liberal model of religious legal reform, and for a while that model made far-reaching inroads in church–state relations.<sup>111</sup> Russian citizens would have been afforded freedom of conscience, been able to convert at will from one confession to another, no longer have seen

their rights restricted due to their religious convictions, and had the chance to refuse to confess any religion. The Provisional Government was not, however, in power long enough to put its legislative reforms into practical effect.

## Notes

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39. *Ibid.*, p. 15.

40. *Ibid.*, pp. 16–17.

41. Reisner, *Gosudarstvo i veruiushchaia lichnost'*, p. 2.

42. A "confessional state" is here taken to mean a state that enlists the powers available to it to support a particular religious belief system and asserts the latter's monopoly position and perquisites, while arranging the other confessions hierarchically and limiting their rights according to the priorities of national policy and the significance of the nations and nationalities professing the given faith.

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48. Reisner, *Gosudarstvo i veruiushchaia lichnost'*, p. 413; I.S. Berdnikov, "Kratkii kurs tserkovnogo prava Pravoslavnoi tserkvi," in *Spravka po voprosu ob otnoshenii tserkovnogo zakonodatel'stva k gosudarstvennomu* (St. Petersburg, 1914), p. 158.

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60. For an analysis of the clergy's views on freedom of conscience, see Hieromonk Simeon, "Russkaia literatura o svobode sovesti i pravil'naia postanovka etogo voprosa," *Pravoslavnyi sobesednik*, 1905, no. 1, pp. 70–91.

61. G.V. Florovskii, *Puti russkogo bogosloviia* (Vil'nius, 1991), p. 431.

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63. After the publication of the edict "On Strengthening the Principles of Religious Tolerance" on 17 April 1905, many conservatives who had previously been vocal in favor of church reform changed their minds. For further detail, see M.N. Luk'ianov, *Rossiiskii konservatizm i reforma, 1907–1914* (Perm, 2001).

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66. On the significance of the Religio-Philosophical Assemblies to early twentieth-century Russian society, see *Imperiia i religiia. K 100-letiiu Peterburgskikh religiozno-filosofskikh sobranii 1901–1903 gg: Materialy Vserossiiskoi konferentsii* (St. Petersburg, 2006).

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71. *Ibid.*, pp. 121–22, 148.

72. *Ibid.*, p. 127.

73. *Ibid.*, pp. 111, 113, 117.

74. *Ibid.*, p. 152.

75. *Ibid.*, p. 165.

76. *Ibid.*, pp. 125–32.

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