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II

RUSSIAN ORTHODOXY AND HUMAN RIGHTS

PAUL VALLIERE

This essay describes the situation and orientation of the Russian Orthodox Church with respect to human rights. Along the broad spectrum of rights I focus mainly on the civil rights of individuals and nonstate associations rather than the subsistence rights and rights to social services that figure so prominently in socialist theories of rights. By this I do not mean to suggest that the rights with which socialists are concerned are of secondary importance. It is simply a question of accepting the demands of my subject. Ever since the disestablishment and disenfranchisement of the Russian Orthodox Church as a result of the Russian Revolution the rights with which the church has been concerned are the rights of individual believers and of the church as an institution. These concerns were stimulated not by theology or ideology but by the harsh facts of life in the Soviet period: widespread persecution of religious believers and the virtual absence of civil rights respecting religion. The extent to which prerevolutionary Russian Orthodoxy may have helped to prepare the ground on which Soviet socialism was built is an issue that exceeds the scope of this essay.

Whether the Russian Orthodox Church is concerned about human rights at all has been a matter of debate. The view that the church is little more than a tool in the hands of whatever state governs Russia at a given time is widespread in the West and may not be much affected by the qualification that "Russian Orthodox Church," in this essay, means not just the hierarchs who represent the church on the national or international level but the whole com-

pany of Orthodox believers who accept the church of the Patriarch of Moscow as their own. But even sympathetic observers of the Russian Orthodox Church would agree that the church has been more passive in social and political terms, and more subservient to the state than many churches in the West in modern times. In recent years the contrast has been highlighted by the example of the Roman Catholic Church of Poland, which managed to establish itself as a kind of surrogate civil society in a Communist state well inside the zone of Soviet hegemony.

To explain the relative passivity of the Russian Orthodox Church some observers have pointed to special characteristics of Eastern Orthodoxy, others to the legacy of the tsarist state church, still others to the brutalization of the church by the Soviet state in the 1920s and 1930s. Each of these factors is important, although the last deserves attention first because it is the most obvious cause of the social and political weakness of the church in present-day Russia.

In 1914 the Russian Orthodox Church was the largest Christian church in the world after the Roman Catholic Church and the largest of all national churches. It supported 68 dioceses, over 50,000 priests, more than 60,000 deacons and psalmists, almost 100,000 monks and nuns in more than 1,000 monasteries, 57 theological seminaries, and 4 graduate schools of theology.¹ The vast majority of the Russian empire's 100,000,000 Great Russians, Ukrainians, and Belarusians as well as significant numbers of minority peoples were baptized members of the Orthodox Church.

This huge church was also an institution struggling to renew itself. A reform movement had begun in the early years of the twentieth century and acquired new strength after the February Revolution of 1917. The restoration of the Patriarchate of Moscow in November 1917 after a lapse of more than two centuries was the signal accomplishment of the movement. However, the disestablishment of the church by decree of the Soviet government in January 1918, the dislocations of the civil war and the violent repression of the hierarchy and clergy in the early 1920s left the church in a state of distress by the time Patriarch Tikhon died in 1925. The refusal of the Soviet government to allow the church to hold a national council to elect a successor to the deceased patriarch further weakened the institution. The declaration of loyalty to the Soviet state in 1927 by the *locum tenens* of the patriarchal office, Metropolitan Sergii, brought the church no secular benefits and precipitated a schism in the Orthodox community. What remained of the institution was consumed in the general holocaust of the 1930s. By 1939 the Russian Orthodox Church was one of the weakest churches in Christendom. It had no head, no diocesan administration, few priests or bishops at liberty, and very few functioning parishes.

The revival of the Russian Orthodox Church began during World War II. It was a spontaneous phenomenon at the local level as well as the result of the wartime government policy of fostering traditional Russian patriotism. Metropolitan Sergii was elected patriarch by a small meeting of bishops in 1943, and after Sergii's death in 1945 Metropolitan Aleksii of Leningrad was chosen to replace him. Diocesan administration was restored, and a few theological schools and monasteries were reconstituted. The restored church was not comparable in size, much less in power, to the prerevolutionary church.² Nevertheless, the postwar situation represented a dramatic change for the better.

Unfortunately the church's gains proved vulnerable to the caprices of Communist policymakers. In the early 1960s the Khrushchev government launched a new antireligious campaign that led to the closing of about half the parishes reopened during the war. After Khrushchev's fall in 1964 the government discontinued the campaign but did not restore what had been wrested from the church. In this sense the campaign was a victory for the state. However, it produced an unintended and unprecedented side effect: the Orthodox rights movement.

The Orthodox rights movement is a natural focal point for the discussion of Russian Orthodoxy and human rights. However, to appreciate the significance of the movement one must consider the ecclesiastical and civil contexts in which it arose. The ecclesiastical context was shaped by Eastern Orthodox tradition. The civil context was shaped by Soviet law.

ORTHODOX TRADITION AND HUMAN RIGHTS

Historically Eastern Orthodox tradition has been less disposed to defending human rights than Roman Catholic or classical Protestant traditions. The Roman Catholic Church, while often antagonistic to individual liberty, has always defended its rights as an international ecclesiastical polity standing above secular polities and having certain claims on them. The church's claims serve to limit the power of the state over persons in Roman Catholic countries. Protestantism, while lacking the international structure and legalist genius of the Roman Catholic Church, provides a hospitable ground for the cultivation of rights by according individual conscience a central role in the religious value system. The configuration of values in Eastern Orthodoxy shares something with both Roman Catholicism and Protestantism, but not those aspects that most prompt an interest in rights. Like Roman Catholicism, Eastern Orthodoxy propounds a highly corporate and sacramental view of salvation and so does not encourage individualism on religious grounds.

Like Protestantism, however, Eastern Orthodoxy never tires of preaching that Christianity is a religion of grace, not law, for which reason it rejects the counter-secular legalism of Roman Catholicism.³ The result is a theological conceptuality less promising for the cultivation of rights than one finds in the Western Christian traditions.

Yet it would be wrong to deny the possibility of a rights orientation arising in Eastern Orthodoxy. Like all great faith traditions, Orthodoxy comprises concepts of human dignity which can at least support, if they do not necessarily generate, the idea of human rights. Furthermore, under the pressure of historic challenges people often find new meaning in traditional ideals. Thus, while some of the most important ideals of Orthodoxy tend to discourage individuals from viewing themselves as rights-bearers over against the community, and discourage the community from viewing itself as distinct from the state, these ideals did not prevent a lively Orthodox rights movement from developing in the very untraditional circumstances of the Soviet Union.

The Orthodox view of the relation of the individual to the community has been profoundly shaped by the ideal of wholeness. In the Orthodox vision salvation in Christ comes about through incorporation into his sacramental community, the church or "body of Christ." The church achieves public definition through its liturgy, dogmas, and canons; but its essential quality is the mystical wholeness which these forms are meant to embody. For Orthodoxy "the church" means the whole company of saints seeking to embrace the whole of humankind and reconcile it with the whole cosmos.⁴ The Russian word for this wholeness is *sobornost'*. It comes from a root meaning "gather." "Conciliarity" and "catholicity" are specialized ecclesiastical translations of the term. *Sobor* also means "cathedral," which suggests perhaps the best picture of *sobornost'*. One imagines a crowd of worshipers of all ages and stations of life gathered for liturgy under the dome of a cathedral. As the liturgy unfolds, the choral music, the colorful icons of saints and angels, the smell of incense and wax and the hieratic vestments, postures, and processions of the clergy conspire to induce a powerful sense of incorporation into a great, pulsating whole. Indeed, the Orthodox liturgy offers more than a picture of *sobornost'*; it actualizes it.

Orthodox thinkers are careful to distinguish *sobornost'* from collectivism or egalitarianism. They see the church as a community of persons, each with a unique contribution to make to the whole. *Lichnost'*, "personhood," stands close to *sobornost'* in the Orthodox hierarchy of values. It is reflected, for example, in the group portraits of traditional iconography in which the artist typically accords to each individual some distinguishing feature of dress, coiffure, expression, posture, or function.⁵ The structure of the liturgy, too, offers the laity ample opportunity to direct their attention to individual needs, con-

cerns, and sources of inspiration. Still, in classical Orthodoxy the individual is not regarded as the telos of the community. The idea of *lichnost'* suggests personalism but not individualism. To the Orthodox mind the whole appears greater, more estimable, more secure than the parts.⁶ The tendency of Orthodox thinkers is to synthesize, not analyze; to integrate, not isolate. This is especially true of modern Orthodox thinkers, who have had to defend the Orthodox ethos against material and spiritual threats from the West.⁷ Most Russian Orthodox thinkers in modern times, such as Khomiakov, Kireevsky, Dostoevsky, Leoniev, Fyodorov, and Solzhenitsyn, have held a community based on *sobornost'* and *lichnost'*, wholeness and personhood, to be ethically superior to a community based on the social contract and individual rights. Hand in hand with this view went a "tradition of the censure of law" in Russia, an anti-legal prejudice which inevitably impeded the development of modern conceptions of human rights.⁸

If the ideal of wholeness discouraged individuals from viewing themselves apart from the community, it also made the Orthodox Church slow to distinguish itself from the state. The political dependency of the churches in the Orthodox East contrasts sharply with the pattern of church-state relations that developed in the West. Since the Reform Papacy of the eleventh century the Roman Catholic Church has defined itself juridically as a counterstate or superstate distinct from secular sovereignties. While Rome was by no means always successful in enforcing its claims, the ideal took root. Also, the need to arbitrate between ecclesiastical and secular sovereignties was one of the chief motivations for the development of law in the West, including the language and methodology of rights. Among the theological disciplines canon law played a particularly dynamic role. In the Orthodox East, by contrast, the pattern of church-state relations took shape much earlier, in the fourth and fifth centuries, and embodied the ideal of harmony (*symphonia*) rather than dualism. Church and state were seen not as competing jurisdictions but as two aspects, sacramental and lay, of an organic whole. The ideal left little room for concepts of conflict or prophetic tension between church and state. Canon law was a conservative discipline.

To be sure, there were conflicts between church and state in the Christian East, including fierce confrontations such as the Iconoclastic controversy in eighth-century Byzantium and the Schism (*Raskol*) in seventeenth-century Muscovy. But these episodes did not inspire creative new concepts of church-state relations. The chief effect of the Russian Schism, for example, was to weaken the established church and cause it to accept an even more subservient role in the Russian state system on the eve of modern times.

The ascetical ideal also presents an obstacle to a rights orientation in Orthodoxy. The most esteemed form of religious virtuosity in Orthodoxy is

not that of the prophetic emissary, militant reformer, crusader, or preacher, but that of the monk. The monk is a kind of religious individualist, but his individualism is inspired by the call to leave the world, not transform it. This ideal played a fateful role in the structuring of the Orthodox clergy. In Orthodoxy the parish clergy are mostly married men, but bishops must be monks. While this arrangement has its advantages (e.g., clerical celibacy has not been the divisive issue in Orthodoxy that it has been in Roman Catholicism), it has unquestionably limited the capacity of the clergy to mobilize in defense of the secular rights of the church. Parish priests have been too enmeshed in the economic and familial networks of "this" world to challenge it in the name of the next.

The hierarchy, on the other hand, while bearing the chief responsibility for the government of the church in "this" world, has all too often failed to value this responsibility in positive terms. Practicing ascetical renunciation at the expense of the church, so to speak, Orthodox hierarchs have often accepted oppression by secular authorities as a test of patience rather than of power. Commenting on this informal "cooperation of tradition and oppression," Vladimir Zelinsky rightly observes that "in Orthodoxy it is not weakness of the will as such but precisely a zealous piety that demands a spirit of boundless submissiveness."⁹

Along with a weak parish clergy went a weak parish structure. In tsarist Russia the Orthodox parish was a sleepy, unprophetic place because it was too much a part of its environment. Religious and social community were basically identical. The local priest usually inherited his position from his or his wife's father. The concept of the parish as a unit of social, political, or missionary mobilization rarely arose, and the concept of the church as a voluntary association did not arise at all. These ideas were absent during the Soviet period, too, although for the opposite reason: religious and social community were too sharply divorced. Because gatherings of believers outside liturgy were prohibited, people who prayed together had little opportunity to work or even talk together. Also, since open churches were few, far apart, and crowded, worshipers usually did not get to know each other or their clergy very well. The Orthodox parish became an impersonal and diffuse community despite the fervent piety which no observer could fail to note.¹⁰

The ideal of national religious establishment also contributed to the passivity of the Orthodox Church toward the state. In tsarist Russia religious establishment dulled the church's awareness of the extent to which it was a captive of the state system. The Russian Revolution swept away the establishment but not the cultural and ecclesiastical mentality underlying it. To this day most Russian Orthodox clergy and laity cherish the ideal of a national church. Russian Orthodox people do not think of their church as one denom-

ination or sect among others but as the Church of Russia, a church whose destiny is tied to that of the Russian people.¹¹ This view disposes the Orthodox community to be more patient with the Russian people and their state than religious groups that see themselves as a prophetic minority.

The continuing hold of an establishmentarian, antisectarian mentality helps to explain some of the episodes of accommodation to the state in the Soviet period beginning with Metropolitan Sergii's declaration of loyalty in 1927. Father John Meyendorff has written about this controversial event:

The goal of Metropolitan Sergii was to preserve not himself, but *the church*, with all its liturgical order, buildings and central administrative organs. He consciously refused to limit his thinking to "the salvation of the minority, not the majority," as was done by Bishop Damaskin and others who went "underground." In his view the Church—with its essential apostolic succession in the episcopate and its (sometimes burdensome) heritage of divine services, theology and canons—could not exist for long as a sect. The historical example of the Russian Old Believers had confirmed this.¹²

Such an interpretation of the church's accommodation to the state is more satisfying than one focusing on political terror, moral cowardice, or the infiltration of the hierarchy by state agents, for it takes the Orthodox value system into account. Metropolitan Sergii was speaking about Orthodoxy, not other churches, when he asserted that "only impractical dreamers can think that such an immense community as our Orthodox Church, with all its organizations, may peacefully exist in this country while hiding itself from the government."¹³ One may question the wisdom of Metropolitan Sergii's policy on tactical grounds, for it brought the church no real gains. But one can scarcely fault the Orthodox Church for trying to remain itself.

At the same time, the ideal of a national church can make a positive contribution to the consciousness of rights in a country to the extent that it fosters a sense of legitimacy on the part of the religious community. The sense of legitimacy is typically long-lasting. To put it another way, if the negative side of Orthodox patience is passivity in the face of oppression, the positive side is endurance. Despite decades of Communist propaganda and repression, countless Russians persist in the conviction that the Orthodox Church has a rightful place in their land and a self-evident claim to its alienated monuments. These people may not express their view in legalistic terms. Moreover, the rights at stake are not generalizable: we might call them "historic rights" rather than "human rights." Nevertheless, the view that Orthodoxy has rights in the Russian land is a key factor in the behavior of the Orthodox Church in present-day Russia and was also an important, if

ambiguous, resource for the Soviet human rights movement. I return to the discussion of historic rights later.

SOVIET LAW ON RELIGION

On October 1, 1990, the Supreme Soviet of the Congress of People's Deputies of the USSR adopted a new law on religion, the Law on Freedom of Conscience and Religious Organizations. Later in the same month the Supreme Soviet of the Russian republic (RSFSR) passed a comparable piece of legislation, the Law on Freedom of Religion.¹⁴ These two laws completely overturned previous Soviet legislation on religion. To understand the situation of Russian Orthodoxy and human rights in the Soviet period, however, one must examine the earlier legislation.

Soviet law on religion embodied two cardinal principles. First, only individual believers had rights; churches and religious associations did not. Second, the right of believers to practice their religion was limited to the area of ritual.

These principles stood out clearly in the first piece of Soviet legislation on religion, the decree of the Soviet of People's Commissars on Separation of the Church from the State and the Schools from the Church of January 1918.¹⁵ The decree revoked all civil restrictions connected with religious affiliation and mandated that "in all official documents every mention of a citizen's religious affiliation or nonaffiliation shall be removed." It granted citizens the right to "confess any religion or profess none at all," "free performance of religious rites . . . as long as it does not disturb public order or infringe upon the rights of citizens of the Soviet Republic," and the right "to receive and give religious instruction privately."

Religious associations, however, were denied virtually all rights, not just the privileges connected with religious establishment such as administration of oaths, sanctification of public ceremonies, and registration of marriages and births. The decree barred religious associations from holding property, organizing schools, and going to law. It stated categorically that ecclesiastical and religious associations "do not have the rights of a legal entity."

The only concession concerned access to property designed for ritual use: "Buildings and objects intended especially for religious rites shall be handed over, by special decision of the local or central governmental authorities, free of charge for use to responsible religious associations." Since this provision appeared in the article nationalizing the property of religious associations (Article 13) it clearly meant to distinguish use from ownership. Moreover, as the article left the granting of use of state property to the "special decision" of

the state authorities, it could scarcely be interpreted to imply a firm right to such use. Finally, the use of state property by believers was granted specifically for the performance of rituals. Social service, missionary work, political action, religious publishing, and other types of religious activity outside the ritual sphere were not mentioned at all.

It is interesting to note that the decree of the Soviet of People's Commissars made no mention of atheism. The right to profess no religion covers the case of atheism but extends also to agnosticism, free-thinking, and deism. Furthermore, the decree did not accord special privileges to nonbelievers or systems of nonbelief. Yet atheism played an integral role in the formation and evolution of the Soviet Union as an ideological state, and eventually it found a privileged place in Soviet fundamental law. The constitution of 1977, continuing in the tradition of its predecessor (1936), granted a kind of establishment to atheism in so far as it accorded the leading role in Soviet society to "the Communist Party armed with Marxist-Leninist doctrine" (Article 6).¹⁶ It also granted an advantage to atheists in the matter of propagating their faith: "Freedom of conscience is guaranteed to citizens of the USSR, that is, the right to confess any religion or to confess none at all, to perform religious cults or to conduct atheistic propaganda" (Article 52).¹⁷ In other words, atheists had a constitutional right to spread their word; believers did not.

The most detailed piece of legislation on religion in the Soviet period was the Law on Religious Associations of 1929.¹⁸ The law introduced the distinctive mechanism for the regulation of religion in the Soviet Union, the *dvadtsatka*, or "group of twenty." The decree of January 1918 provided that buildings and cult objects could be handed over for use to "responsible religious associations." The problem for the state was how to implement this policy without appearing to extend recognition or privileges to actual ecclesiastical institutions, such as conciliar bodies, the patriarch, bishops, assemblies of clergy or parish councils. The Law on Religious Associations came up with a solution: the authorities at the city or district level would lend state property to groups of not fewer than twenty believers who accepted formal registration as a religious association and responsibility for the property temporarily entrusted to them. The *dvadtsatka* was an ad hoc group, not a corporate body. The rights of legal entity and the right of assembly without the permission of the local authorities were denied to it. Needless to say, the *dvadtsatka* did not correspond to the canonical institutions of any church. Strictly speaking, with the introduction of the *dvadtsatka* the Russian Orthodox parish as well as all ecclesiastical institutions beyond the parish level ceased to exist as entities enjoying recognition or protection under public law.

As long as state policy aimed at the destruction of the church the Law on Religious Associations corresponded to reality and assisted the implementa-

tion of policy. The change of direction during the war years, however, produced a contradictory situation. The Russian Orthodox Church, permitted and even encouraged to reconstitute itself, naturally followed its traditional canons. On the local level this meant the reconstitution of the parish with a clerical rector at its head. The regulations on parish life adopted by the Local (i.e., National) Council of the Russian Orthodox Church in January 1945 acknowledged the *dvadtsatka* but stipulated that the clerical rector should head it.¹⁹ The "religious association" of 1929 became a "parish society," though not with the sanction of Soviet law.

The contradiction lasted until the Khrushchev persecution, which undid the religious settlement of the war years. In July 1961 a council of bishops of the Russian Orthodox Church approved the elimination of the clergy from chairmanship and membership of parish councils, effectively removing them from parish government.²⁰ The bishops claimed to be remedying abuses as well as relieving priests of burdensome secular duties to allow them more time for pastoral work. In fact the hierarchs were bowing to state pressure to restore a strict interpretation of the *dvadtsatka* of 1929. The All-Russian Council of 1971, the first national council of the church held after 1945, did not abrogate the arrangements of 1961, nor did the amendments to the Law on Religious Associations in 1975 change it in any fundamental way.²¹ Nor until the Gorbachev reforms of the mid-1980s was there a hint in any official source that Soviet law on religion needed to be changed.

THE ORTHODOX RIGHTS MOVEMENT

The Orthodox rights movement was part of the Soviet human rights movement and developed along parallel lines.²² The Soviet human rights movement dates from the Constitution Day demonstration in Moscow's Pushkin Square on December 15, 1965, by intelligentsia protesting the arrest of the writers Andrei Sinyavsky and Yuly Daniel. The key demand was a public trial for the accused. The protesters believed that publicity would expose the gap between the letter of Soviet law and its administration by the authorities. "Respect the Soviet Constitution!" was the slogan of the day.²³

On the same day the Orthodox rights movement surfaced in an open letter to N. V. Podgorny, chairman of the Presidium of the Supreme Soviet of the USSR, written by the Moscow priests Gleb Yakunin and Nikolai Eshliman. The priests presented a detailed brief alleging violations of Soviet law on religion by the state authorities. Two days earlier the priests had sent a letter to Patriarch Aleksii I arguing their case in theological terms. They sent copies of both letters to the entire Russian Orthodox hierarchy.²⁴ While there had been

other protests by Orthodox clergy and laity in 1965 regarding the state of affairs produced by the Khrushchev persecution, the witness of Yakunin and Eshliman was especially important because of its connection with the wider Soviet human rights movement.

The number of clergy and laity involved in the Orthodox rights movement was small. It was a movement of heroic individuals, as was the Soviet human rights movement generally. As for the hierarchs, they made a practice of disciplining activist clergy and keeping their distance from dissident laity.²⁵ Yakunin and Eshliman, for example, were removed from their parishes and banned from exercising priestly office (although not defrocked) following the open letters of 1965.

There were numerous links between the Orthodox activists and the wider human rights movement. The first human rights organization in the Soviet Union, the Initiative Group for the Defense of Human Rights in the USSR, formed in 1969, counted the Orthodox lay historian Anatoly Levitin-Krasnov among its founders. The Committee for Human Rights in the USSR, formed in 1970 by Valery Chalidze and others, took a lively interest in religious rights cases.²⁶ Orthodox publicists contributed frequently to the *samizdat* literature in which the Soviet dissident intelligentsia conducted its debates.²⁷ The greatest publicist of the period, the Orthodox layman Aleksandr Solzhenitsyn, publicly embraced the Orthodox rights movement in his "Lenten Letter" to Patriarch Pimen in 1972. The letter appeared in the Western press shortly after Solzhenitsyn's first major interview with Western reporters in many years in March 1972.²⁸ The interview marked the beginning of the explosive period of Solzhenitsyn's activism, culminating in the publication of *The Gulag Archipelago* in December 1973 and his expulsion from the Soviet Union the following February.

The Moscow Helsinki Watch Group, which announced its program in May 1976, found its Orthodox counterpart in the Christian Committee for the Defense of the Rights of Religious Believers in the USSR, although Orthodox Christians were also to be found in the leadership of the Helsinki Group. The Christian Committee, founded in December 1976 by Father Gleb Yakunin and others, was a watch group specializing in religious cases.²⁹ Its interdenominational concern with the rights of all believers, not just Orthodox, reflected the extent to which the Orthodox rights movement had been shaped by the general human rights movement. The Christian Committee also followed the lead of the Helsinki Group in promoting the internationalization of the struggle for human rights on the basis of the Helsinki accords of 1975. In October of that year Father Yakunin and the lay church historian Lev Regelson addressed an open letter to the delegates of the Fifth Assembly of the World Council of Churches meeting in Nairobi

in which they put forward the idea of an interchurch effort to defend religious rights, in essence the idea that the Christian Committee was formed to serve a year later.³⁰

During the repressions of the late 1970s and early 1980s the Orthodox rights movement suffered the same fate as the general human rights movement. The attack on the leadership of the Helsinki Group began with the arrest of many of its founding members in February and March 1977, including Yury Orlov, Anatoly Shcharansky and the Orthodox layman Aleksandr Ginzburg. The repression of the Christian Committee began on the eve of the invasion of Afghanistan and the exile of Andrei Sakharov from Moscow (December 1979–January 1980). Father Gleb Yakunin was arrested in November 1979, and most of the other leaders were detained in the following months. In 1980 Yakunin was sentenced to five years in prison followed by five years of internal exile.

The association of the Orthodox rights activists with the general human rights movement was not just pragmatic but extended to values and methodology. The distinguishing characteristic of the Soviet human rights movement in contrast to other dissident tendencies (especially nationalism) was its paramount concern with law and the cultivation of respect for law in Soviet society. In the words of Pavel Litvinov the movement represented

not only a rebirth of goodness and mercy, but the birth of a sense of law in Soviet society. For the first time the intelligentsia recognized that the Soviet constitution, in spite of all its imperfections, is a fundamental law which in its letter protects their dignity as citizens, on paper defends human rights. The human rights movement discovered a powerful lever of social transformation, namely law, when it turned the attention of the Soviet bureaucracy as well as of society and the rest of the world to the lack of conformity between the conduct of the regime and the constitution and Soviet legislation, and also to the many international conventions and treaties on human rights which the Soviet Union has ratified not so much with a view to their execution as to its own international reputation.³¹

The same attention to law was typical of the Orthodox rights movement. Yakunin and Eshliman's letter to Podgorny is a good example, indeed one of the earliest examples of the new legal consciousness cited by Litvinov. The letter protested the policies of the Council for Russian Orthodox Church Affairs of the Council of Ministers of the USSR, the state agency responsible for supervision of the Orthodox Church.³² The priests charged that the council's policies violated both the principles and the particulars of Soviet law on religion. In the introduction to the letter, for example, the priests faulted the council for conducting most of its business orally. "The *very method* of using

unofficial oral decrees, which the leaders and representatives of the Soviet for Russian Orthodox Church Affairs chose as a means of systematic interference in the internal life of the Orthodox Church, is a violation of the principles of the Law."³³ In the body of the letter the authors discussed eight types of violations of Soviet law on religion: registration of clergy as a means of interfering with their placement, mass closing of churches and monasteries and illegal liquidation of religious societies, registration of baptisms and other sacramental acts, restriction of ritual practices, violation of the principle of freedom of conscience with respect to children, interference in the financial life of church communities, limitation of the number of members of a religious society to the group of twenty, and limitations on the staffing of clerical positions.

The argumentation in all of these cases was deliberately legalistic. The priests took their stand on the decree on Separation of the Church from the State and the Schools from the Church, the Law on Religious Associations, and other relevant legislation. In many particulars their arguments were quite compelling. It was difficult to deny, for example, that the registration of baptisms by local governmental authorities amounted to official documentation of religious affiliation, specifically excluded by the decree on Separation of the Church from the State and the Schools from the Church. The priests also made a good case when they argued that the customary limitation of the responsible membership of religious associations to twenty individuals was not warranted by the Law on Religious Associations, which required only that associations be composed of "not fewer" than twenty citizens. The authors exposed another unwarranted inference when they argued that legal liquidation of a prayer house by local authorities should not automatically signify the dissolution of the religious association that occupied it.

From the beginning the Soviet human rights movement wrestled with the tension between respect for Soviet law and the need to change it. In the area of religious rights this tension was especially severe because of the paucity of rights accorded to religion in the first place. In their letter to Podgorny, Yakunin and Eshliman held firmly to the theme of respecting and enforcing existing Soviet law. As the rights movement gained momentum, however, its critique became more radical. The internationalization of the struggle for rights after the Helsinki accords of 1975 also tended to sharpen criticism of Soviet reality. In 1977, when a nationwide discussion of the draft of the new constitution was taking place, the Christian Committee ventured to raise the issue of the preferential treatment of atheism in the constitution in a letter to Brezhnev.³⁴

To be sure, there was no contradiction between preaching respect for law and attempting to change it at the same time. The new legal consciousness embraced both causes. Almost no one in the Soviet human rights movement advocated working for change by violent, extralegal means.

The Orthodox rights activists represented a challenge to the church as well as to the state. They did not question the legitimacy of the Patriarchal church, as some Russian Orthodox splinter groups did. They did not even question the policy of peaceful accommodation with the Soviet state. They did question the church's acquiescence in policies that turned accommodation into a one-sided relationship of dependence prejudicial to the integrity of the church, and they challenged the Patriarch and the bishops to play a more aggressive role in contesting such policies.

Again, Fathers Yakunin and Eshliman stated the case best. Their letter to Patriarch Aleksii I in 1965, incorporating the legal case made in the letter to Podgorny, lent theological and ecclesiastical perspective to their critique. In spirit the letter was prophetic rather than legalistic. The priests cried out against practices in the earthly, everyday church which contradicted the transcendent reality of the church.

The letter consisted of three parts. In the first the authors pointed out that a theological as well as a legal principle was at stake in the violation of religious rights. Citing the words of Jesus, "Render unto Caesar the things that are Caesar's, and unto God the things that are God's" (Matk 12:17), the priests argued that these words "put an end to the claims of a pagan state to total dominion over man," which is why "for the first time in history Christian doctrine proclaimed the infinite value of human personality."³⁵ In the second part of the letter the authors discussed a matter not raised in the letter to Podgorny: the prerogatives of the parish priest. With copious citations from Orthodox canon law the authors argued that the decision of the council of bishops in 1961 to remove priests from the parish councils produced a flagrantly uncanonical state of affairs at the local level of Orthodox church life and offended the dignity of the priestly office. An epigraph to this section of the letter put it poignantly: "the hireling is not a shepherd" (John 10:12). In the last part of the letter the authors reviewed the glories and tribulations of the Orthodox Church in Russian history and concluded with an appeal to the patriarch to lead the church out of its bondage to secular authority, if necessary at the price of his own security. "The patriarch is appointed to be like John the Forerunner, the friend of the Bridegroom, who lays down his life for the purity of the bride."³⁶ More particularly they called on Aleksii to summon a widely representative national council of the Russian Orthodox Church which would meet to restore the canonical norms of church life.

Patriarch Aleksii I did not take up the challenge addressed to him by the dissident priests. The next national council took place after his death, in 1971, and met for the purpose of electing his successor. It did not undo the arrangements of 1961. The new patriarch, Pimen, soon faced a similar challenge, however. In his "Lenten Letter" of 1972, Aleksandr Solzhenitsyn cited the

examples of Yakunin and Eshliman seven years earlier and implored Pimen to take the initiative in the struggle to free the church from bondage even at the price of personal martyrdom. "Do not let us suppose, do not make us think that for the archpastors of the Russian Church earthly power is higher than heavenly power, earthly responsibility more fearsome than responsibility before God."³⁷

Not all Orthodox rights activists approved of the tactic of challenging the patriarch and bishops to confront the state authorities at any price. One of the responses elicited by Solzhenitsyn's "Lenten Letter" provided evidence of divided opinion. It came from the pen of Father Sergei Zheludkov, a priest in the city of Pskov with a long record of involvement in the struggle for Orthodox rights and close ties to the dissident intelligentsia. He took exception to Solzhenitsyn's all-or-nothing approach, arguing that it would lead to martyrdom and an underground church. He held that the legal church "cannot be an island of freedom in our strictly and homogeneously organized society run from a single Center." He approved of the hierarchy's policy "somehow to sign into the system and for the time being to make use of the opportunities permitted by it."³⁸ But in spite of disagreements over the hierarchy's actual or potential role in the struggle for rights, most Orthodox dissidents agreed that the patriarchal church *was* the Russian Orthodox Church on whose behalf they were fighting. This consensus in itself testified to a considerable degree of good will toward the church on the part of the activists. Their tolerance demonstrated Christian patience and love. It also reflected a recognition that the real antagonist of the human rights movement was not the Orthodox Church but the Soviet state.

1980-1988: THE MILLENNIUM ARRIVES

In many ways the outlook for human rights in the Soviet Union seemed bleaker in 1980 than it did in 1965. The repressions of the late 1970s closed down the Soviet human rights movement and confirmed the doubts of many concerning the prospects for changing the Soviet system by legal means. Orthodox activists experienced these doubts as acutely as their secular colleagues. Legalism seemed to have led to a dead end. The way was open for reconceiving the struggle for Orthodox rights along more radical lines, such as an underground church or an alliance with right-wing Russian nationalism.

Yakunin, as ever the leading Orthodox dissident, announced his break with the legalist approach in a report on "The Present Situation of the Russian Orthodox Church and the Prospects of a Religious Renewal in Russia," dated August 15, 1979.³⁹ In it he advocated the creation of a "catacomb church"

through secret (though canonical) ordinations of bishops and priests. The underground clergy would minister to the far-flung masses of Russian Orthodox Christians whose needs were not being met by the severely restricted Moscow Patriarchate. If the Patriarchate refused to collaborate in setting up such a network, as it almost surely would, Yakunin advocated turning to a sister Orthodox church, such as the Orthodox Church in America, for assistance.⁴⁰ The practicality of such an approach was debatable. In the context of the human rights struggle, however, the important point was that Yakunin had lost confidence in his own movement.

Yakunin's pessimism toward the Moscow Patriarchate was unrelieved. He went so far as to assert that "if the freedom to conduct religious propaganda were suddenly granted in our country, the members of the Moscow Patriarchate would be incapable of profiting from this opportunity."⁴¹ Ironically, the one servant of the patriarchal church on whom Yakunin passed favorable judgment, Father Dmitry Dudko, scandalized the dissident community a few months later with a nationally televised recantation of his role in the human rights struggle of the 1970s.⁴² It seemed as if history were playing tricks on Yakunin.

And so it was, though more benignly than he or his colleagues could have imagined in the dark days of 1979–80. For even as the dissidents walked the *via dolorosa* of prison, exile, or capitulation, changes were in the making in church-state relations and in the Soviet state itself which by the mid-1980s produced a more favorable environment for human rights in the Soviet lands than at any time since the Bolshevik revolution. On the one hand, an acceleration of the Orthodox Church's vindication of its historic rights in the Russian land enhanced the visibility of the church in Soviet society. Second, the accession to power of a group of reform Communists led by Mikhail Gorbachev in 1985 opened the way to a rapid advancement of human rights in all spheres of Soviet life.

The improvement of the church's historic rights began before Gorbachev's accession to power. In the late 1970s and early 1980s the Patriarchate's long-term strategy of loyalty to the state began to pay off more palpably than before, at least for the central church institutions. The number of theological students doubled between 1971 and 1981.⁴³ The Publishing Department of the Patriarchate increased its staff and managed to get a new building constructed in central Moscow to accommodate work on an expanded range of projects.⁴⁴ A large construction project was authorized in 1983 with the return of the buildings and grounds of the Danilov Monastery to the church. The Danilov, named for St. Daniil, a medieval grand prince of Moscow, was the city's oldest monastery. The restoration of the facility brought an Orthodox monastic presence to the capital for the first time in decades as well as providing a highly

visible residence for the patriarch and a seat for the Holy Synod and some other units of the Patriarchate.

The church in the provinces did not benefit to the same extent as the central institutions, although there were some improvements. There was a modest increase in the building and reopening of churches in some parts of the country starting in the late 1970s.⁴⁵ At about the same time deanery and diocesan conventions of clergy, indispensable to the rebuilding of the Orthodox Church on the provincial level, began to be held again after a lapse of almost three decades.⁴⁶

The gains for the Orthodox Church in the early 1980s, while small compared to the expansion at the end of the decade, were exceptional in two respects. First, they exceeded earlier gains by an appreciable margin. Second, they occurred during a time of unprecedented lassitude and decline in the Soviet Union as whole. Indeed, the Orthodox Church was about the only institution in the country to show any vigor in the late 1970s and early 1980s. To explain this phenomenon one should probably reckon with a number of factors ranging from the hand of Providence to the machinations of atheist bureaucrats. The timing of the concessions to the church, for example, makes it tempting to suspect that they were intended as a reward to pliant hierarchs at a time when harsh punishment was being meted out to Orthodox rights activists. But the growth in the church's strength could also be seen as an example of the countercyclical capacity of religion to show vitality when secular power structures fall into decline.

In any case, the Orthodox hierarchy won real gains, not just cosmetic improvements, during the period. The bishops showed particular skill in their manipulation of a date of great symbolic importance in Russian history: 1988, the millennial anniversary of the baptism of the people of Kiev under Prince Vladimir in 988. In the struggle for historic rights, historic occasions play a key role. By declaring their intention to celebrate the millennium in a grand way the Orthodox hierarchy was able to wage a more or less open campaign to enhance the visibility of the church in Soviet society. In this effort the church probably benefited not a little from the support it enjoyed among some of the more nationalistic members of the Soviet establishment.

But the decisive change that allowed the Moscow Spring of 1988 to happen occurred not in the church but in the ruling elite of the Soviet state. Coming to power in 1985, Mikhail Gorbachev and his associates promptly set about implementing an ambitious reform agenda: first *glasnost*, or freedom of expression; then *perestroika*, or the restructuring of social, political, and economic institutions. In terms of rights issues the most promising aspect of the reform effort was the idea of "a state based on law" (*pravovoe gosudarstvo*) and the calls for upgrading the legal profession, making legal services more avail-

able to ordinary citizens, and establishing the independence of legal counsel.⁴⁷ That the immediate source of these ideas was the "legalist" thinking of the Soviet human rights movement was too plain to be missed. The movement had won its case, albeit posthumously.

In the spring of 1988, virtually on the eve of the church millennium, the reform process took a great leap forward when Gorbachev's government declared its intention to create a new national parliament, the Congress of People's Deputies. Elections to this body were held in March 1989; it met for the first time in June. Similar parliaments were later created on the republican level. A substantial body of human rights legislation, including the 1990 laws on freedom of religion mentioned above, was one of the most notable accomplishments of the new parliamentary institutions.

Before 1988 the Communist reformers made no public statements on religion. Their silence left the religiously oriented public in a state of uncertainty about the reform process. In May 1987 a group of nine prominent Orthodox clergy and laymen tied to the Orthodox rights movement tried to bring the matter to a head in open letters to Chairman Gorbachev and Patriarch Pimen.⁴⁸ They called on Gorbachev to extend glasnost and perestroika to the religious sphere by granting believers the right to publish scriptures and religious literature, to be heard in the mass media, to participate in the preparation of legislation affecting religious life, to engage in philanthropy and social service—in short, to participate openly and equally in Soviet society. In effect the nine called for a consistent policy: "We wish to believe in the reality of the restructuring that lies ahead. But the process of democratization going on in our country is essentially indivisible. The Russian Orthodox Church cannot be left out of it."

To the patriarch the nine declared that they did not expect the renewal of freedom to be any easier to achieve in the church than in Soviet society at large: "Immobilized, mute and timid for so many years, [the church] has to learn all over again how to walk and talk." The group implored the patriarch "not to let slip the unique historical opportunity which the Lord is sending our Homeland and our Mother Church."

Despite the lack of official statements, however, a great liberalization of the conditions of religious life was already underway by mid-1987. Religious dissidents, including Father Yakunin, were released from exile or detention. Yakunin's sacerdotal functions were restored by the Patriarchate, and he was assigned to a parish in the Moscow area.⁴⁹ A program to upgrade Jewish institutions was openly discussed by official spokesmen.⁵⁰ Adult baptisands and parents presenting children for baptism, at least in Moscow, were no longer asked to show their domestic passport before receiving the sacrament, i.e., the rite was no longer subject to civil registration.⁵¹ As we have noted, this prac-

rice was long singled out by critics as an affront to religious conscience and a flagrant violation of Soviet law. Another sign of improvement was the series of three international scholarly conferences on Russian Orthodox history and tradition commemorating the millennium of the baptism of Russia.⁵² The conferences marked the first time that the church was allowed to sponsor international meetings on a subject other than ecumenism or world peace. The second and third conferences in the series featured participation by distinguished Soviet scholars from secular institutions as well as clergy and theologians. The open collaboration between secular and ecclesiastical scholars was another "first" for the postwar period.

As for the legal status of religion, there was evidence that new legislation was being prepared at the highest levels. In the January 1986 issue of the *Journal of the Moscow Patriarchate* there appeared a mysterious last page entitled "Our Legal Advice: The Rights and Obligations of Religious Societies."⁵³ In actuality the page did not relay "advice" from any ecclesiastical source but presented eight draft paragraphs of a secular law code employing the terminology, but departing from the substance, of the Law on Religious Associations of 1929. The draft explicitly recognized religious associations as legal entities with the right to make contracts and act as plaintiff or defendant in a court of law. It granted religious associations the right to purchase (not merely take on loan) and hold title to various kinds of property including ritual objects, means of transport, and buildings. The right of religious organizations to employ temporary or permanent staff on contract was also recognized. In short, the "Advice" subverted the entire tradition of Soviet legislation on religion. Since such a publication could not have appeared at the time without official approval, it encouraged hopes for a breakthrough to religious liberty in the USSR. The unanswered question was whether the principles of "Our Legal Advice" would be written into state law; and if so, when?

The intentions of the Communist reformers with respect to religion were publicly clarified in April 1988 when Chairman Gorbachev held an unprecedented and highly publicized roundtable meeting with the senior hierarchs of the Russian Orthodox Church.⁵⁴ The tone and substance of his remarks were conciliatory even though he felt obliged to declare that Lenin's 1918 Decree on the Separation of the Church from the State and the School from the Church was a measure that "opened the way for the church to pursue its activities without any sort of outside interference." He conceded that "mistakes" were made with respect to the church and religious believers in the 1930s and thereafter, observed that the errors were being corrected, wished the church well on the eve of its millennium and invited the Orthodox community to collaborate in the work of perestroika on the grounds that "we have a common history, one Fatherland and one future." The last point was especially

poignant in that it was a major ideological retreat for a Communist leader to envision religion as having any sort of future, never mind the same as his own. Most importantly, Gorbachev announced that "at the present time a new law on freedom of conscience is being devised in which the interests of religious organizations as well as others will be reflected." The long-rumored prospect was now official.

When the church observed its millennium in June 1988, then, it did so in a spirit of confidence and independence. The main event was a national church council composed of the hierarchy and elected clerical and lay representatives. The gathering was only the third national council of the Russian Orthodox Church in the Soviet period (the others were in 1945 and 1971). It was the first to be held for a purpose other than electing a successor to a deceased patriarch.

In the area of rights the most important action of the council was the adoption of a fundamental statute for the Russian Orthodox Church.⁵⁵ Based firmly on Orthodox canon law and the abrogated precedent of 1945, the new statute formally ended the bondage of the church to the pattern dictated by the Law on Religious Associations of 1929 and the humiliating pseudo-council of 1961. It went much further than the statute of 1945 in spelling out structures of authority and decision-making in the church. A tiered set of institutions at the diocesan, episcopal, and national level was set up to exercise the church's newly won sovereignty over its affairs. At the time of its adoption, of course, the statute contradicted existing Soviet laws on religion despite a note to the contrary placed at the head of the document. The discrepancy may explain why the church delayed formal publication of the statute.⁵⁶ Nevertheless, the text circulated freely and its provisions began to be implemented immediately following the council.

Thus the millennium passed amidst a great liberation. Seventy years after the Bolshevik revolution, the Russian Orthodox Church emerged from its Babylonian exile to claim "a future and a hope" (Jeremiah 29:10).

RUSSIAN ORTHODOXY AND HUMAN RIGHTS SINCE 1988

The *annus mirabilis* of 1988 marked the end of the long struggle for civil rights and the beginning of a new period in the history of the Russian Orthodox Church. The new era is without precedent. Never before, not even in prosperous periods of its life under the tsars, did the Russian Church enjoy the freedom of action that it possesses today. What the church will do with its freedom—how it will respond to the challenges of a complex modern civilization, how it will deal with the religious pluralism of post-soviet society,

what positions it will take with regard to the state, the schools, private property, and the whole range of modern rights issues—all of these are open questions. The answers will come, some soon, others more slowly, as the Russian Orthodox community brings its rich tradition of piety and theology to bear on them. One safe prediction is that the new situation will stimulate a great deal of fresh theological reflection.

In terms of Russian Orthodoxy and human rights the period since 1988 has been shaped by three developments: the rebuilding of church institutions, the codification of legal rights, and the emergence of rights issues quite different from those which occupied the church in the Soviet period.

The rebuilding of the Russian Orthodox Church has proceeded with remarkable rapidity and on a larger scale than even the friends of the church expected. In the period 1985–1987 the church opened or reopened a total of 29 parishes, a respectable number by prereform standards. In 1988, however, 809 new parishes were registered; in the first nine months of the following year, 2,185. In roughly the same period a half dozen new theological schools and a dozen new monasteries were opened.⁵⁷ The repossession of historic monuments large and small—from the Kiev Caves Monastery to street corner chapels and rural pilgrimage sites—also proceeded rapidly in all areas of Orthodox settlement. The boom continued in the 1990s. By late 1993 the number of new and reopened parishes in the Moscow Patriarchate surpassed 7,000, bringing the total number of patriarchal parishes to more than 14,000. In other words, the Patriarchate doubled in size in a five-year period. In the same period the number of monasteries rose from about 20 to more than 200; the number of theological schools, from four to 38.⁵⁸ The number of historic Orthodox monuments restored during the period is incalculable.

The scale of the Orthodox renewal in Russia and the other countries of the Moscow Patriarchate would appear to make it the largest revival of historic Christianity in the twentieth century. At the very least the rebuilding of Orthodoxy has dramatically altered the Russian landscape. Russia is beginning to look like an Orthodox country again.

To be sure, one would have to examine the spiritual dimensions of the Orthodox revival in order to evaluate it adequately. But the material facts alone prove at least a couple of things. They prove that the Orthodox Church's claim to possess historic rights in the Russian land enjoys a good measure of popular support. Second, they show that the Moscow Patriarchate, whatever its failings, possesses greater reserves of energy and imagination than its Soviet-era detractors allowed. When Father Yakunin wrote in 1979 that "if the freedom to conduct religious propaganda were suddenly granted in our country, the members of the Moscow Patriarchate would be incapable of profiting from this opportunity,"⁵⁹ he scarcely imagined that the hour would come

when his proposition could be verified. But the hour came, and the proposition turned out to be wrong.

The codification of the civil rights of the Russian Orthodox Church and other religious associations in the Soviet lands was achieved with the adoption of laws on religious freedom by the legislatures of the USSR and the RSFSR in October 1990.⁶⁰ The All-Union law ceased to apply after the dissolution of the USSR at the end of 1991. The 1990 RSFSR law remains in effect in the post-soviet Russian Federation.

The All-Union (USSR) law carried the principles of "Our Legal Advice" (1986) to their logical conclusion. It recognized religious organizations as legal entities (Article 13) and their right to acquire and hold various kinds of property (Articles 17–20). It recognized as "religious organizations" not just local congregations but "directorates and central institutions, monasteries, religious brotherhoods, missionary societies (missions), religious schools and also associations of religious organizations" (Article 7). It confirmed the right of religious organizations to establish ties with groups outside the territory of the USSR, the right of believers to leave the country for pilgrimages and other religious purposes (Articles 9, 22, 24), the right of parents and guardians to raise children in a religion (Article 3), and the right of all Soviet citizens to pursue religious education "in the language of their choice, individually or together with others" (Article 6). It recognized the right of religious organizations to conduct religious services and other rituals in houses of worship, religious centers, private homes, cemeteries and crematoria without conditions. Services in hospitals, prisons, and homes for the elderly and invalids were admitted "at the request of citizens" inhabiting the institutions, with religious organizations having the right to solicit such requests (Article 21).

The law granted religious organizations the right to solicit voluntary contributions of money and other property, exempting such contributions from taxation (Article 18). The right of religious organizations to form business enterprises (e.g., publishing, restoration, agricultural concerns) and social service institutions such as hospitals and shelters was also recognized. Profits from such enterprises were declared taxable (Article 19) unless applied to charitable or educational ends (Article 23). Discriminatory tax rates on clerical income were eliminated (Article 26).

The RSFSR law recognized all the aforementioned rights and then some, allowing considerably wider latitude to religious expression than the All-Union law. The law explicitly recognized the religious liberty of foreign citizens on Russian soil (Article 4). It authorized the Russian government "upon the request of mass religious organizations . . . to make decisions regarding the declaration of great religious holidays as additional nonworking holidays" (Article 14). It recognized the right of registered religious organizations to

offer instruction in schools and other educational institutions "on an optional basis." As for the military, the All-Union law provided only that "the command of military units will not prevent military personnel from taking part in religious services or performing religious rituals during their free time" (Article 21). The RSFSR law put the matter in more positive terms, speaking of "the right to conduct and participate in religious rites in military units of all branches of service" and charging military administrations actively to assist citizens with arrangements for religious observance (Article 22). The RSFSR law also provided for conscientious objection to the bearing of arms by means of an alternative service option (Article 7).

Another area in which the All-Union and RSFSR laws differed was that concerning the monitoring of religious organizations. Under the All-Union law, registration with the state authorities was required of all religious organizations seeking recognition as legal entities. To supervise the process the law provided for "a state organ on religious affairs" to be formed by the Council of Ministers of the USSR (Article 29), i.e., a body much like the Soviet-era Council for Religious Affairs. The responsibilities of the "organ" included liaison with analogous bodies on the republican level, information gathering on religious activities and on implementation of the laws on religion, offering expert advice to organs of administration and the courts, assisting religious organizations in negotiations with state authorities and promoting understanding and tolerance between religious confessions in the country and abroad. Such a broad mandate clearly envisioned the continuation of an active, even interventionist, role for the state in religious affairs.

The RSFSR law broke with the Soviet tradition of monitoring religion when it declared that "executive or administrative organs of state authority and state job positions specially intended to resolve issues related to the exercise of citizens' rights to freedom of religion may not be instituted on the territory of the RSFSR" (Article 8). Implementation of the law on religion was assigned to the Ministry of Justice and local law enforcement agencies. The Council for Religious Affairs was duly abolished in the RSFSR on January 1, 1991. On the other hand, the RSFSR law preserved the same registration requirement as the All-Union law. It also followed the All-Union law in providing for an "expert" council of "representatives of religious organizations, social organizations, state organs, religious experts, legal experts, and other specialists in the sphere of freedom of conscience and religion" to conduct research and give advice on issues involving religious organizations under the auspices of the Committee on Freedom of Conscience, Religion, Charity, and Philanthropy of the Russian parliament. While a council of experts is a far cry from the Council for Religious Affairs with its plenipotentiaries, the RSFSR law still envisions a degree of collaboration between

governmental and religious authorities which a more precise law might have sought to avoid.

In the past, of course, state intervention in the religious sphere was prompted mainly by ideological considerations. The aim was to promote atheism and discourage religious belief. The new laws placed atheism on an equal footing with other attitudes toward religion. Soviet citizens were always free to confess any religion or none at all, but only atheists enjoyed the right to propagate their views. The new laws granted all citizens the right to propagate their views and barred the state from financing either atheist propaganda or religious activities. In terms of the constitutional history of the USSR the disestablishment of atheism was perhaps the most significant achievement of the new legislation. A year before its demise the USSR became a secular state.

With the adoption of the 1990 laws on religion most of the issues which exercised the Russian Orthodox Church and the Soviet human rights movement during the long years of captivity passed into history. Implementation of the new rights will take time, and there will be complications along the way. But the old issues are unlikely to return to center stage. New issues are already taking their place.

One of these came into view even before the 1990 laws on religious liberty were finalized: the role to be played by the Orthodox Church in the legislative process itself. During the Soviet period, of course, there was no role for the church to play in the legislative arena. But in a democratic Russia, where the legislative process is presumably responsive to civil society, the question of the church's role, and that of other religious forces, naturally arises.

The Russian Orthodox episcopate was deeply involved in official discussions of the draft of the All-Union law of 1990. The bishops went so far as to publish critical commentaries on the draft before and after its adoption, winning a number of changes to their liking and failing to get their way on others.⁶¹ For example, they urged deletion of a sentence in the section on separation of church and state providing that "the activities of state organs, organizations and employees may not be accompanied by divine liturgies, religious rituals and ceremonies."⁶² The provision was in fact deleted, which opened the way for blessings, prayers, and other overtly religious actions to be performed on state occasions. So, for example, when Boris Yeltsin was inaugurated as the first democratically elected president of Russia in July 1991, the patriarch of Moscow took part in the ceremony, blessing the new officeholder and making a speech exhorting the president and people of Russia "to take up each other's burdens, and thus . . . fulfill the law of Jesus."⁶³ In the negative column, the bishops proposed wording guaranteeing that religious instruction could be given "in the [public] schools on a voluntary extra-curricular basis." Patriarch Aleksii, a member of the Soviet parliament at the time, vig-

ously supported the amendment; but it was rejected by a vote of 303 to 46.⁶⁴ The All-Union law did not explicitly bar religious instruction from the schools, however; and, as we have noted, the RSFSR law was hospitable to it. In fact many Russian schools currently accommodate religious instruction, usually conducted by clergy or itinerant missionaries. The decision to allow or disallow rests with local school administrations.

Another deficiency in the All-Union law from the bishops' point of view was its treatment of Orthodox parish communities as legal entities distinct from the church as a corporate body. As the bishops saw it, the legal entity of parishes should derive from that of the church as a whole because "in the [Orthodox] Church there cannot be 'religious communities' which are independent from the hierarchical center and from each other."⁶⁵ The practical issue was the degree of latitude to be enjoyed by local Orthodox churches in relation to the central church administration. The Moscow Patriarchate faced vigorous challenges from competing Orthodox jurisdictions in the late Gorbachev and early post-soviet years and feared secessionist movements in its ranks (with good reason). The bishops wanted to ensure that any Orthodox parish that abandoned the Moscow Patriarchate would lose its property and rights of legal entity.

The theoretical issue was the degree to which the "self-understanding of the Church," as the bishops called it, should be taken into account by secular lawmakers. Secular law aims to treat all religions equally, but this is easier said than done. A law that regards local religious communities as autonomous entities, for example, has a different meaning for churches with congregationalist polities (e.g., Baptist churches) than for a church with an episcopal-sacramental polity.

The prominence of the Orthodox hierarchy in the legislative debates of 1990 pointed to an even larger issue: the role to be played by the Orthodox Church in the post-soviet Russian state. Religious minorities as well as atheists and secularists worry that the church is bent on securing a privileged position for itself in the new Russia. The sheer size of the Orthodox Church and its thousand-year tradition of state establishment are certainly grounds for the minorities' fears. So is the display, episodic but frequent, of the symbols and clerical personnel of Orthodoxy on all sorts of official occasions. So are the innumerable cases of direct church-state collaboration, including pooling of funds, which can be documented throughout Russia today.

One may cite the reconstruction of the Cathedral of Christ the Savior in central Moscow as a case in point. This church, once the largest in Moscow, was built in the nineteenth century to commemorate Russia's victory over Napoleon. In 1931 it was dynamited by the Communist city government. In January 1995 the patriarch and the mayor of Moscow laid the cornerstone of a

replacement structure, which is being built with heavy reliance on state funds. Naturally the finished product will not be a historical monument or military shrine or Baptist or Adventist prayer house, but an Orthodox church.⁶⁶

Privileged treatment of the Orthodox Church was evident on the occasion of its official registration as a legal entity in the RSFSR in the spring of 1991. The formal act of registration had to be postponed because of Patriarch Aleksii II's pilgrimage to the Holy Land and other scheduling complications. Meanwhile, other religious organizations including Jehovah's Witnesses, Mormons, Baptists, Seventh-Day Adventists, and Buddhists were officially registered by the republican authorities. Nevertheless, when the patriarch returned home and went to register his church, the official document he received from the hands of the Minister of Justice bore a registration number rich in symbolism: the number 1.⁶⁷

In short, the blurring of distinctions between church and state is pervasive in present-day Russia and will remain so until clarified by more precise laws. Clearer legislation, in turn, depends on the clarification of attitudes in Russian civil society as a whole, including the Orthodox Church. In other words, the issue of church-state relations will remain a lively one in Russia for a long time to come.

Foreign experts can play a useful role by bringing the experience of other countries to the attention of Russian legislators, church leaders and legal scholars; but in the end the issues of religion and polity facing Russia must be settled in a way that makes sense to the Russians themselves. Every legal tradition represents a synthesis of universal notions of rights with concrete historical conditions and commitments. The tendency of European and American critics of Russia has been to concentrate on the universal and ignore the particular. But in Russia as elsewhere the particular demands its due.

In the present case respect for the particular means making a sympathetic penetration of the modern history of the Russian church and resisting doctrinaire approaches. Because the mentality of Russian Orthodoxy is deeply colored by a long tradition of religious establishment, and because the idea of religious establishment is viewed with suspicion by most modern human rights theorists, the application of human rights theory to the case of Russian Orthodoxy can quickly degenerate into polemics and simplistic dichotomies. But if the job of thinking about human rights is in the first instance not to change the world but to understand it, the case of Russian Orthodoxy (and other Orthodox churches) is a rich subject for the investigator.

The study of religious establishment—particularly *de facto* sociocultural establishment, which is a vaster phenomenon than the juridical variety—is one of the most neglected subjects in the comparative study of religion. The special pathos of the Russian church in the twentieth century is also scantily

appreciated. The Russian Orthodox Church was not disestablished by a constitutional process but by a cruel and arbitrary power determined to eradicate the church altogether. Far from living "at ease in Zion," the leaders of the church trod the path of persecution and martyrdom.⁶⁸ That the blood of the martyrs is the seed of the church is a truism of church history. What is not so widely recognized is that the principle applies just as much to priestly church establishments as to prophetic minorities. The aura of sanctity about the patriarchal church was enhanced, not diminished, by Communist persecution.

The mentality of establishment is not confined to church circles. The Russian state is as interested in promoting close church-state relations as the episcopate, and with good reason. Present-day Russia is not a peaceful, prosperous, or productive country. Devastated by decades of oppression, Russian civil society must be rebuilt from the ground up. In these circumstances no Russian government, particularly not a democratic one, can afford to draw a *cordon sanitaire* between itself and the largest and best organized institution of Russian civil society.⁶⁹

Interreligious, intercommunal, and international relations are other arenas in which complex rights issues are emerging for Russian Orthodoxy. Most of the faith communities of post-soviet Eurasia are experiencing genuine religious liberty for the first time, and there is confusion about what it means. There is a real danger that the free market in religion will spawn violent ethnic and religious conflicts. In Ukraine, for example, no fewer than three separate Eastern church jurisdictions—Ukrainian Orthodox (Moscow Patriarchate), Ukrainian Autocephalous, and Ukrainian Catholic—vie for a share of the rich ecclesiastical patrimony of the region. Competing Orthodox jurisdictions also disturb the peace of the church in the Russian Federation.

The growth of nontraditional Christian sects and exotic non-Christian or pseudo-Christian cults in Russia represents an even more baffling challenge to Orthodoxy. The Russian Orthodox community has long been used to dealing with Muslim Tatars, Buddhist Mongols, and other peoples of the Russian Federation whose religious orientation is a matter of historic tradition. It has a harder time coming to terms with Russians who embrace nontraditional religious options. Orthodox sensitivities in this regard have been greatly exacerbated by the tidal wave of foreign missionaries that has washed over Russia since 1988. The church views most of the newcomers as interlopers whose vocation is to rustle the Russian people away from its true shepherds. The irony is that the foreign missionaries operate under the warrant of the 1990 law on religious liberty which the Orthodox Church helped set in place.

Refusal to accept this irony for what it is led the senior hierarchy of the Russian Orthodox Church to launch what can be termed its most controver-

sial initiative of the 1990s relative to human rights: agitation to amend the 1990 legislation on religion in such a way as to bar or otherwise limit the religious activities of foreigners on the territory of the Russian Federation. An amended law was in fact adopted by the Russian parliament in the summer of 1993, only to be vetoed by President Yeltsin. A revised version of the amendment also turned out to be a dead letter following Yeltsin's forcible dispersal of the parliament in the bitter conflict of September–October 1993. Still, the issue has not been laid to rest. Another revision of the 1990 law has been under discussion in the Duma since 1994. At hearings on the matter in early 1995 the Patriarchate let it be known that it still favors limitations on the religious activities of foreigners in Russia.⁷⁰

The Patriarchate's campaign drew a good deal of international attention and prompted the intervention of Western-based human rights activists. International conferences on the issue were held in 1994 and 1995 at which the proposed limitations on religious activity in Russia were roundly criticized as violating the international human rights norms stated in the Universal Declaration, the Helsinki Final Act, the Vienna Concluding Document (1989), and other instruments to which Russia is a party.⁷¹ There is no reason to suppose that the monitoring of religious conditions in Russia and other post-Communist states will cease any time soon. Western missionary and human rights groups are well organized, well financed, and well connected politically. Russian church leaders will not be able to ignore them. Even less will a democratically oriented Russian government find it easy to countenance violations of treaties to which it is a signatory. In effect, the environment in which the Russian Orthodox Church carries out its ministry has been internationalized.

The outlook for relations between the Russian Orthodox Church and Western religious and rights organizations should not be painted too darkly. Strong internationalist currents have long existed in the church, especially among the hierarchy. An interesting feature of the Russian bishops' commentary on the All-Union law of 1990, for example, was their commendation of international human rights instruments. The bishops hailed the All-Union law as the first piece of Soviet legislation that "answers to the fundamental principles of the Universal Declaration of Human Rights, the Final Act of the Conference on Security and Cooperation in Europe and the other agreements reached by participating governments in the course of implementing the Helsinki process."⁷²

Even more important as a stimulus to internationalism is the composition of the patriarchal church itself. Always more cosmopolitan than its reputation, the Moscow Patriarchate became a truly international community of churches following the breakup of the USSR in 1991. Preminent not just in Russia, the

patriarchal church is the largest church in Ukraine and Belarus, one of the largest in the Baltic countries, and a significant presence on the religious scene in all fifteen post-soviet states. The church also has close, if no longer juridical, ties to a daughter-church in North America, the Orthodox Church in America. The leadership of the Patriarchate is deeply committed to holding this diverse community of churches together to the extent possible in the face of ethnic, political, and ecclesiastical pressures to the contrary. Many churchmen surely recognize that the interests of the Patriarchate and its huge flock in the Near Abroad and elsewhere will be better protected in the long run through reliance on international human rights norms than by religious protectionism, ad hoc political pressures, or other artificial arrangements.

Critics of the Moscow Patriarchate view its efforts to preserve its organization in the Near Abroad as a dangerous manifestation of neo-soviet "empire-saving."⁷³ The accusation should not be dismissed lightly, since the alienation of some twenty-five million Russians from the Russian state is certainly a political earthquake that will send aftershocks through the region for years to come. But it is equally important to recognize that there is an ecclesiastical principle at stake in the ambitions of the Moscow Patriarchate. Sectarianism, splintering and the proliferation of jurisdictions are not the final word in church polity from an Orthodox point of view. Nor is there any theological reason for the church to mirror the political divisions of the age. It may be a good thing for post-soviet Eurasia to divide into ethnically based democratic republics. But the Russian church is not a republican entity any more than it was a tsarist or Soviet entity. Its citizenship is in heaven. Like the cross of Christ in which it glories, the Orthodox Church stands "towering o'er the wrecks of time."

NOTES

1. For statistics on prerevolutionary church institutions, see Igor Smolitsch, *Geschichte der russischen Kirche, 1700–1917*, vol. 1 (Leiden: E. J. Brill, 1964): pp. 705–13.

2. There were approximately 15,000 functioning Orthodox churches in the Soviet Union by the end of World War II, many of them in the newly incorporated territories. After the Khrushchev persecution there were about 6,000 or 7,000. The best recent sources of information on the Russian Orthodox Church prior to the expansion of the late 1980s are Nathaniel Davis, *A Long Walk to Church: A Contemporary History of Russian Orthodoxy* (Boulder: Westview Press, 1995); Jane Ellis, *The Russian Orthodox Church: A Contemporary History* (Bloomington and Indianapolis: Indiana University Press, 1986); Dimitry Pospelovsky, *The Russian Church Under the Soviet Regime 1917–1982*, 2 vols. (Crestwood, N.Y.: St. Vladimir's Seminary Press, 1984); and William C. Fletcher, *Soviet Believers: The Religious Sector of the Population* (Lawrence: The Regents Press of Kansas, 1981).

3. The primacy of grace was the theme of one of the earliest and most celebrated Russian sermons, Metropolitan Hilarion's "Sermon on Law and Grace." Hilarion became the first Russian (non-Greek) metropolitan of Kiev in 1051. For a partial English translation see Serge A. Zenkovsky, *Medieval Russia's Epics, Chronicles, and Tales*, rev. ed. (New York: Dutton, 1974), pp. 85-90.

4. Evgeny Barabanov sums up the view of many modern Russian Orthodox thinkers when he writes: "The Church is not defined just by her sanctuary and liturgy, her theology and tradition. In essence and idea she is that Absolute Reality whose being is not and cannot be divided. Over against the Church stand evil and death, the falsehood and darkness of the world, but in all being there does not exist a positive reality or grace which on its deepest level, if not in our ideologized consciousness, could be opposed to the Church. The Church is the emerging solidarity of all things, and her essence lies in joining together everything divided and broken. All of us are called to build the Church out of everything which has not yet become part of her, everything which has not visibly and perceptibly entered into her. For we know that nowhere, not on any paths, will man reach the fullness of what God has revealed in His Body—the Holy Church." "Pravda gumanizma," *Samosoznanie: sbornik statei*, ed. P. Litvinov, M. Meerson-Aksenov; and B. Shragin (New York: Khronika Press, 1976), p. 26.

5. The uniqueness of persons is connoted by the root word of *lichnost'*: *lik*, "face." *Lik* (sing.) is also used as a collective noun referring to the company of saints, angels, or choirs, as in the expression *prichislit' k liku sviatykh*, "to reckon among the face[s] of the saints," i.e., to canonize.

6. For a somewhat different interpretation see the discussion of "individualism without freedom" in Byzantine society in Alexander Kazhdan and Giles Constable, *People and Power in Byzantium: An Introduction to Modern Byzantine Studies* (Washington, D.C.: Dumbarton Oaks Center for Byzantine Studies, 1982).

7. One should not forget that "the rights of man and citizen" came to Russia on the points of Napoleon's bayonets.

8. See Andrzej Walicki, *Legal Philosophies of Russian Liberalism* (Oxford: Clarendon Press, 1987), ch. 1: "The Tradition of the Censure of Law." A notable exception to antilegalism among Russian Orthodox thinkers was Vladimir Sergeevich Soloviev (1853-1900), whose contribution to legal consciousness and the theory of human rights in Russia is analyzed by Walicki in ch. 3: "Vladimir Soloviev: Religious Philosophy and the Emergence of the 'New Liberalism.'" "

9. Vladimir Zelinsky, *Prikhodiashchie v tserkov'* (Paris: La Press Libre, 1982), pp. 47, 54.

10. See the penetrating discussion of this problem in Zelinsky, *Prikhodiashchie v tserkov'*, pp. 46-47.

11. In the fall of 1990 a journalist asked new Patriarch Aleksii II whether he believed the Russian Orthodox Church needed to repent for any of its actions during the Soviet period. His answer illustrates the organic, establishmentarian view we are discussing. "Has the Russian Church sinned against the Russian people?" he asked. "But what is the Russian Church if not this same Russian people viewed in terms of their spiritual aspirations? In the Russian Church as a whole there is no sin which is separate from the sin of the Russian people." The patriarch went on to defend Metropolitan Sergii's controversial declaration of loyalty to the Soviet state in 1927 which I discuss below. *Literaturnaia gazeta*, November 28, 1990, p. 9.

12. John Meyendorff, "The Russian Church After Patriarch Tikhon," *St. Vladimir's Theological Quarterly* 19, no. 1 (1975): 40.

13. Quoted by Meyendorff, "The Russian Church After Patriarch Tikhon," pp. 39-40, from *Patriarkh Sergii i ego dukhovnoe nasledstvo* (Moscow, 1947), p. 62. The text of Metropolitan Sergii's 1927 encyclical is included in the latter source.

14. The All-Union law, "O svobode sovesti i religioznykh organizatsiakh," was published in *Pravda*, October 9, 1990, p. 4. The RSFSR law, "O svobode veroispovedanii," was published in *Sovetskaiia Rossiia*, November 10, 1990, p. 5, and in *Vedomosti s'ezda narodnykh deputatov i Verkhovnogo Soveta RSFSR*, no. 21 (1990), Stat'ia 240. For further comment, see note 60.

15. English translations of the decree on Separation of the Church from the State and the Schools from the Church may be found in William B. Stroyen, *Communist Russia and the Russian Orthodox Church 1943-1962* (Washington, D.C.: The Catholic University of America Press, Inc., 1967), pp. 117-18; and in Richard H. Marshall, Jr. et al., eds., *Aspects of Religion in the Soviet Union 1917-1967* (Chicago and London: University of Chicago Press, 1971), pp. 437-38. I quote from Stroyen's translation, except that I have changed the word "government" to "state" in the title of the decree.

16. *Konstitutsiia* (Osnovnoi zakon) Soiuza Soverskikh Sotsialisticheskikh Respublik (Moscow, 1977), Stat'ia 6. The corresponding article of the constitution of 1936 is Article 126. The language of 1977 is more doctrinaire. For an English translation of the constitution of 1977, see *The Soviet Union Through Its Laws*, ed., trans. and with an intro. by Leo Hecht (New York: Praeger, 1983), pp. 17-60. For a translation of the constitution of 1936, see *Basic Laws on the Structure of the Soviet State*, trans. and ed. by Harold J. Berman and John B. Quigley, Jr. (Cambridge: Harvard University Press, 1969), pp. 3-28. A translation of the two constitutions may also be found in David Lane, *Politics and Society in the USSR* (New York: New York University Press, 1978), Appendix C/1-2.

17. *Konstitutsiia SSSR*, Stat'ia 52. The corresponding article of the constitution of 1936 is Article 124.

18. English translations of the Law on Religious Associations may be found in Stroyen, *Communist Russia and the Russian Orthodox Church*, pp. 121-27; and in Marshall et al., eds., *Aspects of Religion in the Soviet Union*, pp. 438-45.

19. *Polozhenie ob upravlenii russkoi pravoslavnoi tserkvi, Pravoslavnyi tserkovnyi kalendar' na 1946 god* (Moscow, 1946), pp. 58-60. An English translation may be found in Stroyen, *Communist Russia and the Russian Orthodox Church*, pp. 136-40. Articles 39 and 40 pertain to the *dvadtsatka*.

20. The text of the measures approved by the council of bishops in 1961 was published in *Zhurnal moskovskoi patriarkhii*, no. 8 (1961): 15-17. See also the summary of the conciliar discussions on pp. 9-15.

21. An English translation of the 1975 amendments to the Law on Religious Associations along with the articles which they replaced may be found in Pospelovskiy, *The Russian Church Under the Soviet Regime*, 2: 493-500.

22. The best general account of the Soviet human rights movement is Ludmilla Alexeyeva, *Soviet Dissent: Contemporary Movements for National, Religious, and Human Rights* (Middletown, Conn.: Wesleyan University Press, 1985). Detailed discussions of Orthodox rights activism may also be found in the works by Jane Ellis and Dimitry Pospelovskiy already cited.

23. Alexeyeva, *Soviet Dissent*, p. 275.

24. For a complete English translation of the two letters along with the cover letter to the hierarchy see "Documents: Appeals for Religious Freedom in Russia," *St. Vladimir's Seminary Quarterly* 10, nos. 1-2 (1966): 67-111. Large excerpts appear in Michael Bourdeaux, *Patriarch and Prophets: Persecution of the Russian Orthodox Church Today* (New York and Washington: Praeger, 1970), pp. 189-223. A fine edition of Yakunin's writings in the Soviet period including the letters coauthored with Eshliman has appeared in French: Gleb Yakounine, *Un prêtre seul au pays des soviets*, presented by François Rouleau with a preface by Olivier Clément (Limoges: Editions Criterion, 1984).

25. There were a few bishops, however, who resisted the antireligious campaign, criticized the council of 1961 and supported Orthodox dissidents. The most vocal episcopal dissidents, Ermogen (Golubev) of Kaluga (earlier, of Tashkent and Central Asia) and Pavel (Golyshév) of Novosibirsk, were eventually forced out of service. Their activities and fates are described by Ellis, *The Russian Orthodox Church*, pp. 17, 68, 235-44; and by Pospelovsky, *The Russian Church Under the Soviet Regime*, pp. 327, 393-94, 421-22. See also the materials on the case of Archbishop Ermogen in Bourdeaux, *Patriarch and Prophets*, pp. 238-54.

26. For example, the case of the believers of Naro-Fominsk. See Valery Chalidze, *To Defend These Rights: Human Rights and the Soviet Union*, trans. by Guy Daniels (New York: Random House, 1974), pp. 199-208. Updated information appears in Ellis, *The Russian Orthodox Church*, p. 295.

27. For a fairly representative sample of dissident *samizdat* from the period of the human rights movement, see Michael Meerson-Aksenov and Boris Shragin, eds., *The Political, Social, and Religious Thought of Russian "Samizdat": An Anthology*, trans. by Nickolas Lupinin (Belmont, Mass.: Nordland, 1977).

28. For an account of the interview, with excerpts, see *New York Times*, April 3, 1972. "A Lenten Letter," translated by Ludmilla Thorne, appeared in *New York Times*, April 9, 1972, sec. 4: 18. A translation by Alexis Klimoff may be found in John B. Dunlop, Richard Haugh, and Alexis Klimoff, eds., *Alexander Solzhenitsyn: Critical Essays and Documentary Materials* (Belmont, Mass.: Nordland, 1973), pp. 472-77.

29. See Alexeyeva, *Soviet Dissent*, pp. 255-59; Ellis, *The Russian Orthodox Church*, pp. 373-81.

30. English translations of Yakunin and Regelson's letter may be found in Meerson-Aksenov and Shragin, eds., *Political, Social and Religious Thought of Russian "Samizdat"*; Father Gleb Yakunin and Lev Regelson, *Letters from Moscow: Religion and Human Rights in the USSR*, ed. by Jane Ellis (Keston: Keston College Centre for the Study of Religion and Communism; San Francisco: H. S. Dakin, 1978).

31. Pavel Litvinov, "O dvizhenii za prava cheloveka v SSSR," *Samosozanie: sbornik statei* (New York: Khronika Press, 1976), p. 86.

32. The Council for Russian Orthodox Church Affairs was later replaced by the Council for Religious Affairs.

33. "To the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics," *St. Vladimir's Seminary Quarterly* 10, nos. 1-2 (1966): 68.

34. See Ellis, *The Russian Orthodox Church*, pp. 255-56.

35. "To His Holiness, the Most Holy Patriarch of Moscow and of All Russia," *St. Vladimir's Seminary Quarterly* 10, nos. 1-2 (1966): 79.

36. Ibid., p. 104.
37. "Vserossiiskomu Patriarkhu Pimenu: velikopostnoe pis'mo," *Vestnik russkogo studencheskogo khristianskogo dvizheniia* 103 (1972): 148-49.
38. "Pis'mo A. Solzhenitsynu," *Vestnik russkogo studencheskogo khristianskogo dvizheniia* 103 (1972): 157.
39. The original Russian text is in *Arkhiv samizdata*, no. 3751 (October 26, 1979). In the preparation of this essay I have used the French translation, "La situation actuelle de l'Eglise orthodoxe russe et les perspectives d'un renouveau religieux en Russie," in Gleb Yakounine, *Un prêtre seul au pays des soviets*, pp. 137-74.
40. "La situation actuelle de l'Eglise orthodoxe russe," pp. 166-74.
41. Ibid., p. 151.
42. For Yakunin's praise of Dudko, see "La situation actuelle de l'Eglise orthodoxe russe," p. 148. A detailed discussion of Dudko's recantation appears in Ellis, *The Russian Orthodox Church*, pp. 430-39.
43. Ellis, *The Russian Orthodox Church*, pp. 120-21.
44. Pospelovsky, *The Russian Church Under the Soviet Regime*, 2: 427-31.
45. Pospelovsky, *The Russian Church Under the Soviet Regime*, 2: 404-6.
46. Ellis, *The Russian Orthodox Church*, pp. 93-94.
47. See, for example, the article by V. Savitsky, "Prestizh advokatury," *Pravda*, March 22, 1987, p. 3.
48. The nine were Father Gleb Yakunin, Father Nikolai Gainov, Andrei Bessmertnyi, Valery Borshchov, Viktor Burdiug, Vladimir Zelinsky, Evgeny Pazukhin, Viktor Popkov, and Vladimir Poresh. The letters were released at a news conference in Moscow in May 1987. The letter to Gorbachev was published in the Paris newspaper *Russkaja mysl'*, no. 3676 (June 5, 1987), p. 6. The letter to Patriarch Pimen was published in no. 3682 (July 17, 1987), pp. 6-7.
49. *New York Times*, June 8, 1987 and August 23, 1987, sec. 4:1. Yakunin was subsequently elected to the parliament of the Russian republic. In 1993, however, the Patriarchate banned its clergy from standing for public office. Running for a seat in the post-soviet Duma at the time, Yakunin refused to comply and was defrocked.
50. See the account of Konstantin M. Kharchev's visit to New York, *New York Times*, October 30, 1986. Kharchev was chairman of the Council for Religious Affairs at the time.
51. This is one of the changes noted by the group of nine in their open letters to Gorbachev and Patriarch Pimen (see above, note 48).
52. The conferences were held in Kiev, July 1986; Moscow, May 1987; and Leningrad, February 1988.
53. *The Journal of the Moscow Patriarchate*, 1986, no. 1: 80 [English edition]. The title in the Russian edition is "Nashi iuridicheskie konsul'tatsii: Prava i obiazannosti religioznogo obshchestva." The reference is the same.
54. See the report in *Pravda*, April 30, 1988.
55. "Ustav ob upravlenii Russkoi Pravoslavnoi Tserkvi," *Pomestnyi sobor Russkoi Pravoslavnoi Tserkvi. Troitse-Sergieva Lavra. 6-9 iunია 1988 goda. Materialy*, Kniga pervaiia (Moscow: Izdanie Moskovskoi Patriarkhii, 1990), pp. 24-49. The Ustav was adopted on June 8, 1988.
56. Prior to formal publication in 1990 (see note 55) the statute was published in typescript format in the newsletter of the Patriarchate's Department of External Church

Relations: "Informatsionnyi biulleten' ordela vneshnikh tserkovnykh snoshenii Moskovskogo Patriarkhata," 1988, no. 7-9 (October 4, 1988). A gloss on the title of the statute reads: "This Statute has been composed in harmony with existing legislation on religious cults and may be changed or supplemented in the event of new legislation." I thank Mr. Alexis Liberovsky, archivist of the Orthodox Church in America, for supplying me with a copy of the "Informatsionnyi biulleten'" edition of the statute.

57. Metropolitan Vladimir of Rostov, "The Current State of the Russian Orthodox Church After the Adoption of the New Statute," *St. Vladimir's Theological Quarterly* 34, nos. 2-3 (1990): 117-39. See also Kyriell, archbishop of Smolensk and Kaliningrad, "The Church in Relation to Society Under 'Perestroika,'" *ibid.*, pp. 141-60. Both documents originally appeared in *Zhurnal moskovskoi patriarkhii*, 1990, no. 2.

58. The data are given in "Ko dnu tezoimenitstva Predstoiatel'ia Russkoi Pravoslavnoi Tserkvi," *Zhurnal moskovskoi patriarkhii*, no. 2 (1994): 9. For a scrupulously careful presentation of the data on the size and material condition of the Russian Orthodox Church since World War II, see Nathaniel Davis, *A Long Walk to Church: A Contemporary History of Russian Orthodoxy* (Boulder: Westview Press, 1995).

59. "La situation actuelle de l'Eglise orthodoxe russe," p. 151.

60. See above, note 14. All-Union law, "O svobode sovesti i religioznykh organizatsiakh"; RSFSR law, "O svobode veroispovedaniu." Quotations from the All-Union law are my own translations. Quotations from the RSFSR law are taken from the English translation prepared by the Foreign Broadcast Information Service: "RSFSR Law on Freedom of Religion," JPRS-UPA-90-071, December 19, 1990 (reproduced by U.S. Dept. of Commerce, National Technical Information Service, Springfield, Va.). I thank Ms. Deborah Jones, Librarian of the Hudson Institute, for retrieving the last-named source.

61. "Zaiavlenie Pomestnogo Sobora Russkoi Pravoslavnoi Tserkvi v sviazi s publikatsiei proekta Zakona SSSR 'O svobode sovesti i religioznykh organizatsiakh,'" *Zhurnal moskovskoi patriarkhii*, no. 9, (1990): 9-11; and "Opredelenie o priniatom Zakone SSSR o svobode sovesti," *ibid.*, no. 2 (1991): 2-5.

62. "Zaiavlenie Pomestnogo Sobora Russkoi Pravoslavnoi Tserkvi," p. 10.

63. Quoted by Dimitry V. Pospelovsky, "The Russian Orthodox Church in the Postcommunist CIS," *The Politics of Religion in Russia and the New States of Eurasia*, ed. Michael Bourdeaux, International Politics of Eurasia series, ed. Karen Dawisha and Bruce Parrott, vol. 3 (Armonk, N.Y. and London: M.E. Sharpe, 1995), p. 49. See also "Yeltsin Sworn in as Russia's Leader," *New York Times*, July 11, 1991.

64. "Zaiavlenie Pomestnogo Sobora Russkoi Pravoslavnoi Tserkvi," pp. 10-11; "Verkhovnyi sovet SSSR odobril zakonoproekt o svobode sovesti," *Russkaia mysl'*, October 5, 1990, p. 20.

65. "Zaiavlenie Pomestnogo Sobora Russkoi Pravoslavnoi Tserkvi," p. 10; cf. "Opredelenie o priniatom Zakone SSSR o svobode sovesti," p. 4.

66. The cost of the project is estimated at \$200 million; see "A Rebirth in Russia," *New York Times*, April 24, 1995, p. A4. The project is not popular with the intelligentsia, including Orthodox intelligentsia who see it as misdirecting resources that would better be applied to rebuilding the church at the parish level. See "Pokaianie rozhe mozhnet by' vygodnym," *Nezavisimaa gazeta*, April 7, 1994, p. 6; and "Lichnyi narodnyi khram: khram Khrista Spasitel'ia prevrashchaetsia v banal'nuu udarnuiu stroiku," *ibid.*, January 10, 1995, p. 2. The host of a television show on Orthodoxy and Russian culture recently said of the

challenges facing contemporary Russia: "the main thing is to build the spiritual cathedral of St. Sophia, not the crude material cathedral of Christ the Savior; the main thing is to create the spiritual foundations of democracy." "Imperiia kul'tury, ili o pravoslavnykh storonnikakh demokratcheskoi Rossii," *Literaturnaia gazeta*, April 26, 1993, p. 15.

67. *Nezavisimaia gazeta*, June 1, 1991.

68. Writing of the early Soviet decades, Vladimir Zelinsky rightly observed: "The future historian will by no means judge those times to be the worst in the life of the Russian episcopate. One cannot deny it: individuals to whom fate seemed to have guaranteed a peaceful existence under the wing of tsarist Orthodox Russia did not go to pieces when faced with arrest, prison, and concentration camps. Some were even able to die in joy with a prayer for their executioners on their lips, as in apostolic times. Should the age of persecution return again, the majority of our bishops would find the strength to walk the same path as their predecessors." *Prikhodiashchie v tserkov'*, p. 104.

69. No less an authority than James H. Billington offered the following assessment in mid-1994: "With the collapse of the world's first atheist state, the historic religion of Russia has emerged as the central cultural force in the country's new national self-consciousness. As a cohering ideology, Orthodoxy has replaced communism as the lodestar of Russian society. Along with the army, the Church is one of the few national institutions that is still respected." "The Case for Orthodoxy," *The New Republic*, May 30, 1994, pp. 24-25.

70. Coverage of the issue in the mainline Russian press has generally been unsympathetic to the protectionist cause. See Aleksandr Nezhnyi, "Kro boitsia cheloveka s evangeliem," *Izvestiia*, July 15, 1993, p. 5; and "Vse religii ravny . . . No est' bolee ravnye?" *Literaturnaia gazeta*, February 22, 1995, p. 2. Debates on the issue have appeared in "thick" journals, e.g., "Spor o svobode sovesti," *Novyi mir*, no. 9 (1993): 156-71; and "Svoboda sovesti, religii, pravo (materialy 'kruglogo stola')," *Voprosy filosofii*, no. 12 (1994): 3-18. For an overview of the issue since 1988, see Michael Bourdeaux, "Glasnost and the Gospel: The Emergence of Religious Pluralism," *The Politics of Religion in Russia and the New States of Eurasia*, pp. 113-27. For the course of events in 1994 and early 1995, see Lauren B. Homer, "Latest Legal Developments Affecting Religion in Russia," *East-West Church & Ministry Report* 3, no. 1 (Winter 1995): 1-4.

71. For an excellent exposition of the criticisms see W. Cole Durham, Jr., Lauren B. Homer, Pieter van Dijk, and John Wirte, Jr., "The Future of Religious Liberty in Russia: Report of the De Burght Conference on Pending Russian Legislation Restricting Religious Liberty," *Emory International Law Review* 8, no. 1 (Spring, 1994): 1-66. The essay includes an English translation of the proposed amendment of August 27, 1993 (Appendix A). I thank Ms. Lauren B. Homer, President, Law and Liberty Trust, and Mr. Scott M. Ellsworth of the J. Reuben Clark Law School, Brigham Young University, for directing me to this and related sources.

72. "Opredelenie o priinatom Zakone SSSR o svobode sovesti," *Zhurnal moskovskoi patriarkhii*, no. 2 (1991): 2. See also the precise citation of the Vienna Concluding Document in argumentation for changes in the draft of the 1990 law in "Zaiavlenie Pomestnogo Sobora Russkoi Pravoslavnoi Tserkvi v sviazi s publikatsiei proekta Zakona SSSR 'O svobode sovesti i religioznykh organizatsiakh,'" *ibid.*, no. 9 (1990): 10.

73. See John B. Dunlop, "The Russian Orthodox Church as an 'Empire-Saving' Institution," *The Politics of Religion in Russia and the New States of Eurasia*, ed. Michael Bourdeaux, pp. 15-40.