

Religion and the State in Russia

I. SOCIAL CONTEXT

The status of religion and its role in the Russian society are deepening, especially over the last twenty years. There are currently religious organizations of more than 66 denominations registered and functioning in the country.¹ The right to operate without hindrance applies not only to religious organizations registered according to the established procedure, but also to religious groups that are unregistered.² At least 10,000 religious associations, traditional and new, can now be found in Russia.³

Globalization changes things as well. Cultural and national particularities are melting away, so to speak, in many parts of the world. As of September 2008, 717 autonomous ethnic cultural organizations were registered in Russia: 18 federal, 211 regional, and 488 local.⁴ Religion in this situation acquires a new status; it becomes a sign of national and cultural identity, both for the main population and for immigrants. An analysis of the confessional orientations of the Russian population shows a greater commitment to Orthodoxy or other religious confessions than to belief in God. People who declare themselves to be members of a confession (60.5 percent in 2000; 57.8 percent in 2001; 82 percent in 2002; 61 percent in 2003; as many as 95 percent in 2012 by some measures)⁵ are significantly more numerous than those declaring to believe in God (43.4 percent in 2000, 37.5 percent in 2001, and 45 percent in 2002).⁶ In 2012, among those who declare to be Orthodox only 7 percent take part in the sermon, but 33 percent light candles in the church, and 29 percent take part in baptisms, weddings, or funerals.⁷

It is clear that religious self-identification focuses less on a particular religion than on culture, religious nationalism, and related themes (all of which of course are influenced by a particular religion). The main reason for the rise in religious belief is that people need national traditions, moral ideals, consolation in life's struggles, troubles, and difficulties.

In 2012 the Levada Center, a highly respected nongovernmental sociological institution, reported that 76 percent of Russians said they are Orthodox, 4 percent Muslims, less than 1 percent Catholics, Protestants, Jews, and Buddhists, 5 percent atheists, 11 percent no specific or difficult to answer.⁸ One very important conclusion is, as compared with 2009 data, the portion of the Russian population that is declared to be

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1. See Appendix A, below.

2. United Nations Human Rights, Office of the High Commissioner for Human Rights, *Universal Periodic Review – Russian Federation* 59, available at <http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CRUSession4.aspx>.

3. Andrey Sebentchov, *Russian Legislation on Religious Associations: Condition and Perspectives* [hereinafter *Russian Legislation*] (St. Petersburg, 2009), Объединение исследователей религии (Russian Association of Scholars in Religion), <http://www.rusoir.ru>.

4. United Nations Human Rights, Office of the High Commissioner for Human Rights, *Universal Periodic Review – Russian Federation*, 33, <http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CRUSession4.aspx>.

5. See United States Department of State, *International Religious Freedom Report 2012: Russia*, at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208360#wrapper>.

6. Mikhail P. Mitchedlov, *Essays on Religious Studies: Religion in the Spiritual and Public Life of Modern Russia* (Moscow, 2005), 81.

7. *Gaseta.ru*, 24 December 2012.

8. At <http://www.levada.ru/archive/religiya/kakuyu-religiyu-vy-ispoveduete>. But see a much different total reported from a 2012 survey in the “Atlas of Religions and Nationalities of the Russians,” from the the Research Service “Sreda” at <http://sreda.org/en/arena>, which gives “Orthodox belonging to Church at 41 percent” and “Faith without religion” at 25 percent.

Orthodox has decreased by 6 percent, while the percentage of Muslims has increased to 3 percent.⁹ The number of those who do not affiliate with a specific religion has also increased, from 8 percent in 2009 to 10 percent in 2012. Generally, in the whole of Russia the correlation between the religious and non-religious population is 6.5:1.¹⁰

What religion you profess? ¹¹	10.2007	02.2008	02.2009	12.2010
	No specific	16	16	11
Orthodox	69	70	73	76
Catholic	1	1	1	<1
Protestant	<1	<1	1	<1
Jew (Judaism)	<1	<1	<1	<1
Muslim (Islam)	6	7	6	4
Buddhist	<1	<1	<1	<1
I am an atheist	6	5	6	5
Difficult to answer	2	2	1	1

For Islam, there is no one universal leader or group of leaders who have the same or similar position. There are now in Russia 3,500 registered Islamic organizations, and twice that number unregistered.¹²

Islamic central religious organizations (called The Spiritual Muslim administrations, or DUM) are fewer in number than the historical regional Islamic communities. Many of them compete for their influence on people. There is also competition between the old and new Muslim leaders, which accelerated Islamic education in Arabic countries. Regions in which the Muslim population currently constitutes a religious majority include Chechnya, Tatarstan, Kabardino-Balkaria, Karachaevo-Tcherkessia, Dagestan, Stavropol, and Ingushetia. In recent decades the role of Islam in Russia has been on the rise and seems to have become a very important matter in social and political life. Islam stands for the principles of separation and secularism because it does not want state privileges flowing only to the Russian Orthodox Church (ROC). Russian Islamic organizations opposed the teaching of “Basics of Orthodox Culture” in public schools, and they were against the idea of having ROC chaplains in the Russian Army.

The Russian State has no published conception of state-church relations, no institutions which could research regularly the religious situation, and no effective mechanisms to influence the religious situation. Under these conditions, registered religious organizations, which represent the majority of the population, are the recipients of special government privileges. The privileges inure primarily to the Russian Orthodox Church. The Jewish population is not significant, but Jewish political and economical elites know the strength of the Jewish lobby in many other countries. Russia in turn respects the Jewish presence in the country.¹³

The privileges for registered organizations are several: the willingness of state officials to respond to overtures from the traditional religions; invitations to participate in events on state and municipal levels; permission to be in schools and prisons; obtaining land for the construction of houses for worship, and so on. The privilege frequently is just ease in dealing with government officials; for non-privileged religious organizations it is often difficult to talk with officials. Many organizations experience difficulty in

9. At <http://www.portal-credo>, 11 February 2013.

10. See E. Kublizkaya, “Specific Features of Cross-Ethnic and Ethno-Confessional Cooperation in Regions of the Russian Federation (Sociological Research),” in *Sociology in Postmodern Society* (Belgorod, 2013), 257.

11. <http://www.levada.ru/archive/religiya/kakuyu-religiyu-vy-ispoveduete>.

12. See *Commersant*, 31 March 2014 (the Government is changing the rules of registration of religious organizations).

13. Andrey Sebentcov, “The Religious Situation in Modern Russia,” in *Religion in Modern Society: Materials of the International Conference, Moscow, Academy for Labor and Social Relations* (2–3 February 2009), 11–17.

registering or in obtaining approval to construct or improve worship facilities; frequently they are denied for no particular reason at all. Sometimes officials look for violations where there is nothing to look for.

Despite the relatively low number of participants (approximately 300,000 people) in the New Religious Movements (NRMs), they are extremely significant, inasmuch as they are emerging and they already exist, reflecting and taking to their logical ends the spiritual ideas of the collective consciousness, sometimes even to the point of absurdity. Religious life in Russia today cannot be discussed without mentioning them.¹⁴

The religious social composition of Russia is relatively stable. The number of registered religious organizations does not change much from year to year. There are not substantial changes in the legislation affecting religious organizations. The number of new religious movements does not increase very much. The religious organizations have found their place in the society; many of them have published their social conceptions. There are specific bodies in the state structure that deal with religious affairs and religious communities. They seek to ensure protection of freedom of religion and belief of individuals and communities: the Prosecutor General of the Russian Federation (RF) Presidential Council for Co-operation with Religious Organizations, Ministry of Justice of the Russian Federation, Ombudsman of RF, The Commission on the Questions of the Religious Associations by the Government of RF.

The number of grievances filed with the RF pertaining to religious freedom or belief is not large – about 5 percent of the whole content to the Ombudsman of RF. But it is also not small, because virtually every complaint is a claim of a larger group of believers. The context of the complaints is stable also; about half of the complaints pertain to difficulty obtaining new passports, pension cards, and other state documents, which have the special Code, so-called “strichcode” (barcode). Approximately 20 percent of the complaints are for defamation and governmental roadblocks to enjoyment of religious activities. Almost 15 percent pertain to building permit refusals or denials for specific uses of buildings for religious purposes. About 5 percent complain of police violence, and 3 percent are grievances pertaining to imposed religious instruction in the instruction in public schools.¹⁵

The activity of religious life is increasing; it is a continuing process of de-secularization.

II. THEORETICAL AND SCHOLARLY CONTEXT

The philosophical basis underlying the role of religion in Russia is the theory of Euroasia (*Evrasijsvo*). According to this theory Russia as a civilization has its own special position in humankind and human history, acting as a bridge between Europe and Asia. After the collapse of the USSR this theory became very popular in the framework of the influence of religion in the development of Russian society, especially for the Russian Orthodox Church.

Through most of its history, Russia lived under a state-church model of close identification with Russian Orthodoxy. The status of religion also depends upon state-church relations and its development through history. In Russia the main principle historically is “symphony.” It has had various forms during the history of Russia. The desired “symphony” between church and state in the Byzantine tradition can be seen in the spirit of mutual cooperation, mutual support, and mutual responsibility between church and state without serious encroachment by one into the internal affairs of the other.

14. Roman Lunkin, “New Religious Movements in Russia: Christianity and Post-Christianity in the Mirror of New Gods and Prophets,” in *Twenty Years of Religious Freedom*, ed. Alexey Malashenko and Sergei Filatov (Moscow: Carnegie Moscow Center-ROSSPEN, 2009), 329–94.

15. *The Right of Freedom of Conscience and Belief*, Report on the activity of the Ombudsman of Russian Federation in 2008, available for download at <http://ombudsmanrf.org/doklady>. See also <http://www.sova-center.ru/en/religion/publications/2009/04/d15726/>.

In a relationship of “symphony,” the State seeks from the Church a policy of general encouragement and support, as well as prayer for public prosperity and overall success, and the Church seeks from the State conditions of peace and prosperity for the citizens, as well as financial support.

In this context, it is interesting to note the conclusion of the nongovernmental analytical center “Sreda” in 2012 about the basic needs for the stability and safety of the state in the face of current social reality: “The new Russian civilization task [is] to look not for a symphony of powers, but for the resonance of identities. Especially important is to increase the role of Orthodox state workers.”¹⁶

In 2007 “The Russian Doctrine” – a national idea calling for “dynamic conservatism” – was published. This document (800 pages long) made clear the primary goal: “Russia as an Orthodox authoritarian empire.”¹⁷ Patriarch Kyrill is very active with the ideas of Russian Orthodox hegemony, a concept clearly alien to Western democratic notions. The main principle of this doctrine is the idea of one national religion, rather than a society respecting the human rights of everyone. The emphasis on the dignity of the human person appears in June 2008 from the High Council of ROC in the “Conception of the Russian Orthodox Church on Dignity, Freedom, and Human Rights.” This document is based on the Declaration on Human Rights of the II World (universal) Russian Peoples Council (Moscow, 6 April 2006) on the Dignity of the Human Person. It is especially important because of the turning point in history represented by the idea of human dignity.

The ROC often speaks about the values that should not be deemed lower than human rights, e.g. belief, morality, sacred (holy) things, and Mother-country. It is good when the ROC tries to find its own position in the secular sphere of human rights. But it is not helpful when the ROC attempts aggressively to enforce this position on the citizenry. The ROC refuses the positive experiences of modern Western civilization. This conception is an attempt to change the priority of individual human rights and to give first place to collective rights. The ROC thinks it is necessary to develop restrictions on individual rights to preserve social peace. This is a vital question in modern world, especially in the context of the fight against world terrorism. But the ROC is wrong to attempt to position itself for greater privileges than other religious institutions, which is what it seems to be doing in this whole discussion.

In his speech on Russia’s Constitution Day in December 2012, Vladimir Putin bemoaned the decline of spiritual values. “We must wholeheartedly support the institutions that are the carriers of traditional values.” In connection with this notion is the “Russian World” doctrine, seeing Russia as a home for those who speak Russian and are part of Russian culture. The kernel of this doctrine was the unity of Russia, Ukraine, and Byelorussia (Belarus). In recent times (writing in early 2014), contradictions have arisen because of the situation in Ukraine.

One of the most important tasks of academic research is the analysis of the ethical content of religious processes. “Orthodox sectovedy (anti-cultists) seek to use the law to give ‘traditional’ religions legal privileges. This initiative runs counter – of course – to the Russian constitution that officially mandates equality of the religions.”¹⁸

Actually, there is a discussion in Russia concerning notions such as secularization, secularism, *laïcité*, secular intolerance, and so on. Secularism is not a synonym of atheism and should not be deemed such. The word atheism is repugnant to most religious people. But it is an inseparable part of freedom of conscience. To my mind it is best for the state to aim to protect freedom of conscience, not just freedom of religion. In this respect, freedom of conscience *includes* freedom of religion; the former term is broader because it

16. See “Atlas of Religions and Nationalities of the Russians,” supra n. 8.

17. At <http://www.portal-credo.ru>, 30 August 2007.

18. Danny Schäfer, ed. “Religiöse Intoleranz und Diskriminierung in Ausgewählten Ländern Europas – Teil II/ Religious Intolerance and Discrimination in Selected European Countries – Part II,” in *Zeitschrift für Glaubensformen und Weltanschauungen/ Journal for the Study of Beliefs and Worldviews* (Münster: Lit Verlag, 2010), 62.

protects nonreligious beliefs as well as religious ones. Such a policy – protecting freedom of conscience – is more objective and can help eliminate the preferential treatment of some religions. One main difference between the EU and Russia can be observed here. EU countries try to provide cooperation on the basis of neutrality, in what we might see as a direction to the left, towards secularity. In Russia, the cooperation moves towards the right, towards a confessional regime.

Under the separation model, the state is theoretically incompetent to judge which religions are legitimate and which ones are not. It is simply not the business of the state to make such determinations. The goal of the state is to safeguard human rights, including religious freedom, for all citizens, religious and nonreligious. In current Russian policy, however, we see something far different. As Alexander Solzenizyn said, “Russia is becoming free from secularity.”¹⁹

It must be noted that the terminology in the comprehensive provisions of the international documents shows diversity in how the term “freedom of conscience” is used and also variety in how it is defined: “freedom of thought, conscience and religion” and “freedom of religion or belief.” The translation of the word “belief” into Russian sometimes results in a misunderstanding. Its first meaning is in fact “religion,” which yields a sort of tautology. The absence of a single meaning for “belief” shows that the idea of freedom of conscience is starting to obtain some universal meaning – as a right of the freedom to choose one’s *Weltanschauung*, thus moving away from a narrow moral-psychological content toward a commitment to a broad array of human rights. This expands freedom of conscience, including both the religious and the non-religious *Weltanschauung*, thus making it possible to understand the politicization of religion, clericalization, secular fundamentalism, and the privatization of religion.

On the legal level there are two more disputed topics: foreign missionary activity and the dividing of religious organizations into traditional and nontraditional categories. The Department of Justice has been working on the first project for some five years already. The problem is that the constitutional provisions on the right to freedom of expression protect proselytizing activity, yet for various reasons officials want to curb missionary rights.

III. CONSTITUTIONAL CONTEXT

The status of religious freedom is especially germane to modern Russia because of the new issue and form in state-church relations. The Byzantine idea of “symphony” included the belief that the political power has to honor the true religion. Russia’s religious tradition (state identification with Russian Orthodoxy) was broken during the Soviet period. A form of separation appeared during the Soviet era, but it was a hostile separation of religion *from* national life rather than a friendly separation *of* religion from state activity. Soviet policy marginalized religion; it did not embrace it. In 1970 only 10 percent of Russians claimed to be religious.

April 2006 was the 100th anniversary of the Russian parliament. The 1906 parliament’s first project, remarkably, was to address religious freedom. The provisions of the document produced were quite democratic (equality of all religions, the right to change one’s belief, the right to propagate one’s religion and belief, etc.) The destiny of that project was, unfortunately, like the destiny of the first Russian parliament, short-lived. I would like to note that among the most important documents of the first State Duma after the fall of USSR in the early 1990s was the law concerning freedom of religions. In spite of so small an experience in parliamentary processes, Russia does have considerable experience in testing various state-church models.

In the twentieth century, Russia experimented with three models: the integration model (established church), the pluralism model (but only for a short period following the February revolution of 1917), and finally the separation model (a first phase during the

19. *Moscow News*, No.15 (28 April 2006).

atheistic Soviet period, and a second phase beginning in 1990, based on the Western model of ideological pluralism, freedom of conscience, and equality of all religions). Many other countries, of course, have had similar experiments with more than one of these models.

The Constitution of Russia includes the main features of separation: no established church, institutional separation, secularity of the state, equality of beliefs. This is the logical result of the historical process in Russia. The issues of religion and religion–state relations are specifically addressed in the Constitution. Freedom of religion and belief are protected by a number of articles in the Constitution of the Russian Federation, ratified on 12 December 1993:

Article 13

1. In the Russian Federation ideological diversity shall be recognized.
2. No ideology may be established as State or obligatory one.

5. The creation and activities of public associations whose aims and actions are aimed at a forced change of the fundamental principles of the constitutional system and at violating the integrity of the Russian Federation, at undermining its security, at setting up armed units, and at instigating social, racial, national and religious strife shall be prohibited.

Article 14

The Russian Federation is a secular State. No religion may be established as a State or obligatory one.

Religious associations shall be separated from the State and shall be equal before the law.

Article 15

4. The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.

Article 19

The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of human rights on social, racial, national, linguistic or religious grounds shall be banned.

Article 23

1. Everyone shall have the right to the inviolability of private life, personal and family secrets, the protection of honour and good name.

Article 28

Everyone shall be guaranteed the freedom of conscience, the freedom of religion, including the right to profess individually or together with any other religion or to profess no religion at all, to freely choose, possess and disseminate religious and other views and act according to them.

Article 29

Everyone shall be guaranteed the freedom of ideas and speech.

The propaganda or agitation instigating social, racial, national or religious hatred and strife shall not be allowed. The propaganda of social, racial, national, religious or linguistic supremacy shall be banned.

No one may be forced to express his views and convictions or to reject them.

Everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal way. The list of data comprising State secrets shall be determined by a federal law.

The freedom of mass communication shall be guaranteed. Censorship shall be banned.

Article 30

1. Everyone shall have the right to association, including the right to create trade unions for the protection of his or her interests. The freedom of activity of public association shall be guaranteed.

2. No one may be compelled to join any association and remain in it.

There is no preferred or privileged religion in the framework of the Russian Constitution. There is no reference to religion as a foundation or source of state law. There is no specific mention of state neutrality on religious issues, but there is a constitutional provision on the equality of all religions before the law.²⁰

In 2013, the group of deputies of the State Duma on the protection of Christian values suggested adding the preamble of Constitution the provision about Orthodoxy as a basic of the “national and cultural identity of Russia.” This initiative has been removed.

IV. LEGAL CONTEXT

The status of religion in modern Russia is increasing through different legal initiatives of the government. The improvement in this area is especially important for religious freedom. There is specific legislation on state-church relations.

A. *The 1997 Law “On Freedom of Conscience and Religious Associations”*

According to the official 2008 report of the Ombudsman of the Russian Federation, this law sought to protect freedom of conscience and is the principal point of dialogue between the Russian state and religious groups across Russian society. In 2008 a number of amendments to the law on freedom of conscience were enacted and will speed the licensing and accreditation of religious education organizations. These amendments allow these institutions to realize the education activities on educational standards, and the students will be able to obtain state diplomas. It is also remarkable to note that from 2008 there are no deferments of military service for the priests as for the other categories of citizens.

While the 1997 Law does reiterate the declaration of the Constitution that all religions are equal before the law and that they are free from interference from the state, the Preamble also makes mention of the “special contribution” of Orthodoxy to the culture and history of Russia.

The Law establishes three broad categories of religious communities: Religious Groups, Local Religious Organizations, and Centralized Religious Organizations. Different legal status and privileges are attached to each of them.

Religious Group: Religious groups have the right to conduct religious rituals, hold worship services, and teach religious doctrine. They are not registered with the government, and thus have no legal personality. In order for a Religious Group to advance into the next category of religious communities (i.e. to become a Local Religious Organization), it must exist as a Religious Group for at least 15 years.

Local Religious Organization: A Local Religious Organization consists of at least ten individuals over the age of 18 who are permanently residing in a given area. Local Religious Organizations are registered both federally and locally, and are thus granted rights to the privileges and benefits which are not available to Religious Groups (i.e. to open bank accounts, to purchase or rent buildings for religious purposes, to enjoy certain tax benefits, etc.).

20. See art.14.

Centralized Religious Organization: According to Article 9 of the Law, a Centralized Religious Organization is created by combining at least three Local Religious Organizations.²¹

In 2014, the Constitutional Court of Russia has ruled to remove the legal provision about the 15-year old requirement for existence of religious associations. In 2010 the European Court for Human Rights (ECtHR), ruled that such a long period violates the International Convention on Protection of Human Rights and Basic Freedoms

According to the new draft law, any group of Russians will be able to found a religious organization without waiting 15 years for this right. But if this “religious organization” is not a part of a central large confession, then in the first ten years it will not be able to have educational institutions or to publish a newspaper, nor will it be able to conduct its rituals in hospitals and prisons.

In 2014, the State Duma created a working committee that will study the question of a legal formulation of the concept of “sect.” The deputies want to get from the Supreme Court a definition of destructive religious organizations that actively operate in various regions and “exert psychological influence on people, conduct illegal sessions of ‘healing,’ often damage health, and alienate property of gullible adepts for their own benefit.”²²

There are about 200 federal laws which consider the issue of religious freedom. The main ones are outlined in the following:

B. The 2002 Law “On Combatting Extremist Activity”

This law gives authorities the power to criminalize a broad spectrum of religious speech, literature, and activities. In 2006, among other changes to this law, the definition of what exactly qualifies as extremist activity was broadened to include non-violent acts of civil disobedience. As a result, this law now defines extremist activity as “incitement to “racial, nationalistic, or religious enmity, and also social enmity.”²³ This law has a very unclear definition of the term “extremism” and “extremist activity.” There is no legal definition of the term “religious extremism” in this law either.²⁴

There is a Federal List of extremist materials (Department of Justice) typically reflecting extreme nationalistic or anti-Semitic content. It includes in April 2014 more than 2000 documents. (In March 2009, the Ministry of Justice reformed the Expert Council for Conducting State-Religious Studies, which has been granted broad powers of investigation over religious organizations and their literature. The membership and goals of this Council have been much criticized in Russian society. The Council consists of various “anti-sectarians,” and is headed by Aleksandr Dvorkin, a controversial Orthodox scholar notorious for speaking out against “nontraditional” religions. The Council may deem the activities or literature of a given religious organization to be in violation of the Federal Constitution, or not in compliance with that organization’s original declarations, and counsel the Ministry of Justice on the implementation of subsequent actions. The official tasks of the Council are:

(1) To ascertain the religious character of the religious organization on the basis of its charter documents, the information about the basics of its religious teachings and corresponding practices;

(2) To verify and assess the reliability of the information contained in the documents of the religious organization in question, concerning the basics of its religious teachings;

(3) To verify the conformity of its forms and methods of activity as laid out at the time of registration with its actual forms and methods of activity.

21. *Freedom of Religion or Belief in Russia*, Human Rights Without Frontiers (HRWF), http://www.hrwf.org/images/forbnews/2014/Russia_2014.pdf.

22. See *Izvestiia-Religiia* (04.03.2014), http://www.hrwf.org/images/forbnews/2014/Russia_2014.pdf.

23. Geraldine Fagan, “Russia: How the battle with ‘religious extremism’ began,” *Forum 18 News Service*, 27 April 2009, http://www.forum18.org/Archive.php?article_id=1287.

24. *The Right of Freedom of Conscience and Belief*, supra n. 15.

A letter written by Vladimir Lukin, Ombudsman for Human Rights in the Russian Federation, dated 16 April 2009 (Letter No. VL 12 187-37), expresses the kinds of concerns that take place in various regional departments of the prosecutor's office. Mr. Lukin writes: "Despite the equality of all religious organizations provided for by Article 14 of the Russian Federation Constitution, the opinion of 'traditional' religious confessions is considered by the organs of the prosecutor's office to be a factor that defines the relationship of the State to other confessions."²⁵ In other words, officials have been known to give more credence to the opinions of "traditional" religious leaders than to provisions of Russian law when implementing the 2002 Law. Particularly disturbing is the precedence given to the catch-all legal concept of 'religioznaya roz'n' (religious discord) over the narrower 'religioznaya vrazhda' (religious enmity), as this allows criminalisation of legitimate criticism of others' worldviews. There must be a re-examination of anti-extremism legislation, or at least a clear Supreme Court explanation conforming to international human rights standards.²⁶

A Prosecutor's Office official claimed to Forum 18 that blocking the websites "isn't about freedom of conscience or censorship – it's about restricting access to extremist materials." Meanwhile, attempts to ban the Russian translation of a key book for Hare Krishna devotees – the Bhagavad-Gita As It Is – were delayed. The reason was a delay for an unknown length of time in producing an "expert analysis" before the case could resume. Also facing "extremism" charges is a Muslim reader of the works of theologian Said Nursi.²⁷

The Supreme Court in July 2011 cautioned that prosecutions of individuals on "extremism" charges should be carefully and narrowly framed. It warned that it is important to consider the individual's intention in distributing the works. If the intention is not to incite hatred or enmity or to humiliate the human dignity of others, prosecutions should not be brought. Officials have been unwilling to discuss the impact of the Supreme Court's instruction on their prosecutions of Muslims and Jehovah's Witnesses.²⁸

Articles 13 of the Law on Combatting Extremism provides for the creation of a list of extremist materials that shall be banned in the Russian Federation. The list is composed of materials which courts (both high and low-level) have deemed extremist. One of the disputed problems of religious freedom is the amount of religious literature now being added to the federal list of extremist materials (documents). The 896 titles on the Federal List of Extremist Materials as of 20 August 2011 typically suggest extreme nationalist or anti-Semitic content.²⁹

C. The 2006 Law "On Introducing Amendments to Certain Legislative Acts of the Russian Federation" (NGO Law)

The 2006 NGO Law contains amendments to several existing pieces of Russian legislation. As the name implies, it does not exclusively address religious organizations, but rather many varying forms and types of organizations are included. Because of this, certain provisions found therein may be applied directly to religious activity. The legislation makes provision for more than 20 types of non-profit organizations, including voluntary organizations, religious organizations, and branches of international and foreign non-profit non-governmental organizations. There are currently more than 217,000 registered non-profit organizations, of which 57 percent are voluntary organizations and

25. *Freedom of Religion or Belief in Russia*, HRWF, supra n. 21.

26. Alexander Verkhovsky, "Commentary: Russia: Art Curators' Verdict Not Isolated Instance – This is a System," *Forum 18 News Service*, 19 July 2010, http://www.forum18.org/archive.php?article_id=1468.

27. See Felix Corley, "Crimea: Raids, Violence, Threats – But What Protection Do Victims Get?" *Forum 18 News Service*, 26 June 2014, http://www.forum18.org/archive.php?article_id=1972. See also Geraldine Fagan, "Russia: 'Extremism' Religious Freedom Survey," *Forum 18 News Service*, 23 July 2012, http://www.forum18.org/archive.php?article_id=1724.

28. See Felix Corley, "Russia: 'Extremism' Prosecutions Continue, But Supreme Court Advises Caution," *Forum 18 News Service*, 19 July 2011, http://www.forum18.org/Archive.php?article_id=1594.

29. See <http://www.minjust.ru/ru/activity/inko/fedspisok>.

11 percent are religious organizations. The number of voluntary organizations is constantly rising. There are 248 branches and representative offices of international and foreign non-profit, non-governmental organizations functioning in the country.³⁰ Religious organizations are affected in that the law grants authorities the right to attend religious organization activities, perform a yearly review of the organization's conformity with its original goals laid out at the time the organization registered with the federal government, as well as to obtain the full names, addresses, and passport information of the members of the organization's governing body.

Additionally, Religious Organizations are required to report on funds received from foreign individuals or organizations. However, April 2007 amendments to the law significantly eased the reporting process for religious organizations.³¹ *In 2012 this law acquired an addition about foreign agents. Those associations which receive funds from foreign sources and deal with political issues must be registered as foreign agents. In April 2014 the Constitutional Court of Russia ruled that this addition corresponds to the Constitution of the RF.*

According to an amendment to the federal law "On Nongovernmental Organizations" of 17 July 2009 (No. 170), those religious organizations which have no foreign individuals among the establishers, no foreign members, and no participants, do not receive foreign support, and if their budget does not increase more than 3 million rubles, they are not required to file an annual report to the Department of Justice but can send in lieu thereof only a simple statement.

The most disputed law is the federal law on defense of religious feelings (2013), a new blasphemy law, which will impose prison sentences and fines on people convicted of "public actions expressing clear disrespect for society and committed with the goal of offending religious feelings of the faithful."

According to this bill, "public actions expressing clear disrespect for society and committed with the goal of offending religious feelings of the faithful" would be punishable with jail terms of up to one year and fines of up to 300,000 rubles (\$9,200), while "publicly expressing clear disrespect to believers, including actions undertaken at places of worship" would be punishable by up to three years in prison, fines of up to 500,000 rubles, and compulsory correctional labor.

Taking into account the preamble of the Russian law on religious freedom, it is not difficult to understand whose feelings will be offended first. Sometimes officials look for violations where there is nothing to look for, only because of membership in the Jehovah's Witnesses.³²

In addition to passing the new anti-blasphemy law, the State Duma also passed a bill to outlaw activism by lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals and their supporters. The bill will give government-approved religious groups protection others lack and blur the line between church and state, advocating a strong societal role for the Russian Orthodox Church. However, despite the use of two narrower terms – 'nenavist' (hatred) and 'vrazhda' (enmity) – in the description of extremist crimes in Criminal Code Article 282, many legal specialists, prosecutors and judges go instead by the Extremism Law's catch-all term, 'rozn'. Thus, while the Criminal Code speaks of inciting hatred towards people on the basis of a religion, strong criticism of the religious or non-religious views that people may hold is seen as practically the same thing: "extremism" prosecutions.

Officially, Russia has now adopted the separation model, but unofficially it practices a cooperation model, with elements of the integration model as well, allowing for

30. United Nations Human Rights, *supra* n. 2 at 70, 73.

31. *Freedom of Religion or Belief in Russia*, HRWF, *supra* n. 21.

32. See the 2012 Annual Report of Vladimir Lukin, at <http://ombudsmanrf.org/doklady/5381>. The 2013 report is available here: <http://ombudsmanrf.org/doklady/7265>. See a Lukin-Putin interview (in English) at <http://eng.kremlin.ru/news/5190>. More on the work of the Ombudsman is available in English here: <http://connection.ebscohost.com/c/articles/91588031/ombudsman-lukin-advises-moscow-govt-permit-russian-march>.

privileges for the ROC through the agreements on cooperation. And such a policy is typical not only in the regions of Russia, but also with the federal government as well. Russia's commitment to the separation of church and state depends, as it happens elsewhere, on the degree to which governmental affairs are grounded in, or look to, religious texts and personnel for direction.

While the constitution calls for separation of state and church, there are bilateral formal relations between state and religious communities – so-called agreements (Soglasheniya). There are more than 2000 covenants, mostly with ROC and different ministries, including the Ministry of Internal Affairs, Ministry of Education, of Health, Social Care, Russian Railways, etc. The legal status of these agreements is disputed because there are no legal provisions about this form of cooperation in the constitution and no issues specifically addressed in the Russian legislation on state-church relations.³³

My view is that Russia should use the project of the federal law on the social partnership as a basis for the draft on state-church covenants, similar to the practice in Germany. It is necessary to work on the legal status of the state-church covenants and to involve them in cooperative efforts between state and church.

V. THE STATE AND RELIGIOUS AUTONOMY

According to the Russian Constitution and the 1997 Law on Freedom of Conscience and Religious Associations, the state does not interfere in the religious life of the citizen, or in the education of children by their parents; the state guarantees the secular character of education in public schools; and, moreover, religious organizations are not to assume state functions.³⁴

The state grants to religious organizations tax exemption and other kinds of privileges; extends financial support for various purposes, including renovation of buildings (many of which are memorial and cultural treasures); and assists in various ways confessional educational organizations. One disputed question is the content of the Preamble of the Law “On Freedom of Conscience and Religious Associations.” The preamble references four religions – Russian Orthodoxy, Judaism, Islam, and Buddhism – which are called an “inalienable part of the historical legacy of people of Russia.” In effect, the Preamble grants “traditional” status to four religions without any legal basis for doing so. Clearly, since Russian Orthodoxy is first named, Russian officials are committed to raising the status of the Orthodox Church.

In practice “nontraditional” religions are viewed by many government officials as sects, which leads to negative conclusions about their activities. The view of the Ombudsman of RF is that terms like ‘sect, destructive sects, totalitarian sects’ are not legal notions and can not be used in official documentations.³⁵

According to the Law on Freedom of Conscience and Religious Associations the state is to allow religious organizations to purchase real property to be used for religious activity.³⁶ According to the Land Code of RF the state is also to permit religious organizations to construct religious buildings.³⁷ A new law on the transfer of property of religious significance to religious organizations has put an end to many property rights disagreements. Currently, religious organizations are granted the right to use such property, but are not granted full ownership. This new law transfers ownership to religious organizations of all religious property currently in their use. If agreed to, the law would make the ROC one of the country's largest landowners. But this effort will not be

33. See also Elena Miroshnikova, “Civil Religion: Revival or Rejection,” in *State-Church Relations in Europe: Contemporary Issues and Trends at the Beginning of the 21st Century*, ed. Lucia Gresková (Bratislava: Institute for State-Church Relations, 2008), 381–82.

34. Art. 4 §§ 2, 3.

35. *The Right of Freedom of Conscience, Report on the Activity of the Ombudsman of Russian Federation in 2009*, available at <http://ombudsmanrf.org/doklady/719-2009>, posted 21 May 2010.

36. Art. 21 § 3.

37. Art. 30 § 3.

easily achieved. Because of the history of state-church relations in Russia, especially in the framework of the secularization during the period of Ekaterina II, there are no clear answers on who actually owns some properties. Also, other Orthodox churches, such as the Old Believers and ROAC, might have competing claims.

VI. RELIGIOUS AUTONOMY AND STATE AUTONOMY

According to the constitutional principle of separation, religious associations are to be established and realize their activity in the framework of their own dogmas and administration; to administer themselves according their own rules; and to refrain from participating in politics. The religious associations have a right to announce religious holidays as nonworking days (public holidays) in the comprehensive regions. The Russian federal government observes Russian Orthodox Christmas as a national holiday. A number of Russian regions with a Muslim majority population – namely Tatarstan, Kabardino-Balkaria, Karachaevo-Tcherkessia, Dagestan, Stavropol, and Ingushetia – officially celebrate the Muslim holiday of Kurban Bayram on 8 December 2008.

Religious ministers (Orthodox and Muslim) today increasingly become members of important nongovernmental bodies, like the Society Chamber. It is a fact for the central body in Moscow, as well as for the regions of Russia.

The ROC maintains a strong political presence, as well as a heavy influence on Russian society. The close relationship of the ROC and the Russian State are often criticized by human rights activists and various religious organizations. Firstly, the central structure of the Church power and Church Law has been changed: new Synodal departments and commissions (like news Ministeries) have been established. Secondly, the number of bishops and dioceses are increasing. In 2008 in RPC were 159 dioceses, in 2014 there were 273. And this was the start of the process. The main sense of it is: the bishops should be near to people. Thirdly, there is deep attention and respect to the Church education, to the intellectualisation of the Church. There is the position of the catechisator in every community now. At the Department for Foreign Church Relations has been established the Aspirantura and Doktorantura, named after Saints Kyrill and Mephody.³⁸

The ROC becomes increasingly politicized. This process is realizing the near clericalization of the state. In 2013 the officials in Krasnodar region have refused to observe the holiday of May 1st, the most popular holiday from the Soviet culture, The Day of Peace and Work. The reason was that it was the last week before the Orthodox Easter. In the Omsk region the Ministry of Education sent the official letters to the directors of schools against celebration of Halloween because of the danger of the “spiritual security.”

On 30 April 2014 in the Russian Orthodox University in Moscow there was organized the seminar “The Rules of Existence and Law, Dialog of Religion, Science and Lawmakers.” The deputies of the State Duma (including the head of the Committee on Constitutional Law and State Construction, Vladimir Pligin) and leaders of the Moscow Patriarchate ROC (V. Chaplin – the head of the Department for Dialog between Church and Society) noted the unity of law and morality as the only real basis of the Russian State. The participants discussed the necessary cooperation between lawmakers and those parts of civil society that are oriented towards traditional values. In fact, this was a discussion about unity of ideology, one ideology for the whole society and the state. This is to my mind another attempt (there are many in recent times) to bring the Russian society to the change of the constitutional provision about the ideoligical diversity in Russian Federation (art.13).

The ROC and its active members are very insistent on the idea of new national

38. See *Life Journal of Arkadiy Maler* (philosopher, one of the ideologists of conservatism and orthodox values), at http://www.religare.ru/2_103574.html.

holidays. Some politicians and leaders of Russian patriotic Orthodox organizations in Moscow want to celebrate the Day of Russia on 21 September (in the Orthodox calendar the Day of God's Mother) instead of 12 July; 21 September also happens to be the day of the Kulikov battle in 1380 against the Tatars-Mongols in which the Russians won a great victory (to this day many Tatars do not accept their defeat). The ROC has also attempted to alter the calendar used by Russia in order to advance its own influence. In April 2008 the Duma abrogated the project of a special law having to do with changing the Russian calendar. The authors of that project wanted to go back to the Julian calendar, which was used in Czarist Russia, when the ROC was a state religion.

Especially important is the role of Patriarch Kyrill, the Patriarch of ROC, in the context of the ROC as the main religious organization in Russia. He is a strong, well-educated, and creative person. He is a politician first, then a priest and theologian. He is a leader who thinks as a strategic leader, and is not satisfied with tactics only. Patriarch Kyrill understands without doubt that in the modern secular Russia it is impossible to reconstruct the former Byzantine legacy. But he notes that "symphony" as a principle between state and church must be primary. Such cooperation he calls a "Solidarity dialogue." Indeed it is a form of the theory of "*societates perfectae*," the coordination theory with a high level of autonomy from the state. Indeed Kyrill is very active as a leader of the main church in the structuring of church connections to the state. But the Ukraine crisis has changed the symphony politics of Kyrill. He is trying to be over the battle, to be with those who favor a united Ukraine, oriented to the European future, and with those who want to be with Russia together. There is a real danger for ROC MP to lose many communities in Ukraine, to lose sacred places for every Orthodox person. Patriarch Kyrill was absent during the special speech on Crimea of President Putin in the Kremlin in March 2014.

VII. LEGAL REGULATION OF RELIGION AS A SOCIAL PHENOMENON

There is no special federal law in Russia that calls for the regulation of religion as a social phenomenon. The regulation of religion takes place mostly in the framework of state law. The state is generally cooperative with religion. The law allows religious cemeteries. There is the federal law "On the burial and funeral matter" from 1996, which includes Article 15 about the places for the religious cemeteries. There are no federal legal provisions about the slaughtering of animals, but in some cities, like Moscow and St. Petersburg there are special legal norms.

The state does not maintain any record of the religious affiliation of individual citizens.

There are exemptions from the law on basic of conscientious objection. The Constitution of RF contains other various provisions that affect religion, namely in Article 59: "Defense of the Fatherland shall be a duty and obligation of citizens of the Russian Federation. A citizen shall carry out military service according to the federal law. A citizen of the Russian Federation shall have the right to replace military service by alternative civilian service in case his convictions or religious belief contradict military service and also in other cases envisaged by the federal law."

Despite evident progress, the procedure for forming the legal foundations of a religious denomination and of religious associations' activities in Russia is still rather difficult. The heightened emotional sensitivity to the given subject lends a certain acrimony to discussions on the matter that, in turn, gives rise to more complications than any other questions regarding human rights and freedoms.³⁹

There are many instances of religious communities encountering difficulties in the registration process. As a result, a number of religious organizations which were denied

39. Anatoly Pchelintsev, "Critical Problems of Freedom of Religious Affiliation and the Activity of Religious Associations," in *Twenty Years of Religious Freedom*, ed. Alexey Malashenko and Sergei Filatov (Moscow: Carnegie Moscow Center-ROSSPEN, 2009), 70-130.

registration have appealed to the European Court of Human Rights (ECtHR). The ECtHR has ruled in favor of religious organizations and ordered the Russian government to pay reparations, which it generally has done. However, as of May 2009 there had only been one case (the state allowed Salvation Army to re-register in April 2009 in the city of Moscow after being ordered to do so by Russian Constitutional Court in 2002) “in which the Russian state has taken *remedial* action as required by the ECHR.”⁴⁰

VIII. STATE FINANCIAL SUPPORT FOR RELIGION

This section unites three topics: property that carries religious goals, the memorials of culture, and charity. There is finally underway in Russia the process of cultural memorials being designated as either federal property or regional property. A special federal law is needed in this area. Today the principal memorials of religious culture are federal property. The state gives from the federal budget every year only limited sums for their restoration.⁴¹ In 2013 the the federal budget has been given more then 5 million rubles for the restoration of 230 Orthodox buildings.⁴²

Russian officials are committed to raising the status of religious organizations, especially Orthodox churches. In recent times, for example, the government has given four times the amount of money for religious monuments as for secular memorials. One of the largest projects is the New Jerusalem monastery. It was constructed in the seventeenth century close to Moscow. Patriarch Nikon, who oversaw the project, was an important person in the famous split between the Russian Orthodox Church and the special leader of the ROC. In the Soviet era the monastery was made into a museum. During the Second World War it was demolished by the Nazis. In 1959 improvements were made to remake the structure into a monastery. In 1995 the monks began living there again. In 2008 President Medvedev signed a decree which has the goal of reviving this historic monastery within 5-7 years.

Some state corporations support religious organizations as well. In 2013 Gazprom gave 50 million rubles for the construction of the Icon School in the Pscov region.

One of the most important sources of support for religious associations is the reprivatization / restitution of property. In 2013 the State Department of Property tranferred 19 objects of immovable property. As of December 2013 the Deaprtment had, in summary, 216 applications from the religious organizations, including 161 from the ROC MP, 5 from Muslim associations, 2 from Judaism, 2 each from Catholics, Old Believers, and the Evangelical Church, 1from Buddhists.

In this process of restitution there are very serious consequences for those organizations that have to remove from these places. Most of the difficulties arise with cultural institutions. This is increasing the problem of the transmission of the property of some state museums into the property of religious organizations, mostly ROC MP, such as in the cases of the Kremlin in Rjazanj and the monastery in Solovky. In the city of Suzdal in central Russia, according to the decision of a district court, some properties of disputed ownership must first be transferred to the state before they can be deeded to religious organizations. The authorities of the Vladimir Region intensify their efforts to renovate Suzdal’s Convent of the Deposition of the Robe in favor of which the relics of Saint Euphrosynia are being confiscated from the Russian Orthodox Autonomous Church (ROAC).⁴³

40. *Freedom of Religion or Belief in Russia*, HRWF, supra n. 21.

41. Russian Legislation, supra n. 3.

42. See Olga Sibireva, “Freedom of Conscience in Russia: Restrictions and Challenges in 2012,” *SOVA Center for Information and Analysis*, ed. Alexander Verkhovskiy, 15 May 2013, <http://www.sova-center.ru/en/religion/publications/2013/05/d27087/>.

43. See *Portal credo*, 30 September 2009, Appeal of the clergy, monastics and laity of the parish of St. Olga, Diocese of Suzdal, Russian Orthodox Autonomous Church, to the World Community of the Free World and its Committees involved with defending the freedom: “A difficult situation has developed ... which must be brought to the attention of the entire world community. Day by day, the pressure and persecution by those in

In sum, there will be many challenges to efforts to reclaim many church properties. Since the collapse of the Soviet Union, many groups have experienced difficulties reclaiming religious properties from the state. Many groups also face problems in the form of continued government land and property seizures. In these matters, the ROC appears to have met with greater success and fewer difficulties than other religious organizations. For the first time in the practice of restitution it is a case where the state power involved is in the conflict with the issues of religious communities.

The Conception of the economic development of RF up to 2020 (the order of the Government of RF of 17.11.2008 № 1662-r) encourages charitable activity by citizens and associations. In summer 2009 a special dispensation was adopted for the support of charitable activity in RF (the order of the Government of 30.07.2009 # 1054-r). This dispensation gives to the municipalities the right to lease apartments to nongovernmental associations for charitable activity without compensation and without competition.

Among other aspects of this idea is an opportunity to form and to add to the target capital of the nongovernmental organizations without sacrifice of stock and estate property. This can help solve the problem of financial support of religious organizations. The Ministry for Economic Development is working on a law to increase the number of charitable associations, including religious ones, and to obtain tax exemptions for them.

Also in summer 2009 President Medvedev endorsed the idea of increasing support for chaplains in the Russian Army. There are presently about 2000 priests working in the army as volunteer chaplains. In 1996 only 36 percent of soldiers and officers identified themselves as religious, in 2008, 63 percent. The President's plan is to increase the number of chaplains serving by 250, and their salary will be similar to the salary of the deputy of the commander in the educational post (more than 20,000 RUB). The institution of the chaplains will be introduced in three stages: at first in the Russian military centers outside of Russia, then in the special divisions, then in the central administration of the Ministry for Defense. All traditional religions will be represented.⁴⁴

The Russian government supports Islamic education. This aim is unique because Russia seeks to create an alternative education to radicalism. In 2008 the state gave 800 million rubles for Islamic education.⁴⁵ There is a special organization to realize this activity: The Foundation for the Support of Islamic Culture. Finally, there are indirect forms of support permitted to religious organizations (tax exemption, funding of secular non-profit organizations controlled by religious organizations). Government entities can also extend financial support to private schools provided the aid funds only secular functions. Financial support for the secular aspect of non-governmental schools on the federal and regions levels is permitted. (There is no term "religious private schools" in the Russian legislation). The state cannot allocate funds from general tax revenues to support particular religious organizations or activities such as clergy salaries or worship services.

IX. RELIGIOUS EDUCATION OF THE YOUTH

According to the Law on Freedom of Conscience and Religious Associations and the 1992 federal Law "On education" (art.1, p.5, art.2), religious education is not the task of the state, but of the family with the support of the comprehensive confession. The main principle of the state policy in the education area is the secular character of education in public schools; accompanied by freedom and pluralism in education.

Although Article 14 of the Constitution of the Russian Federation establishes the state as independent of any religion, and ensures that no one religion will be favored by

power has grown stronger and become more pronounced. This alarming and unfortunate situation, into which our Orthodox Church has fallen, has forced us to turn to you for help." See <http://www.portal-credo.ru/site/?act=english&id=351> and also <http://www.roacusa.org/content.php?id=13>.

44. Sebentchov, *Russian Legislation*, supra n. 3.

45. See Alexander Verkhovsky and Olga Sibireva, "Alexander Verkhovsky and Olga Sibireva. Restrictions and Challenges in 2008 on Freedom of Conscience in Russia," *SOVA Center for Information and Analysis*, 10 April 2009, <http://www.sova-center.ru/en/religion/publications/2009/04/d15726/>.

the state, five regions in Russia have a mandatory class on Russian Orthodox Culture in public schools, with several more offering an elective course of the same topic. Overall, 70 percent of Russian schoolchildren receive some sort of Orthodox instruction in their courses.⁴⁶

Additionally, ROC continues to be allowed access to public school buildings for conducting religious education classes after hours.

In other regions with a Muslim majority of citizens (e.g. Chechnya), similar courses are offered in Islamic culture, although these are elective and not obligatory.⁴⁷

The goal of the Ombudsman of RF on this topic is to include voluntary religious instruction in the curriculum of public schools, since obligatory instruction can be perceived as a violation of constitutional principles and legal provisions of RF.⁴⁸

The Ministry of Education of RF has an agreement with ROC through the special protocol of 19 March 2009. On 2 August 2009 a meeting was held between President Medvedev and the main religious leaders of RF. The official order of the president of RF, to be implemented in the public schools of 211 regions of RF, and in all of Russia by 2012, allows students and parents to select mandatory instruction from any of the following emphases:⁴⁹

1. The basics of Orthodox culture
2. The basics of Islamic culture
3. The basics of Buddhist culture
4. The basics of Jewish culture
5. The basics of world religious culture
6. The basics of secular ethics

There is now a vibrant discussion about the religious sphere of education. Most of parents (60-70%) favor variants 5 and 6.

Theological education at institutions of higher learning is also an issue. Theology has not been included in the list of disciplines for the Ph.D. Theologians can obtain this degree in the framework of Religious Studies, however.

International experience in religious education shows that the compulsory character of religious instruction in public schools perhaps is not the best way to foster respect for religion and morality. It is important to provide education about religion as a phenomenon of the world culture, but the education of children in one chosen religion is the main task of the family itself. As for the public schools, they should provide knowledge about the history of the main world religions, but not prefer any religion over others.

From 2008 the confessional educational organizations obtained the right to be accredited and to give state diplomas. Grade transfers are also possible among private and state institutions. Although the 1997 Law "On Freedom of Conscience and Religious Associations" does allow religious groups to worship together without registering and without formal legal status, the law is unclear as to exactly what type of religious activity could be conducted without a license. After several "nontraditional" denominations were dissolved or received threats of liquidation from local authorities for holding religious classes without a license, some clarity was given when the Russian Supreme Court ruled in 2008 that a license is needed only when it is "accompanied by confirmation that the student has attained levels of education prescribed by the state." The decision of Supreme Court of RF on the Smolensk Sunday School acknowledged the constitutional right for this activity for religious associations.⁵⁰

46. Id.

47. Miroshnikova, "Civil Religion: Revival or Rejection," supra n. 33.

48. *The Right of Freedom of Conscience and Belief*, supra n. 15.

49. Dmitry Medvedev, *The Order of the President of Russian Federation No. Pr-2009*, 2 August 2009.

50. *Religion and Law*, Moscow, No. 3, 3 (2008).

In 2013 the State Duma adopted the new version of the federal law “On Education.” There had been a suggestion to include in this law a provision to open up rooms for praying in the public education institutions. That, however, was seen as a challenge to the principle of secularity in the educational system. As a result, the article in the proposed law establishing the possibility of opening worship places in institutions responsible for public education was removed from the bill,⁵¹ though historical worship spaces are still legal in schools and universities.

X. RELIGIOUS SYMBOLS IN PUBLIC PLACES

Russian citizens are free to wear religious symbols in public places (in schools, hospitals, courtrooms, public offices). This has not been the problem it had been in other nations, such as France.

There is no law governing the institutional use of religious symbols in public facilities. The large number of religious symbols in the public space is not necessarily a sign of a confessional state, nor do constitutional positions favoring separation guarantee separation in social life. In the main, it is impossible to put religion outside of public life. In Russia there are many religious symbols in public institutions: a number of official holidays have a religious meaning; there are icons in the state offices, chapels in the state universities, factories, and airports; covenants have been concluded between religious organizations and governmental institutions, and so on. The new national anthem, while retaining the old music, has new words and they include the sentence “the nation, protected by God.”

Nonbelievers generally dislike religious symbols. They sometimes complain to the courts about the national anthem and its reference to God. In 2007 a group of Russian academics, with Nobel Prize Winner Vitaly Ginsburg among them, wrote a famous letter to President Putin expressing their disagreement with religious symbols and the increasing clerical influence in public institutions, especially in public schools.⁵² They argued that policy should accept and respect nonbelievers, thus not using religious symbols in public institutions.

Recently another problem concerning religious symbols became apparent. The Human Rights Center of the World Russian Folk Council – an organization of the ROC – is upset about the absence of regulations in the sphere of religious fraud. Recently, many swindlers all over Russia, masking their true identity by wearing priestly garb, have been asking for contributions for churches and monasteries, or they use the icons, candles and other religious symbols for the “treatment” of illnesses, etc.⁵³ This kind of activity, however unsavory, evidences the importance of religious symbols in modern Russia.

A notable expression of these tensions has taken the form of a conflict between culture and church. Orthodox icons are obvious religious symbols, but they are also cultural symbols, the property of the whole nation. A recent Russian case is instructive. The beautiful icon “Trinity” by Andrey Rublev is considered widely to be a national treasure. It has been displayed in the Tretjakov Gallery for the last 100 years. Its age and importance would seem adequate reasons to leave the icon untouched, but ROC asked permission to exhibit it for three days in a famous monastery during an Orthodox holiday. We see here a battle between culture and religion for this icon, another sign of the absence of the law governing the institutional use of religious symbols in public places.

So, the influence of secularization is very strong. Secularization is not likely to diminish. Yet religious symbols might be a way of accommodating religion in a secularized world.

51. See, for example, “Places of Prayer in Russian Schools: The Amendment Removed,” *Clerical Whispers*, 23 November 2012, <http://clericalwhispers.blogspot.com/2012/11/places-of-prayer-in-russian-schools.html>.

52. See “Open Letter to the President of the Russian Federation Vladimir V. Putin from the Members of the Russian Academy of Sciences,” *SCEPSIS*, 23 July 2007, http://scep sis.net/eng/articles/id_8.php. See also Elena Miroshnikova, *Textbook on the State-Church Models in the Modern World*.

53. See, e.g., <http://en.ria.ru/russia/20080707/113445726.html>.

XI. FREEDOM OF EXPRESSION AND OFFENSES AGAINST RELIGION

Article 20.29 (“Production and distribution of extremist materials”) and Article 5.26 (“Violation of legislation on freedom of conscience, freedom of religion and religious association”) of the Code of Administrative Offenses include special features of the legal setting on religious freedom. In addition, the Criminal Code of the Russian Federation has special provisions on freedom of conscience and religious freedom (Article 136. “Violation of the equality of human and civil rights and freedoms”; Article 148. “Obstruction of the exercise of the right of liberty of conscience and religious liberty”; Article 244. “Outrages upon bodies of the deceased and their burial places”; Article 282. “Incitement of national, racial, or religious enmity”).

As part of the 2006 Law on Public Associations, public officials may annually attend a meeting of each organization in order to determine whether or not said organization is acting in compliance with its charter.

In 2007, the ECtHR unanimously ruled against the Russian government in a case brought by the Christ’s Grace Church of Evangelical Christians in Chekhov.⁵⁴ In 2002, a town council and court refused the group permission to hold an outdoor service, stating that since “the Church of Evangelical Christians practices a religion that is different from the religion professed by the majority of the local residents,” a public religious service could cause discontent among other religious organizations in the area and threaten public order. The ECtHR ruled that the local government officials had violated the church members’ religious freedom and ordered reparations in the sum of \$9,000.⁵⁵

Articles 13 of the 2002 Law on Fighting Extremism provides for the creation of a list of extremist materials that shall be banned in the Russian Federation. The list is composed of materials which courts (both high- and low-level) have deemed extremist. One of the disputed problems of religious freedom is the inclusion of religious literature into the federal list of extremist materials (documents). As of 1 August 2009 there were 403 materials,⁵⁶ with most theological entries – the inclusion of which is also disputed – being Islamic.⁵⁷ While many materials legitimately violate Article 29 of the Federal Constitution, in that they propagate “social, racial, national or religious hatred and strife,” others, such as Muhammad ali Al-Hshimi’s “The Personality of a Muslim” (#73 on the list), are generally accepted as non-confrontational. Several religious bodies, including the Council of Muftis, have expressed concern that the list is at times unjustly used as a means of suppressing the freedom of expression of particular religions. Although certain threats, particularly those posed by Chechnya, to Russia’s security from domestic terrorism are genuine, state and local government officials have often illegitimately applied the 2002 “Law on Fighting Extremist Activity” against non-confrontational Islamic literature, activities, and organizations.

Leaders of Russia’s “nontraditional” religions, including Seventh-day Adventists, Pentecostals, the Old Believers, Baptists, and various Islamic groups, have all criticized the extensions of the Council’s powers and its new membership (A. Dvorkin), urging the disbanding of the Council and the resigning of Minister of Justice Kononov, who ordered the expansion and appointed its members. As of December 2006, Jehovah’s Witnesses maintained 407 registered Local Religious Organizations. From 2007 to 2009 Jehovah’s Witnesses in various regions across the country were served with over 45 warnings “on the impermissibility of carrying out extremist activity.” No clarification of what was meant by “extremist activity” was given, and no individual member or registered organization has thus far been charged with specific violations of the law.

54. See *Barankevich v. Russia*, App. No. 10519/03 (ECtHR, 26 July 2007).

55. *Freedom of Religion or Belief in Russia*, HRWF, supra n. 21.

56. See <http://minjust.lgg.ru/ru/activity/nko/fedspisok>. The 432 titles on the Federal List of Extremist Materials as of 23 October 2009 typically suggested extreme nationalist or anti-Semitic content

57. Human Rights Without Frontiers Newsletter, “*Religious Intolerance and Discrimination*” – *Russia: Jehovah’s Witnesses to be Banned?* 26 October 2009.

In May 2009 the European Federation of Research Centers for Information about Sects (FECRIS) held a conference in St. Petersburg entitled “Totalitarian Sects and the Human Right to Secure Existence,” during which speakers and participants discussed current European efforts to combat the influence and growth of “totalitarian sects” (among which Jehovah’s Witnesses was specifically named). The conference was organized mainly by Mr. Dvorkin, vice president of FECRIS, and was attended by numerous Russian government officials, most notably Minister of Justice Aleksandr Kononov. The conference represents the fact that Russian officials have confined themselves to the idea that the Jehovah’s Witnesses is a “totalitarian sect” which must be suppressed.

In the last few years, a number of communities of faith or belief have challenged Russian court decisions at the European Court in Strasbourg. Russia has lost in a number of cases but has failed to implement the judgments. From 2 to 5 June 2009, the Committee of Ministers of the Council of Europe held its second special “human rights’ meeting” to supervise the implementation of the European Court decisions. By then, four “religious” cases in Russia had still not been implemented and were to be examined:

1. **Moscow Branch of the Salvation Army v. Russia** (judgment of 05/10/2006, final on 05/01/2007) and **Church of Scientology Moscow v. Russia** (judgment of 05/04/2007, final on 24/09/2007). These cases concern the refusal to re-register the applicant associations, resulting in their loss of legal status (violation of Article 14 read in light of Article 9).

2. **Kuznetsov and others v. Russia** (judgment of 11/01/2007, final on 11/04/2007) and **Barankevich v. Russia** (judgment of 26/07/2007, final on 26/10/2007). These cases concern interference with a religious event organized by members of the Chelyabinsk community of Jehovah’s Witnesses (Kuznetsov case) found by the Court not to be prescribed by law (violation of Article 9) and the ban imposed on a service of worship planned by the “Christ’s Grace” Church of Evangelical Christians in a town park (Barankevich) (violation of Article 11 interpreted in the light of Article 9).⁵⁸

On 10 June 2010, the ECtHR ruled that the dissolution of a congregation of Jehovah’s Witnesses by a Russian court violated Articles 9 and 11 of the European Convention on Human Rights. The court found that in enacting the ban, the Russian government denied the congregation its rights to religious freedom, a right described by the court as “one of the foundations of a ‘democratic society.’” The Russian government had attempted to defend the ban, citing the limitations of Article 9, which allow restrictions on religious activity that are prescribed by law, that pursue the aim of maintaining public health, safety and morals, and that are necessary in a democratic society. Consequently, the dissolution of the community had been an excessively severe and disproportionate sanction compared to the legitimate aim pursued by the authorities. The Court held that Russia had to pay to the applicants jointly 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 50,000 for costs and expenses.

The specific nature of religious associations and activities should not be interpreted to mean that religious groups are subject to tougher restrictions than everyone else. In reality, however, we often see that investigation and prosecution of actual or alleged offenses differ from the normal law enforcement practices whenever religion is involved. The attempts of the modern political regime to harmoniously accommodate a status of religion and its organizations into a structure of secular society and public belief are shaped by time and tradition. Religious neutrality of the state in the Russian context is not an easy fit due to national traditions, the main tradition being the dominance of the Russian Orthodox Church. Religious liberty could be stronger if the Russian state would care about freedom of conscience, to be protected by principles of neutrality and state-church separation. The task of the state is to ensure the rights of all people, religious and nonreligious alike.

58. *Freedom of Religion or Belief in Russia*, HRWF, supra n. 21.

Russian lawmakers took a step toward imposing jail terms for offending religious feelings, approving legislation proposed after punk band Pussy Riot performed a raucous protest song in Moscow's main Orthodox Christian cathedral. In the days immediately following the 21 February 2011 protest in Moscow's Church of Christ the Savior, the Pussy Riot group circulated a remixed video of their assault on the cathedral. It spread quickly and widely through Russian social media, evoking responses ranging from moral outrage to enthusiastic admiration. Although some commentators have critiqued international response to Pussy Riot as sympathetic, ignorant, hypocritical, or opportunistic, the total range of responses should rather be understood as a mark of the wild success of the collective's strategy for social protest, the prison sentences of Nadezhda Tolokonnikova, Maria Alyokhina, and Yekaterina Samutsevich notwithstanding.

XII. CONCLUSION

In conclusion, the recommendations to OSCE member states provide an excellent framework for protection of religious freedom.⁵⁹ First, refer all decisions to ban certain theological texts or certain religious organizations and groups to the Supreme Court. Ensure maximum publicity of such proceedings due to their particular sensitivity and implications for the freedom of conscience. Second, eliminate selective enforcement of laws against incitement to hatred with respect of religiously motivated statements. Finally, review and update domestic laws against incitement to hatred in order to ensure freedom of expression related to religion.

This is also a very important issue in the 2014 Annual Report of the United States Commission on International Religious Freedom (USCIRF).⁶⁰ In considering relations between Russia and the United States: making freedom of religion or belief a key human rights and security concern in the US-Russia relationship would be a mutual development in both countries, which would support the progress of nations.

59. SOVA Center for Information and Analysis, "Intervention for Working Session 2 –Fundamental Freedoms I," 29 September 2009, http://www.osce.org/documents/html/pdfhtml/39909_en.pdf.html.

60. "Russia," *United States Commission on International Religious Freedom Annual Report 2014*, 141-143, <http://www.uscirf.gov/sites/default/files/USCIRF%202014%20Annual%20Report%20PDF.pdf>.

Appendix A – Religious Associations Registered in Russia
 Source: Russian Ministry of Justice, <http://www.minjust.ru>, 01 July 2009

Russian Orthodox Church	12,843
Russian Orthodox Autonomy Church	44
Russian Orthodox Church in foreign	26
True Orthodox	35
Russian Orthodox Free Church	7
Ukraine Orthodox Church (Kiev Patriarchat)	10
Old Believer	283
Roman Catholic Church	230
Greek Catholics	4
Armenian Apostolic Church	74
Islam	4,017
Buddism	203
Jews	297
Evangelical Christians-Baptists	883
Christians of Evangelical Belief	285
Evangelical Christians	677
Evangelical Christians in Apostolic Spirit	26
Christians of Evangelical Belief (Pentecostals)	1,339
Church of Full Evanlije	35
Evangelical Christians-Sobers	5
Church of the Seventh-Say Adventists	603
Lutherans	226
New Apostolic Church	70
Methodists	111
Reformed Church	5
Presbyterian Church	176
Anglican Church	1
Jehovah's Witnesses	409
Mennonites	7
Salvation Army	10
Church of Jesus Christ of Latter-day Saints	51
Unification Church (Moonn)	7
Church of Mother of God "Derzavnaja"	22
Molokans	23
Church of the Last Testament	6
Church of Christ	19
Jewish Christians	2
Non-denominational churches	15
Scientology	1
Hinduism	1
Krishna Society	75
Bahaism	17
Daosism	4
Assyrian Church	3
Sikhs	1
Shamanism	16
Spiritual Unity (Tolstovzy)	1
Paganism	6
Others	102
In all	23,313