

War and peace of Russian Orthodoxy: the militarization of ecclesiastical law of the Russian Orthodox Church after the outbreak of the war in Ukraine

by Fedor Arkhipov

Abstract: *Guerra e pace nella Chiesa ortodossa russa: la militarizzazione della legge ecclesiastica dopo lo scoppio della guerra in Ucraina* – This paper explores the Russian Orthodox Church's adoption of punitive measures akin to those of the Russian state to suppress opposition to the war in Ukraine. It compares the state's military censorship with the Church's actions against anti-war clergy, focusing on two priests, Ioann Koval and Ioann Burdin, who were punished for opposing Russia's invasion and refusing to recite a prayer granting victory to Russia. The paper also examines the Church's effort to equate pacifism with heresy and explores why the Church's leadership supports state militarism while confronting other Orthodox churches, particularly the Patriarchate of Constantinople.

Keywords: Military censorship; Heresy; Pacifism; Russian Orthodox Church; War in Ukraine

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Then the high Priest rent his clothes, saying, He hath spoken blasphemy; what further need have we of witnesses? Behold, now ye have heard his blasphemy. What think ye? They answered and said, He is guilty of death.

Matt. 26:65-66

1. Introduction

In the spring and summer of 2023, several remarkable events occurred in the Russian Orthodox Church which are indicative of broader trends in ecclesiastical law. Two priests, Ioann Koval and Ioann Burdin, were removed from their parish posts for opposing Russia's war against Ukraine. Koval, who altered the language of Patriarch Kirill's prayer for "victory" so that it became a prayer for "peace", was convicted of perjury by the Church's court system¹. As part of the case against Burdin, who opposes the war on the grounds of Christian non-violence, the very concept of pacifism was

¹ V. Slovochotova, *Reshenie prinyali edinoglasno. Tserkovnyy sud lishil svyashchennika sana za zameny v molitve slova 'pobeda' na 'mir'*, Pravmir, May 12, 2023. www.pravmir.ru/czerkovnyj-sud-lishil-svyashchennika-sana-za-zamenu-v-molitve-slova-pobeda-na-mir/ The decision was made unanimously. The church court stripped the priest of his clerical rank for replacing the word 'victory' with 'peace' in a prayer. (Original publication in Russian).

ruled to be heretical². At the same time that the Russian Church was prosecuting Koval and Burdin, two other Priests, Dimitry Vasilenkov and Andrei Dorogobid, faced no such repercussions for their pro-war stances. For his public support of the war in Ukraine (and perhaps for his participation in earlier conflicts in Georgia and Chechnya), Vasilenkov was promoted to the position of chief military priest caring for members of Russia's Armed Forces fighting in Ukraine. He was also appointed acting deputy chairman of the Synodal Department for Interaction with the Armed Forces and Law Enforcement Agencies³. Dorogobid, who all but admitted to a journalist that he had engaged in combat in Ukraine, was neither reprimanded nor investigated by the Church for his actions⁴, despite the fact that the sixty-sixth Apostolic Rule explicitly prohibits Priests from using weapons or committing violence⁵.

I highlight the different consequences for Koval and Burdin, on one hand, and Vasilenkov and Dorogobid, on the other, not to point out the hypocrisy of a church which punishes those who preach non-violence and which celebrates those who advocate for war⁶. Rather, the diverging fates of these two groups of priests help to reveal a simple fact: ecclesiastical law in the Russian Orthodox Church has become "militarized" since Russia's full-scale invasion of Ukraine in February 2022. To demonstrate how ecclesiastical law has been militarized during this period of Kirill's tenure as patriarch, this article offers a detailed account of how the Moscow

² RPTs nazvala patsifizm eres'yu, 'nesovmestimoy s ucheniem pravoslavnoy tserkvi', *The Insider*, June 10, 2023. theins.ru/news/262474 The Russian Orthodox Church called pacifism heresy, 'incompatible with the teachings of the Orthodox Church.' (Original publication in Russian). See also Burdin's Telegram channel at telegra.ph/Materialy-dela-06-09.

³ Patriarkh Kirill naznachil 'glavnogo svyashchennika' voyny v Ukraine. Im stal protoierey Vasilenkov, voevavshiy v Gruzii i Chechne, *The Insider*, April 6, 2023. theins.ru/news/260764 Patriarch Kirill appointed the 'chief priest' of the war in Ukraine. He is Protopriest Vasilenkov, who fought in Georgia and Chechnya. (Original publication in Russian).

⁴ K. Pronina, 'Esli svyashchennik vzyal v ruki oruzhie, eto ni o chyom ne govorit.' Voeyavshiy nastoyatel' khrama iz Irkutskoy oblasti prodolzhaet sluzhit' liturgii, Lyudi Baikala, September 10, 2023. baikajournal.ru/2023/09/10/esli-svyashchennik-vzyl-v-ruki-oruzhie-eto-ni-o-chyom-ne-govorit/ 'If a priest takes up arms, it doesn't mean anything.' *The priest who fought in the war in the Irkutsk region continues to serve the liturgy.* (Original publication in Russian).

⁵ Text of the 66th Apostolic Rule reads, "If anyone from the clergy strikes someone in a quarrel, and kills with a single blow, let him be cast out for his insolence. If a layman does this, he will be excommunicated", azbyka.ru/otechnik/Nikodim_Milash/pravila-svjatyh-apostolov-i-vselenskih-soborov-s-tolkovanijami/66. It is for this reason that clergy are prohibited from engaging in activities related to the shedding of human blood, for example, medical practice, especially surgery (see "Nomocanon" under the Great Trebnik, rule 102, azbyka.ru/otechnik/pravila/nomokanon-pri-bolshom-trebnike/#0_135). A priest, since he makes a bloodless sacrifice, is also prohibited from hunting and other activities that inevitably involve the shedding of blood, even animal blood (see Nomocanon, rule 135. Ibid). A priest can be a regimental priest, a chaplain, that is, he can be close to soldiers, supporting them spiritually, offering confession, giving communion, and engaging them in conversation. Chaplains are even given military ranks, but they cannot take up arms.

⁶ I will return to the cases against Koval and Burdin later in this article.

Patriarchate has changed aspects of church law to conform with those civil laws passed by the State Duma expanding Russia's censorship regime and criminalizing even the most innocuous demonstrations against the war in Ukraine. As we shall see below, the militarization of ecclesiastical law is partly the result of an up-tick in Christian nationalism in the Russian Church and what I call territorial anti-ecumenism, i.e., the Russian Church's increasing opposition to other Orthodox and Christian churches based on the idea that Holy Rus'—Russia, Belarus, and Ukraine—constitutes its own sacred space. We will also see that in the realm of legal practice the militarization of ecclesiastical law has become a tool for intra-church repression and for subverting the tenets of Christian non-violence, especially those outlined in the Apostolic Rules. Before engaging these aspects of the Church's militarization and the consequences for ecclesiastical law, it is important to illuminate the ways in which the Russian Church and its laws were already being militarized following Russia's invasion, occupation, and annexation of Crimea in 2014

2. Prehistory of modern militarism of the Russian Orthodox Church

In April 2014, a few days after the annexation of Crimea to Russia, Patriarch Kirill delivered a sermon in which he highly appreciated the policy of Moscow rulers to expand their territory⁷. The hierarch noted that the building of a great power occurred largely due to the fact that “there was an army ready to lay down its soul for the sovereign, for the land, for the Orthodox faith.” It is noteworthy that the “territorial” discourse in the context of Russian statehood was then relevant for another, purely legal reason. At the end of December 2013, at the height of the Ukrainian Maidan (protests in Kyiv in November 2013 - February 2014, which resulted in the death of more than a hundred people and a change of power in Ukraine), Article 280.1 “Public calls for actions aimed at violating the territorial integrity of the Russian Federation” was introduced into the Criminal Code of the Russian Federation⁸. This imposition of church rhetoric on the state foreign policy of the Russian authorities towards Ukraine became one of the first signs of the convergence of the interests of the Russian Orthodox Church and the state at the very beginning of the Ukrainian crisis. In a

⁷ Propoved' Svyateyshogo Patriarkha Kirilla v prazdnik Blagoveshcheniya Presvyatoy Bogoroditsy v Blagoveshchenskom sobore Moskovskogo Kremlya, *Official website of the Moscow Patriarchate*, April 7, 2014. www.patriarchia.ru/db/text/3621126.html The Sermon of His Holiness Patriarch Kirill on the Feast of the Annunciation of the Most Holy Theotokos in the Annunciation Cathedral of the Moscow Kremlin. (Original publication in Russian).

⁸ Federal Law of December 28, 2013 N 433-FZ. In accordance with this norm, public calls for actions aimed at violating the territorial integrity of the Russian Federation are prohibited, which may be expressed, for example, in agitation for the illegal secession of a certain territory of a state or calls for its seizure by another state. The maximum penalty is up to five years in prison. Adopted before the annexation of Crimea, the article came into force on May 9, 2014 - Victory Day, which in recent years has become the main ideological holiday in Russia and the basis of state militaristic rhetoric. Details on the official website of the State Duma of the Russian Federation: duma.gov.ru.

number of documents in recent years, starting from 2014, we observe the progressive emergence of all the present militaristic formulas in which canonical argumentation turns into political. The “symphony” of church and state, as well as state control over the religious sphere, is also a continuation of a centuries-old tradition. Since the adoption of Christianity in Ancient Rus in 988, Orthodoxy has played a key role in shaping the country’s cultural and legal identity, reinforcing the connection between the Russian state and its ecclesiastical institutions, a relationship that has historically intertwined both religious and political authority⁹. According to Giovanni Codevilla, in modern Russia, confessionalism is strengthening, and within this new symphony between the Church and the state, the Patriarch and the President are increasingly strengthening their mutual cooperation, blurring the distinction between spiritual and temporal power¹⁰.

The following examples can be given of the transition of the canonical arguments of the Russian Orthodox Church into political ones. First of all, this is a deliberate blurring of the line between apostasy and oppositional political views¹¹. Back in August 2014, Patriarch Kirill held the Uniates (representatives of the Ukrainian local Catholic Church of the Greek rite, which formed in the Polish-Lithuanian Commonwealth after the Union of Brest in 1596) and schismatics—whom he referred to as the modern supporters of the Orthodox Church of Ukraine under the Patriarchate of Constantinople—responsible for the events on the Kiev Maidan¹². What is noteworthy in this statement by Patriarch Kirill is not only that the head of the Russian Orthodox Church blamed representatives of other Christian churches for the revolution in Ukraine. Much more interesting is that, along with the Ukrainian Greek Catholics who broke away from the Kiev Metropolis at the end of the 16th century, Kirill mentioned representatives of the Orthodox Church of Ukraine, recognized in 2018 by Patriarch Bartholomew of Constantinople. Thus, Kirill, without directly calling the Uniates schismatics (although this is precisely the attitude towards Greek

⁹ P. Valliere, *Law and the Orthodox Church in the History of Russia*, in R.S. Baker (ed.), *Law and the Christian Tradition in Modern Russia*, London, 2021, 21-46; K. Stoeckl, *Russian Orthodoxy and Secularism*, *Brill Research Perspectives in Religion and Politics*, vol. 1, no. 2, Leiden, 2020, 1-75; S. Caprio, G. Codevilla, *Lo zar di vetro: la Russia di Putin*, Milan, 2020.

¹⁰ G. Codevilla, *La laicità dello stato nella revisione costituzionale della Federazione di Russia: la riforma costituzionale russa del 2020*, in *Nuovi autoritarismi e democrazie: diritto, istituzioni, società (NAD-DIS)*, vol. 2, no. 1, June 2020.

¹¹ It is not surprising, considering numerous studies devoted to religiosity in Russia, which note that belonging to the Orthodox Church is part of the national Russian identity: T. Köllner, *Religiosity in Orthodox Christianity: An Anthropological Perspective on Post-soviet Russia*, in D.A. Luchterhandt, R. Schwab, and E. Schulte (eds.), *Religiosity in East and West: Conceptual and Methodological Challenges from Global and Local Perspectives*, Berlin, 2020, 121-140; A.S. Agadjanian, S.M. Kenworthy, *Understanding World Christianity: Russia*, Minneapolis, 2021, vol. 5; G. Soroka, *International Relations by Proxy? The Kremlin and the Russian Orthodox Church*, in *Religions*, 13.3, 2022.

¹² Obrashchenie Svyateyshogo Patriarkha Kirilla k Predstoyatelyam Pomestnykh Pravoslavnykh Tserkvey v svyazi s situatsiey na Ukraine, *Official website of the Moscow Patriarchate*, August 14, 2014. www.patriarchia.ru/db/text/3704024.html. The Address of His Holiness Patriarch Kirill to the Primates of the Local Orthodox Churches Regarding the Situation in Ukraine. (Original publication in Russian).

Catholics that historically dominates in the Russian Orthodox Church)¹³, likened them to his current canonical opponents, who, from his point of view, are already indisputable schismatics. This allows the head of the Russian Orthodox Church to construct a myth about a long-term confrontation with the schismatic movement in Ukraine, which opposes not only Russian Orthodoxy, but also the political unity of “Holy Rus”. This myth is closely tied to the manipulation of shared Eastern Orthodox history, which has led to a church schism and framed the Russian aggression as a holy war¹⁴.

Long before February 2022, the Russian Orthodox Church promoted rhetoric about the need to match church borders (canonical jurisdiction) with state borders. For example, in March 2015 the Legal Service of the Moscow Patriarchate issued a commentary in connection with the issue of registration of the Simferopol diocese with the Russian Ministry of Justice on the anniversary of the annexation of the peninsula¹⁵. The Legal Service of the Moscow Patriarchate stated that it retained control over the Ukrainian Orthodox Church, which is “canonically part of the Russian Orthodox Church”¹⁶. Here we see the declaration of the canonical location of Crimea in the Russian Orthodox Church, regardless of the state affiliation of the peninsula. The “legal entry” of the diocese into Russia only confirms, in the opinion of the Legal Service, the rights of the church to this territory, which eliminates the need to make additional amendments to the charter of the diocese. From now on, borders between countries become borders between churches.

This is no coincidence. The idea of uniting the East Slavic peoples became one of the cornerstones of church policy after 2014¹⁷. The leadership

¹³ This historical hostility is well illustrated by the following example. In August 2014, Patriarch Kirill addressed a message to the Primates of the Local Orthodox Churches in connection with the situation in Ukraine, in which he stated that “The Uniates and the schismatics who have joined them are trying to prevail over canonical Orthodoxy in Ukraine, while the Ukrainian Orthodox Church with patience and courage continues to provide for their suffering faithful children.”, www.patriarchia.ru/db/text/3704024.html (Original publication in Russian).

¹⁴ R. Harrocks, *4: The Role of Religion in Long-Term Ukrainian–Russian Reconciliation*, in *Social Determinants of Health in Europe*, Policy Press, Bristol, 2024, doi.org/10.51952/9781447373308.ch004.

¹⁵ Kommentariy Yuridicheskoy sluzhby Moskovskoy Patriarkhii v svyazi s voprosom o registratsii Simferopol'skoy yevarkhii, *Official website of the Moscow Patriarchate*, March 11, 2015. www.patriarchia.ru/db/text/4011270.html. The Commentary of the Legal Service of the Moscow Patriarchate Regarding the Issue of Registration of the Simferopol Diocese. (Original publication in Russian).

¹⁶ Ibid: “The Simferopol and Crimean diocese remains part of the Ukrainian Orthodox Church. They are still subordinate to the Synod of the Ukrainian Orthodox Church, headed by the Metropolitan of Kyiv and All Ukraine. The powers of the governing bodies of the diocese – the ruling bishop, the diocesan assembly, the diocesan council – are determined not only by the charter of the diocese, but also by the Charter on the governance of the Ukrainian Orthodox Church, which remains in effect on the territory of the dioceses in Crimea. The registered version of the charter takes into account the fact that the Ukrainian Orthodox Church is a self-governing part of the Moscow Patriarchate and is canonically part of the Russian Orthodox Church.”

¹⁷ zhurnaly zasedaniya Svyashchennogo Sinoda ot 24 dekabrya 2015 goda, *Official website of the Moscow Patriarchate*, December 24, 2015.

of the Russian Orthodox Church called all those who disagree with the establishment of the “spiritual unity of the fraternal Orthodox peoples of Russia, Belarus and Ukraine” schismatics¹⁸. This kind of attitude towards other churches and a deliberate disregard for the persecution of religious minorities on its canonical territory allow us to speak of the progressive militarization of the Russian Orthodox Church in the wake of the Russian state - the Gatherer of Russian lands. Undoubtedly, the creation of United Rus' is hampered by Ukraine's reluctance to reunite.

Even after the outbreak of the war in Ukraine, Patriarch Kirill continues to assert that Ukraine is an integral part of the Russkij mir and a canonical territory of the Russian Orthodox Church. He rejects any attempts by Ukraine to pursue autonomy, including the autocephaly of the local church, viewing this as a threat to the historical unity of the two countries. In his concept of Russkij mir, Kirill combines religious and secular imperialism, emphasizing that Russia and Ukraine should remain a united nation, grounded in their shared Orthodox faith¹⁹. This is specifically stated in documents on any topic. In a document prepared for the tenth anniversary of the Local Council of the Russian Orthodox Church in 2009 and the enthronement (election) of Patriarch Kirill of Moscow and All Rus', the authors noted with regret that “Despite the tragic circumstances that have arisen in the last year due to the lawless actions of Constantinople in Ukraine, external church relations have otherwise been and are being carried out at the highest level, both with other Local Orthodox Churches and with non-Orthodox confessions, as well as with other religions”²⁰. The need to return to the Ukrainian topic every time indicates the strong concern of the Russian Orthodox Church in this area and its dissatisfaction with the current state of affairs.

The described trends confirm the dominance of the anti-ecumenical movement in Russian Orthodoxy, expressed in religious isolationism in the Russian Orthodox Church in the early 2010s. According to the observation of Russian researchers Boris Knorre and Alexandra Zasyadko, the leadership of the Russian Orthodox Church after 2014 began to increasingly turn in its statements to the ideas of the “passionarism” (Russian - *passionarnost'*, meaning sacrifice) of Russian Orthodoxy, its sovereignty, as well as the “mobilization model of social development”²¹. The authors

www.patriarchia.ru/db/text/4304773.html. Minutes of the Holy Synod meeting from December 24, 2015. (Original publication in Russian).

¹⁸ Zayavlenie Sinodal'nogo otdela Moskovskoy Patriarkhii po vzaimootnosheniyam Tserkvi s obshchestvom i SMI, *Official website of the Moscow Patriarchate*, September 26, 2016. www.patriarchia.ru/db/text/4625197.html. Statement of the Synodal Department of the Moscow Patriarchate on the Relationship Between the Church, Society, and the Media. (Original publication in Russian).

¹⁹ G. Codevilla, *The Invasion of Ukraine by the Russian Federation and the Position of the Churches*, in *Dir. eccl.*, 133.1/2, 2022, 21-52.

²⁰ Zhurnaly zasedaniya Svyashchennogo Sinoda ot 26 fevralya 2019 goda, *Official website of the Moscow Patriarchate*, February 26, 2019. www.patriarchia.ru/db/text/5379588.html. Minutes of the Holy Synod meeting from February 26, 2019. (Original publication in Russian).

²¹ B. Knorre, A. Zasyad'ko, *Pravoslavnyy antiekumenizm 2.0: mobilizatsionnaya model', sekyuritizatsiya i revanshizm*, in *Gosudarstvo, religiya, tserkov' v Rossii i za rubezhom*, 39(2), 2021. *Orthodox Anti-Ecumenism 2.0: The Mobilization Model, Securitization, and*

consider that “within the framework of this model, war, monastic asceticism, the ideology of suffering and deprivation are in one bundle, since both of them require feat or extreme exertion of strength.” It means the need for society to exist in conditions of some extreme tension as a norm of life. This phenomenon is not exclusive to the Russian Orthodox Church but reflects a broader contemporary trend in Eastern Orthodoxy, where, particularly in monastic circles, there is a rise in anti-Western and anti-ecumenical sentiments²². However, in Russia, the church's isolationism is further reinforced by the support of the state's aggressive policies, which are especially evident in the opposition to Western values and dialogue with other Christian denominations.

During Putin's presidency, the Russian Orthodox Church adopted several program documents that openly presented its anti-ecumenical positions. In them, the Russian Orthodox Church speaks of the need for other Christian churches to respect its canonical boundaries²³. The main idea of these documents can be understood as a rejection of the concept of the true Church being synonymous with the entire “Christian world”²⁴. Such a policy of closeness and negative attitude towards other beliefs, rituals and cultures testifies not only to the convergence of church and state foreign policies, but to the general militarization of the church. The Russian Orthodox Church declares its special position in front of other religious groups in Russia and refuses to consider itself equal to other Christian denominations, since “the very election of the term ‘ecumenical’ for the movement of Christians towards unity reflects a specifically Western, external understanding of the principles of catholicity and unity of the Church.” The declaration of one's own superiority is summed up with the words that “(T)he Orthodox Church is not one of many denominations; for the Orthodox, the Orthodox Church is the Church.” This passage, directed to the entire Christian community, contains a frank indication that the Russian Orthodox Church not only views itself as the only faithful Church and perceives inter-church dialogue as a formal convention, but also claims primacy throughout the Orthodox world. This can serve as an illustration of how internal rivalries, ecclesiastical disputes, and ideological divisions within and between the Greek and Slavic (Russian) branches of Orthodoxy influence the perception of pan-Orthodox conciliarity and the achievement of unity within the Eastern Orthodox Church²⁵.

Revanchism. State, Religion, and Church in Russia and Abroad. (Original publication in Russian).

²² V. Coman, *Revisiting the Agenda of the Orthodox Neo-Patristic Movement*, in *Downside Review.*, 136.2, 2018, 99-117.

²³ Hereinafter quoted from: The Main Principles of the Russian Orthodox Church's Attitude Toward Heterodoxy, www.patriarchia.ru/db/text/418840 (Original publication in Russian).

²⁴ For example, para. 2.5. of the document tells us: “2.5. The so-called “branch theory” associated with the above concept, which asserts the normality and even providentiality of the existence of Christianity in the form of separate “branches,” is also completely unacceptable.”

²⁵ K. Hofmeisterová, M. Jasenčáková, N. Karasová, *The Holy and Great Council and its Implications for Orthodox Unity: The Perspectives of the Russian Orthodox Church, the Serbian Orthodox Church and the Orthodox Church of Greece*, in *JEastCS*, 72.1-2, 2020, 145-180.

It has always been not enough for the Church to simply declare its exclusivity. Just as the Russian authorities are inclined to invent an enemy in the “collective West”, the Russian Orthodox Church found its main enemy in the Ecumenical Patriarchate of Constantinople. The dispute began with the resolution of the issue of primacy in world Orthodoxy, or rather the conclusion about the primacy of honor, and not the power of the Constantinople hierarch²⁶. However, very soon this confrontation resulted in endless claims regarding Constantinople’s violation of the sovereignty of local churches and their jurisdictions, primarily the Russian Orthodox Church²⁷. For example, the document’s authors condemned the “cancellation” of Church Court decisions to defrock some priests of the Moscow Patriarchate, including Ioann Koval²⁸. Here the ideology of canonical sovereignty and militarism of the Russian Orthodox Church are surprisingly combined. The above quotation proves the existence of a connection between the anti-ecumenist tendencies of ten years ago and contemporary pro-war church lawmaking. Now let’s move on to consideration of current Russian legislation, which is reflected in the church law of the Russian Orthodox Church.

3. Pacifism as a crime: legislation on military censorship in Russia after February 2022 and the practice of its application

3.1 Military censorship in the context of Russian law

In order to understand how much closer internal church and internal state policies have come, it is not enough to review exclusively the acts of the Russian Orthodox Church. Speeches by hierarchs, church press releases and daily sermons are inspired not only by Russian state propaganda but also by legislation. On the one hand, the Russian Orthodox Church needs this to understand the current course of the authorities, which is more profitable to

²⁶ The Position of the Moscow Patriarchate on the Issue of Primacy in the Universal Church, www.patriarchia.ru/db/text/3481089.html (Original publication in Russian).

²⁷ On the Distortion of the Orthodox Teaching on the Church in the Actions of the Hierarchy of the Constantinopolitan, www.patriarchia.ru/db/text/6043760.html (Original publication in Russian).

²⁸ Ibid: “In an effort to expand the scope of their imaginary rights and create new precedents, the Holy Synod of the Patriarchate of Constantinople on February 17, 2023 “cancelled” the duly approved decisions of the Church Court of the Vilna diocese on the deprivation of the holy orders of five clergies for the canonical crimes they committed and, following the recommendation of Patriarch Bartholomew, “restored” them in their former church degrees. At the same time, despite assurances of a “thorough study of the cases under consideration,” the Holy Synod of the Patriarchate of Constantinople did not have materials from the Court cases and was based solely on the personal statements of the mentioned clergy, which one-sidedly reflected their opinions and interests. On June 27, 2023, in a similar manner, without studying the Court materials, on the basis of a personal statement, a cleric of the Moscow diocese was “restored” to the priesthood, although the process of depriving him of his rank initiated by the diocesan Church Court was not completed (the verdict was approved by the Patriarch of Moscow and All Rus’ at the time of consideration there was no question in Constantinople).”

promote its own agenda. On the other hand, for security reasons, since the development of military censorship after the outbreak of war in Ukraine requires caution from public speakers. For instance, since the start of the war, representatives of the Russian Orthodox Church have backed Russia's aggressive actions, while any clergy speaking out against the invasion have been silenced by censorship from both the Church and the state. This is evident in a document released by the World Russian People's Council on March 27, 2024, which labeled the war a "holy war" and portrayed the West, seen as consumed by Satanism, as the primary enemy of Russia and Christianity²⁹. Next, I propose to consider the current Russian legislation on military censorship in order to make a more objective analysis of the context of the emergence of cases of anti-war priests.

Federal Law passed by the Russian State Duma in March 2022 introduced two new articles into the Code of Administrative Offenses of the Russian Federation³⁰. Article 20.3.3 of the Code established administrative liability for "discrediting" the army. Article 20.3.4 introduced liability for calls for sanctions against Russia. Discrediting the army is expressed in public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens, maintain international peace and security or the exercise by state bodies of the Russian Federation of their powers for these purposes, providing assistance to volunteer formations, organizations or individuals in carrying out the tasks assigned to the Armed Forces of the Russian Federation. Russian administrative and criminal law does not define the concept of discrimination; for this reason, the legal qualification of an act as discrimination remains with the law enforcement officer³¹.

The same law introduced several new articles into the Criminal and Criminal Procedure Codes of the Russian Federation³². The strictest new

²⁹ See, for example: K. Chawryło, *A Holy War. The Russian Orthodox Church Blesses the War Against the West*, OSW Ośrodek Studiów Wschodnich im. Marka Karpią, 2024.

³⁰ Federal Law of March 4, 2022 N 31- FZ. The initial version of the bill, submitted to the State Duma of the Russian Federation in 2021, proposed introducing administrative liability for transactions or financial transactions with property obtained by criminal means in the interests of a legal entity. However, after the outbreak of war in Ukraine, the bill was quickly supplemented with completely different content. Details on the official website of the State Duma of the Russian Federation: duma.gov.ru/.

³¹ If we apply the method of legal analogy to determine which acts may be considered defamatory, it will be useful to refer to Article 14.1. of the Russian Law "On the Protection of Competition" (Federal Law "On the Protection of Competition" dated July 26, 2006 N 135 -FZ), which establishes a ban on unfair competition by discrediting. In accordance with the definition contained in this norm, discredit should be understood as the dissemination of "false, inaccurate or distorted information that may cause losses to a business entity and (or) damage its business reputation." Of course, the literal application of norms from the sphere of civil and business law to administrative and, especially, criminal legal relations is incorrect. However, this is the only definition contained in Russian legislation that can clarify the composition of the offense in the analyzed norm.

³² Federal Law of March 04.03.2022 N 32- FZ. The bill for this law was submitted to the State Duma back in 2018. As noted in the explanatory note to the original bill, its goal is to criminalize the implementation of Western sanctions against the Russian Federation. However, as in the case of the previous law, after the invasion of Ukraine began, the bill was supplemented with new articles aimed at suppressing anti-war

rule is Article 207.3 of the Criminal Code, which bans the spread of “false information” about the military and its actions, with a maximum penalty of 15 years in prison. The law targets the public distribution of deliberately false information about the use of the Russian Armed Forces to protect the interests of Russia and its citizens, as well as to maintain international peace and security. However, the article does not define what constitutes reliable information, leaving its interpretation entirely up to law enforcement officials, similar to how Article 20.3.3 of the Code of Administrative Offenses is applied.

In addition to the aforementioned Article, Articles 280.3 and 280.4 of the Criminal Code have been introduced, which impose criminal liability for repeated “discrediting” of Russia or calls for sanctions against the country. The elements of these crimes are similar to those outlined in Articles 20.3.3 and 20.3.4 of the Code of Administrative Offenses. Essentially, the Russian legislature establishes an administrative penalty for discrediting the military or calling for sanctions, but if these actions are repeated after an administrative case has been initiated, a criminal case will be opened. The maximum penalty for each offense can be up to seven years in prison, along with a potential loss of rights.

In the Russian legal doctrine, with rare exceptions, one can see the normalization of legislation on military censorship and an attempt to systematize its application by government agencies. For example, analyzing judicial practice under Part 1 of Article 20.3.3, researchers Roman Stepkin and Irina Ryapukhina come to the conclusion that the illegal actions specified in the disposition of the article in question are “display of posters with calls against a special military operation in Ukraine; presentation of the official symbols of Ukraine with criticism of the Russian authorities and the actions of the Armed Forces of the Russian Federation in Ukraine; display in public places of photo and video materials condemning the actions of the Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its citizens, maintaining international peace and security; posting similar information on the Internet”³³.

However, sometimes moderately critical comments emerge from under the dry techno-legal analysis. In an article devoted to forensic political science, the authors note that: “(I)n the context of Russia’s special military operation in Ukraine and the participation of the country’s armed forces in hostilities in the conflict zone, these alarmist measures (meaning new legislation on military censorship) are consistent with the strategy political consolidation and preventing the escalation of political tension in society within the framework of the military mobilization work of government

protests and statements. More details on the official website of the State Duma of the Russian Federation: duma.gov.ru/.

³³ I.A. Ryapukhina, R.M. Stepkin, *O nekotorykh voprosakh pravoprimeritel'noy praktiki pri privlechenii k administrativnoy otvetstvennosti po chasti 1 stat'i 20.3.3 Kodeksa Rossiyskoy Federatsii ob administrativnykh pravonarusheniyyakh*, in *Vestnik Belgorodskogo yuridicheskogo instituta MVD Rossii*, 3, 2022, 83-87. On Some Issues of Law Enforcement Practice in the Imposition of Administrative Responsibility Under Part 1 of Article 20.3.3 of the Code of the Russian Federation on Administrative Offenses. *Bulletin of the Belgorod Law Institute of the Ministry of Internal Affairs of Russia*. 2022, No. 3, 83-87. (Original publication in Russian).

bodies. The task of forensic political science examination in this case is to establish the format of political protest”³⁴. First of all, one should pay attention to the direct reference to the war in Ukraine at the beginning of the above quote. This indication is necessary not only to demonstrate the relevance of the initial research itself. Taking into account the general context, we can say that the authors consider forensic political science examination as a marker of an era in which political cases are a priority. Although the expression “alarmist measures” alone is quite harsh to characterize the law, it is the authors’ reference to the fight against protests as the goal of this legislation that speaks of their critical attitude. The statement of the fact of criminal prosecution for a protest, the social danger of which lies only in its political nature (irrespective of the content of this nature) also testifies in favor of the authors’ negative attitude towards the “alarmist measures” of the government.

3.2 Judicial practice in cases of discrediting the army

The judicial practice of Russian courts in cases involving army discrediting is crucial for this article because it reveals, in contrast to the formally written laws, the underlying logic and intentions of government bodies. The canons and internal rules of the Russian Orthodox Church do not include any directives regarding war; instead, the actual stance of the church leadership can only be understood through non-regulatory documents. Similarly, the position of Russian authorities can be discerned from how specific legal norms are motivated and interpreted. In the early months following the introduction of the article on discrediting the army, courts occasionally dismissed cases under Article 20.3.3 of the Code of Administrative Offenses of the Russian Federation.

By the decision of the Kemerovo Regional Court on April 18, 2022, the ruling of the lower court was overturned. The lower court had determined that the actions of a citizen, who was sitting on a bench in a public place with an unfurled Ukrainian flag, constituted an administrative offense under Part 1 of Article 20.3.3 of the Code³⁵. On April 27, 2022, the Krasnoyarsk Regional Court ruled to reverse the decision of the lower court, which had penalized a man for organizing a public event in the form of a single picket. The picket took place on a granite base near the monument to Vladimir Lenin, where he removed the snow and wrote the inscription “No War” in the snow. The lower court had deemed this action as aimed at discrediting the use of the Armed Forces of the Russian Federation and its citizens in maintaining international peace and security. However, the proceedings in

³⁴ O.V. Galaeva, V.V. Gulevskaya, G.G. Omel’yanyuk, *Forensic Political Expertise: An Innovative Direction of Forensic Practice in the System of the Russian Ministry of Justice*, in *Theory and Practice of Forensic Science*, 18.1, 2023, 30-43. (Original publication in Russian).

³⁵ The decision of the Kemerovo Regional Court dated April 18, 2022 in case No. 12-170/2022, SPS ConsultantPlus.

this case were terminated due to a lack of evidence supporting the circumstances on which the original decision was based³⁶.

These court decisions show that, at the start of the war, charges under the new repressive laws were brought on almost any pretext. The only way to counter police arbitrariness was through the use of procedural mechanisms. However, more often than not, those accused under the new military censorship laws were not acquitted. In November 2022, a man was fined for ironically quoting Vladimir Putin. His quotes included: “Kursk-she drowned; If the people are unhappy, I will leave; I won’t run for a third term; I will not alter the Constitution to suit myself; I will not raise the retirement age...” and also “War in Europe is impossible; This is not a war, but a special operation; Let’s take Ukraine in a week (3 days); Only PMCs (meaning PMC Wagner) will fight; Only PMCs and prisoners will fight”³⁷. The Court considered that this statement formed a distorted opinion about the use of the Armed Forces of the Russian Federation. In December 2022, another man was found guilty of a similar charge for making a caustic comment on social media following the October 2022 Crimea Bridge bombings³⁸.

In one of its decisions in February 2023, the Supreme Court of the Russian Federation upheld the decision of lower courts to fine a man who, while in a public place on May 9, showed a photograph of a WWII veteran in uniform, on which was the inscription “They fought for peace”³⁹. The Supreme Court of the Russian Federation considered that there were grounds for a fine, since this act “distorts the true goals and objectives of using the Armed Forces of the Russian Federation during a special military operation, in contrast to which attention is drawn to the patriotism of Soviet soldiers in the Great Patriotic War.”

In the spring of 2023, Russian human rights activists appealed to the Constitutional Court of the Russian Federation with several applications for recognition of Article 20.3.3 of the Code of Administrative Offenses contrary to the Constitution of the Russian Federation⁴⁰. The Constitutional Court upheld the controversial law, declaring it constitutional. In its reasoning, the Court emphasized that the Constitution of the Russian Federation does not prohibit the use of armed forces. It further argued that the contested law is unrelated to the conduct of the special military operation, and that public calls for an end to the war could hinder the military's ability to carry out its tasks effectively. The Court specifically stated that the law does not violate the right to freedom of opinion and speech, since “such freedom does not

³⁶ The decision of the Krasnoyarsk Regional Court dated April 27, 2022 in case No. 7П-388/2022, SPS ConsultantPlus.

³⁷ Resolution of the Shipunovsky District Court of the Altai Territory No. 5-110/2022 of November 3, 2022 in case No. 5-110/2022, SPS ConsultantPlus.

³⁸ Resolution of the Yasnogorsk District Court of the Tula Region No. 5-325/2022 of December 21, 2022 in case No. 5-325/2022, SPS ConsultantPlus.

³⁹ Resolution of the Supreme Court of the Russian Federation of February 15, 2023 in case No. 5-AD22-103-K2, SPS ConsultantPlus.

⁴⁰ Ruling of the Constitutional Court of the Russian Federation dated May 30, 2023 N 1391-O “On the refusal to accept for consideration the complaint of citizen Olga Romanovna Aptysheva about the violation of her constitutional rights by part 1 of Article 20.3.3 of the Code of the Russian Federation on Administrative Offenses”, SPS ConsultantPlus.

permit the commission of offenses.” In other words, the Constitutional Court declared that an anti-war stance and actions condemning the war are criminal and unacceptable solely because they are prohibited under this controversial law.

It is important that the Constitutional Court directly points out the constitutional and legal admissibility of conducting non-defensive military actions - “The Constitution of the Russian Federation not only does not exclude, but also directly allows for the adoption by state bodies of the Russian Federation of decisions and measures, including those related to the use of the Armed Forces of the Russian Federation” - and the non-contradiction of the introduction of military censorship with the Constitution of the Russian Federation, Article 29 of which directly prohibits censorship.

4. Pacifism as heresy. Persecution of anti-war priests

4.1 Case of Ioann Koval

The activities of Church courts are regulated by the Regulations on the Church Court of the Russian Orthodox Church (Moscow Patriarchate), 2008 edition⁴¹. In accordance with this document, the Patriarch of Moscow and All Rus' approves the canonical punishments imposed by the Church Court in the form of lifelong ban from the Priesthood, defrocking or excommunication. Considering the involvement in church proceedings in cases of defrocking of a large number of high-ranking clergy, up to the Patriarch, the consideration of such cases always assumes their great importance and often political overtones, as in the cases of priests Koval and Burdin concerning their anti-war position.

The Church condemned Ioann Koval not so much because of the words he used, but because the Church considered him to be disloyal. It should not be assumed that the Russian Orthodox Church has directly avoided using the word “peace” since the outbreak of war in Ukraine. At the beginning of the conflict, the Patriarch regularly spoke about peace in his sermons: “(W)e must pray for the restoration of peace, for the restoration of good fraternal relations between our peoples (...) And I ask all of you, both in church and in home prayers, to remember His Beatitude Onuphry, to remember our brothers and sisters in Ukraine and to pray for peace”⁴². However, on March 3, 2022, a Circular Letter from the Administrator of the Moscow Patriarchate, Metropolitan Dionysius of the Resurrection, appeared, ordering the prayer “for the restoration of peace” to be read in all parishes

⁴¹ Regulation on the Church Court of the Russian Orthodox Church (Moscow Patriarchate), www.patriarchia.ru/db/text/5082532.html?ysclid=lvzg3cdyd3294974671 (Original publication in Russian).

⁴² Slovo Svyateyshogo Patriarkha Kirilla v Nedelyu o Strashnom Sude posle Liturgii v Khrame Khrista Spasitelya, *Official website of the Moscow Patriarchate*, February 27, 2022. www.patriarchia.ru/db/text/5904390.html. The Sermon of His Holiness Patriarch Kirill on the Sunday of the Last Judgment after the Divine Liturgy in Christ the Savior Cathedral. (Original publication in Russian).

and monasteries⁴³. Despite the general peaceful message of this prayer, it contained the following phrase: “In a foreign language, those who want to fight against Holy Rus' and those who take up arms - forbid and plans their overthrow.”

The dramatic change in the official rhetoric of the Church is no coincidence. In the early spring of 2022, laws on military censorship were adopted. But another reason could have been pressure from within the Church from those who believed that the Patriarch should take a more pronounced anti-war position and condemn the actions of the Russian leadership. At the very beginning of the war, the “Appeal of the clergy of the Russian Orthodox Church with a call for reconciliation and an end to the war” appeared online - the reaction of some clergy of the Russian Orthodox Church to Russia's invasion of Ukraine⁴⁴. From Cyril Hovorun's perspective, Patriarch Kirill of Moscow is a church leader who pursues a political agenda, believing it enhances the church's standing in the public sphere; however, in practice, this agenda seems to have damaged the church and its reputation in Russia more than it benefited them, and while the church's support for Putin's regime may not be as significant as believed, it could become a vulnerable scapegoat for the regime's failures once it falls, despite its own mistakes⁴⁵.

Kirill's unquestioning adherence to Putin's course is increasingly leading not only to the impoverishment of the politically loyal flock⁴⁶, but

⁴³ Circular letter from the manager of the affairs of the Moscow Patriarchate, Metropolitan Dionysius of the Resurrection No. 01/944 dated March 3, 2022, www.patriarchia.ru/db/text/5905833.html.

⁴⁴ Svyashchenniki Russkoy Pravoslavnoy Tserkvi: 'My prizyvayem k nemedlennomu prekrashcheniyu ognya', *Pravmir*, March 1, 2022. www.pravmir.ru/svyashchenniki-russkoj-pravoslavnoj-czerkvi-my-prizyvaem-k-nemedlennomu-prekrashheniyu-ognya/. Clergymen of the Russian Orthodox Church: 'We Call for the Immediate Cessation of Fire.' (Original publication in Russian).

⁴⁵ C. Hovorun, *Russian church and Ukrainian war*, in *The Expository Times*, 134.1, 2022, 1-10.

⁴⁶ There is an interesting study by Russian sociologist Mikhail Bogachev on the relationship between church involvement (frequency of attending church services) and political preferences of Orthodox Russians. In one of his works (M.I. Bogachev, *Vzaimosvyaz' stepeni votserkovlennosti i politicheskikh predpochteniy pravoslavnykh veryushchikh*, in *Vestnik Permskogo universiteta. Politologiya*, 4, 2014, 193-216. *The Relationship Between the Degree of Church Engagement and Political Preferences of Orthodox Believers. Bulletin of Perm University. Political Science*. 2014, No. 4, 193-216. (Original publication in Russian)) he notes that “increased attendance of religious services from “not attending” to “once a month” is accompanied by an increase in electoral support for “United Russia”, while attendance at services from “once a month” to “every week” is accompanied by a decrease in support for “United Russia.” At the same time, in a 2015 study (M.I. Bogachyov, *Chastotnost' poseshcheniya khramov (religioznykh sluzhb) i elektoral'naya podderzhka 'Yedinoy Rossii' sredi pravoslavnykh veryushchikh*, in: *Religiya i/ili povsedevnost': materialy IV Mezhdunar. nauch.-prakt. konf., Minsk, 16-18 apr. 2015 g.*, Minsk: RIVSH, 2015, 160-174. *Frequency of Church Attendance (Religious Services) and Electoral Support for 'United Russia' Among Orthodox Believers*. In: *Religion and/or Everyday Life: Proceedings of the IV International Scientific-Practical Conference, Minsk, April 16-18, 2015: Minsk: RIVSH*, 2015, 160-174. (Original publication in Russian)) the scientist comes to the conclusion that less indoctrinated Orthodox are less likely than “strictly believing” Orthodox to vote for “United Russia.” From these studies it turns

also to a decrease in the clergy. First, these were Ukrainian clergy who went to the OCU⁴⁷ in 2018 after receiving the Tomos of autocephaly from the Patriarch of Constantinople, then the Priests of the UOC⁴⁸ led by Metropolitan Onuphry⁴⁹, who refused to obey the patriarch affiliated with the aggressor state. Now they are ordinary Priests of the Russian Orthodox Church. Against this circumstance, Kirill sought to suppress individual freethinking in order to prevent it from acquiring a mass character and a significant exodus of clergy from the church. And since the church is allied with a warring state, its main enemy is the ideology of pacifism, and everyone who professes it.

Throughout 2022, the Russian Orthodox Church transitioned from Christian pacifism to the rhetoric of the people's church, blessing its soldiers for victory. On September 25, 2022, during the liturgy in the Alexander Nevsky Skete near the patriarchal residence in Peredelkino, His Holiness Patriarch Kirill offered a special prayer for Holy Russia with the following lines: "Arise, O God, to help Thy people and grant us victory by Thy power"⁵⁰. It should be noted that at the end of the prayer there is a call for peace, however, within the framework of a single "Holy Rus'" - "and restore peace and unanimity in all countries of Holy Rus'."

Subsequently, the prayer for Holy Rus' became obligatory to read in all churches and monasteries on the basis of the Circular Letter of the Administration of the Moscow Patriarchate No. 01/5295 dated September 26, 2022, which was not officially published. We can learn about its existence from the circular letters of individual bishops, which were published on the basis and in pursuance of the letter of the Patriarch⁵¹. In this context, the anti-war statements of the Moscow priest Koval, which came to the attention of the church leadership at the beginning of 2023, could not but be considered as a challenge to the political course of the Church and the Patriarch.

We do not have materials from the Church Court on the case of priest Koval. In the official Decree No. У-02/121 of August 15, 2023 to priest Ioann

out that the pro-state policy of the Church does not correspond with the views of both the little- involved Orthodox Christians and a significant part of the "strictly religious" Orthodox Christians.

⁴⁷ PCU (ПЦУ) (*Православная церковь Украины, Константинопольский Патриархат*/ Orthodox Church of Ukraine, Patriarchate of Constantinople)

⁴⁸ UOC (УПЦ) (*Украинская православная церковь, Московский Патриархат*/ Ukrainian Orthodox Church, Moscow Patriarchate)

⁴⁹ V. Rebrina, V. Kondratova, *UPTS MP zayavila, chto teper' nezavisimaya ot RPC. Vnesli izmeneniya v statut*, LIGA.net, May 27, 2022. news.liga.net/politics/news/upts-mp-provela-sobor-obyavila-o-nesoglasii-s-kirillom-i-polnoy-nezavisimosti. UOC MP Declared It Is Now Independent from the ROC. Amendments Were Made to the Statute. (Original publication in Russian).

⁵⁰ Patriarch Kirill voznes osobuyu molitvu o Svyatoy Rusi, *Orthodox magazine Thomas*, September 25, 2022. foma.ru/patriarkh-kirill-voznos-osobuju-molitvu-o-svjatoj-rusi.html?ysclid=ln90bf9er8477717466. Patriarch Kirill Offered a Special Prayer for Holy Rus. (Original publication in Russian).

⁵¹ For example, Circular Letter of the Saratov Metropolitan No. 851 dated 09.28.2022 "On the offering of special petitions and prayers for Holy Russia", published on the official website of the metropolis, eparhia-saratov.ru/Articles/cirkulyarnoe-pismo-%23-851.-o-voznoshenii-osobykh-proshenij-i-molitvy-o-svjatoj-rusi.

Koval, Patriarch Kirill formulated the priest's guilt in an unexpected way⁵². Thus, from this Patriarchal Decree it follows that the Patriarch deprived Koval of the priesthood in accordance with the 25th Rule of the Holy Apostles for lack of signs of repentance and having filed an "appeal" to the Patriarch of Constantinople for "restoration to the Priesthood"⁵³. The replacement of the word "victory" with "peace" in the military prayer for Holy Rus' is no longer mentioned in the official Decree. This omission could, however, be explained by church law. According to canonical rules, a priest of the Russian Orthodox Church is required to recite only those prayers that have been formally approved by the Holy Synod, and they must be recited exactly as approved⁵⁴.

Commenting in the press on the decision of the Church Court of May 11, 2023 regarding priest Ioann Koval, one of the members of the judicial panel, a well-known canonist in Russia and the author of textbooks on canon law, Archpriest Vladislav Tsylin, unequivocally noted that the main reason for such a strict decision is "not in the word 'peace'"⁵⁵. According to Tsylin, "a fundamental refusal to obey the clergy - this can be identified as the main basis for the decision in his case." At the same time, the deputy chairman of the diocesan court of the Moscow Diocese himself characterizes the charge of perjury under the 25th Canon of the Holy Apostles as a very broad canonical norm that applies to a variety of situations, "and in this case it also turned out to be appropriate"⁵⁶. Indeed, this norm does not provide for either

⁵² Decree No. Y-02/121 of August 15, 2023, moseparh.ru/ukaz-u-02121-ot-15-avgusta-2023.html.

⁵³ Indeed, after the scandal in the Russian Orthodox Church, Ioann Koval filed an appeal to the Patriarchate of Constantinople, which reinstated the Moscow priest Ioann Koval, accepting him into its jurisdiction. The decision on this was made at a meeting of the Holy Synod of the Patriarchate of Constantinople. More details, www.rbc.ru/society/29/06/2023/649cf5e99a7947c20e985c39 (Original publication in Russian).

⁵⁴ When ordained, a priest of the Russian Orthodox Church takes an oath of appointment, promising "to perform divine services and Sacraments with zeal and reverence according to church rites, without arbitrarily changing anything." (The full text of this oath for ordination as a deacon and priest is available on the official Moscow Patriarchate website: www.patriarchia.ru/db/text/1435038.html). The creation of new liturgical texts or the editing of existing ones within the Russian Orthodox Church is the responsibility of the Synodal Liturgical Commission, as outlined in clause 8 of the "Regulations on the Commission" (approved by the Holy Synod's decision on December 24, 2015, Journal No. 113). Liturgical texts created by the Liturgical Commission must be approved by the Holy Synod. According to the Statute of the Russian Orthodox Church, the Synod is responsible for "regulating liturgical issues" (Charter of the Russian Orthodox Church, Chapter V, Holy Synod, Para. 25e). The current Charter does not grant the Patriarch any authority to independently change liturgical practices or regulate liturgical matters.

⁵⁵ V. Slokhotova, 'Reshenie prinyati edinglasno.' *Tserkovnyy sud lishil svyashchennika sana za zameny v molitve slova 'pobeda' na 'mir'*, Pravmir, May 12, 2023. www.pravmir.ru/czerkovnyj-sud-lishil-svyashchennika-sana-za-zamenu-v-molitve-slova-pobeda-na-mir/. The Decision Was Made Unanimously. The Church Court Deprived the Priest of His Rank for Replacing the Word 'Victory' with 'Peace' in a Prayer. (Original publication in Russian).

⁵⁶ Ibid: Archpriest V. Tsylin frankly described this case as follows: "The point was that he [Priest Ioann Koval] gave his own version of the prayer that is read in the church in connection with a military operation, and refused to follow any kind of instructions

a mechanism for determining the severity of guilt, or even a definition of perjury, which is listed in the canon as a crime of a clergyman along with fornication and theft.

4.2 The case of priest Ioann Burdin⁵⁷

Heresy in Orthodox doctrine is an erroneous teaching that distorts the fundamental principles of the Christian faith⁵⁸. Since there is no formal definition of heresy in the canon law of the Russian Orthodox Church, theologians and canonists must rely on a variety of rules from the Ecumenical and Local Councils, which address the heresies of the early centuries of Christianity. Typically, these sources focus on the condemnation and excommunication of communities that broke away from the Church, as well as the liturgical rituals designed to bring those who had fallen away back into the fold of the Church⁵⁹. The aspect of “division” may be based on personal error or selfish intent, “when people mix in the teachings of faith opinions that contradict Divine truth”⁶⁰. However, more often the cause of heresy is insubordination⁶¹. In any case, heresy can only be understood in relation to orthodoxy. A doctrine, sect, or individual becomes heretical when condemned as such by the church, and both the dissident beliefs of the heretic and the church's condemnation are necessary to create a heresy. Simply put, heresy is something that orthodoxy defines as such, and this definition is also shaped by the political relationship between the two, as Jacques Berlinerblau argues⁶².

The problem of distinguishing between simple disobedience to church authorities and heresy has arisen acutely at all times, and the further case will not be an exception. Insubordination is generally regarded as a form of heresy. Among of the most important norms of Orthodox canon law on

from the vicar, under whose rule he is, the dean, the rector. During the trial itself, he stated in the same way that [nothing] would change.”

⁵⁷ Materials from the Church Court case against priest Ioann Burdin, posted on his personal Telegram channel. Start: telegra.ph/Materialy-dela-06-09 /End: telegra.ph/Materialy-dela-okonchanie-06-09. All further quotes from the case are taken from these files.

⁵⁸ See, for example, T.I. Butkevich, *Obzor russkikh sekt i ikh tolkov*, Printing House of the Provincial Administration, 1910, 2. [An Overview of Russian Sects and Their Interpretations.] (Original publication in Russian); D.A. Taevskiy, *Khristianskiye eresi i sekty I — XXI vekov*, Moscow: Intrada, 2003, 305. [Christian Heresies and Sects from the 1st to the 21st Century.] (Original publication in Russian).

⁵⁹ Vl. Tsylin, prot., *Kurs tserkovnogo prava*, Klin, 2004, 613–625. [Course of Ecclesiastical Law.] (Original publication in Russian).

⁶⁰ St. Filaret, Metropolitan of Moscow and Kolomna, *Prostranny khristianskiy Katekhizis Pravoslavnoy Kafolicheskoy Vostochnoy Tserkvi*, Moscow: Sibirskiya blagozvonitsa, 2013, 128. [The Expanded Christian Catechism of the Orthodox Catholic Eastern Church.] (Original publication in Russian).

⁶¹ Vl. Tsylin, prot., *O eresi i eretikakh*, Radonezh.RU, 20 March 2013, radonezh.ru/text/prot-vladislav-tsylin-o-eresi-i-eretikakh-54251.html [On Heresy and Heretics.] (Original publication in Russian).

⁶² J. Berlinerblau, *Toward a sociology of heresy, orthodoxy, and doxa*, in *History of Religions*, Chicago, 2001, 327–351.

heresies are the 13th, 14th and 15th rules of the Double Council⁶³. The essence of the rules boils down to the fact that stopping the commemoration of one's bishop (metropolitan/patriarch) during divine services and thereby breaking canonical communion with him is a schism or heresy. Interpreting these canonical provisions in the spirit of Orthodox *oikonomia*⁶⁴, we can say that failure to listen to church leadership (disobedience) is the canonical guilt and heresy. In other words, any form of disobedience can be interpreted as heresy if the Church hierarchy deems it necessary. This leads to an interesting conclusion: church law allows the Church to take much harsher actions against dissidents than the state. While the state must create formally defined laws to prohibit certain behaviors, the Church has the authority to punish individuals simply for outward signs of disloyalty, referencing the broader principle of insubordination (such as the 25th Apostolic Rule on perjury).

However, it would be wrong to assume that disobedience always means heresy. There is an exception to the existing rule. The 15th rule of the Double Council on submission to the patriarch, among other things, provides for the right and even the obligation to break canonical communion with a bishop who has fallen into heresy. The rule is limited by two conditions: firstly, the heresy in this case must be known and already condemned by the Council, and secondly, if the bishop with whom communication should be broken preaches heresy publicly⁶⁵.

Thus, disobedience to a bishop, even if deemed heretical, cannot itself be considered heresy. Therefore, a priest who accuses his bishop or patriarch of violating the core tenets of the faith has the right not to obey him. However, according to the letter of canon law, heresy must be officially declared by a church council, and the bishop must persist in spreading it. If these conditions are not met, the church leadership may have grounds to recognize a cleric, who has already separated from the faith, as a heretic—effectively treating him as an oathbreaker.

Nevertheless, in contrast to past councils like the Synod of Constantinople in 1872, which condemned phyletism (ethnic nationalism within the Church) as a heresy⁶⁶, pacifism and militarism were not declared heresies by any councils recognized by the Russian Orthodox Church, nor was a new local council convened to address these issues. Today we can only

⁶³ Double Council of 861, otherwise known as the First-Second Council, is a local council of the Church of Constantinople, held in the Church of the Holy Apostles in Constantinople in May 861: azbyka.ru/otechnik/pravila/kanony-pravoslavnoj-tserkvi-grabbe/15.

⁶⁴ Oikonomia [Greek. *oikonomia*, lit. "House-building"], one of the most important principles of Orthodox church law-making, law enforcement practice and spiritual care. By oikonomia - somewhat similar to the Catholic *epikeia* - is meant a deviation from the unconditional and exact fulfillment of the canonical order, carried out on the initiative of the competent ecclesiastical authority in order to achieve the conditions of salvation for members of the Church in each individual case. The principle of oikonomia presupposes both a possible softening of the canonical norm and its tightening. For more information about this, see: www.pravenc.ru/text/389060.html

⁶⁵ Vl. Tsypin, *Kanony o eresnykh i raskolakh*, in *Kanonicheskoe pravo*, Moscow, 2009, 737-739. [*Canons on Heresies and Schisms.*] (Original publication in Russian).

⁶⁶ I. Kaminis, *The Russian World: A Version of Aggressive Ethnophyletism*, in *Occasional Papers on Religion in Eastern Europe*, Vol. 44, Iss. 5, Article 2, Chicago, 2024.

speak about a theoretical, but not canonical assessment of the militarism of the leadership of the Russian Orthodox Church as heresy. For example, following Russia's invasion of Ukraine, a group of Orthodox theologians and scholars globally condemned the “Russian World” ideology as heretical, asserting that it misused ecclesiastical authority to justify war and violence⁶⁷. This declaration, endorsed by hundreds of theologians, rejected the use of theological concepts to legitimize political agendas, emphasizing that the Gospel's call for love and unity transcends all divisions, including those exploited for military and political purposes. From all of the above a canonical conflict arises when two views collide: a pacifist priest, who believes that the heretical actions of his leadership are sufficient for disobedience, and the church authorities, who believe that disobedience is unacceptable until there is official permission from a general church council.

The Church Court asserts that the accused is a “pseudo-pacifist,” whose “pacifism, which Priest Burdin is using to shield himself from accusations, is incompatible with the actual teachings of the Orthodox Church, particularly as outlined in the Fundamentals of the Social Doctrine.”⁶⁸ It is difficult to completely agree with the Church Court’s appeal to the “Fundamentals of the Social Concept” (hereinafter referred to as the Fundamentals).⁶⁹ In particular, in para. 1 of Section 8 (War and Peace) of the Fundamentals we read the basics “War is evil (...) Murder, without which wars cannot be accomplished, was considered as a grave crime before God already at the dawn of sacred history.” Moreover, para. 4 of Section 2 (Church and Nation) of the Fundamentals says: “At the same time, national feelings can become the cause of sinful phenomena, such as aggressive nationalism, xenophobia, national exclusivity, and interethnic hostility. In their extreme expression, these phenomena often lead to restrictions on the rights of individuals and peoples, wars and other manifestations of violence.” If the Fundamentals state that even a necessary war is always evil and explicitly condemns war for national interests as sinful, then citing this document to justify a non-defensive war for national interests is indefensible. Thus, a war for national interests—whether deemed forced (according to the official Russian state propaganda) or not—cannot be justified by the Church, much less encouraged.

Further in the materials of the court case follows the central phrase of the document from the point of view of Orthodox theology and canon law: “Pacifism in different eras of church history was present in heretical doctrines - among the Gnostics, Paulicians, Bogomils, Albigensians, Tolstoyans, revealing, like other utopian ideologies, a connection with ancient chiliasm. Throughout its history, the Orthodox Church has blessed soldiers to defend the Fatherland”. The Church Court accuses priest Burdin of incorrectly interpreting the 13th rule of Basil the Great about the need to prevent soldiers who shed blood in the war from receiving communion for

⁶⁷ A Declaration on the ‘Russian World’ (Russkii mir) Teaching, publicorthodoxy.org/2022/03/13/a-declaration-on-the-russian-world-russkii-mir-teaching/.

⁶⁸ Meaning the official document of the Russian Orthodox Church of 2000, Fundamentals of the Social Concept Russian Orthodox Church.

⁶⁹ Fundamentals of the Social Concept of the Russian Orthodox Church, 2000, www.patriarchia.ru/db/text/419128.html.

three years. So, the Priest in one of the Internet posts stated fifteen years instead of three. The judges completely ignore the main idea of the rule: condemnation of war and violence. At the same time, “numerous slanderous attacks against the Russian Orthodox Church, its past and present” are especially emphasized. However, the absence of violation of a specific church canon by Father Ioann does not prevent his accusation. At the end a disappointing for the Court conclusion is formulated: “(T)here are no canons that would directly describe such incidents.” But this does not stop the judges, for whom “the canons were adopted as norms to resolve difficult situations.” According to them, “blasphemy against the Church and the saints is incompatible with the Priesthood” is a self-evident truth.⁷⁰

It is important to note that despite pacifism being defined as a heresy, the Church Court does not label Priest Ioann Burdin himself as a heretic. His insubordination and position are considered slander against the Church, but not heresy. The punishment—being banned from serving until he repents (a milder penalty compared to Ioann Koval, who was stripped of the Priesthood without accusations of heresy)—is specifically for insubordination, particularly for perjury. This distinction is significant because the inconsistent use of the term “heresy” in the document creates confusion and could make the anti-war stance appear to contradict the core principles of Orthodoxy. In reality, the Court tends to avoid addressing doctrinal issues and focuses on violations of positive canon law, which is challenging due to the lack of specific canons addressing the actions of Burdin. As a result, the Court is forced to invent canonical crimes for the accused, largely based not on church norms (canons) but on theology. Although these concepts are closely related in the Orthodox tradition, they represent different areas of church regulation⁷¹.

From the above it follows that “for the Church there is no question of the possibility of participating in a war (of course, defensive or for the sake of restoring justice), the main issue with which the Church is concerned, and

⁷⁰At the conclusion of the section, the following anonymous summary is given: “Perhaps, regardless of the possible criminal perspective, a decision should be made in the case of the priest Ioann Burdin, qualifying his statements and articles as speeches containing blasphemy against the Church and the saints and as preaching pacifism, successively associated with chiliastic heresy, radically diverging from the Orthodox teaching on war and peace, on the defense of the fatherland, as it is, in particular, set out in the “Fundamentals of the Social Concept of the Russian Orthodox Church”, because in reality his “Tolstovian” pacifism is only a mask and a political cover an engaged person who is hostile to Russia and the Russian Orthodox Church.”

⁷¹ Thus, the additional theological analysis presented in the fourth part of the materials finally uncovers the specific views underlying the “canonical offenses” (the terminology used in the case materials) attributed to Priest Ioann Burdin by the Russian Orthodox Church. First, Burdin argues that the Church is either turning into or has already become a secular institution. Second, he believes there is a gap between the invisible (holy) and the earthly Church, which he sees as a violation of the Church's unity. In this regard, the Church Court compares Burdin to Martin Luther. Third, according to the anti-war priest, the truth lies with the minority of people who, although they attend Russian Orthodox Church services, remain loyal only to Christ. For Father Ioann, such loyalty reflects his “pseudo-pacifist” interpretation of the Gospel. Finally, Father Ioann is accused of “pseudo-pacifism” for what the Church sees as an incorrect understanding of the Gospel.

on which She is working, is the internal the evangelical motivation of a warrior-defender, aimed at self-sacrifice in the name of love for others.” Thus, for the judges of the Church Court, war is not something anti-Christian; on the contrary, it gives the soldiers the opportunity to perform an evangelical act - to give their lives for another.

5. Conclusions

As this study has demonstrated, the militarization of contemporary ecclesiastical law within the Russian Orthodox Church has deep roots and cannot be solely attributed to the ongoing war in Ukraine. The trial of Priest Burdin and the persecution of anti-war clerics represent just one manifestation of the broader political and legal landscape that has developed since February 2022. Historically, the close relationship between the Russian Orthodox Church and the Russian state was further solidified with the beginning of Vladimir Putin’s presidency and his focus on restoring the notion of Great and Holy Rus’. Alongside this political rapprochement, the Church underwent ideological and canonical shifts, including territorial anti-ecumenism and hostility towards other Christian denominations. The peak of this confrontation occurred in 2018 with the exacerbation of the schism among Orthodox churches in Ukraine, which was further intensified by the political crisis beginning in 2014. Throughout the 2010s, both the Church and the state followed a parallel ideological trajectory of self-isolation from the outside world and the reinforcement of authoritarianism as the cornerstone of their political and social model.

By the time the war in Ukraine began, the Russian Orthodox Church had long been aligned with militarism and state loyalty, having remained deeply integrated with the Russian state, within whose borders its canonical jurisdiction is based. After the annexation of Crimea, the symphony of state-church relations envisioned by Patriarch Kirill in 2009 was, in effect, realized. Given this alignment, it is unsurprising that with the advent of repressive military legislation, the Church, too, resorted to internal repression and a radical shift in its rhetoric. While the Church does not adopt specific legal documents explicitly supporting the war, nor does it publish full decisions of Church Courts against pacifist priests, the personnel decisions, rhetoric, and the context of documents related to Ukraine and the military in the past decade clearly suggest a positive stance towards war and the militarization of society. Just like the state apparatus, the Church now prioritizes unconditional loyalty and clear approval of state policies. Insubordination and independent thinking are suppressed as heresy, even if this is not clearly reflected in theological or canonical terms. The Church normalizes and, in some cases, even glorifies war and bloodshed.

However, the Russian Orthodox Church is founded on evangelical norms and principles that almost entirely exclude such a course of action. The state may violate its Constitution while maintaining sovereignty over its territory, but for the Russian Orthodox Church, which claims to be the “true Church” and appeals to the Holy Scriptures, deviation from these teachings signifies its eventual collapse and disappearance as such. In this scenario, only scholasticism and the manipulation of meanings can sustain

the narrative. If the Church justifies its actions as necessary to preserve “true” Orthodoxy or to “restore canonical justice,” it becomes easy to claim that pacifism “contradicts the teachings of the Orthodox Church.” It is telling that the Gospel teachings of Christ are rarely referenced, and this omission carries significant weight.

The Russian Orthodox Church has adopted mechanisms from state jurisprudence. Canonical norms are interpreted as broadly as possible to bring an objectionable priest to justice. There is a disregard for internal procedural and foundational documents in the service of political expediency. Legal justifications mirror those of the state: preserving the territorial and canonical integrity of the Church, opposing hostile actions by other churches (such as the Patriarchate of Constantinople), and maintaining the purity of the faith. Given the rapidly evolving nature of the Ukrainian conflict and the political situation in Russia, it is difficult to predict where the militarization of ecclesiastical law within the Russian Orthodox Church will ultimately lead. However, it is crucial to document this example of the mutual influence between the state and the state Church, which seeks to position itself as a national institution.

Fedor Arkhipov,
Department of Law, Economics and Cultures (DiDEC),
University of Insubria,
fedor.arkhipov@phd-drest.eu