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LAW AND RELIGION IN RUSSIA IN THE 15TH–17TH CENTURIES, AND THE PROBLEM OF “EARLY MODERN(ITY)” IN RUSSIAN HISTORY¹

This introduction aims to provide general background for the subsequent studies, placing them within a narrative that focuses on the most important phenomena vital to understanding the manifold interconnections between law and religion in early modern Russia. At the same time, it will discuss the application of the label “early modern” to Russia’s history by making a cursory comparison with the history of Western Christendom, which was identical with the notion of Europe in the 15th-17th centuries. This comparison makes it more plausible to link the beginning of the early modern period of Russian history to the mid-17th century than to any earlier date, a claim which the author feels is justified, among other considerations, by the changes that took place in the fields of law and religion. At the same time, it underlines the importance of the Petrine era, which was much more than a mere continuation of some 17th-century trends in the fields mentioned above.

Keywords: “Early Modern”, chronology of European history, meaning of zakon, changes in the perception of law, Church councils, symphonia of powers, Petrine reforms

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“‘Law’ and ‘religion’ denote vast, imperial realms that are, for the most part, each understood to be clearly bounded and independent. On closer inspection, these terms prove to be curiously amorphous and resistant to precise definition. Each is also, in present common usage, peculiarly the product of modernity. Linking the two terms, as in ‘law and religion,’ compounds these ambiguities... Historically, there have been close connections, extending in some cases to an identity, between law and religion in many societies.”²

If the statement contained in this epigraph is true for the history of “law” and “religion” in Western Christendom, it is even more relevant with regard to Russia in the period under consideration. An essential first step in discussing “law” is understanding that in the Russian language, as in many other European languages, there are two words for which English uses the term “law”: *pravo* and *zakon*. “*Pravo* means law in the general sense, associated with rights, like the Latin *ius*. The alternative Russian word for law is *zakon*. As with the Latin *lex*, it signifies enacted legislation.”³ This general distinction and the definitions given here are, however, reflections of the modern perception of the subject under analysis.

Compared to Western Christendom, the “law” and “religion” issue is, in the Russian case, much more complicated both historically and semantically throughout the period discussed here, as until the beginning of the 18th century *zakon* had a highly religious meaning. It was primarily and almost exclusively used in a religious sense, i.e., related to commandments and prescriptions of the Orthodox faith in the manner this faith was professed in Russia. Therefore, before ca. 1700 *zakon* primarily had the meaning of “God’s law” (*zakon bozhii*) or “faith” (*vera*), or “confession of faith” (*verois-povedanie*), and only after these came meanings such as “prescriptions of the secular power.”⁴ The fact that *zakon*, i.e., law in the strict sense, was first of all “God’s law” confirms the statement in the epigraph, as well as the use of the form “law and religion,” showing the internal link between the two notions. Jukka Korpela’s study in the volume, as we shall see, illuminates

2 WINNIFRED FALLERS SULLIVAN, ROBERT A. YELLE, “Law and Religion: An Overview,” in *Encyclopedia of Religion*, Vol.8 (Detroit: Macmillan Reference, 2005), 5325.

3 JANE HENDERSON, *The Constitution of the Russian Federation: A Contextual Analysis* (Oxford: Hart Publishing Ltd., 2022), ix.

4 Д. В. Руднев, Т. С. Садова, «Деловая речь Петровской эпохи: наследие прошлого или радикальное преобразование?», *Литературная культура России XVIII века*. Выпуск 8. Под ред. П. Е. Бухаркина, Е. М. Матвеева (СПб.: Геликон Плюс, 2019), 183.

to what extent this perception of law was characteristic of narrative and hagiographic sources written by Muscovite churchmen. Perhaps it is not accidental, although it seems very odd, that even the most comprehensive secular Muscovite Law Code, the *Ulozhenie* of 1649, uses *zakon* only 3 times in the whole text (!), and even then, in this explicit version: *zakon Bozhii*, i.e., divine law, and *zakon Khristianskii*, i.e., Christian law.⁵

In the introduction to the studies contained in this volume, I intend to touch upon two issues, keeping in mind the most important goal, i.e., to help readers place the studies in context.⁶ These issues are as follows: 1) to share some general thoughts on the problem of the label “early modern” when it is used with regard to Russian history; and 2) to highlight to what extent the application of the label “early modern” is relevant or not in discussing the narrower subject, “law and religion,” in the Russian context in the period dealt with by these studies, at the same time contextualizing the topics of the studies in this narrative.

The reason for taking this approach will hopefully be clear to a reader of the studies, but an additional factor must be mentioned to explain some apparent omissions: this is none other than the existence of a 2022 publication, namely *Law and the Christian Tradition in Modern Russia* (ed. Paul Valliere, Randall A. Poole). A volume in the Routledge series *Law and Religion*, it covers topics not included here. Poole’s introduction gives a short survey of the development of Russian legal consciousness, while Valliere’s essay on law and the Orthodox Church in Russian history devotes considerable attention to developments in the time span covered here. Besides meticulously explaining terms such as “canon law” (laws made by

5 In chapter X entitled “On Judicial Process:” “If any mutual witness, in response to bribes or for any other reason, violating God’s law (*zakon Bozhii*), commits perjury and slanders someone who is not guilty...” RICHARD HELLIE (ed. and trsl.), *The Muscovite Law Code ((Ulozhenie) of 1649* (Charles Schlacks Jr. Pub., 1988.), X. 170. (p. 59); In chapter XXII entitled “For Which Offenses the Death Penalty Should Be Inflicted on Someone, and for Which Offenses the Penalty Should Not Be Death, but [another] Punishment Should Be Imposed:” “If someone, a son or a daughter, forgetting Christian law (*zakona Khristianskogo*), proceeds to utter coarse speeches to a father or mother, or out of impudence strikes a father or mother, and a father or mother proceeds to petition against them for that: beat such forgetters of Christian law (*zakona Khristianskogo*) with the knout for the father and mother.” *The Muscovite Law Code*, XXII 4. (p. 220.); “If someone of the male gender, or the female gender, having forgotten the wrath of God and Christian law (*zakon Khristianskii*), proceeds to procure adult women and mature girls for fornication, and that is established conclusively: inflict a severe punishment on them for such a lawless and vile business, beat them with the knout.” *The Muscovite Law Code*, XXII 24. (p. 223.)

6 It is due to this approach that references are deliberately kept to the necessary minimum.

the Church itself) and “church law” (legislation pertaining to the Church by secular authorities), Valliere highlights their evolution and also gives an overview of the main periods of Russian church history. In the process, he points out the peculiarities of Orthodox views on matters such as autocephaly, the symphonia of powers (the nature of relationship between the ruler and the Church), and the conciliar tradition (*sobornost'*), just to mention those aspects which are most pertinent, either directly or indirectly, to contributions to the present volume. Therefore, on certain issues references to his study will provide “crutches” for further reading.

Although the studies here are not about “law and the Church” but “law and religion,” it goes without saying that the first aspect cannot be separated from the second. In line with the “law and religion” theme, the volume aims no more and no less than to offer a glimpse into certain aspects of this broad theme through case studies. Religion and law were indelibly intertwined in such issues as the problem of collective decision-making within the Church and regulation of monastic life, the legitimacy of an Orthodox ruler, the implications of an oath of loyalty taken to such a ruler by his subjects professing Orthodoxy and by people of other faiths, the ruler’s rights in/over the Church and vis-a-vis the primate of the Church, or the legal status of people of non-Orthodox faith (more precisely of Christians of other denominations) and regulation of their activities. Most of these analyses admittedly incorporate an aspect that generally speaking can be labelled “political,” even though “politics” or “political” were not part of the Russian vocabulary of that time.

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Conventional periodization of European History and the labels given to its historical epochs, such as the ‘Middle Ages’ or the ‘Early Modern Age,’ are based on the history of Western Christendom, and their chronological limits changed over time. Nowadays, the Middle Ages are most often dated between ca. 350-1450, while the Early Modern Age, which (unlike the Middle Ages) is an invention of 20th-century historiography originating in publications on economic history, falls between ca. 1450-1789 as in Merry Wiesner-Hanks most recent book entitled *What is Early Modern History?*⁷ Textbooks on Western civilization generally take the date 1453 as the dividing point, i.e., the occupation of Constantinople by the Ottoman Turks – an event that is a real turning point in the history of the Ottoman Empire, and which also

7 MERRY E. WIESNER-HANKS, *What is Early Modern History?* (Cambridge: Polity Press, 2021).

had important ideological consequences regarding Muscovite History (the first instances of the use of the title *tsar* by Muscovite princes, the later emergence of the notion of Russia as the Third Rome), an event, which, nevertheless, in itself had no significant impact on European History.

The beginnings and the end of the Early Modern Age have been expanded recently into the mid-fourteenth century, as in the *Oxford Handbook of Early Modern European History 1350-1750*.⁸ Other, also conventional periodization prefers either the discovery of America (1492) or the beginning of the Reformation (1517) as alternative dates indicating the beginning of “a new era.”

Space precludes any detailed – or even cursory – discussion of the plausibility of the adjective “early modern” or “modern” with regard to European history, i.e., listing the criteria that constitute the salient features of the term “Early Modern Period.” I merely use the label as a convention, stating, at the same time, that in my opinion the ca. 1450-1789 dating, taken flexibly, is more appropriate than others used for the periodization of the history of Europe/Western Christendom. The following phenomena mark the beginning of a new period in the mid-15th century, despite the underlying continuity of what Fernand Braudel called “material civilization:” the acceleration of European (overseas) expansion by the Portuguese along the coast of West Africa and in the islands off that coast; the invention of printing; the emergence of the “composite-dynastic states” (with the effective growth of the rulers’ power, especially from the 1470s onwards); the concomitant change in political thought emphasizing the divine right of kings (i.e., the new perception of the rulers’ position as they were increasingly seen as God’s lieutenant on earth, rather than the representative of the people as had been the case between 1200–1450); the beginning of economic (including population) growth after the late medieval crisis (ca. 1300–1450); the end of conciliarism with the Council of Basel (1431-1449), which debated the final authority of the Pope over the Catholic Church; the beginning of the Renaissance papacy; and, after the fall of Constantinople (1453) to the Ottoman Turks, the flight of Greek intellectuals to the West bringing original Greek texts with them which exerted a great influence on Italian humanism.

Using 1789 as the other edge of the time-span suggests a more precise break than any of the other dates given here as marking the beginning of

8 HAMISH SCOTT (ed.), *The Oxford Handbook of Early Modern European History 1350-1750* vol. I-II. (Oxford: Oxford University Press, 2014-2015).

the modern age. Perhaps it requires no explanation at all, as the French Revolution no doubt heralded the “Modern Age.” It replaced the age-old idea of a society consisting of estates with a vision of one based on the rights of men and citizens, heralded the new perception of the nation as the object of highest loyalty and source of political power (together with the idea of nationalism), reinterpreted the concept of a constitution (entailing the separation of state powers) relying on the constitution of the USA (1787). Significantly, this era coincided with the beginnings of the (first) Industrial Revolution in England (the most important inventions are dated to the 1760s-1780s), and Adam Smith’s publication of the *Wealth of Nations* (1776), marking a new age of economic thought (after the prevalence of mercantilist ideas).

How would Russia fit into the European phenomenon called the “Early Modern Age”? The chronology of the studies in this volume – they mostly fall between the 1550s and the 1660s, with some exceptions ranging from the 15th century to the end of the 17th century – luckily saves me from covering the whole period generally considered “Early Modern Russian History.” Current historiography, especially English language historiography, is more and more inclined to use that label with regard to Russia for the period between ca. 1450 (or 1500) and 1801.⁹ Likewise, the aforementioned main chronological landmarks of the studies also relieve me from the burden of evaluating in detail the importance of the reforms of Peter the Great between 1700-1725, namely, whether this quarter of a century constitutes a turning point/break or not within the timespan labelled “Early Modern Russian History.” Thus, I will limit these observations as much as possible to the topic of “law and religion.”

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Although the mid-15th century can serve as a good starting point to place Russian history in a wider context, it would be an exaggeration to see in some parallel (yet not similar) phenomena signs of the beginning of the Early Modern Era in Russia. Certainly, the Muscovite rulers’ power grew from the 1450s, and especially after the accession of Ivan III to the throne in 1462. He began what contemporary chronicles called the “gathering of

9 Most recently see especially DONALD OSTROWSKI, *Russia in the Early Modern World: The Continuity of Change* (Lanham: Lexington Books, 2022). For an assessment of this work see: SIMON FRANKLIN, “Scholarship and Myth in the Shaping of East Slavic Premodernity,” *Kritika: Explorations in Russian and Eurasian History* 25, no 2 (Spring 2024): 381-385.

the Russian lands,” a process continued by his son Vasilii III (1505-1533). The decades between 1462-1533 witnessed not only territorial growth but also the birth of *autocracy by divine right*, the capstone of which theoretically came in 1547 when Ivan IV (generally known in historiography as the Terrible, although the epithet *groznyj* actually should be translated as “Awe-Inspiring”) was crowned tsar. For the Russians the new title implied divine appointment, and echoed the use of the term “tsar” for Christ as well as for kings of the Old Testament in religious texts. Other new comparisons exalting the status of Muscovy emerged in the mid-16th century. The Russian Tsardom (*Rossiiskoe Tsarstvo*) became the “New Israel” and Moscow the “New Jerusalem.”¹⁰ This perception was expressed not only in literary works but also in religious rituals (e.g., the Palm Sunday ritual, in which the tsar was conceived as reenacting the mission of Christ, leading his Orthodox folk towards salvation), in the architecture and spatial arrangement of Red Square (the building of the church which became generally known as the St. Basil’s, called Jerusalem in popular parlance, and the Place of the Skull (*Lobnoe mesto*) next to it, symbolically representing Golgotha).¹¹ This ideology further strengthened the already existing identification of “law” (*zakon*) with God’s law.

In 1561 the patriarch of Constantinople recognized Ivan IV as *basileus*, a title equivalent with tsar for the Russians. And if the ruler was a tsar, it logically followed that Russia should have a patriarch. Jeremiah II, the patriarch of Constantinople, granted the title to the metropolitan of Moscow in 1589, although under duress, as the patriarch, who had arrived in Moscow in 1588, was kept there until he agreed to the official confirmation of the autocephalous status of the Russian church, a status which, in fact, this church enjoyed from 1448 on. “Jeremiah had no desire or mandate to elevate Moscow to the status of a patriarchate. However, intimidation, confinement, harsh treatment, and economic incentive eventually broke him. The Muscovite regime simply would not let him go until he gave them a patriarchate.”¹² The history of autocephaly in the Russian Orthodox Church illustrates Valliere’s statement: “In most cases autocephaly exists because

10 DANIEL ROWLAND, *God, Tsar, and People: The Political Culture in Early Modern Russia* (Ithaca: Cornell University Press, 2020)

11 MICHAEL FLIER, “Political Ideas and Rituals,” in *The Cambridge History of Russia* ed. MAUREEN PERRIE (Cambridge: Cambridge University Press, 2006), Vol II. 387-408.

12 PAUL VALLIERE, “Law and the Orthodox Church in the History of Russia,” in *Law and the Christian Tradition in Modern Russia*, ed. PAUL VALLIERE – RANDALL A. POOLE (Routledge, 2022), 25.

a national or a regional church, at some point in time, seized it. Legitimation came later, often much later.”¹³ The document establishing the patriarchate is significant from another angle, as this was the only official state document to identify Russia as the Third Rome. Unlike the idea of Russia as the New Israel, the notion of Russia as the Third Rome was not widespread at all, despite the importance it gained later among the Old Believers, and eventually in Russian religious philosophy of the 19th century as well as in historiography!

The enlargement and unification of territories, combined with increasing administrative complexities, led to the establishment in the 1540s-1560s of chancelleries (*prikazy*), which (in changing numbers) would be in charge of Russia’s central administration throughout the period until Peter’s reform. Territorial expansion required not only new organs of central government but also some legislation concerning the judiciary: until the mid-16th century Moscow’s rulers had two law codes composed, issued in 1497 and 1550, and they were both called *Sudebnik* (derived from the word *sud*: meaning “judgement,” or “trial”). The phenomenon of administrative development, i.e., bureaucratization, can also be observed in contemporary France or England (in the period called the “Renaissance monarchy”), although without territorial expansion. To be sure, the Russian Tsardom did not, as a result of its territorial acquisitions, become a “composite-dynastic state” (similar to the Valois or Tudor monarchies) in the sense this term is used for Western states, as territorial enlargement at the expense of the principalities which once had been parts of previous Rus’, unlike in Western Christendom, led to the termination of local autonomies (as in Novgorod in 1478, and Pskov in 1510, wherever these autonomies existed at all), the most notable difference being the case of “Ukraine” (1654).

With the conquest of Kazan (1552), Astrakhan (1556) and Siberia, populated by non-Slavic ethnic groups who were mainly Muslims and animists, Muscovy became a multi-ethnic and multi-religious empire.¹⁴ The third Muscovite law book, the *Ulozhenie* of 1649 – the most comprehensive code, printed in 2400 copies and widely distributed throughout the empire

13 VALLIERE, “Law and the Orthodox Church,” 26.

14 Russian efforts to conquer Siberian native tribes from 1581 onwards had a parallel with England’s first attempt at colonization in North America in the 1580s. Russian penetration to Siberia became systematic from the 1590s, reaching the Pacific by 1650! Roughly at the same time, in 1654, on the Western front, the leader of the Cossack army, Bohdan Khmel’nitskii, accepted the tsar’s protection over the territory then called “Little Russia” by the Russian Government and “Ukraine” by the Cossacks.

– clearly reflects that the government was aware of the problems resulting from being a multi-ethnic and multi-religious empire. The *Ulozhenie* regulated a very wide range of issues, including aspects of religious practice, such as proselytization. The code also provided a meticulous regulation of possession of estates by military-service landholders, even specifying in which cases these lands could be transferred from Orthodox to non-Orthodox servicemen.¹⁵ The 1649 Law Code was sent out to the provinces to be applied in daily matters: this measure did have an effect as there is ample evidence of its use in practice.

Of primary importance for the contributions to this volume regarding the clauses of this law code are the rules governing relations between the Orthodox population and peoples of faiths other than Orthodox in various fields of daily life (especially in towns), and the manner of oath-taking by Orthodox (i.e., Russians, as Orthodox and Russian were synonyms) and non-Orthodox. Loyalty was, of course, a prime concern with regard to both Orthodox and non-Orthodox but proselytization was not a major issue until the early 18th century, when Orthodoxy became closely linked to political loyalty. As Paul Werth noted: “Early Modern Russia was more tolerant of the existence of non-Orthodox religions on its soil than it was of their spread.”¹⁶ This attitude, however, changed from the late 17th century when intensified conflict between Russia and the Ottoman Empire led to Orthodoxy coming to be seen as a precondition of loyalty.¹⁷ This led to a drive to convert Muslims to Orthodoxy because they were considered a potential fifth column.¹⁸

Likewise, Peter was alarmed by news of the growing number of pagan people converting to Islam, possibly creating a reservoir of future internal enemies.¹⁹ This phenomenon led to the forced conversion to Orthodoxy of some native peoples of Siberia, such as the Ostiacks in the 1710s. Ricarda Vulpius has proposed another factor behind the forced conversion of pa-

15 For the second issue see my article ENDRE SASHALMI, “Aspects of Relationships between Russians and Other Ethnic/Religious Groups Reflected in the Muscovite Law Code of 1649,” in *Legal Norms and Political Action in Multi-Ethnic Societies*, ed. PRZEMYSŁAW WISZEWSKI (Turnhout: Brepols, 2023), 181–199.

16 PAUL W. WERTH, *The Tsar’s Foreign Faiths: Toleration and the Fate of Religious Freedom in Imperial Russia* (Oxford: Oxford University Press, 2014), 33.

17 MICHAEL KHODARKOVSKY, “Not by Word Alone: Missionary Policies and Religious Conversion in Early Modern Russia,” *Cambridge Studies in Society and History* 38, no. 2. (1996): 278.

18 KHODARKOVSKY, “Not by Word Alone,” 279.

19 KHODARKOVSKY, “Not by Word Alone,” 279.

gan peoples, not invalidating the consideration of state security, namely, the concept of *imperial superiority*, meaning that Christianity was conceived as the means of spreading civilization: the policy of “civilization through religion” commenced from 1700.²⁰

The 1649 Law Code, unlike its predecessors, should be seen not only in the Muscovite context but also in the wider, European one, for it was the very first manifestation in Russia of the idea subsumed in the term *policey/ Polizei* (“police”), which meant the spirit of regulating and ordering wide areas of subjects’ lives (ranging from religious practices to hygienic measures, dress codes for social estates and beyond) through different types of legal rules, in the interest of what the government thought to be the common good.²¹ This spirit, which Foucault called “governmentality,” (and the term “police” itself) had its beginnings in the late 15th century, and was well established in Western Christendom by the mid-seventeenth century, only to be given a further impetus in the principalities of the Holy Roman Empire after the end of the Thirty Years’ War (1648). The term “police” itself (*politsiia*) is not mentioned in the 1649 Law Code – yet, it was the spirit of the “police” that permeated it – nor is the term “common good” (*obshchee dobro/blago*). Both entered official Russian vocabulary only during the reign of Peter the Great – although the first occurrence of *obshchee dobro* in a state document is dated 1682 – who pursued the policy of regulation in the name of the common good (of the state), the latter becoming a standard phrase of various official documents.

The enlargement and unification of territories outlined above, however, posed a challenge not only in the field of secular administration and legislation but also in the incorporation of different ecclesiastical traditions existing within the realm of the tsar. One step was the creation of an “all-Russian” pantheon of saints: this issue was solved with the canonization of 39 new saints at the Church councils of 1547 and 1549.

Another was establishing a common standard in rituals and ecclesiastical customs, set forth in the resolutions of the 1551 Church Council of the Hundred Chapters (*Stoglav*), named after the book containing the resolutions of the council. The council “was exceptional for many reasons,

20 RICARDA VULPIUS, “Civilizing Strategies and the Beginning of Colonial Policy in the Eighteenth-Century Russian Empire,” in *Enlightened Colonialism: Civilization Narratives and Imperial Politics in the Age of Reason*, ed. DAMIEN TRICOIRE (Palgrave MacMillan, 2017), 115.

21 MARC RAEFF, *The Well-Ordered Police State: Social and Institutional Change Through Law in the Germanies and Russia, 1600-1800* (New Haven: Yale University Press, 1983).

not least because it produced a text.”²² Copies of the resolutions spread only in manuscript form as printing could not yet be used for the purpose of implementing the standards. “In Russia in 1500 there were no printing presses at all, and by 1650 there was just one, or perhaps two.”²³ The first permanent printing press established in the second half of the 16th century was in the hands of the patriarch’s office. Printing primarily served the “practical needs of the Church,” although the scope of its use was quite limited.²⁴

It was not a coincidence, perhaps, that the first printed version of a (and not *the*) codex of Russian canon law, called *Kormchaia kniga* (Pilot Book), was also issued in the mid-century (in 1653, in 1200 copies): before that there had not existed a standard text as the manuscripts differed from each other considerably.²⁵ The codification and publication of an authorized *Kormchaia kniga* was no doubt stimulated by the drive towards codification in the secular sphere (1649)²⁶ and the Church’s growing awareness of the uses of printing: behind the latter phenomenon stood the church reform connected with the name of Patriarch Nikon (1652-1666). This reform aimed to correct the mistakes in sacred texts (even the Creed was not rendered properly due to a mistake made through copying), and above all to change some elements of liturgy (to make the sign of the cross with three fingers instead of two, to say three halleluias instead of two, etc.) so that the Russian ritual conformed to the practices of the Greek Orthodox Church. The driving force behind the whole reform was not theological but above all religious-political: the tsar accepted the role of being the protector and liberator of Orthodox Christians living under foreign rule – an idea which came from the eastern church hierarchs but to which the tsars were not receptive before 1653. Before that the Muscovite view of other Orthodox communities was that “only those who lived in a pure Orthodox state,” that is, under an Orthodox ruler, could really be considered true Orthodox, or even true Christians, as there was no true Christianity outside the territory under the rule of the tsar, i.e., Russia.²⁷ There was a causal connection between the new position of the tsar and the changes in Russian liturgical

22 VALLIERE, “Law and the Orthodox Church,” 34.

23 SIMON FRANKLIN, *The Russian Graphosphere, 1450–1850* (Cambridge: Cambridge University Press, 2019), 38.

24 FRANKLIN, *The Russian Graphosphere*, 48.

25 VALLIERE, “Law and the Orthodox Church,” 30.

26 VALLIERE, “Law and the Orthodox Church,” 30.

27 SERHII PLOKHY, *Cossacks and Religion in Early Modern Ukraine* (Oxford: Oxford University Press, 2001), 296.

practice as the unification of rituals was intended to prepare the way for the realization of the unification of all Orthodox believers under the rule of the Russian tsar, the first phase of which was seen in the adoption of the rituals of the Greek church by the Russian church.

The most obvious medium for the implementation of the new rituals was printing, yet it is quite clear that printing did not play nearly as comprehensive and important a role in Russia as it did in Western Christendom, where it touched all spheres of life (religion, politics, culture, education, science, and even leisure). It can be argued that the real impact of the “Russian printing revolution” dates only from ca. 1700. But even then, printing was monopolized directly or indirectly by the state, and served primarily administrative purposes.²⁸ Nevertheless, as Simon Franklin remarked: there was a shift “from print as choice to print as an obligation in using printing as a tool of authority.”²⁹

Eventually the views of the man who implemented the church reform, i.e., Patriarch Nikon’s ideas concerning the relationship between the tsar and the Russian church and his personal disagreement with Tsar Aleksei over control of the church, led to the convocation of the Great Moscow Church Council of 1666-1667, which approved Nikon’s reforms but deprived him of his office. The *symphonia* which was apparently realized in practice in 1652-1658 between Nikon and Aleksei was clearly broken in 1658, and the conflict was resolved only by Nikon’s deposition at the Council. The deposition procedure was new, in as much it happened during a council session attended by the patriarchs of Alexandria and Antiochia, but not the fact of deposition itself. The hundred years that elapsed between the mid-fifteenth and the mid-sixteenth centuries saw the Church becoming increasingly dependent on the ruler, and the following century witnessed the defeat of Nikon’s bid for dominance.

Practical circumstances also contributed to the dependence of the church: the head of the church, the metropolitan, had his seat in the capital, Moscow (continuously from 1328 onwards) – a phenomenon familiar from Byzantium but unusual in royal monarchies of Western Christendom. The dependence of the metropolitans entered a new phase after 1448 when they were no longer appointed or confirmed by the patriarch of Constantinople. In other words, they were not subject to a higher external jurisdiction. This position, which can be called a *de facto* autocephalous

²⁸ FRANKLIN, *The Russian Graphosphere*, 38.

²⁹ FRANKLIN, *The Russian Graphosphere*, 229.

status of the Russian church, had an ambivalent impact: freedom from the jurisdiction of the patriarch of Constantinople simultaneously brought even greater dependence on the grand prince, as there remained no external power to counterbalance princely encroachments into Church affairs.³⁰

The metropolitans' position was further weakened by the territorial expansion of Muscovy: the swallowing of rival principalities ("the gathering of lands") by Moscow meant that metropolitans could no longer manoeuvre among the princes, playing them off against each other. Church dependence, however, had roots that went deeper. It was embedded in the Byzantine idea of *symphonia*, which was clearly distinct from the so-called "two powers theory" (separation of lay and spiritual powers), a doctrine vital to Western Christianity after the Gregorian reform and the ensuing Investiture Contest in the last quarter of the eleventh century. This idea would only emerge in Russia in the mid-seventeenth century, when the conflict between patriarch Nikon and Tsar Aleksei came to its climax, but not in its hierocratic form which advocated the political superiority of the spiritual power over the ruler.

The power of Muscovite rulers over the Church hierarchy is made plain by Ann Kleimola, who observes that, between 1462 and 1589, out of fourteen acting metropolitans only five served their office to the end: the rest were either deposed or resigned under pressure.³¹

I agree with Olga Tsapina that there was no "consistent theory of *symphonia*," either in Byzantium or in Russia, despite historians' efforts to cull such a doctrine "from disparate legal, hermeneutical, hagiographical, historical, and literary texts as well as liturgical praxis."³² Furthermore, the two spheres, the lay and the spiritual, were not clearly delineated but rather intermingled, therefore they were not truly autonomous. Problems arose when (as in Byzantium) the patriarch or most often the emperor crossed a boundary to interfere in something allegedly falling within the range of authority of the other party, as the conflict between patriarch

30 EKKEHARD KLUG, "Wie entstand und was war die Moskauer Autokratie?", in *Zwischen Christianisierung und Europäisierung. Beiträge zur Geschichte Osteuropas in Mittelalter und Früher Neuzeit* ed. ECKHARD HÜBNER- EKKEHARD KLUG-JAN KUSBER (Stuttgart: Franz Steiner Verlag, 1998), 99.

31 ANN M. KLEIMOLA, "The Muscovite Autocracy at Work: The Use of Disgrace as an Instrument of Control," *Russian Law: Historical and Political Perspectives*, ed. WILLIAM E. BUTLER (Leiden: Sijthoff, 1977), 37.

32 OLGA TSAPINA, Was There a Russian Tradition of Church-State Relations?. https://www.academia.edu/41062270/The_1721_Church_Reform_and_Constructing_of_the_Orthodox_Tradition_of_Church_State_Relations 28.

Nikon and Tsar Aleksei would show. The 1666-1667 Church council no doubt weakened the position of the patriarch vis-à-vis the tsar but it should not be interpreted as a prelude to the liquidation of the patriarchal office by Peter in 1721. The tsar reached this decision only after a long period when there was no patriarch, only patriarchal *locumtenens* (1700-1721). And when Peter eliminated the patriarchal office, replacing it with the (so-called) Holy Synod, he made the Russian church completely dependent on the state, i.e., on the ruler himself.

As mentioned previously, such periodization labels as the “Middle Ages” and the “Early Modern Age” are based on the history of Western Christendom, or European History. In the period dealt with in this volume, and up to the early eighteenth century, the terms *Christianitas*, *Respublica christiana* (both had the meaning of Western Christendom) and *Europa* were synonymous. Consequently, fifteenth- to seventeenth-century Russia – or *Moscovia* as it was generally called in Latin, the common cultural language of Western Christendom – was not considered part of Europe in cultural terms. And to be sure, the geographical boundary between Europe and Asia at that time was the river Don, not the Ural mountains. Likewise, Muscovy showed no interest in being considered a European country before Peter the Great’s tour to Western Europe in 1697-1698.³³ This does not mean that there was no interest in Western culture, as a more marked turn to Europe was tangible at the Muscovite court from the 1650s for various (military, intellectual, diplomatic, etc.) reasons. That said, in the general European perception Muscovy/Russia was an outsider both in diplomacy and culturally. In the sixteenth-seventeenth centuries it was considered a barbarous country, and its barbarity ascribed not so much to its Orthodox religion as to its political system, commonly called despotic or tyrannical.

By the early 18th century, when Europe came to mean the system of sovereign states operating within the balance of power, as is well attested by the Treaty of Utrecht (1713), Russia under Peter the Great was becoming, if not yet a great power, a power to be taken seriously. When turning to Europe became a state policy in matters of modernizing the army, in diplomacy, culture, education, and the imagery of power, the old attitude of indifference towards Europe changed drastically. As Europe was associated with political and cultural superiority and exclusivity, Russia began aspir-

33 MARC BASSIN, “Russia between Europe and Asia: The Ideological Construction of Geographical Space,” *Slavic Review* 50, no. 1 (Spring 1991): 4-5.

ing to be seen as a European state.³⁴ (In 1767 Catherine II would eventually declare in her “Instruction” that “Russia is a European state.”)

In light of these differences, is the mid-15th century a plausible starting point for the beginning of the early modern period of Russian History in general, and especially with regard to “law” and “religion”? I have serious doubts. Russia, being part of the Orthodox world, was, indeed, different from Western Christendom intellectually, having no universities where Aristotelian logic, or what is crucial to the present volume, law and theology were taught as distinct disciplines from the 12th century on. Not only was the academic institutional infrastructure for the systematic study of theology and law missing, other institutional channels for training personnel (for government and church administration) versed in law – in Roman law and canon law (these two laws comprised the *ius commune* of Latin Christendom) or in native (customary and written) law – did not exist either.³⁵ “Russian legal culture fell far short of the intellectual sophistication and institutional dynamism of medieval Western law.”³⁶ It does not mean, of course, that there were no law codes issued, or that canon law was non-existent. There was, as the title of Daniel Kaiser’s book, *The Growth of the Law in Medieval Russia*,³⁷ implies, a process, the various aspects of which were nicely summarized by Valliere. However, there was no scholarly interest in law, and theological education was mainly confined within the walls of the monasteries. Moreover, there was not, and could not be a link between law and theology, in the sense it existed in the West. To mention just one issue crucial to both theology and law (hence law and religion) in the West: the concept of natural law (except for a few individual cases) was unknown in Russia before 1700.

I am convinced that the mid-17th century, rather than the mid-15th, would better fit the criteria for marking the beginning of the “Early Modern Age” in Russia. In terms of state formation the 1650s marks the beginning of the “fiscal-military state” in Russia, as well as the beginning of the *Polizeistaat*, i.e., “the well-regulated state” (the term appearing in Russian 1717): both came into their own under Peter the Great between 1700 and 1725.

34 BASSIN, “Russia between Europe and Asia,” 3.

35 VALLIERE, “Law and the Orthodox Church,” 30.

36 RANDALL A. POOLE, “Introduction: A Russian Conception of Legal Consciousness,” in *Law and the Christian Tradition in Modern Russia*, ed. PAUL VALLIERE – RANDALL A. POOLE (Routledge, 2022), 6.

37 DANIEL H. KAISER, *The Growth of the Law in Medieval Russia* (Princeton: Princeton University Press, 1980).

In terms of “law and religion,” the two law codes of this period, the *Ulozhenie* and the *Kormchaia* (1649, 1653), were both products of a perceived need for correction and regulation, while printing and distribution made widespread application of the rules possible. Similarly, the desire on the part of some to refit the Russian church for its new role in bringing together the Muscovite Orthodox and the Orthodox living under non-Orthodox rulers, thus necessitating Nikon’s reforms, was countered by the scholarly interests of the “Latinists” who introduced Muscovites to Ukrainian religious debates, participated in lively debates between “Greeks” and “Latins,” and later the Slavonic-Latin-Greek Academy (1686) was founded in the capital. The reforms themselves provoked a schism in the church, giving rise to the appearance of Russian Orthodox non-conformists, the religious minority of the (various groups of) Old Believers – a phenomenon which, to some extent, can be compared to the effect of the Reformation.

Paradoxically, the idea of Russia as the Third Rome, which was not widespread at all before the schism, was taken up by Old Believer communities: in their view the end of the world was imminent as the Third Rome too abandoned the true faith, as they saw in Nikon/Tsar Aleksei the appearance of the Antichrist: therefore they refused to pray for the tsar. So, belief in the tsar’s charisma as a Christ-like figure was shattered for the Old Believers, although not in the official Church. At the same time, the period between 1645-1700, which Daniel Rowland characterized as one of “ferment and innovation” in the ideology of power, brought a slow penetration of Western legal concepts into Russian thought on ruling power.³⁸ All these developments point in one direction important for periodization: a change in various fields.

To be sure, these changes cannot be compared with the impact of the Petrine reforms between 1700-1725. The decrees of 1699, the switch to the Western (Julian) calendar and the new computation of time (which came into effect in 1700) indicated a change of orientation, a turning towards Europe. Changes in behavior and etiquette (dress, lifestyle, encouragement to learn foreign languages etc) mainly touched the upper strata of the society and it is difficult to assess their impact, especially in the provinces, yet these aspects of Westernization, superficial at first, in the long run created a “socio-cultural rift” especially between the nobility and the peasants.

Most visible was the change in the perception of rulership, above all its imagery, following the patterns characteristic of western rulers who

³⁸ DANIEL ROWLAND, *God, Tsar, and People*, 273.

imitated imperial Rome, and its intellectual expositions by Feofan Prokopovich (*The Law of the Monarch's Will in Designating an Heir to His State*, 1722) and Peter Shafirov (*A Discourse Concerning the Just Causes of the War Between Sweden and Russia: 1700-1721*), who both used *western legal terminology* in the two emblematic treatises of the Petrine era, the former providing the new, westernized ideology of power through selective borrowing from absolutist thought, and the latter justifying the causes of the Great Northern War against Sweden with arguments drawn from international law.³⁹

Peter's other cascade of administrative reforms, most importantly the creation of the new model army and the navy, with their relevant detailed statutes drawn for regulating their affairs (Military Statute 1716, Statute of the Navy 1720), and the church reform enshrined in the Ecclesiastical Regulation (1721), establishing the Holy Synod, likewise brought far-reaching changes in the realm of law and in the field of "law and religion." This unprecedented increase in legislation was accompanied by the appearance of the term "law-giver," which itself is evidence of a new outlook.

Another major aspect of change in the field of law under Peter was what I call the *conceptualization of law*. Before ca. 1700 *zakon*, as mentioned above, primarily had the meaning of divine law (*zakon bozhii*) or faith (*vera*), while the concept of natural law (*estestvennyi zakon*) was practically unknown, and the civil laws of Byzantine emperors (called *gradskie zakony* in Russia) were considered equal to divine laws by Joseph of Volokolamsk, the ideologue of the Muscovite period. Now the hierarchy of laws – divine law, natural law, and human (that is, positive) law – was introduced.

Equally important became the differentiation of genres of legislation under the umbrella term *zakon* (law), such as *ustav* (statute), *ukaz* (decree), *manifest* (manifesto), *obiavlenie* (declaration), and so forth – also an aspect or mark of the conceptualization of law. The establishment of the "College of Justice" (*Iustits-kollegiia*) no doubt played a key role in dissemination of various forms of legislation.

The increased usage of the term *zakon* linked to state power or, more simply, to the highest power had far-reaching consequences. Due to the previous, inherently religious nature of the term, the extension of the use of *zakon*, "in the sense of the 'prescription of the highest power,'" led to

39 For these issues see the relevant chapters of my recent book: ENDRE SASHALMI, *Russian Notions of Power and State in a European Perspective, 1462-1725: Assessing the Significance of Peter's Reign* (Boston: Academic Studies Press, 2022).

the “sacralization of highest power” in the language of administration.

This phenomenon of “sacralization of highest power” was reinforced by the use of other words drawn from the religious lexicon in the context of secular state matters: “For the Petrine era it is characteristic to treat crime in religious categories.”⁴⁰ Therefore, terms such as *grekh* (sin), *pogreshenie* or *pregreshenie* (sinning), and the corresponding verbs were employed in cases involving a breach of secular law (*zakon*).⁴¹ It meant that the government “took over the language of the Church for the creation of a new legal language,”⁴² another important aspect of the ‘law and religion’ theme in Petrine Russia.

To conclude: in my view the mid-17th century is the most plausible date to mark the beginning of the Early Modern Age in Russia, and the quarter of a century from 1700 to 1725 represented the clearest turning point from the “medieval” to the “early modern”, should one be inclined to apply these labels to Russian history. This periodization applies equally to the narrower subject, the various intersections of “law and religion.” While not denying continuities, I am convinced that labels such as “continuity of change” are not really plausible when it comes to understanding Russia’s history as seen in the context of the early modern world.

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40 РУДНЕВ–САДОВА, “Деловая речь Петровской эпохи,” 184.

41 РУДНЕВ–САДОВА, “Деловая речь Петровской эпохи,” 184.

42 РУДНЕВ–САДОВА, “Деловая речь Петровской эпохи,” 184.

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