

Empire, Religious Freedom, and the Legal Regulation of “Mixed” Marriages in Russia*

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Among the more striking developments in scholarship on the Russian empire in the last fifteen years has been a profound renaissance of religious history. Most of this work has focused on Russian Orthodoxy and its sectarian traditions,¹ while research on the problem of empire has explored both Russia’s multiconfessional character and Orthodoxy’s regional and national particularities.² Furthermore, scholars have analyzed the religious foundations for

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¹ Highlighting only major works on the imperial period recently published in English, we may note Laura Engelstein, *Castration and the Heavenly Kingdom: A Russian Folktale* (Ithaca, NY, 1999); Nadieszda Kizenko, *A Prodigal Saint: Father John of Kronstadt and the Russian People* (University Park, PA, 2000); Chris J. Chulos, *Converging Worlds: Religion and Community in Peasant Russia, 1861–1917* (DeKalb, IL, 2003); Valerie Kivelson and Robert Greene, eds., *Orthodox Russia: Belief and Practice under the Tsars* (University Park, PA, 2003); Vera Shevzov, *Russian Orthodoxy on the Eve of Revolution* (Oxford, 2004); Nicholas B. Breyfogle, *Heretics and Colonizers: Forging Russia’s Empire in the South Caucasus* (Ithaca, NY, 2005). This is not to say that the institutional history of Orthodoxy in Russia has been entirely neglected in recent works, especially in Russia. See, for example, S. V. Rimskii, *Rossiiskaia tserkov’ v epokhu velikikh reform* (Moscow, 1999); S. L. Firsov, *Russkaia tserkov’ nakanune peremen (konets 1890-kh–1918 gg.)* (St. Petersburg, 2002); S. I. Alekseeva, *Sviateishii Synod v sisteme vysshikh gosudarstvennykh uchrezhdenii poreformennoi Rossii, 1856–1904 gg.* (St. Petersburg, 2003); John D. Basil, *Church and State in Late Imperial Russia: Critics of the Synodal System of Church Government, 1861–1914* (Minneapolis, 2005).

² Major works analyzing non-Orthodox religions in Russia include Robert P. Geraci

imperial Russia’s moral and civil order and the extent to which central institutions of the tsarist regime—for example, marriage, oaths, and civil acts—were administered by clergies and regulated by religious provisions.³ Research on law in imperial Russia has accordingly begun to analyze in greater detail the religious sources of various statutes and the ways in which the regime strove to accommodate its cultural diversity by authorizing a plurality of legal regimes, most of them rooted in some combination of “religion” and “custom.”⁴

and Michael Khodarkovsky, eds., *Of Religion and Identity: Missions, Conversion, and Tolerance in the Russian Empire* (Ithaca, NY, 1999); Christian Noack, *Muslimischer Nationalismus im russischen Reich: Nationsbildung und Nationalbewegung bei Taren und Baschkiren: 1861–1917* (Stuttgart, 2000); Elena A. Vishlenkova, *Zabottias’ o dushakh poddannyykh: Religioznaia politika v Rossii v pervoi chetverti XIX veka* (Saratov, 2002); Sergei Zhuk, *Russia’s Lost Reformation: Peasants, Millennialism, and Radical Sects in Southern Russia and Ukraine, 1830–1917* (Baltimore, 2004); Heather Coleman, *Russian Baptists and Spiritual Revolution, 1905–1929* (Bloomington, IN, 2005); Robert D. Crews, *For Prophet and Tsar: Islam and Empire in Russia and Central Asia* (Cambridge, MA, 2006); Barbara Skinner, “The Empress and the Heretics: Catherine II’s Challenge to the Uniate Church” (PhD diss., Georgetown University, 2001); Eileen M. Kane, “Pilgrims, Holy Places, and the Multi-Confessional Empire: Russian Policy toward the Ottoman Empire under Tsar Nicholas I, 1825–1855” (PhD diss., Princeton University, 2005). On the particularities of Orthodoxy, see A. V. Gavrilin, *Ocherki istorii Rizhskoi eparkhii* (Riga, 1999); Robert Geraci, *Window on the East: National and Imperial Identities in Late Tsarist Russia* (Ithaca, NY, 2001); Austin Jersild, *Orientalism and Empire: North Caucasus Mountain Peoples and the Georgian Frontier, 1845–1917* (Montreal, 2002); Paul W. Werth, *At the Margins of Orthodoxy: Mission, Governance, and Confessional Politics in Russia’s Volga-Kama Region, 1827–1905* (Ithaca, NY, 2002); Ricarda Vulpius, *Nationalisierung der Religion: Russifizierungspolitik und ukrainische Nationsbildung, 1860–1920* (Wiesbaden, 2005).

³ Gregory L. Freeze, “Bringing Order to the Russian Family: Marriage and Divorce in Imperial Russia, 1760–1860,” *Journal of Modern History* 62, no. 4 (1990): 709–49; Laura Engelstein, *The Keys to Happiness: Sex and the Search for Modernity in Fin-de-Siècle Russia* (Ithaca, NY, 1992), esp. 31–41; William Wagner, *Marriage, Property, and Law in Late Imperial Russia* (Oxford, 1994), 59–223; ChaeRan Freeze, *Jewish Marriage and Divorce in Imperial Russia* (Hanover, NH, 2002); Eugene M. Avrutin, “The Power of Documentation: Vital Statistics and Jewish Accommodation in Tsarist Russia,” *Ab Imperio* 4 (2003): 271–300; Virginia Martin, “Kazakh Oath-Taking in Colonial Courtrooms: Legal Culture and Russian Empire-Building,” *Kritika: Explorations in Russian and Eurasian History* 5, no. 3 (2004): 483–514; N. S. Nizhnik, *Pravovoe regulirovanie semeino-brachnykh otnoshenii v russkoi istorii* (St. Petersburg, 2006). For an excellent discussion of the confessional foundations of imperial Russia and the state’s deep implication in the affairs of all the empire’s religions, see Robert Crews, “Empire and the Confessional State: Islam and Religious Politics in Nineteenth-Century Russia,” *American Historical Review* 108, no. 1 (2003): 50–83.

⁴ In addition to the works cited above, see Virginia Martin, *Law and Custom in the*

The present article integrates these diverse but related strands of historical inquiry by examining the ways in which the imperial Russian state used law as an instrument in the regulation of marriage between the adherents of different religions and confessions. To be sure, the majority of imperial subjects wed within their own confessional groups, and the prescriptions of their religion accordingly determined the validity of their marriages. But in certain borderland areas, espousal between Orthodox believers and other Christians became a fairly common occurrence, particularly in the nineteenth century. For a regime with substantial ideological investments in the preeminence of Orthodoxy, these marriages were deeply fraught with political implications. Indeed, far from representing a private matter of import only to individual families or local communities, such unions had considerable significance for the imperial government, for different churches, and for regional elites. For these reasons, the task of defining the conditions under which interconfessional—or “mixed”—marriages would gain legal force proved exceedingly complex and required the reconciliation of historical traditions, ideological imperatives, political aspirations, and the dictates of different—and competing—faiths.⁵

The regime’s attempt to achieve this reconciliation in legal enactments forms the central object of analysis in this essay. In the pages below I examine both the legal architecture constructed to condition the formation of such unions and the challenges of executing those laws in the context of increasingly nationalized politics in the last half century or so of the regime’s existence.⁶ I argue that mixed marriages were deeply implicated in political

Steppe: The Kazakhs of the Middle Horde and Russian Colonialism in the Nineteenth Century (Richmond, UK, 2001); V. O. Bobrovnikov, *Musul'mane severnogo Kavkaza: Obychai, pravo, nasilie* (Moscow, 2002); A. A. Dorskaia, *Gosudarstvennoe i tserkovnoe pravo Rossiiskoi Imperii: Problemy vzaimodeistviia i vzaimovliianiia* (St. Petersburg, 2004); and Jane Burbank, “An Imperial Rights Regime: Law and Citizenship in the Russian Empire,” *Kritika: Explorations in Russian and Eurasian History* 7, no. 3 (2006): 397–431.

⁵ In imperial Russian law marriages were construed as being “mixed” (*smeshannye*) only from a confessional perspective. Marriages between different ethnicities or races were neither regarded nor regulated as “mixed.”

⁶ My analysis builds on a small number of existing studies, mostly concerned with the lands of the former Polish-Lithuanian Commonwealth: V. Shein, “K istorii voprosa o smeshannykh brakakh,” *Zhurnal Ministerstva Iustitsii* 3 (1907): 231–73; Stefania Kowalska-Glikman, “Małżeństwa mieszane w Królestwie Polskim: Problemy asymilacji i integracji społecznej,” *Kwartalnik Historyczny* 84, no. 2 (1977): 312–32; Leonid E. Gorizontov, *Paradoksy imperskoi politiki: poliaki v Rossii i russkie v Pol'she* (Moscow, 1999), 75–99; and Simon Dixon, “Sergii (Stragorodskii) in the Russian Orthodox Diocese of Finland: Apostasy and Mixed Marriages, 1905–1917,” *Slavonic and East European Review* 82, no. 1 (2004): 50–73. I draw also on a valuable

contests over the relationship between imperial Russia’s most sensitive borderlands—the Baltic region and the so-called western provinces—and its central territory and institutions.⁷ As viewed from St. Petersburg, mixed marriages could serve as an important instrument in the more thorough integration of those territories and their inhabitants with the rest of the empire, thereby helping to ensure the state’s integrity at a time of rising nationalist challenge. By the mid-nineteenth century, however, officials began to disagree about the particular forms of regulation that would best harness the integrative potential of such unions, and in time some officials began to doubt whether mixed marriage could actually benefit either the regime or Orthodoxy. Nor was the government entirely free to regulate these unions as it saw fit. On the contrary, the regime’s commitment to the religious form of marriage compelled it to seek ecclesiastical acquiescence in its legislative enactments. Having assented to the legalization of mixed marriage in 1721, the Orthodox Church insisted on the retention of safeguards for the integrity of its flock and therefore strenuously resisted legal modifications that reformist statesmen proposed in order to assuage the discontent of non-Orthodox populations and to expand religious freedom in Russia. Civil laws on mixed marriage accordingly sought to bestow legal consequence exclusively on Orthodox ceremonies and to guarantee the perpetuation of Orthodox affiliation from one generation to the next. The question of mixed marriage thus forcefully reveals the deep contradictions embedded in the efforts of the imperial state simultaneously to accommodate confessional diversity and to give explicit form to Orthodoxy’s privileged status.

Indeed, in this article I seek to emphasize the important connection between the question of mixed marriage and the problem of religious freedom in

collection of documents produced as part of a reassessment of Russia’s religious order in the aftermath of the Revolution of 1905: *Sbornik materialov po voprosam o smeshannykh brakakh i o veroispovedanii detei, ot sikh brakov proiskhodiashchikh* (St. Petersburg, 1906) (henceforward *Sbornik materialov*).

⁷ On the Baltic region, see Michael H. Haltzel, “The Baltic Germans,” in *Russification in the Baltic Provinces and Finland, 1855–1914*, ed. Edward C. Thaden (Princeton, NJ, 1981), 111–23; and S. G. Isakov, *Ostzeiskii vopros v russkoi pechati 1860-kh godov* (Tartu, 1961). The western provinces—the lands annexed from the Polish-Lithuanian Commonwealth in 1772–95—were considered by St. Petersburg to be part of the Russian empire proper, despite certain legal particularities that persisted well into the nineteenth century. They were distinct from the “Kingdom of Poland,” a special administrative unit within the Russian empire created in 1815. For a recent overview of these territories and their relationship to Russian imperial history, see Mikhail Dolbilov and Aleksei Miller, eds., *Zapadnye okrainy Rossiiskoi imperii* (Moscow, 2006).

Russia.⁸ The legalization of mixed unions in 1721 was the product of a Petrine state committed to extensive religious reform and to the enhancement of religious freedoms for non-Orthodox foreigners. Yet the protections for Orthodoxy that remained inscribed in Russian law antagonized borderland populations as these legal enactments were extended to Russia's periphery. Lutherans and especially Catholics regarded the imposition of pro-Orthodox legal provision on parents in mixed unions as an onerous violation of their "freedom of conscience." Indeed, the representatives of both confessions—as well as certain reformist statesmen on their behalf—criticized laws on mixed marriage precisely from the perspective of religious freedom. Likewise, reformist efforts to expand religious freedom in both the early 1860s and 1905–7 gave a prominent place to the revision of statutes regulating mixed marriage. This was in part because legislation on mixed unions intruded into some of the most intimate spheres of religious belief, most notably the raising of children. Consideration of these legal enactments and their implementation offers unique insights concerning the circumstances in which the interests of state and official church were given precedence in law over the religious conscience of individuals and over the authority of parents with respect to their children. In short, mixed marriage represented a central site where the limits of religious freedom in Russia were contested and defined.

MARRIAGE AS RELIGIOUS INSTITUTION

Viewed against the gradual introduction of civil marriage across much of Europe, imperial Russia was striking in its resolute definition of marriage as a strictly religious institution. Indeed, the Orthodox Church in Russia actually increased its capacity for controlling matrimonial issues from the second half of the eighteenth century and thus constructed "a marital order of a rigidity unknown elsewhere in Europe." Just as social change seemed to necessitate a

⁸ Religious liberty is another topic that has attracted the attention of historians of late, especially with regard to reforms in the religious order—both implemented and unsuccessful—around the Revolution of 1905. See Geraci and Khodarkovsky, *Of Religion and Empire*; Peter Waldron, "Religious Reform after 1905: Old Believers and the Orthodox Church," *Oxford Slavonic Papers* 20 (1987): 110–39; Diliara Usmanova, *Musul'manskaia fraktsiia i problemy "svobody sovesti" v Gosudarstvennoi Dume Rossii, 1906–1917* (Kazan, 1999); I. S. Belov, "Pravitel'stvennaia politika po otnosheniiu k nepravoslavnyim veroispovedaniiam v Rossii 1905–1917 gg." (Cand. diss., Institut Rossiiskoi Istorii, St. Petersburg, 1999); A. A. Dorskaia, *Svoboda sovesti v Rossii: Sud'ba zakonoproektov nachala XX veka* (St. Petersburg, 2001); Eugene M. Avrutin, "Returning to Judaism after the 1905 Law on Religious Freedom in Tsarist Russia," *Slavic Review* 65, no. 1 (2006): 90–110; and Paul W. Werth, "Arbiters of the Free Conscience: State, Religion, and the Problem of Confessional Transfer after 1905," in *Sacred Stories: Religion and Spirituality in Modern Russia*, ed. Heather Coleman and Mark Steinberg (Bloomington, IN, 2007), 179–99.

more liberal policy on marriage and separation, the church embarked on a determined effort “to impose order—and canon—on marriage and divorce.”⁹ Russia’s legislation on marriage, to quote a jurist writing in the 1870s, was “completely penetrated by an ultraecclesiastical spirit.”¹⁰ Even the marriages of Russian subjects contracted abroad were considered legal in Russia only if concluded by religious ceremony, and the Russian government insisted on this principle in the face of great opposition at an international conference in the Hague in 1900.¹¹

The state’s commitment to religious marriage was by no means limited to Orthodoxy, however. Over the centuries the empire expanded well beyond its Orthodox core to incorporate Catholics, Lutherans, Uniates, Armenians, Jews, Buddhists, Muslims, and animists, as well as the adherents of smaller confessions and sects. Although the state explicitly privileged Orthodoxy as the “predominant and ruling” faith of the empire, it maintained certain ideological commitments to all of the empire’s recognized religions.¹² The government accordingly insisted on the religious form of marriage for *all* of the empire’s confessions and invested their religious rituals with the force of law.¹³ Only in

⁹ Freeze, “Bringing Order,” 709, 719. On the regulation of marital affairs in modern Europe, see James F. Traer, *Marriage and the Family in Eighteenth-Century France* (Ithaca, NY, 1980); David Lemmings, “Marriage and the Law in the Eighteenth Century: Harwicke’s Marriage Act of 1753,” *Historical Journal* 39, no. 2 (1996): 339–60; Eve Tanor Bannett, “The Marriage Act of 1753: ‘A most cruel law for the Fair Sex,’ ” *Eighteenth-Century Studies* 30, no. 3 (1997): 233–54; George Hayward Joyce, *Christian Marriage: An Historical and Doctrinal Study*, 2nd ed. (London, 1948); Lloyd Bonfield, “European Family Law,” in *Family Life in the Long Nineteenth Century*, ed. David I. Kertzer and Marzio Barbagli (New Haven, CT, 2002), 109–54; Michael John, *Politics and the Law in Late-Nineteenth-Century Germany: The Origins of the Civil Code* (Oxford, 1989), 206–9, 213, 217–25, 240; Robert Nemes, “The Uncivil Origins of Civil Marriage: Hungary,” in *Culture Wars: Secular-Catholic Conflict in Nineteenth-Century Europe*, ed. Christopher Clark and Wolfram Kaiser (Cambridge, 2003), 313–35.

¹⁰ I. G. Orshanskii, “O brake u raskol’nikov,” *Zhurnal grazhdanskago i ugolovnago prava*, bk. 1 (1877): 206.

¹¹ RGIA, f. 821, op. 5, d. 1158; *Resheniia Grazhdanskago Kassatsionnago Departamenta Pravitel’stviuushchago Senata za 1899 god*, no. 39 (Ekaterinoslav, 1905), 83–89; *Grazhdanskoe Ulozhenie: Proekt Vysochaishche uchrezhdennago Redaktsionnoi Komissii po sostavleniiu Grazhdanskago Ulozheniia, s ob’iasneniiami. Kniga vtoraiia: semeistvennoe pravo*, vol. 1 (St. Petersburg, 1902), 146–50; and P. N. Gussakovskii, “Tret’ia Gaagskaia konferentsiia po voprosam chastnago mezhdunarodnago prava,” *Zhurnal Ministerstva Iustitsii*, no. 10 (1900): 45–76.

¹² Crews, “Empire and the Confessional State.” But on limits to the state’s commitments in upholding the purity of non-Orthodox religions, see Paul W. Werth, “Schism Once Removed: State, Sects, and Meanings of Religious Toleration in Imperial Russia,” in *Imperial Rule*, ed. Alexei Miller and Alfred J. Rieber (Budapest, 2004), 85–108.

¹³ *Svod zakonov*, vol. 10, pt. 1 (1857), arts. 61, 65, and 90. This was true even for

the case of Old Believers did the state introduce a civil dimension into the conclusion of marriage in 1874—and then only because it did not wish to confer legal significance on the rituals of these dissenters from the official church.¹⁴ Otherwise, as the Senate's Civil Cassation Department declared categorically in 1899, “a Russian subject, regardless of the faith he confesses, may enter into marriage only by means of religious ceremony.”¹⁵

At the same time, the state sought to impose greater “order” on the marital affairs of non-Orthodox confessions, just as the Orthodox Church had already done for its flock. State officials proved willing to intervene in spiritual affairs, especially for those religions that lacked a clerical hierarchy to standardize policy and enforce religious rulings and state laws.¹⁶ Such intervention involved greater codification of religious rules, which inevitably entailed their reworking in order to bring them into conformity with the state's own sense of morality and progress. Aware of European developments in family law, officials and jurists in Russia at times raised the idea of introducing civil marriage, or at least greater elements of secularization in marital affairs. Age requirements for entering marriage were slowly made standard across most confessions of the empire, while the state also established itself as the final arbiter in the resolution of marital affairs for the adherents of certain confessions.¹⁷

Anglicans in Russia, who had no religious institutions recognized by the state (RGIA, f. 821, op. 5, d. 1127).

¹⁴ For diverse attempts to analyze the nature of Old-Believer marriages, see Orshanskii, “O brake u raskol'nikov,” 255–26; N. S. Suvorov, *Grazhdanskii brak*, 2nd ed. (St. Petersburg, 1896), 122–48; Irina Paert, *Old Believers, Religious Dissent and Gender in Russia, 1760–1850* (Manchester, 2003); and Irina Paert, “Regulatory Old Believer Marriage: Ritual, Legality, and Conversion in Nicholas I's Russia,” *Slavic Review* 63, no. 3 (2004): 555–76.

¹⁵ RGIA, f. 821, op. 128, d. 224, l. 3ob. But on the difficulties in determining legal validity of marriage among Russia's “pagans,” see RGIA, f. 821, op. 133, d. 428, ll. 5–9ob.

¹⁶ Such interventions are analyzed by Freeze, *Jewish Marriage*; and Crews, *For Prophet and Tsar*, 143–91.

¹⁷ On these developments, see *Svod zakonov*, vol. 10, pt. 1 (1857), arts. 3, 63, and 91; Suvorov, *Grazhdanskii brak*, 106–52; A. L. Borovikovskii, “Brak i razvod po proektu Grazhdanskago Ulozheniia,” *Zhurnal Ministerstva Iustitsii* (October, 1902): 1–62 (esp. 59–62); A. I. Zagorovskii, “O proekte semeistvennago prava,” *Zhurnal Ministerstva Iustitsii*, no. 2 (1903): 55–109; K. Zmirlov, “O nedostatkakh nashikh grazhdanskikh zakonov: O soiuze brachnom,” *Zhurnal grazhdanskago i ugolovnago prava*, bk. 9 (1882): 182–224; M. Morgulis, “Ob otnoshenii nashego zakonodatel'stva k obychnomu brachnomu pravu inoplemennikov-nekhrisian,” *Zhurnal grazhdanskago i ugolovnago prava*, bk. 4 (1884): 105–27. For a critique of civil marriage, see N. Strakhov, *Brak, razsmatryvaemyi v svoei prirode i so storony formy ego zakliucheniia* (Khar'kov', 1893).

Even reformers, however, generally accepted the religious basis of family law and upheld the importance of religious faith as the foundation for secular authority. The authors of an otherwise quite radical draft civil code in the early twentieth century preserved the requirement of a religious ceremony for the validity of marriage, declaring that the introduction of civil marriage in Russia “would represent a reckless and dangerous innovation.” Many commentators on the draft agreed, and liberals and conservatives could concur that civil marriage contradicted the religious sensibilities of the people and was likely to weaken their religious attachments, with disastrous consequences for the moral life of the country.¹⁸

Despite a certain tendency toward secularization, then, imperial Russian law remained fundamentally committed to the religious form of marriage for the adherents of all recognized confessions. Imperial legislation accordingly entailed either the direct incorporation of ecclesiastical provisions into civil law, or at least broad reference to the “rules and rituals” of the empire’s different religions. The regulation of marriages involving adherents of two different faiths proved more complicated.

CANONICAL IMPEDIMENTS AND IMPERIAL LAW

Mixed marriage in Russia became possible only in the time of Peter the Great. Before then, the Orthodox Church regarded non-Orthodox Christians as heretics, with whom the Sixth Ecumenical Council had clearly proscribed marriage in the year 680. The Muscovite state upheld this view, requiring conversion to Orthodoxy—and thus “naturalization” as a subject of the Tsar—of any foreigner wishing to marry a Muscovite.¹⁹ As a result of the increasing role of foreigners in Russian life, however, Peter compelled the church to revise its stance. Well known for his interest in Western technology and statecraft, Peter became convinced of the need to strengthen religious toleration for non-Orthodox believers. In an effort to attract more foreigners to Russia, he explicitly confirmed their right to free exercise of religion in 1702. And in 1715 Peter made explicit his belief that mixed marriage could play an

¹⁸ *Grazhdanskoe Ulozhenie*, 44, 128; Zagorovskii, “O proekte semeistvennago prava,” 58–59; Suvorov, *Grazhdanskii brak*, 108–9, 117; Wagner, *Marriage, Property, and Law*, 149–69, 316–28; and William Wagner, “Family Law, the Rule of Law, and Liberalism in Late Imperial Russia,” *Jahrbücher für Geschichte Osteuropas* 43 (1995): 522, 529. See also the comments in the draft of a new criminal code: *Ugolovnoe Ulozhenie: Proekt redaktsionnoi komissii i ob’iasneniia k nemu*, vol. 4 (St. Petersburg, 1895), 16.

¹⁹ *Sbornik materialov*, 109, 506; M. Krasnozhen, *Inovertsy na Rusi: K voprosu o svobode very i o veroterpimosti*, vol. 1: *Polozhenie nepravoslavnykh khristian v Rossii*, 3rd ed. (Iur’ev, 1903), 33–36, 49–55, 96–114; Dm. Tsvetaev, *Protestanstvo i protstanty v Rossii do epokhi preobrazovaniia* (Moscow, 1890), 411–13, 417.

essential role in his reformist vision by deepening relations “with other European peoples” and thus contributing to the gradual disappearance of “the crudeness of old customs.”²⁰

The presence in Siberia of many Swedish prisoners at the close of the Northern War provided the occasion for formal revision of the church’s position. Peter was eager to enlist the prisoners’ talents in the mining industry, and many of the Swedes themselves were prepared to remain in Russian service as long as they could marry Russian women without having to accept Orthodoxy. The newly formed Holy Synod dutifully produced a ruling permitting mixed marriages in July 1721, even though some hierarchs and Orthodox theologians (as well as many religious dissenters) saw this new provision as a violation of canon.²¹ While authorizing marriages of Orthodox believers with other Christians (excluding dissenters),²² the ruling nonetheless insisted on safeguards designed to establish “strong and sufficient protection” for the Orthodox party from “seduction” into the religion of her spouse. Each Swedish prisoner was accordingly required to sign a pledge promising “not to draw his wife into his confession, for his entire life, by either enticement, threats, or any [other] means,” and also to baptize and raise any children in Orthodoxy.²³ The provisions of the 1721 decree, which I shall call the “Petrine norms,” served as the basis for the legal conclusion of mixed marriages in the Russian empire until the end of the old regime.

Having been recognized by the Orthodox Church, mixed marriages depended also on the acquiescence of other Christian authorities. Denying

²⁰ A. A. Preobrazhenskii, ed., *Zakonodatel'stvo Petra I* (Moscow, 1997), 535–37 (citation at 536); V. M. Zhivov, “Church Reforms under Peter the Great,” in *Russia in the Reign of Peter the Great: Old and New Perspectives*, ed. Anthony Cross (Cambridge, 1998), 1:66; Ernest Zitser, *The Transfigured Kingdom: Sacred Parody and Charismatic Authority at the Court of Peter the Great* (Ithaca, NY, 2004), 108–9 (citation).

²¹ *PSZ*, 1st ser., 6 (1721), no. 3798. Earlier that same year (1721), Peter had formally replaced the Russian patriarchate with a bureaucratic instance known as the Most Holy Governing Synod, with a lay procurator at its head, which managed the affairs of the Orthodox Church from this time until 1917. On opposition to the ruling permitting mixed marriage, see “O brake pravoslavnykh s nepravoslavnyimi,” *Pravoslavnyi sobesednik* 1 (1863): 57–58; and “Dva mneniia po voprosu o brakakh,” *Biblioteka dlia chteniia* 11 (1863): 64–68. Most of the remaining Orthodox world continued to prohibit mixed marriages into the twentieth century, Greece (after 1881) and Serbia being exceptions (*Sbornik materialov*, 504, 507).

²² Because the church regarded marriage as a sacrament, valid unions between Orthodox believers and non-Christians remained impossible. In accordance with a passage in 1 Corinthians 7:12, imperial law merely allowed a marriage to remain in force if one of two non-Christian spouses converted to Orthodoxy. *Svod zakonov* (1857), vol. 10, pt. 1, arts. 79 and 85.

²³ *PSZ*, 1st ser., 6 (1721), no. 3814, also published in *Zakonodatel'stvo Petra*, 719–25. See also “O brake pravoslavnykh,” 82.

marriage's sacramental nature and generally willing to defer to the needs of the state, Protestants accepted precedence for Orthodoxy, especially since there was always the possibility of obtaining an exception to the rule (more on this below).²⁴ Far greater canonical impediments to mixed marriage came from the Catholic Church, which, like its Orthodox counterpart, defined marriage as a sacrament and prohibited mixed marriages entirely in the medieval period. The *Tametsi* decree, a product of the Council of Trent in 1563, declared "invalid and null" any marriage that had not been contracted in the presence of a parish priest (or his representative) and two or three witnesses. The decree also provided for a liturgical celebration of marriage and for banns—proclamation of an intended marriage in order to ensure the absence of impediments—to be read in church before a marriage could take place. The *Tametsi* decree was concerned above all with ending the practice of clandestine marriage, but by not issuing an exemption to the decree for non-Catholics, the council in effect rendered the legality of mixed marriages dependent on their performance before a Catholic priest, who was in turn prohibited from assisting marriages between Catholics and "heretics."

This is not to say that mixed marriages were entirely impossible for Catholics. The church allowed for some exceptions in missionary contexts, and the dispensation that it sometimes offered in the case of dynastic alliances was extended gradually to members of the Catholic nobility and, later, to Catholics of common origin. In 1741, moreover, Pope Benedict XIV declared that mixed marriages in Belgium and Holland could be regarded as valid, and between 1830 and 1841 Rome made a set of concessions to Prussia, Bavaria, and Hungary, empowering Catholic priests to render "passive assistance"—acceptance of a declaration of a Catholic and a non-Catholic before two witnesses as constituting marriage. Thus the position of the Catholic Church since the sixteenth century was to prohibit mixed marriages, but also to provide exceptions through dispensation.²⁵

On the whole, the concerns of the Catholic Church mirrored those of the Orthodox Church: fear that mixed marriage would lead to the apostasy of the

²⁴ On Protestant views, see Joyce, *Christian Marriage*, 116–23, 177–84; and Thomas Max Safley, "Marriage," in *The Oxford Encyclopedia of the Reformation*, ed. Hans J. Hillerbrand, vol. 3 (New York, 1996), 18–23.

²⁵ Suvorov, *Grazhdanskii brak*, 21–24; Joyce, *Christian Marriage*, 123–37; Traer, *Marriage and the Family*, 29–31; Francis J. Schenk, *The Matrimonial Impediments of Mixed Religion and Disparity of Cult*, Canon Law Studies, no. 51 (Washington, DC, 1929), esp. 45–69; James B. Roberts, *The Banns of Marriage: An Historical Synopsis and Commentary*, Canon Law Studies, no. 64 (Washington, DC, 1931), 47–56; John Joseph Carberry, *The Juridical Form of Marriage: An Historical Conspectus and Commentary*, Canon Law Studies, no. 84 (Washington, DC, 1934), esp. 20–41; *New Catholic Encyclopedia*, s.v. "Tametsi," and "Mixed Marriages, Prohibition of"; and RGIA, f. 821, op. 10, d. 604, ll. 81–82, 95ob., 99ob., 228–29ob.

Catholic spouse and that children would be raised outside Catholicism. Assuming the presence of a just and grave cause, dispensation for a mixed marriage could be granted only after this proximate danger had been removed through the provision of *cautiones*—promises given by the non-Catholic party to respect the faith of the Catholic spouse and to baptize and raise all children in Catholicism. Moreover, the church resisted anything that could be construed as approval of such marriages. Not only were Catholic clergy enjoined to dissuade Catholics from marrying non-Catholics; they could not bless mixed marriages, nor publish banns, nor even allow such marriages to be performed inside the church. Where “passive assistance” had not been authorized, Catholics were also prohibited from giving marital consent before a non-Catholic minister, on pain of excommunication.²⁶ Yet it bears emphasizing that the Catholic discipline described here was an ideal that was fully codified and universally implemented only with the Code of Canon Law in 1918. *Cautiones* and the need for dispensation were often disregarded at the local level, and double ceremonies—Catholic and non-Catholic—were common in many locales.²⁷

If the doctrine of “passive assistance” and the idea of dispensation created possibilities for compromise between Catholicism and the Russian imperial government, there nonetheless remained a fundamental contradiction between the two positions, as each church insisted on primacy for its own adherents, rituals, and ecclesiastical authority. Negotiations over this issue between papal and Russian representatives in the 1840s proved futile, and St. Petersburg eventually excluded the question from the discussions that led to a Concordat with Rome in 1847. As Emperor Nicholas I wrote to the Pope at the time, “This is one of the laws of the empire over which my power does not extend, even if my conscience could make peace with [such a demand].”²⁸ Imperial statutes therefore reflected only the compromise that the state had reached with the Orthodox Church and took little or no account of the Catholic position.

²⁶ For a detailed discussion of this issue, see Schenk, *Matrimonial Impediments*, esp. 148–286.

²⁷ Schenk, *Matrimonial Impediments*, 49–57, 61–65, 220; Roberts, *Banns of Marriage*, 49–50; Carberry, *Juridical Form of Marriage*, 25–26, 34–37.

²⁸ A. N. Popov, “Snosheniia Rossii s Rimom s 1845 po 1850,” *Zhurnal Ministerstva Narodnago Prosveshcheniia*, pt. 147 (January 1870): 64; pt. 147 (February 1870): 308–9, 326, 335–36, 339–40; pt. 150 (July 1870): 25–26 (citation at 309). On the issue of marriage in the discussions leading to the 1847 Concordat, see also Sophie Olszawska-Skorowonska, “Le Concordat de 1847 avec la Russie d’après les Documents Authentiques,” in *Sacrum Poloniae Millenium: Rozprawy—Szkice—Materialy historyczne*, vols. 8–9 (Rome, 1962), 473, 477–79, and esp. 529–31; Adrien Boudou, *Le Saint-Siège et La Russie: Leurs Relations Diplomatiques au XIXe Siècle*, vol. 1, 1814–1847 (Paris, 1922), 332, 532–35.

Originally decreed for the benefit of Swedes in Siberia, the Petrine norms were extended to Russia’s western borderlands only gradually. They were applied to the Baltic region only in 1794, and even then Russian emperors occasionally granted exceptions, allowing mixed couples living far from the nearest Orthodox Church to baptize and raise their children in Lutheranism. For over a half-century after the first Polish partition of 1772, mixed marriages in the western provinces were regulated not by the Petrine norms, but instead by an international treaty signed by Russia and Poland in 1768. That treaty authorized marital contracts for members of the nobility, while stipulating that mixed marriages were otherwise to be concluded by the rite of the confession of the bride and that children were to follow the faith of their parents by sex—that is, sons were to be baptized and raised in the faith of their father, daughters in the faith of their mother.²⁹ Even after the complete partition of Poland (1795), these provisions remained in force with respect to the former Polish provinces, with limited modifications, well into the nineteenth century.³⁰ As late as 1830 they were explicitly confirmed, with the caveat that marital contracts must provide for the raising of at least one child in Orthodoxy.³¹

Only in the 1830s did the state finally apply the Petrine norms with full force in the empire’s western regions. In 1832 Emperor Nicholas I rejected the granting of any further individual exceptions to the Petrine norms, a decision that affected principally the Baltic region.³² In the same year, Nicholas formally extended the Petrine norms to the lands of partitioned Poland, and in 1836 they were incorporated into a new marriage statute for the Kingdom of Poland.³³ By this time a distinct order existed only for the Grand Duchy of Finland, where the Emperor had recognized Lutheranism as “the ruling religion of that region” and therefore upheld the order by which marriage was concluded by the rites of both confessions and children were raised in the faith of their father.³⁴

²⁹ *Sbornik materialov*, 31.

³⁰ On these modifications (which concern more issues than I can address here), see *Sbornik materialov*, 35–36, 40, 44–46, 64–65.

³¹ RGIA, f. 828, op. 1 (dopolnitel’noe), d. 41, l. 18ob.; *Sbornik materialov*, 33–34; *PSZ*, 2nd ser., 5 (1830), no. 3969; Gorizontov, *Paradoksy*, 76–78.

³² *Sbornik materialov*, 85–87. Such exceptions could also concern marriages involving foreigners, and these continued even after 1832. See RGIA, f. 797, op. 3, d. 12513; RGIA, f. 821, op. 5, d. 289; and *PSZ*, 2nd ser., 8 (1833), no. 6406.

³³ *PSZ*, 2nd ser., 7 (1832), no. 5767; *Sbornik materialov*, 16; B. I. Stavskii, ed., *Grazhdanskie zakony gubernii Tsarstva Pol’skago* (Warsaw, 1905), 1:125–72; Gorizontov, *Paradoksy*, 78. The basic provisions of the 1768 treaty remained in force for those mixed marriages that did *not* involve an Orthodox party.

³⁴ *Sbornik materialov*, 58–64. Annexed from Sweden in 1809, the Grand Duchy of Finland remained the entity most distinct from the rest of the empire.

These developments were summarized in article 67 of the Law Digest, which required that in all cases, except in Finland, persons marrying an Orthodox subject “give a written promise that they will not revile their spouses, nor incline them through enticement, threats, or any other means to accept their faith, and that children born in this marriage will be baptized and raised according to the rules of the Orthodox confession.” The article also required that the marriage be concluded “by an Orthodox priest in an Orthodox church” with the precise observation of “all the general rules and precautions that have been established for marriages between persons of the Orthodox confession.”³⁵ These provisions were fortified with statutes in the criminal code that punished parents for failing to baptize and raise children in Orthodoxy, and non-Orthodox clergy for administering religious rites to those persons legally required to be Orthodox.³⁶

Having considered both ecclesiastical and civil positions on mixed marriage, we may now turn to the operation of these various provisions in the two spaces where they proved most politically salient—the Baltic region and the western provinces.

BALTIC AUTONOMY AND THE SUSPENSION OF IMPERIAL LAW

Because the vast majority of the population in the Baltic region—a small but powerful German elite and a larger Latvian and Estonian peasantry—was Lutheran, mixed marriages before the nineteenth century were rare and occurred primarily between German and Russian elites.³⁷ The situation nonetheless began to change. Having obtained personal freedom early in the nineteenth century, peasants began to conclude mixed marriages with Orthodox subjects more often, especially in districts bordering the empire’s ethnically Russian

³⁵ *Svod zakonov*, vol. 10, ed. 1857, art. 67. I cite the 1857 edition of the Digest, though the same provision (minus one very small addition) was included in the 1842 edition (as art. 71).

³⁶ *Sbornik materialov*, 9–10. For baptizing children in the “wrong” faith, for example, parents could serve prison terms of up to sixteen months, while their children would be transferred to an Orthodox guardian. The state also regulated mixed marriages that did not involve an Orthodox subject, mostly in order to uphold the primacy of Christianity over heterodoxy and to prevent the Islamization of “pagans.” Mixed marriages involving Uniates in the Kingdom of Poland also represented a complex sphere of legal regulation. See RGIA, f. 821, op. 2, d. 35; *Sbornik materialov*, 69–75, 158–69, 178–95, 264–71, 279–80; and Shein, “K istorii voprosa,” 248–52, 266–73.

³⁷ The status of the Lutheran church had been guaranteed both in the capitulation of 1710 and the final peace treaty with Sweden at Nystad in 1721. See Haltzel, “Baltic Germans,” 112–13; Carl Schirren, ed., *Die Capitulation der livländischen Ritter- und Landschaft und der Stadt Riga nebst deren Confirmationen* (Dorpat, 1865), esp. 37, 102, and 115; and Wilhelm Kahle, *Die Begegnung des baltischen Protestantismus mit der russisch-orthodoxen Kirche* (Leiden, 1959), 51–52.

provinces. Matters became much more complex in the 1840s, when an agrarian crisis drove some 110,000 Latvian and Estonian peasants to accept Orthodoxy in the hope that confessing the “tsar’s faith” might improve their economic condition. With the appearance of a substantial Orthodox population in the Baltic region, mixed marriages became much more common. Moreover, having been motivated primarily by economic considerations, the converts soon became disillusioned with their new status, and in the 1850s some began to request permission to return to Lutheranism. Imperial law categorically prohibited “apostasy” from Orthodoxy to any other religion, and therefore such converts continued to be regarded officially as Orthodox Christians, regardless of their convictions. When they contracted marriages with Lutherans, they were accordingly obligated by law to baptize and raise their children in Orthodoxy.³⁸

The Baltic elite was quick to take up their cause. Bemoaning the penetration of “foreign religious elements” into their church through mixed marriages, Baltic Germans regarded the conversions as a serious challenge to their autonomy and therefore made every effort to hinder them. Faced with a mass of new converts and cognizant of the empire’s laws prohibiting “apostasy,” the elite focused much of its effort on attaining modification of the laws governing mixed marriages so as to ensure Lutheran status, if not for the converts themselves, then at least for their children. By remaining steadfastly loyal to the regime during both the Revolutions of 1848 and the Crimean War, the Baltic elite had accumulated substantial political capital and was able to earn sympathy, not least with the foreign press, by framing its solicitations as a matter of “freedom of conscience.” A trip by the new emperor Alexander II to Riga in 1856, during which he demonstrably reaffirmed his affinities with the region, gave the Baltic elite hope that his government would be amenable to making some accommodation.³⁹

The language of religious freedom proved central in further deliberations of the issue. A number of highly placed officials, most notably Riga Governor-General A. A. Suvorov and Interior Minister Peter Valuev, ascribed great significance to the empire’s policy of religious toleration and fashioned themselves as leading advocates of “freedom of conscience.” Thus in 1861

³⁸ On these conversions and their consequences, see Gavrilin, *Ocherki istorii*, 73–182. For a brief discussion that places them in the broader context of Lutheran-Orthodox relations, see Gregory L. Freeze, “Lutheranism in Russia: A Critical Reassessment,” in *Luther zwischen den Kulturen: Zeitgenossenschaft—Weltwirkung*, ed. Hans Medick and Peer Schmidt (Göttingen, 2004), 297–317.

³⁹ RGIA, f. 821, op. 5, d. 185, ll. 7–7ob.; *Sbornik materialov*, 128, 207, 212–15; F. Khorushunov, “Filaret Gumilevskii, arkhiepiskop Chernigovskii,” *Russkaia starina* 4 (1881): 787–89. On Alexander’s trip, see Gavrilin, *Ocherki istorii*, 132, 212, 220; and Richard Wortman, *Scenarios of Power: Myth and Ceremony in Russian Monarchy* (Princeton, NJ, 2000), 2:29.

Suvorov declared that only by working to eliminate “every cause for justified complaints about limits on freedom of conscience among residents of the Baltic provinces” could the Russian government hope to maintain “the glory that it has acquired thanks to its policy of religious toleration.” Heading the ministry that oversaw the religious affairs of non-Orthodox confessions, Valuev wrote in 1862 that any unnecessary restriction of religious freedom would violate both the “spirit of the times” and “the principle of religious toleration” that he regarded as a foundation of the empire’s confessional policy. In several different contexts Valuev pointed to the need to extend greater freedom and independence to non-Orthodox confessions, to terminate the exploitation of religious belief as a “political instrument,” and to reduce the excessive dependence of the Orthodox Church on the police power of the state. He later wrote that during his tenure as interior minister he had sought not only the improvement of the Orthodox Church but also “the defense of the rights of other religious confessions and the granting to all Russian subjects of full freedom of conscience.”⁴⁰ To be sure, for both Suvorov and Valuev, the invocation of “freedom of conscience” was partly a reflection of their broadly pro-Baltic orientation, since both had compiled records of extensive service in the Baltic region and had important ties to its elite. The fact that Valuev’s own mother was a Baltic German was surely significant for his attitude toward both the region and the problem of mixed marriage.⁴¹ Yet even allowing that the two men invoked these grand principles instrumentally—for the defense of particularistic privileges of the Baltic region—their deployment of the rhetoric of religious freedom is striking.

Valuev, in particular, approached the marriage issue not merely in terms of the Baltic region but also in a more comprehensive fashion, as a matter of “the inalienable rights of humanity” and “liberty of belief.”⁴² Indeed, he promoted changes to the law on mixed marriages as an important first step in a larger project of liberalizing state policy on Russia’s non-Orthodox confessions,

⁴⁰ *Sbornik materialov*, 115–16, 122; Rimskii, *Rossiiskaia tserkov’*, esp. 230–33; P. A. Zaionchkovskii, ed., *Dnevnik P. A. Valueva, Ministra vnutrennikh del* (hereafter *Dnevnik Valueva*) (Moscow, 1961), 1:330; P. A. Valuev, “Duma russkago,” *Russkaia starina*, no. 5 (1891): 349–60, esp. 356–57. Indeed, Valuev saw reform of policy on non-Orthodox confessions as a matter of dignity for the Orthodox Church itself. For his reform efforts on the latter institution, see Rimskii, *Rossiiskaia tserkov’*, 229–54; and Gregory L. Freeze, *The Parish Clergy in Nineteenth-Century Russia: Crisis, Reform, Counter-Reform* (Princeton, NJ, 1983), 238–52.

⁴¹ Rimskii, *Rossiiskaia tserkov’*, 229; *Dnevnik Valueva*, 2:427; Gavrilin, *Ocherki istorii*, 173–76, 188, 220–21, 234; *Sbornik materialov*, 208–10, 213–15; Isakov, *Ostzeiskii vopros*, 6; and “Mikhail Nikiforovich Katkov i graf Petr Aleksandrovich Valuev v ikh perepiske,” *Russkaia starina*, nos. 8–12 (1915), and no. 6 (1916).

⁴² Valuev drew such a contrast in his diary, and his concrete proposals confirm this orientation. See *Dnevnik Valueva*, 1:88–89, 329; and *Sbornik materialov*, 122–23.

including Catholicism as well as Lutheranism.⁴³ In a report to his sovereign in early 1862, Valuev argued that the legal obligation of parents in mixed marriages to raise their children in Orthodoxy represented an excessive limitation on their religious freedom and was in deep tension with the principle of religious toleration. Such promises “in certain cases hinder the freedom of conscience of the parents, obligating them, against their will, to raise [their] children in a faith that is alien to them.” If the decision were left to the discretion of parents, then children would be raised by the spouse of stronger faith and therefore the one better able to transmit those convictions to his or her children. Valuev found it impossible that the Orthodox Church could raise dogmatic obstacles to a change in the law, since it had accepted the rules enshrined in the 1768 treaty, not to mention the Finnish law and the exceptions that the Emperor had previously granted in individual cases. The church was of course free to admonish its followers to raise the children of mixed marriages in Orthodoxy, but “this scarcely can justify restrictive provisions in this regard in the civil laws.” Rather, the law should leave the decision to parents, making Orthodoxy the required religion of children only if parents failed to declare their intentions at the time of the wedding.⁴⁴ Thus while partly reflecting his concern for the grievances of the Baltic elite, Valuev’s efforts to alter the marriage law also involved a larger vision of expanding religious freedom in Russia.

Although Valuev was reasonably confident that his proposals on mixed marriages would go forward, his own account registers intense opposition to modification of the law on the part of several officials in the Council of Ministers.⁴⁵ Meanwhile, the tense state of “Polish affairs” in the early 1860s drove the council to postpone resolution of the issue, and the full-blown Polish insurrection of 1863 substantially reordered the priorities of the autocracy toward the task of strengthening ties between borderland and center. Deeply concerned with manifestations of “separatism,” the Russian press inevitably drew attention after the insurrection to the Baltic region, where a nationally distinct social elite was energetically defending a particularistic order. It was difficult not to see in the concurrent process of German unification the possibility of an eventual claim by the new Germany to the Baltic provinces. Concessions to Baltic particularity now became more controversial, and many

⁴³ *Dnevnik Valueva*, 1:136–37; Rimskii, *Rossiiskaia tserkov’*, 243–44. At this point Valuev also raised the issue of removing certain limitations on the construction of non-Orthodox churches, but this question seems to have been far less charged politically than the marriage one.

⁴⁴ *Sbornik materialov*, 106–21 (citations at 117 and 118). *Sbornik materialov* dates this report to January 6, 1861, but this is almost surely incorrect, and a series of indications suggest that it was composed a year later.

⁴⁵ *Sbornik materialov*, 121; *Dnevnik Valueva*, 1:136–37.

began to regard the extension of Russian institutions and reforms to borderland provinces as essential to the state's unity and integrity.⁴⁶

It was in this context that Valuev, probably sensing the impossibility of attaining concessions to Catholicism, signaled his willingness to limit reform of the mixed-marriage question to "the Protestant confession" alone. For the time being he shelved his plans for more extensive religious reform—including the right of "pseudo-Orthodox" peasants to return to Lutheranism—but he insisted that making a concession on mixed marriage was crucial to keeping the Baltic provinces thoroughly attached to Russia. Writing to the minister of justice, he opined, "Without providing broad scope for freedom of conscience," it would be impossible to guarantee tranquility in the region, "and instead of rapprochement and merging with Russia, [the region] will become more and more alienated." To the chief procurator of the Holy Synod he argued that the further spread of Orthodoxy would be possible only by defusing the tense situation, in which the region's Protestant population, or at least its elite, "has now been brought almost completely to the point of religious fanaticism." At a government conference on Baltic affairs at the end of 1864, he insisted that "if we are not willing bravely [i.e., explicitly] to recognize freedom of conscience, then at least we should allow it in practice."⁴⁷

Forces were working both for and against Valuev's modified proposal. On the one hand, an official report of April 1864 on the religious situation in the Baltic region offered a strong indictment of government policy that cast serious doubt on the motivations behind the conversions of the 1840s. Most strikingly, its author, Count V. A. Bobrinskii, expressed deep consternation about the fact that "this violence against conscience and this official deceit, known to everyone, is indissolubly linked with the idea of Russia and Orthodoxy." The Emperor was apparently shaken by this report, and rural unrest in the region merely reinforced the need to make some kind of accommodation with the unhappy converts.⁴⁸ On the other hand, the Orthodox Church registered the fear that the removal of the government's administrative directives supporting Orthodoxy would decimate the flock of the Riga archdiocese. Chief Procurator A. P. Akhmatov declared his unequivocal opposition to

⁴⁶ On these developments, see Gavrilin, *Ocherki istorii*, 234–36, 251; Isakov, *Ostzeiskii vopros*, 27–29, 32–33; Haltzel, "Baltic Germans," 124–33.

⁴⁷ *Sbornik materialov*, 128–35 (citations at 129 and 132); *Dnevnik Valueva*, 1:305.

⁴⁸ The report is published as "Graf V. A. Bobrinskii: Ego poezdka v Baltiiskii kraj, 1864," *Russkaia starina*, no. 12 (1898): 583–92 (citation at 588). See also Edward C. Thaden, "Russian Government," in *Russification in the Baltic Provinces*, 44; and Haltzel, "Baltic Germans," 146–47.

anything beyond having the Emperor once again permit exceptions to the law in particular cases.⁴⁹

Faced with these divergent pressures, Valuev was compelled to settle for a half measure. Without actually modifying the law or even specifying the reason for the change, he proposed simply not requiring the prenuptial promises specified in the law (article 67) from those entering mixed marriages in the three Baltic provinces. Alexander II agreed to this measure in an imperial decree, authored by Valuev, in March 1865. Akhmatov accepted this measure only in light of the Emperor’s insistence and filed his resignation immediately thereafter. As a result of this decree, the Orthodox clergy in the Baltic region was now instructed to disregard a significant provision in existing law, while Lutheran pastors were eventually assured that they would not be prosecuted under the criminal code for baptizing children born of mixed marriages. In the next few months, the interior ministry succeeded in wresting the authority to execute the decree from the Orthodox Church, and sought thereafter, through administrative rulings, to expand its scope to the benefit of Lutheran interests. Valuev contended, for example, that “silent apostasy” from Orthodoxy—that is, failure to attend church or to bring infants for baptism by Orthodox rite—could be left without persecution, making “indulgence” the rule and “severity” the exception. Thus, while Valuev was compelled to settle for less than he had originally proposed, nonetheless the return to Lutheranism of the converts of the 1840s—or at the very least of their children—was permitted in everything but name.⁵⁰

Having been forced to accept the decree of 1865, the church was further compelled to modify (or at least suspend) its canon. In another context Valuev had already declared that “ancient ecclesiastical rules can scarcely be applied conveniently to modern circumstances and to the process of creating civil laws.”⁵¹ Summoned to St. Petersburg, the Orthodox archbishop of Riga produced an instruction to his clergy in 1866 in which he explained that the Sixth Ecumenical Council had met long before the appearance of Protestants and could not possibly have had them in mind when proscribing mixed marriages. Furthermore, he wrote, the synod’s 1721 ruling requiring prenuptial signatures had pertained only to mixed marriages with ethnically Russian women, and thus marriages of non-Orthodox Christians with Orthodox representatives of other ethnic groups “may be freely concluded without the

⁴⁹ *Sbornik materialov*, 227–31. The church in fact agreed to the possibility of exceptions precisely in order to forestall a more comprehensive revision of existing legislation.

⁵⁰ *Sbornik materialov*, 135, 141–44, 233–43 (citation at 238). See also Gavrilin, *Ocherki istorii*, 222–24; *Dnevnik Valueva*, 1:274–75, 305; 2:23, 26–28.

⁵¹ RGIA, f. 821, op. 10, d. 253, l. 15ob.

forementioned signatures.”⁵² That this instruction emanated from the archbishop of Riga demonstrates the government’s concern with limiting its provisions to the Baltic provinces alone, and perhaps also its doubts about being able to extract a similar statement from the Holy Synod itself.

The very fact that the law had been suspended rather than abrogated, however, rendered it easier for the government to reverse course on the issue later. By the late 1860s the reformist energies of Alexander II’s government had been expended and, under the pressure of revolutionary agitation and the Polish insurrection, the state became increasingly conservative. The Emperor’s assassination in 1881 reinforced the growing trend of counterreform. Already more conservative than his father, Alexander III could see in the assassination a mandate to dispense with the quasi-liberal pretensions of the 1860s and to rule with a heavier hand. The national idea also became far more prominent in official policy, as the government now made more concerted efforts to integrate the empire’s diverse border regions, to introduce greater legal and administrative uniformity, and to promote Russian “elements” in culturally contested territories. There was little space in this ideological configuration for the more idealistic vision of Valuev, who in any event had ended his term as interior minister in 1868. For much of the 1860s and 1870s the Baltic elite, with professions of loyalty to the throne and through connections with the upper bureaucracy, had managed to limit the implementation of “Russification” in the Baltic region. By the 1880s this was no longer the case. Alexander III became the first emperor to withhold confirmation of Baltic privileges upon his coronation, and the government now adopted the position of the nationalist press and introduced a series of measures designed to erode regional particularity.⁵³

The effort of the synod’s chief procurator, Constantine Pobedonostsev, to restore the full force of imperial law on mixed marriages represented a fundamental part of this effort. An accomplished and deeply conservative legal scholar, Pobedonostsev contended that in practice religious freedom simply allowed “our enemies” to convert Russians into Lutherans and Catholics so that they would be lost forever “for the church and the country.” However valid in its essence, “freedom of conscience” would always “crumble when it comes into contact with reality.”⁵⁴ Writing to the sovereign in this vein in 1885, Pobedonostsev offered a sustained critique of the policy on mixed marriages in the 1860s. In his view, earlier appeals to “freedom of

⁵² *Sbornik materialov*, 249.

⁵³ Thaden, “Russian Government,” 54–75; Haltzel, “Baltic Germans,” 150–67. On the nationalist reorientation of the monarchy, see esp. Wortman, *Scenarios of Power*, 2:161–95, 235–70.

⁵⁴ Cited in Aleksandr Iu. Polunov, *Pod vlast’iu ober-prokurora: Gosudarstvo i tserkov’ v epokhu Aleksandra III* (Moscow, 1996), 99.

conscience” represented a cynical ploy for the exclusive benefit of Lutheran interests “and for the suppression of the conscience of the adherents of other confessions, primarily Orthodoxy.” Pobedonostsev portrayed as callous and scheming the efforts of the interior ministry to revise imperial law and to expand the imperial decree of 1865 well beyond its original, circumscribed field of application. The whole process, he contended, demonstrated “how even given the most lofty intentions, one careless step leads to a second, a third, and so on,” eventually bringing the state into contradiction with itself. By suspending article 67, the state merely invited more demands from the German elite, since implementation of the decree of 1865 virtually required the declaration of Lutheranism as the predominant faith of the region. Because the decree had created an outlook in the Baltic elite deeply at odds with the government’s efforts to transform the region, only its abrogation would permit the government’s projects to go forward. With the Emperor’s firm endorsement, article 67 was fully reinstated later in 1885.⁵⁵

Ultimately, however, it proved impossible to turn the clock back twenty years. A return to Lutheranism had been granted in everything but name in the 1860s and 1870s, and the lives of many people had accordingly been reordered. To require now that the children of mixed marriages be raised in Orthodoxy, and to give the law of 1885 retroactive force, as local authorities began to do, was to invite serious confusion. The logic of the shift also compelled the government to begin criminal proceedings against Lutheran pastors who administered rites to formally Orthodox persons. Aside from the vigorous protest that this new orientation generated from both the Baltic elite and Protestant groups abroad, the government also faced the prospect that the region’s residents, cut off from Lutheran institutions and clergy, “little by little are losing completely their religious feeling and are becoming atheists.” Even Pobedonostsev himself eventually came to the conclusion that, after permitting the confession of Lutheranism in the 1860s and 1870s, it was “scarcely in accord with justice” to punish people now for not confessing Orthodoxy. Yet despite this admission and a lessening of the repression of Lutheran pastors from the mid-1890s, the existing legal order remained in place until 1905, when the Baltic region, as well as the rest of the Russian empire, erupted in discontent.⁵⁶

At stake in the issue of mixed marriage in the Baltic region was much more

⁵⁵ Pobedonostsev’s lengthy report is in *Sbornik materialov*, 201–59 (citations at 201, 219, 256, and 257).

⁵⁶ RGIA, f. 1405, op. 77, d. 8043, ll. 15ob.–16; M. E. Iachevskii, “Zapiska ob otpavshikh iz pravoslaviia v inoverie,” RGIA, printed material, folder 2349, 45–61 (citation at 47); Polunov, *Pod vlast’iu ober-prokurora*, 112–17 (citation of Pobedonostsev at 115); *Sbornik materialov*, 304–7, 386–91; *Pravoslavie i liuteranstvo v Rossii* (Leipzig, 1890); RGIA, f. 1574, op. 2, d. 281.

than the question of ceremonies or, strictly speaking, the raising of children. At a basic level the issue concerned the status of the Lutheran Church in the region, the government's willingness (or refusal) to allow the mass conversions of the 1840s to be reversed, and ultimately the relationship of this strategic portion of the empire to St. Petersburg. That article 67 of the law code was suspended but not repealed, and then reinstated twenty years later, indicates that these problems remained fundamentally unresolved. In short, the Baltic case reveals the profound difficulties involved in reconciling a privileged Orthodoxy, the expansion of religious freedom, and the integrity of the imperial state in an age of emergent nationalism.

IMPERIAL INTEGRATION AND CATHOLIC OBSTRUCTION

The situation faced by the imperial government in the western provinces was in some respects similar to the situation in the Baltic region. Here, too, the local elite spoke a different language (Polish) and adhered to a different confession (Catholicism) than did the population of the empire's central provinces. Yet the differences are equally important. If at times contemptuous of things Russian, the Baltic elite nonetheless remained loyal to the throne as long as its privileges were left intact. The Polish elite, by contrast, had never entirely made peace with the partitions of 1772–1815 and on several occasions—most notably in 1830 and 1863—revolted openly against imperial rule with the goal of resurrecting the Commonwealth. Moreover, whereas the German elite made no claims to hegemony beyond the three Baltic provinces, the Polish elite considered not only the Kingdom of Poland but also the western provinces—what Russian officialdom regarded as primordially “Russian land”—to be an indisputable part of any reconstituted Poland. Finally, whereas the Baltic elite dominated an obviously non-Russian population (Estonians and Latvians), Polish lords oversaw mostly Orthodox peasants whom St. Petersburg, under the growing influence of Russian nationalist discourse, regarded as central objects in the project of constructing a “large Russian nation” encompassing all eastern Slavs. In short, the western region was the site of a profound cultural struggle of great internal and geopolitical significance. Its integration with the empire's central regions thus represented a matter of singular importance for the government.⁵⁷

In this context, the potential role of mixed marriages in promoting this

⁵⁷ On these issues see esp. Aleksei Miller, “*Ukrainskii vopros*” v politike vlastei i russkom obshchestvennom mnenii, vtoraiia polovina XIX v. (St. Petersburg, 200), 31–41; Kimitako Matsuzato, “Pol'skii factor v pravoberezhnoi Ukraine s XIX po nachalo XX veka,” *Ab Imperio*, no. 1 (2000): 91–105; Leonid Gorizontov, “‘Bol'shaia russkaia natsiia’ v imperskoi regional'noi strategii samoderzhaviiia,” in *Prostranstvo vlasti: Istoricheskii opyt i vyzovy sovremennosti* (Moscow, 2001), 129–50.

integration was of central importance to the government's position. For a half century after the partitions of 1772–95, St. Petersburg regarded mixed marriages as a positive force that could facilitate integration and gradually increase the number of Orthodox Christians in the region. In 1831 a government committee even rejected a proposal to extend the Petrine norms to that region by remarking, "This would place a complete barrier to the conclusion of marital unions between Russians and Poles and would postpone the desired merging of those two ethnic groups." As late as 1888, the governor-general of Kiev posited that mixed marriages achieved "the greatest and closest merging possible" between Catholics and Orthodox, "if only because children from such marriages become Orthodox."⁵⁸ For much of the nineteenth century, therefore, the central thrust of state policy and legislative activity involved, if not the outright promotion of mixed marriages, then at least the elimination of obstacles to their conclusion.

Especially after 1832, those obstacles came principally from Catholic clerics, who either would not or could not reconcile the Petrine norms with the principles of Catholic marital discipline. Before 1832 Catholic clergy had erected comparatively few obstacles to mixed marriages, because such unions continued to be regulated by provisions of 1768 that established at least parity of Catholicism with Orthodoxy. The extension of the Petrine norms to the western provinces in 1832 altered the situation fundamentally by eliminating entirely the possibility for mixed couples to raise children in Catholicism.⁵⁹ Bishop of Lutsk and Zhitomir Kasper Borowski reported that "not one religious quarrel has produced such deep offense of religious feeling among the Catholic people as the provision on mixed marriages." Called upon to uphold both the Petrine norms and Catholic discipline, priests faced an especially great dilemma. As the Holy See complained, "Imperial laws encourage mixed marriages to such a degree that they prohibit Latin priests from creating any obstacles in such a case, thus placing them in the grave position of having to violate either church rules or imperial laws."⁶⁰

When the Concordat of 1847 failed to address their objections, Catholic authorities in Russia began to insist on firmer implementation of canonical discipline. Citing church rules banning intermarriage, Bishop Borowski in 1852 prohibited parish priests from either blessing marriages already concluded by Orthodox rite or allowing those about to enter such a marriage to

⁵⁸ Gorizontov, *Paradoksy*, 78; *Sbornik materialov*, 277 and 293. Interior Minister I. N. Durnovo concurred with the governor-general's assessment in 1891.

⁵⁹ Rome had been hostile even to the provisions of the 1768 treaty. See Larry Wolff, *The Vatican and Poland in the Age of the Partitions: Diplomatic and Cultural Encounters at the Warsaw Nunciature* (Boulder, CO, 1988), 132–36.

⁶⁰ RGIA, f. 821, op. 10, d. 604, ll. 147ob.–148; A. N. Popov, *Posledniaia sud'ba Papskoi politiki v Rossii, 1845–1867 gg.* (St. Petersburg, 1868), 144 (citation).

take prenuptial confession. When the interior ministry applied pressure, citing the exceptions that the Pope had made for Germany and Hungary and noting that second ceremonies were permitted in the empire's other Catholic dioceses, Borowski made only a minor concession and upheld the prohibition on blessing such marriages. When pushed further he responded that there was nothing he could do without Rome's consent.⁶¹ In 1862 he complained that the law's strict requirements represented "a constraint on the freedom of parents" to raise their children in the faith of their choice, and accordingly requested that "each person be granted freedom of conscience and responsibility only before God for his conviction with regard to faith and the raising of his children."⁶²

Catholic attitudes toward mixed marriage worsened considerably in the aftermath of the insurrection of 1863. One memoirist reported that even after the insurrection of 1831 many Polish widows had still been willing to marry young Russian officers, but that after 1863 this no longer occurred. "On the contrary, many young and beautiful Polish ladies remained unmarried." By another account, young Polish ladies were typically instructed that married men, priests, and Russians were the three categories of men that should be disregarded as potential mates. If under Nicholas I "impoverished noblewomen [and] at times squalid teachers" had been prepared to marry Russians, then after the insurrection of 1863 the only ones to do so—aside from those consciously seeking to limit government retribution by marrying representatives of "Russian power"—were "politically irresponsible women."⁶³

Meanwhile, Catholic priests erected ever-greater obstacles to the conclusion of mixed marriages. Orthodox Metropolitan Iosif (Semashko) complained in 1859 that Catholic clergy had recently become more bold and arrogant on this score and were dissuading potential mixed marriages "with the crudest slander and abuse of Orthodox people." Catholics seeking to take Orthodox spouses allegedly faced threats of damnation and banishment from the church, and if they persisted then church bells were rung as if for a funeral to signify their souls being sent to the devil for eternal torment.⁶⁴ As the century progressed, Catholic priests made more frequent use of their prerog-

⁶¹ Popov, *Posledniaia sud'ba*, 56–64, 168–70; RGIA, f. 821, op. 10, d. 604, ll. 59ob., 65–66, 75–79ob., 87.

⁶² RGIA, f. 821, op. 10, d. 604, ll. 147ob.–149.

⁶³ Gorizontov, *Paradoksy*, 90 (citation); Kowalska-Glikman, "Małżeństwa mieszane," 319–26 (citations at 322); RGIA, f. 821, op. 10, d. 604, ll. 191–196ob.; *Sbornik materialov*, 262–64, 276.

⁶⁴ *Zapiski Iosifa Mitropolita Litovskago, izdannia Imperatorskoiu Akademiei nauk po zaveshchaniu avtora* (St. Petersburg, 1883), 2:646–47; LVIA, f. 378 (BS), 1859, d. 937; A. Volynets, "Smeshannye braki v zapadnom krae," *Vilenskii vestnik*, no. 259 (December 3, 1892): 1–2, and "Iz Volynskoi gubernii," *Litovskii eparkhial'nyiia vedomosti*, no. 50 (1889): 438–39.

ative to refrain from the proclamation of banns for the Catholic party, thereby rendering impossible the conclusion of the marriage by Orthodox rite.⁶⁵ St. Petersburg’s efforts to compel the Catholic clergy to proclaim banns met strenuous resistance from the papacy, which jealously guarded its oversight over marital affairs. The Bishop of Lutsk and Zhitomir meanwhile explained that, because mixed marriage itself represented an impediment to the proclamation of banns, “for all my readiness to execute the directives of the civil powers, in the present case I cannot do this without violating my conscience and my pastoral obligations.”⁶⁶

Faced with a clergy that could not possibly uphold civil law and Catholic prescriptions simultaneously, the imperial government was driven inexorably toward the solution of eliminating that clergy entirely from the process of concluding mixed marriages. Banns would simply be proclaimed for the Catholic party in an Orthodox church using documentation provided by local police authorities. Interior Minister I. N. Durnovo remarked that with the introduction of this new provision, “right-thinking” Catholic priests would be rescued from their impossible position, and “the government would have to deal not with unintentional violators of the law, but [only] with convinced fanatics, against whom punitive measures would constitute direct and just retribution for their harmful mode of action.” This provision was introduced as a temporary administrative measure in 1891, and in 1905 it was extended to marriages between Catholics and Protestants.⁶⁷ Thus, while the government exhibited a strong preference for religious principles, it also proved willing to “secularize” the provision of banns for Catholics in mixed marriages.

Efforts to eliminate obstacles erected by the Catholic clergy were predicated on the proposition that such unions could indeed help to bind the western region to Russia’s central provinces by expanding Orthodoxy through the institution of the family. Even those officials who were agnostic about the benefits of mixed marriage often remained, at the very least, determined to prevent the Catholic subversion of imperial law, which unequivocally permitted such unions. With time, however, greater doubts about the integrative potential of mixed marriage—or at least disagreements about the conditions under which such marriages could actually promote integration—began to appear. At stake were two principal issues: first, whether or not the Petrine norms actually facilitated the integration of the western region; and, second,

⁶⁵ The law explicitly required the proclamation of banns for anyone entering marriage by Orthodox rite. See *Svod zakonov*, vol. 10, pt. 1 (1857 ed.), arts. 26 and 67 (point 2); *Sbornik materialov*, 262–64, 271, 276–77.

⁶⁶ *Sbornik materialov*, 266–67, 271–73 (citations at 267 and 273).

⁶⁷ *Ibid.*, 277–300, 307–8, 397–406 (citations at 273 and 294); Gorizontov, *Paradoksy*, 93; RGIA, f. 821, op. 1, d. 439.

whether mixed marriage could benefit Russian interests at all, in light of Polish cultural predominance and the “fanaticism” of Catholic mothers.

In fact, Interior Minister Valuev was among the earliest to register skepticism concerning the Petrine norms while remaining optimistic about the potential benefits of mixed marriages in general. In the same report of 1862 in which he argued for modification of the legal order in the Baltic region, Valuev characterized the government’s refusal to insist on the Petrine norms in the western region until 1832 as a conscious and well-founded choice. “The government knew that any facilitation of marriage between the inhabitants of those provinces and the indigenous residents of Russia could only accelerate the fusion of the native Russian population with the population of the acquired territories and establish a closer connection between various parts of the state.” But whereas those marriages had previously “facilitated the rapprochement and partial fusion of various peoples,” now they produced discord and “represent a constant basis for complaints and heterodox pretensions that contradict existing law.” The current order did little to facilitate the strengthening and spread of Orthodoxy and “in some places hinders the rapprochement of multiethnic Russian subjects, who do not enter marriage with one another only because of the refusal of one party to submit to the law on the raising of his or her children in Orthodoxy.” In short, mixed marriage had served a useful integrative function until the government became distracted “by the idea of religious unity in the state” and by misgivings about “Polish Catholicism.” The legalization of parents’ authority to determine the religion of their children themselves would resurrect this function, and once the source of aggravation had been eliminated, “one may reliably expect that in many cases, when spouses of different faiths live in Orthodox regions of the Empire, their children will be raised, under the influence of local conditions, in the Orthodox confession, even if this contradicts the original agreement that the two spouses made when concluding their marriage.”⁶⁸

The insurrection of 1863—and the active participation of Catholic clergy in it—rendered politically impossible any concessions to Catholicism and, as we have seen, even helped to circumscribe the reform of the marriage order in the Baltic region. The insurrection also fueled an emerging conviction among Russian officials and observers that the children of mixed marriage, regardless of the law, were much more likely to be Catholic by conviction than Orthodox. Although most such children seem to have been properly baptized into Orthodoxy,⁶⁹ their association with that confession often did not extend

⁶⁸ *Sbornik materialov*, 115–21. A similar argument that was probably inspired by Valuev was published in the newspaper *Golos*, especially as Valuev had connections with that paper. *Golos*, no. 355 (December 24, 1865), 1. For an opposing view in print, see *Kievlianin*, no. 135 (October 15, 1865), 1–2.

⁶⁹ Such were the results of an ecclesiastical investigation of the early 1850s. LVIA,

beyond this formal act of incorporation. Indeed, in 1866 the newspaper *Messenger of Vil'na* explained that there even existed a special term in the region—*latinizant*—to signify children of mixed marriages who, while formally Orthodox, were Catholic by conviction and practice. Catholics' allegedly deceitful exploitation of a provision in the 1832 law that denied retroactive force to the Petrine norms had meanwhile allowed "tens of thousands of Orthodox people to remain in Catholicism."⁷⁰ In 1874 an Orthodox parish priest explained on the basis of thirty-two years of service that children of mixed marriages—"especially when the mother is Catholic"—tended to apostatize into Catholicism, despite official promises provided at the wedding. The church would be better off, he argued, trying to prevent mixed marriages or to obtain the conversion of the Catholic party.⁷¹ Other commentators added that mixed marriages had failed to serve the cause of "Russification," and one remarked that the government's efforts to facilitate the conclusion of mixed marriage were guided by "abstract considerations" that took insufficient account of the balance of forces on the ground.⁷² Some continued to believe that in the longer run the law worked to the benefit of Orthodoxy, but by the late nineteenth century the skeptics were clearly predominant.

Their outlook was rooted in an emerging consensus that Catholic discipline was much stronger than its Orthodox counterpart. Valuev had made this clear in his own report, when he acknowledged that Catholics would initially come out on top if his recommendations were accepted, because when compared to their Catholic counterparts the Orthodox clergy did not exhibit the same "independent solicitude concerning the maintenance and expansion of their flock." Others related how the censure of a Catholic priest was a powerful force in dissuading Catholics from marrying non-Catholic partners and in

f. 605, op. 2, d. 1681; *Zapiski Iosifa*, 2:476–77. Compare this with the situation in Hungary, where children belonging to Protestantism by a law of 1868 on mixed marriages were often baptized into Catholicism by Catholic priests. See Nemes, "The Uncivil Origins," 317–18.

⁷⁰ "Chto takoe latinizanstvo?" *Vilenskii vestnik*, no. 198 (September 20, 1866), 3; LVIA, f. 378 (BS), 1866, d. 1152, l. 52ob. See also the editorial in *Vilenskii vestnik*, no. 62 (March 19, 1865), 1.

⁷¹ LVIA, f. 605, ap. 9, b. 190, l. 20ob. As early as the 1850s there are indications that some Orthodox clerics were already applying this injunction, refusing to marry without the conversion of the non-Orthodox spouse. LVIA, f. 605, op. 2, d. 1681, l. 11ob. And this was apparently adopted with greater frequency later in the nineteenth century. N. D. Izvekov, *Istoricheskii ocherk sostotaniia pravoslavnoi tserkvi v Litovskoi eparkhii za vremia s 1839–1889 g.* (Moscow, 1899), 355.

⁷² Volynets, "Iz Volynskoi gubernii," 438; A. Vladimirov, "O polozhenii Pravoslavia v Severo-Zapadnom krae," *Russkoe obozrenie*, bk. 3 (March 1893), 676. See also Izvekov, *Istoricheskii ocherk*, 352–56.

ensuring the predominance of Catholicism in the family if they did. Faced with obligations before both the local Orthodox priest and the Catholic one, parents in mixed marriages would undoubtedly ascribe greater significance to the latter.⁷³

Many commentators also singled out women as a particularly potent force on the Catholic side. As Mikhail Dolbilov has shown, many officials and publicists writing after the 1863 insurrection defined the Polish national character in terms of its feminine nature, and the “demonization” of Polish women now represented a crucial aspect of Russian Polonophobia. Officials regarded female members of the elite in the western provinces as the detonators of the insurrection, as the main purveyors of Polish national consciousness, and as conduits of Catholicism in its most fanatical form.⁷⁴ In a characteristic formulation, the Slavophile Iurii Samarin claimed that each day in Polish families, “the evil spirit of Poland in the form of the Catholic priest inserts its sting into the heart of the wife, and the wife in her turn stirs up the imagination and conscience of the husband.” Asserting the existence of “romantic relations” between clergy and women, another official wrote in 1863 that Catholic priests “have driven the women to fanaticism, and the latter carry along their husbands, brothers, and sons.”⁷⁵

Such conclusions had obvious implications for mixed marriages. Thus Vil’na Governor-General Mikhail Murav’ev instructed governors in 1864 to prevent new officials arriving from Russia from marrying local women. Prohibitions on Poles and/or Catholics holding certain administrative posts were also extended to Russians with Polish wives. Some accounts even attributed to Catholic women a conspiracy of seeking marriage with Orthodox officials for the sake of Catholicizing the family’s children.⁷⁶ The rearing of children was generally left to mothers, wrote one Orthodox priest, “and mothers in the western region are all more or less under the direct or indirect influence of the Catholic church [*kostel*].” Even if they did not alienate their

⁷³ *Sbornik materialov*, 120; Vladimirov, “O polozhenii Pravoslaviia,” 677; “Chto takoe latinizanstvo?” 1.

⁷⁴ Mikhail Dolbilov, “Konstruirovanie obraza miatezha: politika M. N. Mura’eva v Litovsko-Beloruskom krae v 1863–1865 gg. kak ob’ekt istoriko-anthropologicheskogo analiza,” in *Actio Nova 2000*, ed. A. I. Filiushkin (Moscow, 2000), 338–409 (esp. 358–67). See also Gorizontov, *Paradoksy*, 85–86.

⁷⁵ Cited in Gorizontov, *Paradoksy*, 86; Dolbilov, “Konstruirovanie,” 361; Popov, *Polsedniaia sud’ba*, 174. Polish women were also noted for their striking beauty. See Kowalska-Glikman, “Małzenstwa mieszane,” 321.

⁷⁶ Dolbilov, “Konstruirovanie,” 365; Witold Rodkiewicz, *Russian Nationality Policy in the Western Provinces of the Empire, 1863–1905* (Lublin, 1998), 133, 139; “Chto takoe latinizanstvo?” 3. With the suppression of the insurrection, Polish officials were being systematically replaced by Russian ones, thus creating a sudden influx of new personnel.

children from Orthodoxy entirely, in the best of cases “heterodox mothers” would leave their children “in a pitiful, indeterminate relationship to both confessions.” It appears that Orthodox clergy were more likely to demand the conversion to Orthodoxy of a Catholic bride before marriage than of a Catholic groom.⁷⁷

These discussions indicate also the extent to which the issue of parental authority was implicated in legal provisions regulating mixed marriage. The law not only compelled parents in mixed unions to raise all children in Orthodoxy but also authorized the transfer of children to Orthodox relatives or guardians if parents failed to do so. This second provision—article 190 of the criminal code—sat uneasily with other legal provisions stating that parental authority terminated only as a result of actual or civil death.⁷⁸ Some officials were nonetheless eager to defend article 190. The governor of Vil’na province wrote in 1873 that the application of this provision was necessary “as a natural consequence of the parents’ crime, and above all as a political measure preserving the *moral unity* of the state.” The article has been created for the protection of state interests, “which are always more important than private interests of the family.” The Orthodox Holy Synod also defended the article in 1878, remarking that its elimination “could lead to the complete loss of those children for the Orthodox Church.”⁷⁹ Yet other officials were far less comfortable with these encroachments on parental authority. Valuev contended that “complete religious toleration and freedom of confession” clearly included “the right to transfer one’s faith to one’s children through baptism and upbringing, or, in the case of parents of different faiths—the right to determine the confession of children by mutual agreement.” A decade later the office of the governor-general in Vil’na asserted that article 190 violated “the main right and responsibility innate to parents to raise their children.” Contending that state unity had never depended on unity of religious confession, the office questioned the proposition that “unshakeable principles common to all humankind” (i.e., parental power over children) should be sacrificed to state interests or to “subjective principles, among which one should include religious confession.” This issue was resolved only in 1906, when article 190

⁷⁷ I. Fudel’, *Nashe delo v Severo-zapadnom krae* (Moscow, 1893), 17; Volynets, “Smeshannye braki,” 1–2; Izvekov, *Istoricheskii ocherk*, 356.

⁷⁸ On legal definitions of parental authority, see Wagner, *Marriage, Property, and Law*, 62–65.

⁷⁹ LVIA, f. 378 (BS), 1873, d. 1467, ll. 6–15ob. (citations at ll. 8–9; emphasis in the original); RGIA, f. 796, op. 159, d. 1798, ll. 11–12 (citation at l. 12). Article 190 did not just apply to mixed marriages; it also extended to any case in which a parent, obligated to raise his or her children in Orthodoxy, failed to do so and thus became guilty of “seducing” the child from Orthodoxy.

was finally eliminated—some thirty years after its repeal had originally been proposed.⁸⁰

The deeply ambivalent view of mixed marriages—combining fears of “Polonization” and “apostasy” with hopes for the integration of the deeply contested western provinces—suggests that even intellectually the question had not yet been resolved at the turn of the century. Moreover, Russian and Orthodox observers seem not to have been in full agreement about whether Catholic priests were stubbornly blocking the conclusion of mixed marriages or were instead eager to exploit them for their own benefit (although these two views were not entirely incompatible). Mixed marriage accordingly retained its topicality in religious policy, particularly after the fundamental shifts in Russia’s religious order produced by the Revolution of 1905.

MIXED MARRIAGE AND “FREEDOM OF CONSCIENCE” AFTER 1905

Spurred both by reformist tendencies within the state bureaucracy and by the crisis of authority in the Revolution of 1905, broad changes in confessional policy altered the question of mixed marriage. With the legalization of “apostasy” in April 1905, there was now little to prevent marriage from becoming a conduit for the conversion of Orthodox believers to other Christian confessions. By granting Old Believers and “Russian sectarians” the status of adherents to tolerated “foreign confessions,” the new order also broadened the applicability of existing laws on mixed marriages to these Russian dissenters. The deepening crisis in Russia compelled the autocracy later in 1905 to issue the October Manifesto, which for the first time explicitly promised the Emperor’s subjects “freedom of conscience.” While the precise meaning of this concept proved a matter of contention, many were convinced that it included at least the right of parents to determine the religion of their children. Indeed, Lutherans immediately began to complain that the statute requiring Orthodox baptism had prevented many mixed marriages and “fundamentally contradicts the spirit of true religious toleration, which permits no compulsion in matters of faith.”⁸¹ Still unwilling to introduce civil marriage, the government took upon itself the unenviable task of reconciling the canon-

⁸⁰ *Sbornik materialov*, 116; LVIA, f. 378 (BS), 1873, d. 1467, ll. 18–32ob. (citations at ll. 24, 29ob.); RGIA, f. 821, op. 10, d. 252, ll. 223–223ob.; Shein, “K istorii,” 238–39.

⁸¹ RGIA, f. 821, op. 5, d. 6, ll. 6, 86–88; *Sbornik materialov*, 522–26; *PSZ*, 3rd ser., 25, no. 26126 (April 17, 1905), and no. 26803 (October 17, 1905); LVIA, f. 378 (BS, 1905), b. 403, ll. 1–4. On the circumstances leading to the manifesto, see B. V. Anan’ich, ed., *Vlast’ i reformy: Ot samoderzhavnoi k Sovetskoi Rossii* (St. Petersburg, 1996), 457–507; and Abraham Ascher, *The Revolution of 1905: Russia in Disarray* (Stanford, CA, 1988).

ical requirements of the Orthodox Church and the new principles of religious freedom.⁸²

The complexity of this reconciliation became evident when the interior ministry sought to address the problem of mixed marriage comprehensively in a draft bill on changes to family law.⁸³ At the core of the draft was an attempt simultaneously to uphold the religious character of marriage and to establish greater distance between secular law and church canon. The validity of marriage would continue to be defined exclusively from a “canonical perspective.” But unless the rules of different religions were in “sharp collision” with one another, thus requiring the state’s arbitration, “the secular law should refrain from any interference, leaving each religious teaching to act in accordance with its rules, without repudiating them, but also without imparting its [the law’s] sanction to them.” A church could, of course, continue to insist on the observance of its canonical requirements, and the state would regard the marriages of that church’s adherents as legal only if the church itself defined them as valid. But the state would no longer incorporate canonical requirements directly into its own civil law for the purposes of prohibiting certain kinds of marriage. Nor would it actually criminalize the conclusion of such marriages, preferring instead merely to deny them legal recognition if not sanctioned by the proper religious authority. In effect the state would allow churches to determine the validity of marriages but would no longer incorporate into its own civil law the canonical rules by which they did so.⁸⁴

Furthermore, the draft eroded the protections for Orthodoxy contained in article 67. It proposed eliminating the requirement that non-Orthodox parties provide promises to refrain from drawing the Orthodox spouse into their faith. Such a requirement was “extremely unfair, since in this way unequal defense for the religious confession of the spouses in mixed marriages is created.” The requirement “also contradicts the principles of freedom of conscience, according to which an effort to draw [others] to one’s faith should not represent a punishable offence, as long as it is not accompanied by specific [criminal] actions stipulated by the law.”⁸⁵ Further eroding article 67 was the draft’s position on the religious affiliation of children born of mixed marriages. In the

⁸² *Spravka o svobode sovesti* (St. Petersburg, 1906), 10–19. RGIA, f. 821, op. 10, d. 39, ll. 376–77; “O zakonopolozheniiakh, napravlennykh k osushchestvleniiu svobody sovesti,” in *Katolicheskaia tserkov’ nakanune revoliutsii 1917 goda: Sbornik dokumentov*, ed. Marian Radwan (Lublin, 2003), 462.

⁸³ Zakonoproekt, “Ob izmeneniiakh v oblasti semeistvennykh prav,” in Radwan, *Katolicheskaia tserkov’*, 336–89. This was one of seven bills on “freedom of conscience” submitted to the Duma in February 1907. These are reproduced in Radwan, *Katolicheskaia tserkov’*, 133–415.

⁸⁴ *Ibid.*, 347–50.

⁸⁵ *Ibid.*, 351–52. The draft furthermore proposed that all promises given previously on the basis of article 67 should lose their legal force (384).

discussions leading to the decree of April 1905, even the liberal Metropolitan of St. Petersburg Antonii (Vadkovskii) had insisted that, “strictly speaking,” mixed marriages were “completely impermissible” by Orthodox canon, and that guarantees of the Orthodox status of children were indispensable in allowing the church to make the concession that it had in 1721.⁸⁶ The draft rejected these arguments, however, and contended that the canonicity of mixed marriages was actually an open question. “Ancient canons themselves give grounds for various interpretations,” and there was thus a foundation for contesting the claim that the church had in fact made “a significant concession to the state and therefore has the right to require that the children belong to it [the church].” Indeed, by agreeing to various exceptions to the rule on children—in the western provinces (1768–1832), in the Baltic region (1865–85), and contemporaneously in Finland—the church demonstrated that these could not be contrary to its fundamental teachings, “for in no case may the church permit a deviation from those rules that are based on the fundamental dogmas of the Orthodox faith.” Having provided its own reading of “ancient canons” and having deployed the church’s earlier concessions in order to obtain new ones, the draft thus opened the way for a revision of the statutes on the confessional affiliation of children.⁸⁷

And here Valuev’s original proposals in the early 1860s made a stunning return. Indeed, Valuev’s explicit use of the term “freedom of conscience”—which then had lacked any formal sanction and was scarcely a common element in Russian official discourse—made it possible for the interior ministry under Peter Stolypin to appropriate whole passages from this report of 1862 almost verbatim. Deploying Valuev’s arguments and prose as if four decades had not elapsed, the draft recounted the hopes that the government had placed in mixed marriages as an instrument of integration, and the failure of this instrument to achieve the desired result. Like Valuev forty-five years earlier, the draft concluded that the legal obligation to raise the children of mixed marriage in Orthodoxy “in certain cases hinders the freedom of conscience of the parents, obligating them, against their will, to raise [their] children in a faith that is alien to them.” And, like Valuev, the draft asserted that the law should offer parents the right to determine the religion of their children by mutual agreement, with preference for Orthodoxy only in the absence of such an agreement.⁸⁸

If Valuev’s earlier proposal now gained a second chance, its ultimate fate proved to be the same as it had been in the 1860s. Faced with the legalization of conversion from Orthodoxy to other Christian confessions, some clerics

⁸⁶ *Zhurnal’nyi Komitetu Ministrov po ispolneniiu ukaza 12 dekiabria 1904 g.* (St. Petersburg, 1905), 176–78.

⁸⁷ “Ob izmeneniiakh v oblasti semeistvennykh prav,” 371–76 (citations at 374–75).

⁸⁸ *Ibid.*, 371–84 (citation at 372).

now began to agitate for reinstating the prohibition on mixed marriages that had existed before 1721. Metropolitan Antonii had already warned that without retention of the requirement on the raising of children in Orthodoxy, there was a distinct danger “that the Orthodox clergy, like the Catholic clergy at present, will resist the conclusion of mixed marriages to the extent possible.”⁸⁹ This indeed is what began to occur. When bishops were requested by the chief procurator’s office in 1905 to identify issues for a program of ecclesiastical reform, many proposed that the church be allowed to decide the issue of mixed marriage on the basis of its own canons, without submitting to the needs of the state. Several found especially disturbing the idea of applying the sacrament of marriage to Old Believers and sectarians—excommunicated dissidents from the Orthodox church—and predicted a repetition of the “plundering” already suffered at the hands of Catholics. In epistles to his flock, Archbishop of Volhynia Antonii (Khrapovitskii) openly instructed that mixed marriages, legalized by the government “out of human frailty,” were sinful and should be rejected in accordance with the ruling of the Sixth Ecumenical Council.⁹⁰ And in July 1908 the Fourth Missionary Congress in Kiev passed resolutions calling on the Holy Synod to uphold strictures of canon law against marriages with “heretics.” Although many delegates from areas with large Catholic populations opposed this measure, citing the practical problems of enforcing such a prohibition, its proponents emphasized the determined character of “Catholic propaganda,” which would stop at nothing to convert Orthodox believers. Most strikingly, one delegate at the congress finished his speech by declaring, “May the IV Missionary Congress hold high the torch of Orthodoxy: never in any circumstances will it permit marriages with Catholics-heretics!”⁹¹

Such resolutions were criticized by all but the far-right press as being incompatible with the values of the new society.⁹² Nor was it clear how their

⁸⁹ *Zhurnaly Komiteta Ministrov*, 28–29.

⁹⁰ James Cunningham, *A Vanquished Hope: The Movement for Church Renewal in Russia, 1905–1906* (Crestwood, NY, 1981), 135, 173–76, 302; *Sbornik materialov*, 520; *Otzyvy eparkhial’nykh arkhieereev po voprosu o tserkovnoi reforme* (St. Petersburg, 1906), 1:514–18; 2:113–17; Arkhiepiskop Antonii (Khrapovitskii), *Polnoe sobranie sochinenii* (St. Petersburg, 1911), 1:469–75, 478–92 (citation at 475); LVIA, f. 605, ap. 6, b. 299, l. 5ob.; LVIA, f. 378 (BS, 1905), b. 404, ll. 24, 39ob.; RGIA, f. 796, op. 442, d. 2110, l. 25ob.; Dixon, “Sergii (Stragorodskii),” esp. 66–71.

⁹¹ Heather Coleman, “Defining Heresy: The Fourth Missionary Congress and the Problem of Cultural Power after 1905 in Russia,” *Jahrbücher für Geschichte Osteuropas* 52, no. 1 (2004): 70–91 (citation at 84). RGIA, f. 797, op. 79, otel 2, stol 3, d. 408, l. 33ob. The congress’s resolution did provide exceptions for the Kingdom of Poland, the Baltic provinces, and the Grand Duchy of Finland, where non-Orthodox populations predominated. On Orthodox trepidations about mixed marriage in Finland, see Dixon, “Sergii (Stragorodskii),” 66–71.

⁹² For example of such critiques, see Coleman, “Defining Heresy,” 86–87; “Voin-

proponents hoped to institute such a prohibition. Instructing clergy to refuse to conclude such marriages would place the church directly at odds with the state, and it was unlikely that any majority in the Duma would actually legislate such a prohibition. For the government itself such a ban would represent a “complete revolution” in its confessional policy. In the new order a potential spouse could always convert to another faith, thereby depriving a potential marriage of its “mixed” character. Preventing mixed marriages in this context, a prominent journal opined, would require the restoration of “the thick wall that just recently surrounded the Orthodox church” and a return to “that fiction, whereby a person, once ascribed to Orthodoxy, must always be regarded as belonging to the Orthodox church, even if he has decisively nothing in common with it.”⁹³

Nonetheless, if those seeking to reinstate a complete prohibition on intermarriage were unsuccessful, they still contributed to the failure of Stolypin’s legislative program on “freedom of conscience.” The Kiev missionary congress and others on the right insisted that the affairs of the church—and therefore the draft legislation produced by Stolypin’s ministry—must not be decided by state institutions like the Duma, but should instead be transferred to a church council or the Holy Synod. Stolypin truly desired, by all indications, to construct a new religious order in Russia within certain parameters—as he declared in a speech before the Duma, “to light the candle of confessional freedom of conscience within the boundaries of our Russian Orthodox state.”⁹⁴ But as in so many other respects, his freedom of action was decidedly constrained. Recognizing the precariousness of his political position and the need to make compromises with the political right for the sake of his land reform, Stolypin decided, after intense discussion of several of the bills on the Duma floor, to withdraw two of them—including the one on marriage—in October 1909, “so as to bring those draft laws into agreement with the requirements of the canon law of the Orthodox church and with its predominant status in the country.”⁹⁵

While imperial laws on mixed marriage were left essentially unaltered after 1905, the Catholic position became considerably more restrictive. A fundamental step in Rome’s efforts to impose greater uniformity on the existing

stviuiushchie misionery [*sic*],” *Novoe vremia* (July 18, 1908), 2; “S misionerskago [*sic*] s”ezda,” *Novoe vremia* (July 23, 1908), 4.

⁹³ “Vnutrennee obozrenie,” *Vestnik Evropy* 9 (1908): 352–53.

⁹⁴ RGIA, f. 821, op. 10, d. 39, l. 287.

⁹⁵ *Ibid.*, l. 346. The other bills were either withdrawn subsequently or blocked by the State Council. The legislative process has been thoroughly treated by Waldron, “Religious Reform after 1905”; Dorskaia, *Svoboda sovesti*; and Usmanova, *Musul’manskaia fraktsiia*, 81–122.

diversity of marital discipline came with the publication of the decree *Ne Temere* in 1907. Although still allowing a certain exemption for Germany and Hungary based on earlier precedent, Rome now declared that all Catholics entering matrimony with non-Catholics were bound to the juridical form of marriage. By definitively requiring that mixed marriages in Russia be concluded by Catholic rite, *Ne Temere* revealed the contradiction between the empire’s civil laws and Catholic rules in the starkest terms. Thus while the religious reform of 1905 had held out the prospect of a greatly simplified order for the conclusion of mixed marriages, the situation in the twilight of imperial Russia ironically became even more complicated than it had been before, as Rome and St. Petersburg engaged in a fruitless polemic concerning whether and in which respects *Ne Temere* could have application in Orthodox Russia.⁹⁶

CONCLUSION

The privileges that tsarist legislation granted to Orthodoxy in the matter of mixed marriage were among the most significant concrete manifestations of the “predominant and ruling” character of that confession in Russia. They were also regarded by many Orthodox hierarchs and their supporters as indispensable conditions for the canonicity and thus legalization of mixed marriages. Yet those same privileges were construed by Catholics and Lutherans as infringements on their freedom of conscience, and the marriage issue therefore came to occupy a significant place in conceptions of religious freedom among both non-Orthodox believers and reformist statesmen like Valuev and Stolypin. Implicated in this contradiction between the principles of Orthodox preeminence and freedom of conscience was yet another factor—the issue of imperial integration. With respect to this factor a clear consensus failed to emerge: even though skeptics of the benefits of mixed marriage for the empire’s cohesion were ascendant by the late nineteenth century, Stolypin nonetheless recycled Valuev’s claims concerning the damaging effects of the Petrine norms on the mixed marriages that would, the two men claimed, otherwise bind the Baltic region and the western provinces more thoroughly with Russia’s central regions. The opposition of the Orthodox Church and its allies, however, insured that Valuev’s proposals were again rejected, even as the more strident proponents of strict Orthodox canonicity also failed in reimposing the prohibition on mixed marriage that had been lifted in 1721. In short, the question of mixed marriage reveals the tremendous difficulties that

⁹⁶ LVIA, f. 378 (BS, 1910), b. 72, ll. 26–27ob., 31; *New Catholic Encyclopedia*, s.v. “*Ne Temere*”; “Memorandum Sviateishego Prestola Russkomu Pravitel’stvu,” in Radwan, *Katolicheskaia tserkov’*, 461–62; “O soobshchennom ministrom inostrannykh del memorandumie Rimskoi Kurii i predpolagaemom otvete ei,” *ibid.*, 505–6.

the imperial government faced in reconciling Orthodox preeminence, the expansion of religious freedom, and the maintenance of imperial integrity.

In this regard, it is well worth emphasizing the regime's aspirations to deploy the institution of marriage as an instrument of imperial policy. At a most basic level marriage represented—and was perceived to be—a core institution in the tsarist social and political order.⁹⁷ State officials also proposed at various points that marriage could help to promote the Christianization of recently baptized non-Russians and to tame unruly exiles in Siberia—though outcomes rarely justified the hopes that were invested in such schemes.⁹⁸ The government's belief that mixed marriage could facilitate the integration of contested border regions with the empire's central provinces is consistent with this instrumental view of marriage. Yet there was persistent disagreement within the ranks of the bureaucracy concerning the conditions under which mixed marriage could perform this function. And by the late nineteenth century many had come to doubt whether mixed marriages could serve as the intended instrument at all.

In managing its diverse and far-flung populations, the imperial Russian state recognized difference and legitimized a multiplicity of legal regimes. This practice undoubtedly represented an important source of the regime's strength and durability. But in those instances where different legal regimes came into collision with one another, it had no choice but to act as an arbiter, either granting Orthodoxy concrete preference over other confessions or, alternatively, allowing subjects to act in accordance with their conscience. Either choice carried with it significant political consequences with implications for the empire's long-term viability. Failure to uphold the prerogatives of Orthodoxy was likely to generate strong opposition from the church and thus to alienate perhaps the most important in a dwindling number of the autocracy's allies. Yet insistence on those prerogatives would antagonize members of the Baltic elite—another important ally—who as early as the 1840s had begun to view the question of their regional autonomy partly through the prism of mixed marriage. And such insistence would also prevent any real reconciliation with Catholics after the extension of the Petrine norms to the western provinces in 1832, thereby limiting the likelihood that mixed marriage might actually contribute to the empire's deeper integration. The introduction of civil marriage could perhaps have alleviated some of these

⁹⁷ For different aspects of this issue, see Freeze, "Bringing Order"; Wagner, *Marriage, Property, and Law*; C. Freeze, *Jewish Marriage*; Barbara Alpern Engel, "In the Name of the Tsar: Competing Legalities and Marital Conflict in Late Imperial Russia," *Journal of Modern History* 77 (2005): 70–96.

⁹⁸ Werth, *At the Margins of Orthodoxy*, 109–10; Abby Schrader, "Unruly Felons and Civilizing Wives: Cultivating Marriage in the Siberial Exile System, 1822–1860," *Slavic Review* 66 (2007): 230–56.

difficulties, by rendering marriage a confessionally “neutral” institution.⁹⁹ Yet this act would have represented a fundamental departure from the past for a regime that not only exhibited deep commitments to Orthodoxy but also placed confessional institutions and religious morality more generally at the basis of its legal and social order.

⁹⁹ Such, for example, was the outcome in Hungary, where conflicts over mixed marriage precipitated the introduction of obligatory civil marriage in 1894. Yet this process also had the effect of engendering a more aggressive and politicized form of Catholicism. See Nemes, “The Uncivil Origins,” esp. 317–18; and Paul A. Hanebrink, *In Defense of Christian Hungary: Religion, Nationalism, and Antisemitism, 1890–1944* (Ithaca, NY, 2006), 10–46.