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End of organized atheism. The genealogy of the Russian law on freedom of conscience and its conceptual effects.

Biblioglobus is a dim-lit, overcrowded bookshop opposite the former KGB (now FSB) headquarters on the Lubyanka Square. The shop itself is a narrow maze with books fading in the darkness and unexpected doors and staircases leading to other levels and smoking courtyards. Lubyanka itself is a site of historical memory of Stalin's executions, and present-day commemorations of atrocity. To me, the choice of this venue for a book launch of a new publication on the history of European and Russian atheist thought seemed laden with political subversion. Set out of sight in the basement, the event conveyed an aura of a clandestine underground activity, an impression reinforced by comparison with the central bookshop on Arbat Street that tends to broadcast book presentations through a system of loudspeakers. The event gathered approximately 20 middle-aged and elderly people. After conventional acknowledgements and applause, the microphone was handed to the author, who was introduced as a militant atheist, Marxist, constitutionalist, and lecturer at a military academy. Nikolaiⁱ scrambled to his feet, apologised for the stage nerves, and commenced his somewhat incoherent presentationⁱⁱ:

"Thank you! In the sea of theological literature, this book is a surge (*vsplash*) of free-thinking. It stands for critique of the acting [state] power (*kritika deistvuuschei vlasti*). Marx, whom we didn't understand, has argued that all critique starts with critique of religion. First, I need to mention violations of the constitution... My friend's father [...] was attacked by an Islamist. Putin is unable to guarantee constitutional rights. I tried to attend a theological conference [...], but was denied access. A colleague, who is a lawyer, rightly pointed out that it was a violation of the rights of an unbeliever... Russia has asked Ukraine to shut down a website that uploaded an article about Islam because Russia deems it to be extremist. What is this about? Today, we can't criticize religion. But we live in a democratic state and have laws compatible with the European Convention of Human Rights. We have the right to criticize. We have chaplains in the army! There is a real threat of Orthodox chauvinism! My association [that promotes secularism and humanism] was established 5 years ago. We are constitutionalists. Our political principles are separation of the church and the state, respect for human rights, a scientific worldview, critical thinking. In Moscow, one cannot walk for armed Muslims, they are all radicalized. They don't know anything about Islamic scholars [Nikolai referenced a long list of names]. We should preserve the constitutional secularism. The Russian Orthodox Church is the instrument of repression of national protest (*natsionalnii protest*). We have to realize freedom of conscience. The state has failed to protect it..."

The next speaker was an elderly female scholar who reviewed Nikolai's book and contributed a few pages of recollections about atheists in the Soviet academia. In contrast to

Nikolai's belligerent tone, she softly explained to the audience that "atheism is the highest form of freedom". "In Russia," she said, "religious freedom is subsumed in a broader category of freedom of conscience, which encourages all forms of free-thinking..."

Two more speakers voiced their opposition to the clericalization of the state and expressed concern about radicalised Islam. Finally, Nikolai resumed the floor: "We need to stop the clericalization of the nation. We have the right to freedom of conscience and the right to criticize".

The event ended swiftly and unexceptionally. However, my curiosity was piqued by Nikolai's explicit connection between atheism as a political right to criticise the state and the Church and his demand for the right to freedom of conscience. The essay explores this ethnographic connection through a lens of the genealogy of the Russian law on freedom of conscience and its conceptual lineaments, namely the historically intertwined categories of atheism, right and conscience and their relevance for understanding atheist activism in Russia as a gesture of incipient political dissent.

Rather than raising theological questions about being and "thinking without God" (Watkin 2011:1), a version of atheism propagated by Nikolai and other atheist activists I met in Moscow in 2017-2018 constitutes a political claim to the right to critical thinking coupled with a call for juridical equality between religion and atheism in relation to the law on freedom of conscience. At the same time, Nikolai's polemic reminds of the language of the Soviet constitutional rights activists and dissidents who publicly challenged the Soviet party-state to respect and realize its own constitution (Boobbyer 2005; Nathans 2007). Indeed, in merging his atheist denunciation of clericalization of the state with the diatribe against the ineffectual state, Nikolai has posited atheism as an intellectual and political alternative to the ideologies of the state and the church. It also conveyed a pervasive sense of marginality and exclusion among Muscovite atheists.

It is remarkable since, in everyday life, many Russian people self-identify as atheists, agnostics, the unchurched, or simply disinterested. However, since a series of juridical reforms and a recent rebranding of the Pan-Soviet Znanie organization from the Soviet champion for enlightenment and atheist education into a promoter of traditional values and Russian patriotism, Russian atheist activists do not have an institutional platform for their

activities. While I am interested in the phenomenology of the loss of power and juridical marginality of contemporary atheist activists in Moscow, this essay sets to explicate how legal reforms have led to the loss of power and Soviet atheists' privileges after the dissolution of the Soviet state.

Through a mixed methodology of archival and ethnographic research and a close reading of Soviet texts, this article primarily traces a genealogy of the Soviet law on freedom of conscience *freedom from religion* until its post-1990 redefinition as a more conventional liberal notion of *religious liberty*. The legal reform of 1990 had brought about several dramatic conceptual effects. One of the most thought-provoking transformations was a collapse of two distinct conceptual categories of *conscience* and *religion* in Soviet literature into one undifferentiated notion of freedom of religious conviction. On the surface, this conceptual occlusion might appear as an innocuous effort to bring Russian laws in line with international legal frameworks and academic debates about the primacy of religious or secular claims to *freedom of conscience* in the history of European human rights (e.g. Maclure and Taylor, 2011; Moyn 2015; Witte 2011). However, for Russian atheists, the conceptual conflation of *conscience* with *religious liberty* has not only recalibrated the atheists' legal and political relations with the state but also effaced the specifically Soviet meanings of *right* and *conscience* in the Soviet law and ethics (e.g. Ivanov 1972). This conceptual effect, I aver, appears to obscure the links between atheism and its revolutionary past although, as Nikolai's speech in the opening vignette shows, the political potential of atheist activism remains.

First, I would like to give an ethnographic sense of the juridical marginality among Muscovite atheist activists. Second, I trace the genealogy of the Soviet law on freedom of conscience until its reform, initiated in the late 1980s. Here, the apprehension and confusion about the new law among expert Soviet atheists in 1990 was apparent during a momentous encounter (c.f. Goodale 2006) with the new law. Preserved as an archived transcript of the discussion of the reformed law, the document captures a sense of loss of the atheists' ideological and political primacy and their equivocations about the omission of atheism from the definition of freedom of conscience and about the meaning of *conscience* per se. I tease out the theoretical implications of the revised law's conceptual effect, namely the slippage between conscience and religious liberty, after I survey the most recent law on offending

religious feelings and its contribution to further marginalization of organized atheism, effectively making it an unlawful (if not outright illegal) pursuit in today's Russia.

A small room in a research institute.

Overlooked by studies of religious revival and its limits in the post-Soviet Russia, the reversal of fortunes of organized atheism has been poorly understood. My effort to explore what has been left of the organized Soviet atheism in the present-day Moscow led me to a ramshackle research institute. Situated outside the Third Circular Road, it is not far from central Moscow but, to me, it seemed symbolically remote from the glitz of global fashion chains, Pain Quotidien cafes, Radisson hotels, and revamped, touristy sites near Kremlin and the Church of Christ the Saviour. In the third zone, many street scenes reminded of a less glamorous, worn-out capital city of the late eighties with neat elderly women and men selling handknitted woollen socks, cheap alarm clocks, and AA batteries on the steps of the Moscow metro. The research institute itself was a prototype of the rationalized (Buchli 1997) post-Stalinist architecture, with a functional concrete façade, large double-glazed windows, and heavy wooden doors, all painted russet. In its simplicity, it featured no ornamental excesses of Stalin's classicist projects with their cornucopia of statues and columns.

Behind the hefty double door, a security guard made a brief phone call to ascertain that I was expected and ushered me through a turnstile into a long concrete corridor flanked with two rows of tall wooden doors. One of them was opened by a slender middle-aged woman, Nina, who works as a secretary to an atheist organization that represents a vestige of the former confluence of atheism and socialism. The office was decorated with many identical portraits of Joseph Stalin and furnished with three heavy wooden desks, a few display bookcases with glass doors, and a green leather sofa on hefty wooden legs. Nina offered me some strong black tea and mainly complained about "the invasion of mugs" from Central Asia, "one can barely see a Russian face on the bus"ⁱⁱⁱ.

Nina worried about media reports of persecution and trials of some atheists. She mentioned the precarious legal status of her employer, which made her worried about the prospects of looking for a new job in her forties. She explained that their atheist organization was prevented from opening a business bank account to attract sponsors and funds for dissemination of the atheist worldview. Indeed, judging from internet traces and abandoned

blogs, humanist and atheist associations and minor oppositional political parties on a mission against 'obscurantism and clericalism' tend to be short-lived. In the absence of a legal body to champion their cause, atheist activism cannot be described as a social movement. The atheists I met in Moscow in 2017-2018 hold various philosophical and political views. For instance, some are nostalgically Marxists. Others despise the Soviet past and its legacy and prefer the self-description of 'sensible' thinkers, literally somebody of the sound mind (*zdravomislyshchie*). An active member of the Committee against Pseudo-Science within the Academy of Science^{iv} appeals to the philosophical values of Enlightenment and positivist, "rational" science while he espouses religious tolerance. One person is an active member of Asgardia, the first space nation that is evolving from a virtual utopia into a vibrant organization^v. These people know each other and convene low profile public events, such as round-table debates in local libraries; some of these events are filmed and uploaded on social networks. This seems to exhaust the range of their activities.

During the three hours I had spent in the office with Nina, no one came in the room. There were no phone calls. Later, Nina facilitated a skype interview with Andrei^{vi} who introduced himself as the Chief Ideologue and a self-nominated spokesperson for Russian atheists. Andrei spoke about the lamentable political climate of clericalization that has witnessed the Russian Orthodox Church's involvement in public affairs in presumed violation of the constitutionally guaranteed secularism in Russia. Even though the Russian Orthodox Church endorses the differentiation between the spiritual and worldly domains, it is omnipresent in its efforts to assert its authority and educate rather lax Russian citizens in correct doctrine and practice (Ladykowska 2018). For instance, a new school subject on "Foundations of the spiritual and ethical culture^{vii} of peoples of Russia" has been introduced in Russian schools with an explicit aim to instil children's capacity for spiritual growth and moral self-perfectability as well as tolerance and respect for religious feelings or their absence^{viii}. The choice of terminology - 'culture' rather than faith - is significant as it demonstrates the Church's overt commitment to legal secularism. However, for people like Andrei and many parents, teachers and children, the Church's presence at schools connotes a thinly disguised effort to carry out re-evangelization of Russian citizens (Kollner 2016). Some suggest that 68% of Russian population oppose clericalization of the state (Richters 2014:20).

An hour into what I misconstrued as a promising interview, Andrei grew uneasy with my questions. He seemed particularly rattled by my inquiry if atheism in today's Russia carried ethical or political connotations as it did in Soviet textbooks. Andrei felt that atheist ethics was a fascinating question but, perhaps, too philosophical for their purposes. He explained away the fact that his atheist organization shared the office with a minor communist party as a matter of convenience and intellectual similarities rather than a blatant declaration of political protest. He grew suspicious. Subsequently, he refused my requests to talk to him again, meet his associates, or attend their staff meetings and public events. Andrei's caution and his disavowal of political intent are telling of a deep-seated sense of illegitimacy of organized atheism in Moscow.

A historical note on atheism in Soviet Russia

To fully grasp the setback of Soviet atheists, it is important to remember that, Soviet atheism was a privileged ideology although it had not been triumphant as a lived experience. In fact, only a small percentage of the Soviet Russian population declared themselves as active atheists, while most grew estranged from religious institutions, which prompted a debate about whether Soviet Russia exemplified 'genuine' atheism or a version of secularization (Laitila 2016:264). On the ground, militant atheism and "accelerated secularism" (Wanner 2012:6) encountered civil disobedience, rumormongering, threats of divine retribution, petition-writing and mass protests against the state-enforced atheism (Husband 1998). Soviet diaries contain narratives of disapproval of militant atheism, and its excesses such as detonated churches and other temples, murders, imprisonment and forced psychiatric treatment of thousands of Soviet clergy and believers. But private diaries also point to the limits of resistance as many people learned to casually accommodate Soviet revolutionary rituals with church attendance^{ix}.

The early Soviet antireligious campaigns were riddled with internal contradictions and conflicts between competing organizations. For example, the League of Militant Godless, the juggernaut of atheist propaganda in the 1920s, bickered with the Komsomol, a significantly more popular and comprehensive communist youth organization. The League suffered from a perennial lack of funds and shortages of propaganda materials and cadres (Peris 1998). It "receded to the point of invisibility in the mid-1930s" (ibid.:197). Atrocities of the Stalinist period and the short-lived religious revival during WWII, were followed by a mixed campaign

of neglect, 'demystification' and purportedly scientific propaganda against religion (Husband 1998:79).

Nevertheless, the ritual life dwelt. For instance, the popularity of religious healing practices confounded the atheists' expectations of the inevitable disappearance of religion (Husband 1998:76). In the 1960s, expert atheists and anti-religious activists made a concerted effort to understand the reasons for persistence of 'backward religiosities' and to develop methodologies for research and more refined forms of denunciation of religion (Luehrmann 2015:1-2). In the period between 1960 and 1989, the state funded ethnographic research into religious 'remnants' under the Soviet socialism, such as omnipresence of icons in people's homes (Klimova and Molostova 2013:172-174). They built typologies of believers and atheists on a spectrum of active and passive involvement (ibid.:183-184). Soviet atheists and ethnographers aimed to expose inconsistencies between people's faith, scientific knowledge, and everyday demeanour (ibid.) but their approach only underlined atheists' own dogmatic understanding of lived religiosities that had come to incorporate visions of both socialist and religious utopia, afterlife and justice (Dobson 2015).

Remarkably, the repressive anti-religious environment in the Soviet Union stimulated dynamic, syncretic and playful religiosities that morphed into more axiomatic and conservative religious movements after 1990 (Pelkmans 2014). Another paradox is that the survival of religious practices under socialism hinted at the failure of atheist campaigns yet simultaneously provided evidence to a claim that Soviet socialism permitted 'genuine' religious liberty (Luehrmann 2015:10), which was formally enshrined in the Soviet law on freedom of conscience.

Freedom of conscience as freedom from religion

The Soviet law on freedom of conscience was codified by the revolutionary decree of January 23rd, 1918 (Gagarin 1962:10), that is, from the inception of the Soviet statehood. The Soviet definition of *freedom of conscience* evolved in opposition to the tsarist legal norms. A Russian pamphlet on freedom of conscience printed in 1917 provides a useful overview of what freedom of conscience meant on the eve of the Soviet Revolution, keeping in mind that religious liberty in political and intellectual discussions differed from a popular understanding of freedom of confession as ability to carry out rituals (Frede 2012:565, 573). The pamphlet's

author (Shakhovskaia 1917) identified freedom of conscience as the right to openly practise and proselytise one's religion and live in accord with one's persuasions without fear of persecution (ibid.:4). The right was to be extended to all religious denominations, a radical step under the tsarist government that discriminated against some Christian 'sects^x' by giving the exclusive licence to proselytise to the Russian Orthodox Church (Poole 2012: 612-615). In continuity with the intellectual debates among many 19th century Russian radicals, liberals and revolutionaries (Frede 2012:561), the Tsarist Duma tabled the amendments to the law to enforce a greater secularization of the state in 1906. Russian Social Democrats suggested radically that freedom of conscience could be conferred to atheists (Shakhovskaia 1917:16) but their proposals were not ratified.

The Soviet revolutionary government postulated a polemical break with the tsarist past by prioritizing atheists and encouraging the dissemination of atheist ideas (Codevilla 1991:130). Another Soviet pamphlet (Matjushin 1965) offers a historical review of the Soviet legislature that, according to the author, had materialized the ideals of pre-revolutionary intellectual elites by giving equal rights to the faithful and atheists and by separating the state and the church. The Soviet government handed administrative practices, such as the registration of birth and marriage, to the state. State subsidies to the church were abolished. Religious education was prohibited because the state pledged to protect all citizens, especially children, from the "soul-snatching" by the clergy (Gagarin 1962: 11). The Soviet law barred religious organizations from running charity funds (*kassi vzaimopomoshchi*), organizing excursions, opening playgrounds and libraries, leading children's and women's prayer meetings, organizing pilgrimages or performing miracles, healings, prophecies and so on. All these practices were described as a disturbance of public order. Thus, Article 124 of the first Soviet constitution and Article 52 of the 1977 Soviet constitution on non-discrimination against the faithful were contradicted by other laws, such as the right to atheistic propaganda (Laitila 2016:266), which privileged atheist organizations.

Unexpectedly, in separating the state and the church, the Soviet law on freedom of conscience concurred with what is dubbed a 'liberal' definition of religious freedom, namely freedom of individual conviction (Balzer 2011:260). For instance, Article 18 of the Universal Declaration of Human Rights (UDHR) and Article 9 (1 and 2) of the European Convention on Human Rights protect the inviolability of individual religiosity from coercion, bar permissible and

proportional intervention by the state to protect the public good (Renucci 2005: 7). These declarations are based on a normative split between sacrosanct *forum internum* and restricted *forum externum*, or manifest practice (Mahmood and Danchin 2014), which reiterates the meaning of religious liberty as a matter of individual conviction^{xi} (Bhuta 2014:14-16). In contrast to other human rights (like education, security, freedom of speech and others) that can be shared by religious and non-religious claimants, freedom of conscience tends to evoke tailor-made provisions to protect mainstream and minority religious traditions and institutions (e.g. Green 2011:7). To some extent, this view takes for granted the secular backdrop of human rights (Renucci 2005:30, 42; Sapir and Statman 2005:479) and downplays possibilities of impairment of atheist conscience (Sapir and Statman 2005: 469), especially since atheist conscience tends to be defined by an absence rather than an expression of conviction.

In sum, the Leninist understanding of religion as a personal belief chimes with the regnant international interpretations of human rights as an innate attribute of a rational individual with inviolable interiority (Bhuta 2014:12; Slezkine 2014; Thomas 2001). However, the Soviet and international human rights law evolved from different ontological and ethical premises. The liberal law has been traced to the theological tradition of personalism (Bhuta 2014:18) that stipulated individual freedom to “worship God in accordance with conscience” (Lindkvist 2013: 436). Rooted in Catholicism, freedom of conscience as a human right has been described as a conservative stance that offered the recognition of a transcendent, Godly, human dignity as a counterpoint to the unfreedoms of communism and socialism (Moyn 2015). Thus, the architecture of human rights was mounted as a “bulwark against the antidemocratic, materialist, and totalitarian propensities inherent in modern politics” (Bhuta 2014:11), and adhered to a view of personhood as “the unencumbered self”, with the capacity to make independent decisions (Sandel 1998:85). And, although international law has lost a reference to God as a transcendental guarantor (van der Ven 2013:179), it is saturated with religious themes (Calo 2011). As a result, Maclure and Taylor (2011:95) have suggested that freedom of conscience exhibits a bias toward religious and metaphysical convictions.

As a critique of the purported liberal bias toward religious convictions, the Soviet category of freedom of conscience was presented as a corrective and touted as a more

inclusive legal innovation from the start (Quigley 2007). Additionally, the Soviet law diverged from the legal understanding of *right* as a natural, inherent property of an individual. In the tsarist scheme of things, freedom of conscience was an ideal human value, while its protection was “a political virtue” (Poole 2012:618) rather than a ‘natural’ right. Its revolutionary successor did not recognize *right* as a capacity and substance of individuals, either (Werth 2012). In Caroline Humphrey’s perspicacious analysis, political membership in Soviet Russia involved “an entry into a privileged political state” (Humphrey 2007:2). By extension, human rights, including freedom of conscience, could only be realized through membership – frequently party membership - rather than treated as inherent and automatic (Nathans 2011:169). Within Soviet legality, rights had to be earned via labour (ibid.:177); they did not connote immunity but entitlement, or privilege, that could be bestowed or stripped away (ibid.:170, 177). Hence, human rights were linked to political membership, making marginality, exile and estrangement into spaces of dissent (c.f. Boym 1996; Yurchak 2005).

Simply, the Soviet version of the law on freedom of conscience was elaborated to explicitly foreground and promote the rights of atheists while the notion of *right* was a conceptual corollary of political entitlement and belonging.

“Call it freedom of conscience”

To repeat, the Soviet law on freedom of conscience was proffered as an inclusive legal framework that guaranteed the right to private religious conviction and the political right to freedom from religion. In practice, the state gave primacy to atheism. Thus, when in October 1990, the Supreme Council of the Soviet Union proposed a reform of the law “On Freedom of conscience and religious organizations”, the motion came as a shock to one of my interlocutors. On 22-24th of November, 1990, the Znanie Society, then the leading atheist organization, convened a seminar^{xii} to discuss the content and ramifications of the draft law. At the beginning of the seminar, the Chair of the Znanie greeted its members, mainly specialists in Soviet atheist education, propaganda, and Marxist-Leninist ethics, with the following words: “Comrades-atheists! Atheist propaganda is not what it used to be. Nobody needs atheism today (*segodnia, ateizm – eto nikomu ne nuzhno*). Maybe it needs to be abandoned altogether, although this sounds extreme. Anyhow, the draft law on freedom of conscience sets a new agenda for us”.

The first speaker, Boris Fedorovich, wistfully explained that adherents to the scientific-atheist worldview could hardly see the light of day in press, which made it necessary to register an official humanist or atheist organization. The second speaker described the contemporary relations between the state and the church in the newly democratic society as flirting with religion and a gradual politicization of religion in the Soviet Union, evident in the emergence of Muslim parties in some Soviet Republics.

The third speaker, Victor Serafimovich, focused on the legal terminology. He pointed out that, in drafting the law, the category 'conscience' was used interchangeably with religion or religious belief, in other words, in its legal sense. Victor Serafimovich offered a definition of freedom of conscience as "the right to freely choose or not a religious belief or conviction, act upon this conviction, and manifest it openly, publicly or privately". Victor Serafimovich mentioned an unofficial UN document that highlighted equality between religious believers and non-believers as a matter of security and equality.

Victor Serafimovich explained that the legal category subsumed different rights. However, "something" (*chto-to*) had been left out. He argued that a shared meaning of 'conscience' as a principle of Marxist ethics (c.f. Thompson 2014) did not reflect the legal definition of conscience as religion. "I brought the topic up during consultations on the new law, but the Chair hushed me down and told me not mention 'that something'", he complained.

Without giving references, he reminded that, from a philosophical point of view, freedom of conscience meant freedom from "religious intoxication" (*religioznogo durmana*). "This definition was used against the Soviet Union, because ", Victor Serafimovich's voice seemed to have acquired sarcastic intonations, "atheists' objectives were mis-represented as a single-minded elimination of religion". In his view, it was a misconception because Article 52 of the Soviet Constitution referred to freedom of conscience as an individual right, although not the institutional right of the Church. "I mentioned this to our Patriarch", said Victor Serafimovich almost defiantly. "According to Lenin, religion is a private matter (*chastnoe delo*)".

To Victor Serafimovich, the definition of religion as a matter of interiority justified early Soviet militant actions against religious institutions and reconciled them with the

constitutional pledge to respect individual religiosities. In other words, the Party battled with institutional religion (*vedet borbu*) through scientific methods and control of registration of new religious organizations.

“What a muddle”, sighed Victor Serafimovich.

In the end, he clarified, atheism as the right not to have religion was implied by the category of freedom of conscience, even if religious organizations were placed in a privileged position. “Strange”, continued Victor Serafimovich, “in the Soviet days, we assumed everything was shipshape in the country. We refused to see violations of the rights of believers”. Victor Serafimovich carried on, “In the 60s there was a lot of coercion (*prinuzhdenie*) because it was called the transition strategy (*strategiia perekhoda*). It seemed obvious that communism would reign supreme in the 1980s. When we proposed a new amendment to the freedom of conscience law in 1965, we were criticized because we shattered the impression that everything was perfect in the Soviet Union. The timing of the proposal coincided with renewed pressure on the Church, so the law was debunked. Currently, we are criticized because we see something positive in the Soviet law.”

Victor Serafimovich’s report was followed by a brief Q&A session. Someone in the audience shouted: “What about us, atheists? What about our right to conduct atheist propaganda and assert our own conception of freedom of conscience?”

One of the speakers responded that the prevailing mood in the Supreme Council was to strike out the Soviet past and ignore the freedom of atheist conscience. “Freedom of atheist conscience is not guaranteed by law but we thought why stipulate everything by law? What is not prohibited is permitted, right? Atheist propaganda will not be financed by the state but it will not interfere or restrict the dissemination of scientific findings. The Church is worried about this and seeks to get involved in school education. Nevertheless, it was unpleasant to watch a news clip about tearing down the plaque from the Kazan Cathedral^{xiii} and declaring the end of atheism (*konets ateizma*). Call it freedom of conscience!”

Two interconnected themes in Victor Serafimovich’s presentation strike me as noteworthy: his experience of the loss of atheist privileges incurred by the revised law and his opposition to the blurring of the distinction between religious liberty and conscience. The former once again refers to the historical genealogy of the Soviet Russian law on freedom of

conscience, the key point of this essay. The latter signifies an additional dimension, a subtle conceptual effect of the legal changes that Victor Serafimovich intuited but did not fully elaborate.

Victor Serafimovich's muted equivocations about the meaning of 'conscience' in the legal definition of the law on freedom of conscience is important because it gestures towards an inherent ambiguity of freedom of conscience as an imperative for religious *and moral* (my emphasis) freedom, with or without a transcendental moral standard (Perry 2014:127). The Soviet atheism was theorized not only as an absence of belief but as an ethico-political alternative to religion as it brought together a variety of spiritual and ethical concerns such as "the meaning of life, happiness and solace, the moral and immoral in human behaviour, truth and conscience, good and evil, the upbringing of children, the preservation of traditions, and how to understand contemporary events" (Smolkin-Rothrock 2014:176). Simply, Soviet atheism challenged the authority of the Church that saw religion as a regnant source of morality (c.f. Lambek 2012; Robbins 2015) by proffering an alternative system of socialist ethics, with *conscience* as its core value.

Conscience was a contentious term for Soviet thinkers who denied its divine origins (Matjushin 1965). The Russian Orthodox Church recognized (and still does) conscience as a "spark of God" within a person (Zigon 2009: 8), a divine imperative (Agadjanian 2010:100). Contrary to the theological axioms, Soviet atheism was rooted in a notion of conscience as a moral duty (Stoeckl 2014:58; Bruning 2014:30). Soviet writers objected that if Christian conscience was a conduit for divine judgment and God's will (Matjushin 1965:7), the proposition implied God's superiority to humankind and entailed a kind of diminution of human agency (Zagorulko 1968). In contrast to the allegedly bleak Christian cosmos (Kon 1960:16-17), Soviet atheism propagated a humanistic ideology (Grinberg 1975:136) oriented towards enrichment of intellectual life (*obogoshenije intellektualnoj sferi*) (Furov 1983: 19) and maturation of human creative capacities (Ehlen 1973:203). Thus, atheism and cultivation of communist conscience as a secular moral principle were entwined as necessary aspects of political and human emancipation (Marx 1977 [1843]:63) from nature and religious moralism. To rephrase, the Soviet conception of atheism was linked to conscience as a political register and an "ideological commitment" (Engelke 2015:76) that systematically elaborated the premises of a secular communist morality (Wielenberg 2013).

So far I have argued that the reforms of the law on freedom of conscience undermined atheists' privileged institutional and ideological status. However, the new law has also conflated two previously distinct categories of conscience as a secular moral principle and religion as an individual conviction into one underspecified notion of freedom of conscience, in a greater accord with international law. As a result, the reforms have performed a double task of marginalising atheist organizations and of obscuring a secular meaning of conscience as an ethico-political foundation of critique.

Freedom of conscience after 1990

Victor Serafimovich could not have anticipated the scale of juridical marginality of atheist organizations 30 years later. Initially, the 1990 draft law on *freedom of conscience* confirmed Soviet citizens' rights to profess religious beliefs or not to profess any without hindrance or discrimination. It reasserted the right to individual religious liberty (Sakwa 1996) but bestowed new freedoms to some religious organizations. From 1990, religious organizations could register as legal entities and acquired new rights such as setting up schools, visiting prisons and military hospitals, owning some property, and freely distributing religious literature^{xiv}. The ban on religious political parties was upheld in line with the meaning of 'secular' in this context. However, the Russian Orthodox Church criticized the early version of the law for failing to define 'a religious organization', to grant tax exemptions, and to provide state pensions to its priests. In their view, the state remained ambivalent about freedom of religious institutions and was inclined toward the understanding of religion as a potential source of violence (Berman, Griswold and Newman 1990:145).

Further amendments were implemented in 1997 and, since then, have been assessed as more restrictive (Hallinan 2012:310-311). Overtly, the law pledges non-intervention into religious matters (Antonov and Samokhina 2015:231). Consistently with Article 14 of the 1993 Russian Constitution on the secularity of the state, courts have adopted the definition of religion as a personal choice and conviction. However, some judges have demonstrated an increasing propensity to side with so-called traditional religions, especially the Russian Orthodox Church (ibid.:234). The preferential treatment of the Russian Orthodox Church has been coached in secular terms of the necessity to manage religious diversity in a multi-ethnic state (Balzer 2011:251), which evinces a preoccupation with the matters of national security and extremism.

However, a curious incident at the conceptual art exhibition *Forbidden Art* in 2007 highlights a hardening of the official attitudes towards critique and irreverent attitudes to the Church and religions. The notorious exhibition featured an icon made of black caviar, a Muslim woman in a burqa with a lifted skirt, a crucified Jesus with a superimposed profile of Lenin and many other works of conceptual art. For their deliberate provocation, the artists were charged with inciting religious hatred (Article 282 of the Russian Criminal Code) and violating the rights of the faithful (Bernstein 2014:429, 436). The ‘scandal’ made the headlines although the content of the exhibition is in no way extraordinary as the Russian Orthodox Church is frequently mocked in online chatrooms, forums, and social networks. Social media posts contain jibes that the membership in the Russian Orthodox Church is a fence for corrupt business activities, “nothing but selling candles”. Many comments openly insult Orthodox priests as paedophiles, professional liars, advocates of religious hatred and intolerance, and, simply, spongers. However, such parodies and memes of religious persons and events have increasingly become risky statements.

In 2013, the Russian Duma passed a law on offending religious feelings, that has been nicknamed the “Blasphemy Law” (Laitila 2016:280). From August 2017, ‘blasphemy’ can be punished by fines, and even a prison sentence under the new Law 148 of the Russian Criminal Code. For instance, in 2017, a young man who was detained for chasing a Pokémon in a church in Ekaterinburg, was sentenced to 3.5 years in prison. Between 2013 and 2018, at least 15 suspended prison sentences were meted out. A 23-year old woman and a 19-year old man are currently on trial for their online satirical sketches of the Christian faith^{xv}. Curiously, the word ‘blasphemy’ is not mentioned in the law itself. The nickname both occludes and indicates that the “Blasphemy Law” goes beyond a legal regulation of the state relations with the Church as it marks a confluence of religious, ethical, political and historiographic narratives. For instance, the above court cases appear on many human rights websites in Moscow as they tangle questions of free-thinking (*svobodomyслие*), freedom of speech, censorship, civic freedoms and human rights, as well as justice and state accountability.

For human rights activists and atheists, the Blasphemy laws embody an intimate relation between the Church and the state, known as *symphonia*. It must be said that *symphonia* is a “limited cooperation” (Wasmuth 2014:18) as the Russian Orthodox Church and the state have a divergent understanding of authority. For example, the Russian Orthodox

Church was reprimanded by the state for the theological justification of permissible resistance as the will of conscience against the state (ibid.:19)^{xvi}. Nevertheless, the Russian Orthodox Church and the Russian state are seen as collaborators: the church bestows moral legitimacy to the state in return for the state's protection of the Russian Orthodox religion (Blazer 2016:267; Hallinan 2012). Although compatible with international law, such as Strasburg jurisprudence, the Russian law prioritizes Russian heritage and 'traditional Russian' religiosities^{xvii} (Hallinan 2012), which means that, effectively, the law gives preference to the Russian Orthodox Church over local minority religions and newer foreign religious organizations and missionaries. From 2006, the law on freedom of conscience has been intertwined with anti-extremist legislature that cites incitement of religious hatred as a threat to national security (ibid.:315-316).

In addition to new legal frameworks that privilege the Russian Orthodox Church, the state and the Russian Orthodox Church agree on the constitutive values of unity and harmony over plurality (Wasmuth 2014:19). Thus, the state-church alliance serves an ideological function of promoting an idea of Russia's ethno-historical '*samobitnost*', or the country's distinctiveness, that has replaced many Soviet ideologies, not least atheism. The overarching state ideology charts a 'unique' Russian identity, distinct from foreign values (Horvath 2016). Both the Russian Orthodox Church and the Russian state deploy the academic notions of 'civilization' and 'civilization clash' (ibid.:874) in their defence of cultural pluralism and specificity of Russian history and Russian national identity. Bluntly put, the Russian Orthodox Church and the Russian state have been making a case for cultural relativity (c.f. Cruft 2005).

Consequential for atheist activists is the commonplace assumption that the new civilizational narratives about Russian tradition and heritage hang on a stark contrast between *values* and *rights*. In fact, the 2006 document titled the Declaration of the Rights and Dignity of the Human Being was collaboratively penned by the Church and the state to argue that 'traditional values' such as faith, morality and Russian sovereignty are not only equivalent to human rights, they have to be protected from the "corrosive effects of rights" (Horvath 2016:880-881). And although the state and the Church have accepted the language of human rights, both have rejected the idea of universal human rights in favour of culture-specific and traditional values (Horsfjord 2012: 432). In 2009, the Russian Orthodox Church succeeded in passing a resolution on traditional values at the United Nations Human Rights Council. The

resolution and other documents written by the Church pursue a line of reasoning that Western or liberal human rights embody a “secular ideology” (ibid.:436) that is incompatible with the traditional teachings of the Church in its emphasis on collective duties to its homeland and purity from sin^{xviii}. By extension, both oppose the allegedly immoral liberal secularism (Bruning 2014:29). As mentioned earlier, even such high-profile Soviet Enlightenment organization as Znanie^{xix} has switched its propaganda focus from dissemination of atheist propaganda to cultivation of historical consciousness as a form of patriotism^{xx} (Laruelle 2015), love of homeland, respect for cultural heritage, and so-called traditional values in a growing propensity toward insular Russian nationalism.

Conclusion

So, where does this leave atheist activists?

Three protagonists of this essay have linked their sense of juridical marginality to the reforms of the Russian law on freedom of conscience. I have traced the complex genealogy of this law from its Soviet formulation as freedom from religion to its subsequent redefinition as religious liberty. I have paid attention to the deeper logic of right that has shifted its meaning from right as privileged membership to right as a corollary of traditional values and to the loss of political meaning of conscience as a premise of Soviet atheist ethics. I have argued that the reformed law on freedom of conscience has generated a peculiar conceptual effect of collapsing conscience and religion into one undifferentiated legal category.

For the protagonists of this essay, atheism was (and remains) first and foremost a political right to criticise the perceived intimate relation between the Russian state and the Church. Although contemporary atheists haven’t explicitly theorized their dissent in relation to the revolutionary trope of secular conscience, their claims to inclusion into the legal rubric of freedom of conscience resonate with the human rights scholarship that attempts to conceptualise conscience as a secular space for “political freedom, a real limit on government” (Domingo 2015:177). In case of Muscovite atheist activists, the omission of conscience from the repertoire of political dissent suggests that collapsing *religion* and *conscience* has ended up depoliticizing some forms and registers of protest (Douzinas 2007:102). Nevertheless, despite the fact that conscience as religious freedom is not what it used to be in Soviet pamphlets, claims to freedom of conscience go beyond a contestation of

their juridical marginality as they revive certain historical associations of atheism with an alternative revolutionary ethic. Keeping in mind the political nature of atheism in Russia, these claims and associations harbour a moment of “embryonic critique” (Li 2019:29) of the conservative political order that naturalizes Russian ‘identity’ into “unalterable characteristics” (Greenawalt 2016:313) and foregrounds tradition, stability^{xxi}, and order (Carnaghan 2007) as its constitutive values.

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ⁱ All names have been changed.

ⁱⁱ I quote his presentation with a few omissions but without changing the order or meaning of his arguments. Most omissions have to do with Nikolai's thanks, for example, to Moscow transhumanists and character descriptions of his teachers and colleagues as honest people, consistent (*posledovatel'nyj*) in their atheism.

ⁱⁱⁱ I did not call out Nikolai and Nina's racism. However, a confluence of atheism and racism, especially Islamophobia, is fairly common in Russia and elsewhere (Moyn 2014).

^{iv} An astronomer, this person is concerned with a proliferation of healing rituals and home remedies that are not supported by scientific evidence. He was one of ten signatories to an open letter to the Russian president in June, 2007 that protested against the introduction of theological subjects and creation theories in state schools. In the letter, the scientists argued that science (*nauka*) was the only factually verifiable discipline in the constitutionally secular state with the majority atheist population.

^v <https://asgardia.space/en/>

^{vi} I have deliberately changed all personal names to protect the identity of my interlocutors. Ditto, I do not want to disclose the names of their organizations.

^{vii} The term 'culture' is used in a manner that both essentializes Russian reality and justifies different political and social policies .

^{viii} The Letter of the Ministry of Education about learning of religious and secular ethics and about spiritual culture of the Soviet peoples. (Pismo Minobrnauki Rossii) 25.05.2015 r. № 08-761

Online access: <http://mosmetod.ru/metodicheskoe-prostranstvo/nachalnaya-shkola/inklyuzivnoe-obrazovanie/normativno-pravovaya-dokumentatsiya/pismo-minobrnauki-rossii-ot-25-05-2015-g-08-761-ob-izuchenii-predmetnykh-oblastej-osnovy-relig.html>

^{ix} I have relied on the digital diaries held at www.prozhito.org. Diaries are transcribed and published online with minimal editing.

^x The attitude has persisted throughout the Soviet era until today in relation to 'baptists', especially Jehovah's Witnesses.

^{xi} Alternatively, it can be indigenized as a matter of 'culture' to articulate political claims to autonomy (Sapir and Statman 2005:468).

^{xii} GARF (Russian State Archive), 10100 2 1432

^{xiii} Indeed, the Kazan Cathedral in Leningrad (St Petersburg) (Paine 2009) was iconic of the downfall of atheism. The Cathedral hosted the Museum of the History of Atheism from 1932 until 1990 but was shut down to resume its original religious functions in 1992..

^{xiv} www.prilib.ru The Presidential Library of Russia.

^{xv} <https://pen-international.org/news>

^{xvii} The law is biased against so-called religious sects and religious new-comers such as Jehovah's Witnesses.

^{xviii} To a large extent, the Church's objection to human rights echoes the above-mentioned historical studies of the genealogy of human rights and anthropological suspicion of its ontological essentialism.

^{xix} In the period between the end of the Second World War and the late 1980s, Znanie trained thousands of experts and activists and delivered millions of lectures on atheism and scientific worldview. It was closed in 2017 to re-open as a patriotic organization that disseminates an understanding of Russian culture, history and its values. It continues to deliver public lectures and organizes various educational events including seminars on popular science and history. Its explicit values are education and consolidation of patriotic attitudes and interethnic unity in Russia. Znanie leads a campaign against false science and false history. See, www.znanierussia.ru

^{xx} Marlene Laruelle (2015) argues that patriotism in Russia is an umbrella term that covers multiple forms of historical affiliation to the state and practices of self-cultivation as a patriot. She uses an example of diverse youth clubs whose patriotic engagement focuses on different periods and aspect of Russian history (the Soviet past, pre-revolutionary past, Orthodox religion).