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CANON LAW AND LOCAL PRACTICE: THE RESOLUTIONS OF THE 1551 *STOGLAV* (HUNDRED CHAPTERS) CHURCH COUNCIL¹

This article addresses the relationship between religious local practice and Byzantine canon law in mid-sixteenth century Muscovy, by analysing the *Stoglav* [Hundred Chapters] treatise. The *Stoglav* was the product of a local Church council, and its mission was to provide a unified ecclesiastical practice in the emergent empire. Its compilation was consistent with the mid-sixteenth century Muscovite attempts to codify various aspects of public and private life. I argue that the Orthodox “tradition” the council’s resolutions aimed to restore was, in fact, an attempt to find consensus between the canon law of Eastern Christianity and locally generated practices aimed at issues specific to the East Slavic space. The article has two parts. The first one assesses the usage of local secular legislation on ecclesiastical issues and the reworking of texts such as the *Donation of Constantine*. The second part focuses on the letters and decrees of previous metropolitans of Rus’, some of them recognised as saints by the time the treatise was compiled, as the basis of decisions recorded by the *Stoglav*. By exploring the introduction, usage, and adaptation of local sources, I discuss the resolutions on issues such as the status of widower priests or the authority of Church courts as having been perceived in terms of continuity rather than as a shift from the Byzantine models.

Keywords: canon law, *Stoglav*, Ivan IV, metropolitans of all Rus’, local practice, *symphonia*

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1 This work was supported by a grant from the Ministry of Research, Innovation and Digitization, CNCS - UEFISCDI, project number PN-III-P1-1.1-PD-2021-0234, within PNCDI III.

Citation: IULIA NIȚESCU, “Canon Law and Local Practice: The Resolutions of the 1551 *Stoglav* (Hundred Chapters) Church Council”, *RussianStudiesHu* 7, no. 1 (2025): 31–49. DOI: 10.38210/RUSTUDH.2025.7.2

[...] to correct our true and unblemished Christian faith, according to the Holy Scripture, for the strengthening of Church welfare and the good legislation of the realm and for the organization of all the land and for the enlightenment and revival of our one immortal soul and for the confirmation of the true Orthodox Christian faith, in order to be strengthened and not to be shaken from generation to generation to the end of time and not to be harmed by soul-destroying wolves and any deceitful enemies.²

According to this extract from Tsar Ivan IV's (1533–1584) letter to the attendees of the 1551 Muscovite Church council, the assembly had a challenging task. They were to organise the spiritual life of Muscovy on firm canonical grounds. This meant establishing consistent regulations regarding divine service, administration of parishes and monasteries, and the elimination of pagan practices and sorcery, to be enforced in the entire realm. The result was the *Stoglav*, a collection of ecclesiastical regulations issued shortly after the council concluded.

The treatise is considered to have been compiled either beginning or ending on 23 February 1551, the date mentioned in the introductory chapter.³ It comprises one hundred chapters, thus giving rise to the name of the document and the council which produced it. In most manuscript copies an additional, final chapter has been added. According to the *Stoglav*, the council was summoned by the young Tsar Ivan IV, who had prepared a list of questions for the clergy pertaining to ecclesiastical discipline, religious practice, and Church authority. The treatise does not follow a specific structure, and its chapters can vary significantly in length. Most of them are devoted to a single topic but matters widely debated in the sixteenth century (for example the authority of ecclesiastical courts) can be discussed over several chapters, using references to canonical writings or princely legislation supporting conciliar decisions. Although the original was lost, the text has survived in approximately 180 manuscript copies from the sixteenth to the nineteenth centuries.⁴ The identity of the *Stoglav*'s editor is unknown,

2 Translation after the *Stoglav* edition Б. МАНИСАЛЬКО, А. В. ЮРАСОВ (ред.), *Стоглав: текст, словоуказатель* (Москва, Санкт-Петербург: Центр гуманитарных инициатив, 2015), 43. This edition is used for all references to *Stoglav* chapters.

3 JACK EDWARD KOLLMANN JR., *The Moscow Stoglav ("Hundred Chapters") Church Council of 1551* (Ann Arbor: University of Michigan, 1978), PhD thesis, 2 vols., 159.

4 Е. Б. ЕМЧЕНКО, *Стоглав. Исследование и текст* (Москва: Индрик, 2000), 9.

possibly a skilled ecclesiastical secretary.⁵ Even though the text itself devotes a great deal of space to the role the tsar played in the council, its list of participants and the decisions agreed upon suggest that its purpose was to advance the Church's interests in relation to the secular power.

When discussed in the context of canon law in Eastern Europe, the *Stoglav's* significance stems from its structure, a treatise comprising decisions of a local council, and from its stated purpose, to restore and unify ecclesiastical practice according to Orthodox tradition. This local character also made the treatise notable through its later refutation by the Pan-Orthodox Church Council which took place in Moscow in 1666–1667. In an attempt to provide definitive decisions on highly debated issues of ecclesiastical practice, the *Stoglav* had codified a number of locally developed solutions, such as the sign of the cross with two fingers, the triple halleluiah, or the tonsure of widower monks. A century later, during the reforms of Patriarch Nikon, these rulings were refuted, as they were not in accordance with the universally accepted canons of Eastern Christianity. The Pan-Orthodox Church Council of 1666–1667 sanctioned this decision and deemed the *Stoglav's* decisions to stem from “ignorance” and to contradict Greek books and decisions of patriarchs.⁶

When discussed through the lens of its later refutation, explaining the *Stoglav's* claim of restoring practice according to tradition becomes rather problematic. Starting from this viewpoint, this study focuses on how the treatise introduces and transforms Rus' sources in order to codify and justify local practices. If previous canon law treaties simply included decisions of previous metropolitans of Rus' or princely statutes, the *Stoglav* actively employs these documents to justify the council's decisions. By examining the East Slavic sources as records of what was considered local knowledge, I aim to discuss the “tradition” the treatise refers to as an attempt to find a consensus between global knowledge (i.e., universally accepted canons of Eastern Christianity) and locally generated practices aimed at issues specific to the East Slavic space.⁷

5 KOLLMANN, *The Moscow Stoglav*, 163.

6 Е. В. БЕЛЯКОВА, «Соборы 1666 и 1666–1667 гг. и складывание стереотипов восприятия староверов», в *Старообрядчество в истории и культуре России: проблемы изучения* (к 400-летию со дня рождения протопопа Аввакума), отв. ред. В. Н. ЗАХАРОВ (Москва: Институт Российской истории РАН, 2020), 428–432.

7 The concept of “local knowledge” has been extensively used in social sciences and particularly in postcolonial studies to describe indigenous and/or local systems of knowledge emerging from the social practice of a community. My usage of the term is based on CLIFFORD GEERTZ, *Local Knowledge: Further Essays in Interpretive Anthropology* (New

The *Stoglav* should be primarily discussed in the context of mid-sixteenth century Muscovite political and cultural transformations. Writings on various aspects of social and private life, in some cases connected to the court of Metropolitan Makarii (1542–1563), were being intensely edited: new compilations of systematized religious writings (*The Grand Menaion Reader*, 1530s–1540s); a princely genealogy (*Stepennaia kniga*, 1550s–1560s); a treatise on household management (*Domostroi*, 1550s); and secular legal regulations (*Sudebnik*, 1550). From the perspective of legal regulations, the *Stoglav* should be understood in relation to the 1550 *Sudebnik*, the secular law code.⁸ The treatises seem to complement each other and their almost simultaneous emergence indicates an interest in a complete codification of law in Muscovy.⁹ The *Sudebnik* was, to a certain extent, a reworking of the previous 1497 edition, but it contained for the first time numbered provisions regarding court regulations, activities, and procedure. Just like the *Stoglav*, it comprised one hundred chapters.¹⁰ According to the fourth chapter of the *Stoglav*, the tsar requested that the members of the 1551 council approve and if necessary, correct the *Sudebnik*, in order to ensure its righteousness.

Both the compilations of secular law and those of canon law had to provide a clear delineation between the princely and ecclesiastical spheres of influence. In the *Stoglav*, their relationship was defined according to *Justinian's Novels* as the *symphonia* between two interdependent powers of divine origin, where the princely authority was concerned with human affairs and the ecclesiastical with divine matters. The tsar was portrayed as the common link between the two, especially through the role he was given within the council. The *Stoglav's* articles containing secular legislation identify another aspect of princely authority. Although the secular rulers could not interfere in Church issues, it was their prerogative to issue legislation granting (or rather confirming, as Mulcahy puts it) Church rights and

York: Basic Books, 1983), particularly the definition of law as local knowledge in the essay "Local Knowledge: Fact and Law in Comparative Perspective", 167–234.

8 Baranowski discussed both the 1550 *Sudebnik* and the *Stoglav* as law treatises following the tradition of previous local legal provisions rather than the examples of Roman law (for the *Sudebnik*) or Byzantine canon law (for the *Stoglav*). GÜNTER BARANOWSKI, "Gerechtigkeitsaspekte in den russischen Rechtsbüchern des 16. Jahrhunderts. Der 'Sudebnik' von 1550 und der 'Stoglav' von 1551", in *Gerechtigkeit und gerechte Herrschaft vom 15. bis zum 17. Jahrhundert*, ed. STEFAN PLAGGENBORG (Berlin: De Gruyter, 2020), 75–104.

9 FERDINAND FELDBRUGGE, *A History of Russian Law: From Ancient Times to the Council Code (Ulozhenie) of Tsar Aleksei Mikhailovich of 1649* (Leiden, Boston: Brill, 2018), 742.

10 FELDBRUGGE, *A History of Russian Law*, 735–739.

immunities.¹¹ Thus, the treatise contains a significant number of references to previous decisions of Byzantine emperors and Kyivan and Muscovite grand princes, intended to define the sphere of influence of the Church in relation to secular authorities. Arguments defending the authority of ecclesiastical courts or the Church's property rights drew upon past princely regulations going back to Emperor Constantine or the Church Statute of Vladimir the Great.

The canon law treatises traditionally used in Rus' and Muscovy, known as *Kormchie knigi* [The Pilot's Books] were collections of ecclesiastical canons and Byzantine civil law based on the *Nomocanon*.¹² They addressed the organisation of the Church and of its ecclesiastical members (priests, monks and nuns, Church authorities) as well as various aspects of everyday life which were under Church jurisdiction, such as marriage, family conflicts, inheritance, heresy and witchcraft. The *Stoglav* was not meant to replace these. Rather, it was intended to supplement them on matters specific to Muscovy, from the status of widower priests in the Church to very practical regulations such as the amount of money to be charged for Church services. Various *Kormchaia* versions, usually of South Slavic origin, came into use in Rus', and local documents ranging from princely statutes and decrees issued by metropolitans to works of monks and saints found their way into these collections. The decisions of previous metropolitans of Rus' or treatises written by prominent local members of the clergy were authoritative sources in current use. These collections could be adapted and extended, providing continuity between general Christian legislation and locally produced ecclesiastical works or official decrees. In this sense, the *Stoglav* was not innovating by introducing local sources, but rather by the way it employed them.

The *Stoglav* seems to have spread rapidly throughout the territory under Metropolitan Makarii's jurisdiction, as the large number of extant copies indicates. Several months after its completion, instructions (*nakazy*) sent by Makarii and other ecclesiastical leaders were already referencing the "new conciliar law code" and had *Stoglav* chapters included.¹³ After its refutation, the *Stoglav*'s short redaction remained in use among the Old

11 ROSANNE GRETCHEN MULCAHY, *Canon Law in Medieval Russia: The Kormchaia kniga as a Source of Law* (London: University College London, 2001), PhD thesis, 102.

12 On the development of the *Kormchaia kniga* in Rus', see E. В. Белякова, Л. В. Мошкова, Т. А. Опарина (ред.), *Кормчая книга. От рукописной традиции к первому печатному изданию*, (Москва, Санкт-Петербург: Центр гуманитарных инициатив, 2017).

13 KOLLMANN, *The Moscow Stoglav*, 18–21.

Believers, who refused to accept the seventeenth-century reforms of Patriarch Nikon.

LOCAL PRINCELY REGULATIONS

The selection of princely texts centred on the rights and immunities granted to the Church since its founding. Several chapters of the code addressed the topic extensively and provided a comprehensive definition of the role and jurisdiction of the Church vis-à-vis secular authority. The secular legislation cited included Byzantine and Kyivan texts usually found in the *Kormchaia* which set forth a general Christian framework for the ecclesiastical and secular systems of law and administration as well as decrees issued by previous Muscovite grand princes which addressed pressing local issues.

The inclusion of secular legislation in canon law treatises built on Byzantine tradition. Since the creation in the 6th century of the so-called *Nomocanon in Fifty Titles*, canon law collections began to be supplemented with civil law pertaining to the topics addressed.¹⁴ However, it should be emphasised that the *Nomocanon* treatises were the result of individual endeavours and not issued as official Church legislation, as was the case with the *Stoglav*.

One of the most extensively debated issues in the 1551 council was the question of Church properties, one that was closely related to the jurisdiction of ecclesiastical courts.¹⁵ The argument against secular interference in matters of Church jurisdiction runs throughout the compilation, but its best exposition appears in Chapters 53 to 66. Most of these chapters addressed ecclesiastical rules on the issue, from apostolic regulations to decisions made by Church councils or decrees issued by metropolitans.

14 JAMES MORTON, *Byzantine Religious Law in Medieval Italy* (Oxford: Oxford University Press, 2021), 18–20. For a more in-depth analysis of the Byzantine canon law, see also DAVID WAGSCHAL, *Law and Legality in the Greek East: The Byzantine Canonical Tradition* (Oxford: Oxford University Press, 2015).

15 The long debates concerning the properties of the Church in the *Stoglav* have largely been discussed in the scholarship under the paradigm of the assumed two “parties”, the “possessors” led by Iosif Volotskii defending the right of the monasteries to own land, and the “non-possessors,” usually assumed to be the hesychasts led by Nil Sorskii, who were arguing for a more spiritual Church. However, these categories are misleading, as they do not reflect the complexities of the sources or the actual collaboration between Church leaders assumed to be antagonists. DONALD OSTROWSKI, “A Construct That Obstructs: The Church Parties Model of Sixteenth-Century Russian Church Relations”, *Russian History* 47, no. 3, (2020): 149–161.

Chapters 58 to 63 included secular legislation, with an emphasis on the *Church Statute of Vladimir the Great*. Traditionally ascribed to the baptiser of Kyivan Rus', Vladimir the Great (980–1015), the *Statute* was the founding document of the Church's rights in Rus' and a constant presence in various *Kormchaia* versions.¹⁶ Although the original has not been preserved, over 200 copies of the text, most of them reworked, appeared in various collections between the fourteenth and the nineteenth centuries, the oldest dating from the 1280s.¹⁷

The *Statute's* original purpose was to provide a framework for the activities and jurisdiction of the newly established Church of Rus'. The *Stoglav* version, presented in Chapter 63, followed the general structure of the text, with some minor additions in the form of commentary towards the end. It began by presenting Vladimir and his people's conversion, as well as his decision to build the Church of the Holy Mother of God in Kyiv and to grant it a tenth of all his revenue. The asserted basis of the *Statute* was stated to be the Byzantine *Nomocanon*, which Vladimir claimed he had examined, and which stated that the secular authorities should not interfere with the affairs of the Church. Thus, after summarizing Vladimir's consultations with his court, the *Statute* proceeded to define the authority of the metropolitan and clergy, to list the issues which were subject to ecclesiastical courts, to sanction the ecclesiastical supervision of commercial weights and measures, and to identify who would be considered Church people under ecclesiastical jurisdiction. Cases pertaining to marriage, family relations, inheritance, morality, magic, witchcraft, paganism, heresy and offences against the Church were to be judged exclusively by ecclesiastical courts. People within Church jurisdiction included the various members of the clergy, a priest's or deacon's wife and children, members of the Church choir, pilgrims, physicians, wanderers, the lame and the blind. The only sanction mentioned for anyone transgressing these regulations was divine punishment.¹⁸

The *Statute* was placed in the *Stoglav* within a succession of references to similar Byzantine legislation prohibiting secular intervention in matters

16 Given the later emergence of the extant copies, the *Statute's* authenticity has been debated. FELDBRUGGE, *A History of Russian Law*, 145–146.

17 Я. Н. Шапов (ред.), *Древнерусские княжеские уставы XI–XV вв.* (Москва: Наука, 1976), 12, 21, 49. Shchapov provided a detailed analysis of the various *Statute* recensions, highlighting the differences between the copies.

18 A specific list of earthly punishments for each type of transgression would be included in the *Church Statute of Iaroslav*, the son and successor of Vladimir.

of ecclesiastical jurisdiction. Chapter 61 noted a decree of the emperor Manuel Comnenus which defended all possessions of the Church against secular intervention of any kind and confirmed the jurisdiction of ecclesiastical courts. This particular excerpt was taken from a 1410 instruction of Metropolitan Fotii to Grand Prince Vasilii I.¹⁹ Chapter 62 contains the definition of the Byzantine symphonia from Book 6 of *Justinian's Novels*. These excerpts of secular legislation were introduced to corroborate what the canon law already stated. Their similar prescriptions confirmed the unity of Christian law, regardless of the time or place the decrees were issued. In its particular context, the *Statute* functioned as a founding document for the Church of Rus' and as the starting point of the rights and immunities conferred upon the Church by the local princes. When presented in its larger, Christian context, Vladimir's *Statute* in the *Stoglav* only reinforced what the Byzantine emperors already legislated for the entire Christian community. This continuity was emphasised throughout the aforementioned chapters, as the documents claimed their decisions were applicable in the entire Christian world to the end of time. For this purpose, the end of the *Statute* as cited in the *Stoglav* was slightly adjusted to provide an explanation for the entire succession of selected texts. A final commentary was added, explaining the secular legislation as proof of the firm attachment of Greek and Rus' tsars, as the text called them, to the decisions of holy councils, universal or local, and to the independence of ecclesiastical courts.

Such fragments of Byzantine legislation were usually part of the *Kormchaia*. However, one major exception appeared in the *Stoglav*, namely, the *Donation of Constantine*. This Latin document claimed that Emperor Constantine had transferred imperial authority in the West to Pope Sylvester. In the fifteenth century, the *Donation* was proved to be a forgery, but until then it had been used extensively by the Roman Church as evidence for its primacy in relation to the Eastern Churches, or to assert political rights in Western Europe.²⁰ The text probably reached Muscovy through the Byzantine Empire and excerpts from it began to appear in the fifteenth century. There were two main translations of the *Donation*, and their emergence

19 ЕМЧЕНКО, Стоглав, 421. The first in-depth analysis of the *Stoglav's* sources was done by Stefanovich, and his findings were used by subsequent studies, including Emchenko's, Д. Ф. Стефанович, О Стоглаве. Его происхождение, редакции и состав. К истории памятников древнерусского церковного права (Санкт-Петербург: 1909).

20 For the use of the *Donation* in Byzantium after 1204 and an extensive literature review on the document, see DIMITER ANGELOV, "The Donation of Constantine and the Church in Late Byzantium", in *Church and Society in Late Byzantium*, ed. DIMITER ANGELOV (Kalamazoo, Michigan: Medieval Institute Publications, 2009), 91–157.

has been linked to the activity of Metropolitan Kiprian concerning the administration of the metropolitan see (1381–2, 1390–1406), while the second one has been linked to the local opposition to the Unionist Council of Ferrara-Florence (1438–1439). These fifteenth-century versions already contained local interpolations that underlined the Church's property rights and defined the role of Christian princes.²¹ At the turn of the sixteenth century, events and ideas borrowed from the *Donation* were used for ideological purposes. Probably the best-known example is the *Tale of the White Cowl*. The text claimed a *translatio* of ecclesiastical authority from Rome to Constantinople and then to Novgorod through the white cowl Constantine had gifted to pope Sylvester as a symbol of the privileges granted by the emperor.²²

The *Stoglav's* version of the *Donation* appeared in Chapter 60 but had little in common with the Latin text. It began by stating that ecclesiastical authority was established by God, and no secular leader could intervene and deprive the Church of its divine rights. Laymen could not judge the people of the Church, nor touch their property or what was donated to them. This rule was meant to be respected until the end of time, in all the Christian lands, by all the Christian rulers, and whoever disregarded these prescriptions would be condemned to eternal damnation. Essentially, the *Stoglav* offered a shorter, rewritten version of the *Donation*, starting from the original text, but addressing exclusively topics debated in the Muscovite Church. The elements for which the text was known in Western Europe, such as papal primacy, were, understandably, not mentioned. The reworking of the text was evident in its use of elements from the Latin version. For example, the list of lands granted to Pope Sylvester in the Latin version, in the East, West, North, South, Judea, Greece, Asia, Thrace, Africa, and Italy, became the list of lands where Constantine's decision regarding

21 Т. И. АФАНАСЬЕВА, «*Donatio Constantini* в славянских переводах XIV–XV вв.: к проблеме их датировки и локализации», *Slověne* 8, no. 1 (2019), 109–133. See also JOSEPH L. WIECZYŃSKI, "The Donation of Constantine in Medieval Russia", *The Catholic Historical Review* 55, no. 2, (1969): 159–172.

22 Д. С. Лихачёв (Отв. ред.), *Словарь книжников и книжности Древней Руси*, Вып. 2, ч. 2 (Ленинград: Наука, 1989), 214–215. The *Tale* was most extensively used in the sixteenth century, as part of a pro-Novgorodian stance against Muscovite ecclesiastical and political authority. Despite the lack of evidence from the sources, the idea of *translatio* has been incorrectly correlated with the Moscow third Rome trope, see DONALD OSTROWSKI, "'Moscow the Third Rome' as Historical Ghost", In *Byzantium: Faith and Power (1261–1557): Perspectives on Late Byzantine Art and Culture*, ed. SARAH T. BROOKS (New York: Metropolitan Museum of Art; New Haven: Yale University Press, 2006), 170–179.

property rights and jurisdiction of ecclesiastical courts applied. The fragment detailing papal primacy was transformed into a list of ecclesiastical centres which received rights comparable to those of Pope Sylvester. The text's purpose was already highlighted in the chapter title. Although the chapter contained only the *Donation*, its title referenced the decrees of Constantine and Vladimir the Great, both equal to the Apostles, regarding secular intervention in matters pertaining to ecclesiastical courts. Thus, the texts dealing with the same issues in favour of the Church served as founding documents and as guidelines for secular rules. These excerpts of Byzantine and Kyivan secular legislation, with their parallel expressions of Christian law, provided a framework for the "tradition" the council aimed to restore, or rather to systematize.

The treatise also makes scattered references to rather recent grand-princely decrees, issued by the tsar's father Vasilii III (1505–1533) or his grandfather Ivan III (1462–1505). The decrees were usually introduced to support more extensive arguments stemming from letters and decisions of previous metropolitans. These references appeared also as formulaic expressions in chapters proposing decrees the tsar should issue in accord with those of previous rulers.²³ The tsar's Question 31 (Chapter 5) offered a clue to why the issue of Church rights was so controversial. The tsar asked for clarification regarding *ruga*, a type of subsidy granted to monasteries and churches which had little other means of revenue. During Ivan's minority, *ruga* became a permanent subsidy even for monasteries with substantial financial revenues. The council's decision, in Chapter 97, stated that the monasteries which had received a permanent *ruga* grant under Vasilii III or Elena Glinskaia should continue to receive it, while permanent subsidies granted during Ivan IV's minority should be investigated.²⁴ The issue is clarified further in the final chapter, 101, dated 11 May 1551. Apparently composed after the treatise itself had been drafted, based on supplementary investigations and reports, the chapter proposed resolutions for a variety of issues connected to Church revenues and properties. With regard to *ruga*, the Church authorities concluded that temporary subsidies which became permanent during the tsar's minority should revert to their former status.

23 For example, Chapter 48 provided the council's decision on the fees to be charged for officiating at a marriage. The statement of charges, set in accord with decrees issued by Ivan III and Vasilii III, was followed by the council's request that the tsar issue a similar order.

24 Elena Glinskaia was Vasilii III's second wife and the mother of Ivan IV. When Vasilii III died in 1533, his son Ivan was three years old. Elena served as regent until her death in 1538.

It is worth pointing out that only previous decrees issued by grand princes of Muscovy are quoted in the *Stoglav*'s discussion of these practical matters. "Tradition" in this case meant the locally developed practices of financing and supporting monasteries and parishes. Even when the tsar wanted to reduce some means of support, as in the case of *ruga*, the only relevant precedents could be found in the decisions of his father and grandfather. While the Byzantine legislation or the *Statute of Vladimir* provided a framework for defining Church rights in general, it was locally produced policies and procedures that could inform a generally accepted norm.

LOCAL ECCLESIASTICAL REGULATIONS

When it came to defining ecclesiastical tradition, a large number of sources were included, from Biblical and apostolic regulations to decisions of ecumenical councils and decrees issued by metropolitans of Rus'. This continuous line of regulations was intended to offer both context and legitimacy to *Stoglav*'s decisions. However, in some particular cases (for example, the issue of widower priests), locally developed solutions sanctioned by previous leaders of the Muscovite Church took precedence over Byzantine canons.²⁵

The 1551 council had very little interest in aligning its decisions to what was going on in the entire Orthodox space. Its activities were part of an intense effort at systematization, both in Muscovite society in general and in the life of the Church. The introductory chapters included references to a previous council of the Muscovite Church, described in the text as having taken place two years before, when a large number of local saints were glorified.²⁶ One of them was Iona (1448–1461), the first metropolitan of the autocephalous Muscovite Church elected after the unionist Church council of Ferrara-Florence.²⁷ The tsar's letter, included in Chapter 4, pro-

25 Emchenko discussed the differences between *Stoglav*'s decisions and Byzantine canons by employing local sources already in use through the *Kormchaia*, with or without mentioning their origin, on various issues of ecclesiastical discipline. ЕМЧЕНКО, *Столбав*, 134–145.

26 A reference to the 1547 and 1549 Church Councils.

27 PAUL BUSHKOVITCH, *Religion and Society in Russia: The Sixteenth and Seventeenth Centuries* (Oxford: Oxford University Press, 1992), 84–6. For an overview of Muscovite Church councils, see DONALD OSTROWSKI, "The Moscow Councils of 1447 to 1589 and the Conciliar Period in Russian Orthodox Church History", in *Tapestry of Russian Christianity: Studies in History and Culture*, eds. NICKOLAS LUPININ, DONALD OSTROWSKI, JENNIFER B. SPOCK (Co-

vided an extensive account of the vast preparations made for the glorification of local saints, from the gathering of tales regarding miracles they had performed and the writing of *Lives* to the council deliberations. Local saints became a source of legitimacy for the Muscovite Church, as they were portrayed as part of the continuous line of important Christian Orthodox figures, extending from the apostles and first martyrs to the church fathers and Emperor Constantine, through Vladimir and Olga, equal to the apostles, the first dynasty members to convert, to a rather extensive list of local saints. Veneration of previous metropolitans of Rus', especially Metropolitan Petr (1308–1326), who transferred his seat from Vladimir to Moscow, contributed significantly to strengthening core Muscovite religious traditions. The *Stoglav* attributes the epithet “wonder-worker” to Petr, and in some instances, he was mentioned together with Metropolitans Aleksii (1354–1378) and Iona, in an image resembling the traditional Orthodox veneration of the three holy hierarchs of the Church: Basil the Great, Gregory of Nazianzus and John Chrysostom.²⁸

Probably the best illustration of the council's predilection for local decisions over general Orthodox canons appears in the discussions concerning the statute of widower priests. According to local practice, priests whose wives died could not continue to serve as parish priests. They could either become monks, in which case they would serve as priests in monasteries, or they could remain in their parishes in a reduced clerical capacity, such as singing in the church choir. They were forbidden from entering a second marriage and from continuing to serve as parish priests after being tonsured as monks. While deciding not to become a monk meant loss of status for a widower priest, serving in a secular parish in a minor capacity also meant a considerable loss of revenues. The Church Council of 1503 decided that a widower priest should receive one fourth of the parish revenues if he decided to remain in the church choir. In practice, these regulations were largely ignored.²⁹

The complicated situation of widowed priests had thus become the source of numerous writings by previous metropolitans. The oldest regulation mentioned during the council's deliberations was the decision of

lumbus, Ohio: Department of Slavic and East European Languages and Cultures and the Resource Center for Medieval Slavic Studies, The Ohio State University, 2016), 121–155.

28 The three metropolitans appeared together in Chapter 3, in the list of local saints, and in Chapter 68, in the detailed decision regarding the organisation and jurisdiction of ecclesiastical courts.

29 KOLLMANN, “The Stoglav Council and Parish Priests”, 70–71.

Metropolitan Petr. The fragment inserted in Chapter 77 cited his decision that a widowed priest would not be able to resist worldly temptations, therefore he must enter a monastery. This conclusion was supported by a letter by Saint Basil to a priest forbidding him to live with a woman without being married. The chapter was followed by a letter by Metropolitan Fotii (1408–1431) to Pskov. Initially, Fotii permitted widowed priests to serve in their parishes after being tonsured, but later reconsidered his position. In his letter to Pskov he condemned the practice, insisting that widower priests had to go to monasteries and repent of their sins. Fotii acknowledged his earlier statement as an error resulting from sinful human nature and emphasised that the current ban was in accordance with the teachings of the Holy Fathers. The *Stoglav*'s decision on the matter was to maintain the ban on widower priests serving in secular parishes. It was explained as following Apostolic rules and the teachings of the Holy Fathers, but the previous decisions of metropolitans Petr and Fotii were the real basis for the outcome.

This issue prompted the inclusion in Chapter 79 of an exposition attributed to Iosif Volotskii, on the changing nature of Church regulations.³⁰ The text began by quoting the argument which was probably most commonly used in favour of retaining widower priests in their parishes, namely, that adulterous married priests were not punished, while widower priests living in purity were not permitted to continue their service. To this argument the author opposed the imperative of fighting sins of the flesh. But the most consistent part of the text discussed another objection, namely, that nothing should be added to the apostolic rules and the decisions of the seven ecumenical councils. This discussion is particularly enlightening with regard to how the Muscovite clergy understood the relation between universal canons and decisions arising from pressing local needs. The debate revolved around a long list of apostolic rules and council decisions which, over time, had been changed. Examples ranged from decisions related to marriage (of priests, the permissibility of a fourth marriage), to determining the date of Easter, or elements of divine service. The purpose of these examples was not to settle the question at hand, but to provide a comprehensive picture of how “tradition” could be and had been altered.

30 Volotskii was one of the most prominent Muscovite theologians of his time. His thorough use of sources, biblical, patristic or canon law was also highlighted in his *Monastic Rule*. DAVID M. GOLDFRANK, *The Monastic Rule of Iosif Volotsky* (Kalamazoo, MI: Cistercian Publications, 1983), 25–29.

The *Stoglav* chapter is the main source for this text attributed to Iosif Volotskii.³¹ It is considered to be his answer to the complaints of Georgii Skripitsa, a priest from Rostov, and it is connected to the 1503 Church Council, when the issue of widower priests had been debated.³² At the beginning of the sixteenth century, Skripitsa wrote a treatise in favour of allowing celibate widower priests to continue to serve in their parishes. At the same time, he was accusing the high clergy of Muscovy of interfering with apostolic canons by introducing regulations without any basis in Byzantine canon law.³³ Thus, Volotskii's answer, as recorded by the *Stoglav*, focused on these particular arguments, especially on the issue of new canonical regulations. Eventually, the 1666–1667 council revoked the *Stoglav* decision on widower priests, as it was considered to have no basis in Byzantine canon law. It also issued new decisions, stating that with the bishop's approval, widower priests could continue to serve in the parish as celibates, while young priests could even remarry and stay at the parishes in minor clerical positions.³⁴

Metropolitan Fotii's letter on the issue of widower priests was addressed to Pskov, at that time a semi-independent principality that was part of the diocese of the archbishop of Novgorod. This was not a singular case, as other letters or decrees of metropolitans quoted in the *Stoglav* had been addressed to Novgorod and Pskov. The letters of Metropolitan Kiprian, included in Chapters 64 and 65, on secular intervention in matters considered to fall under ecclesiastical jurisdiction provide another example. More specifically, these letters condemned the practice of judging Church people in secular courts. This situation best illustrates the fragmentation the Church hierarchs tried to resolve. Despite Novgorod's formal dependence on Muscovy until its annexation in 1478, the Republic's secular and ecclesiastical authorities frequently acted in an independent manner. It was not uncommon for the archbishops of Novgorod to establish their own regulations and sometimes even come into conflict with the Moscow-based metropolitans. In 1504 Archbishop Gennadii of Novgorod was removed from office because he continued to accept fees for the appointment of priests and deacons although that practice had been forbidden by

31 А. И. АЛЕКСЕЕВ, *Сочинения Иосифа Волоцкого в контексте полемики 1480–1510-х гг.* (Санкт-Петербург: Российская национальная библиотека, 2010), 31.

32 ЕМЧЕНКО, *Стоглав*, 423.

33 KOLLMANN, "The Stoglav Council and Parish Priests", 73.

34 DEBRA COULTER, "The Muscovite Widowed Clergy and the Russian Church Reforms of 1666–1667", *The Slavonic and East European Review* 80, no. 3 (July 2002): 460.

the 1503 Church Council.³⁵ In his first letter, addressed to Novgorod, Metropolitan Kiprian dismissed any attempt by Church people to seek justice in secular courts under penalty of not receiving his blessing. The second one, addressed to Pskov, touched upon the same issue, specifically addressing the situation of priests in general and widower priests in particular who were being judged by lay courts. Kiprian warned against any such practices, as only the person who had ordained a priest possessed the power to judge him. The chapter that cited this letter ended with an extract from the regulations of the seventh Ecumenical Council on obeying the decisions of the Church hierarchs under the penalty of eternal damnation. These letters were part of a larger conflict between Kiprian and the archbishop of Novgorod, who refused to acknowledge the metropolitan's right to act as an appeal court for cases judged by the archbishop. The situation became so critical that the patriarch of Constantinople wrote to the archbishop accusing him of acting against Church canons, while Grand Prince Vasili I of Moscow (1389–1425) prepared a military attack to convince the Novgorodians to accept the metropolitan's authority.³⁶

The *Stoglav's* references to Byzantine canon law, although scarce, reflect the council's active interest in finding support for decrees issued by metropolitans, when possible. Byzantine precedent was cited to deal with the question of benefices. Chapter 87 included a letter by Patriarch Philotheus of Constantinople to Dionisii, archbishop of Suzdal' and later metropolitan of Rus', describing the costs a priest should cover for the appointment: he could, if he wanted, cover the practical expenses of the ceremony (such as candles, wine), but he was not to be charged for the ceremony itself.³⁷ The following chapters included a fragment from Book 123 of *Justinian's Novels* addressing the sums to be paid upon the appointment of higher clergy (bishops, metropolitans), and a decree issued by Metropolitan Fotii to Pskov, with a very detailed list of payments, according to each case, for deacons and priests. This payment schedule was supplemented with a list of requirements the candidates had to meet and a description of how their knowledge should be tested. Although it employed two texts of Byzantine origin with rather different approaches to the debated issue (the patriarchal letter mentioned only related costs and *Justinian's Novels*

35 OSTROWSKI, "The Moscow Councils of 1447 to 1589", 137.

36 GEORGE G. WEICKHARDT, "The Canon Law of Rus', 1100–1551", *Russian History* 28, nos. 1–4 (2001): 418–9.

37 The text references the 1382 letter of Patriarch Nilus (1380–1388), attributed to Patriarch Philotheus (1364–1376) in the *Stoglav*; ЕМЧЕНКО, *Стоглав*, 423.

included a list of payments), the council's decision was actually based on Fotii's letter outlining established local practice, thus allowing regulated payments.³⁸ The case offers a revealing illustration of the power dynamics between local practice, reflected in the accumulated body of knowledge enshrined in ecclesiastical records, and the universal canons and secular legislation inherited through the *Kormchaia*. The systematization of ecclesiastical organisation or morality according to decisions of previous metropolitans of Rus' was perceived to be part of the decisions of the universal Church. Local decrees acted as the starting point for any *Stoglav* decision, as they were already being enforced, at least in some parts of the tsardom. The interest in supporting them with excerpts from Byzantine legislation shows their role as sources of authority, but, in this case, was employed to strengthen the claims and interests of local ecclesiastical leaders.

CONCLUSION

Investigation of the *Stoglav*'s local sources raises the question of whether the stated "tradition" it aimed to restore was grounded in the canon law of Eastern Christianity or was rather an "invention of tradition."³⁹ The context which generated the need for such a treatise might offer some clues. First of all, the *Stoglav* was an expression of the mid-sixteenth century Muscovite desire to organize and systematize all aspects of life in an emergent empire. One of the main tasks the council had to tackle was the definition of spheres of jurisdiction between the secular and the ecclesiastical authorities. This included a clear definition of the symphonia, the relation between the Church and a new type of ruler, a "tsar," and not a "grand prince," the title Ivan IV's predecessors used. In this sense, the *Stoglav* had to define the boundaries of authority regarding the role of the secular authorities in matters of the Church. To achieve this, selected items of previously issued secular legislation, from Byzantium and Rus', were used to provide the necessary framework. Documents issued by the

38 The issue of money charged for ordination was mostly connected to the practice of accepting bribes to support the candidacy of prospective clergymen; KOLLMANN, *The Moscow Stoglav*, 349.

39 According to the definition of ERIC HOBBSBAWM, TERENCE RANGER (eds.), *The Invention of Tradition* (Cambridge: Cambridge University Press, 1983), 1–2, an invented tradition is largely formally instituted and its continuity with the past, largely fictitious, becomes a source of legitimacy. These traditions are perceived to be different from "customs" and customary law.

emperors Constantine the Great, Justinian, Manuel Comnenus, and the Kyivan grand prince Vladimir were meant to act as guidelines for current and future tsars. These were authoritative sources of the universal Christian tradition, compiled and edited to support the claims of the Muscovite Church. The fact that some of them were used in different versions from their originals should not be surprising. Although they were the expression of Christian law, the council had access to them through versions kept in East Slavic compendia and translations, not Greek or Latin originals. In a sense, a text such as the *Donation of Constantine* inserted into the *Stoglav* became a local source, as it had been altered to provide a coherent argument for local practice. Thus, the *Stoglav* indeed built on a previous “tradition” inherited through local translations and continuously edited according to the particular Muscovite context.

Probably the best argument for why this “tradition” was not an “invented” one is the perception of the role locally issued decisions had in the organisation of the Church. Decrees issued by metropolitans of Rus’ were construed as parts of Christian canon law. These texts were considered legitimate by virtue of the office held by their authors, and comparative analysis with Byzantine canons was not felt to be necessary.⁴⁰ Moreover, some of their authors had become saints of the Church, increasing the prestige of their decisions even further. Efforts to provide a coherent set of ecclesiastical regulations to be enforced in the entire state had been preceded by various actions aimed at strengthening the authority of the Moscow-based metropolitans. One example would be the glorifications taking place during previous Church councils, which were aimed at unifying the Church structure. Basing decisions about Church issues on past rulings made by metropolitans was just another necessary step in the systematization of Church life.

At the same time, these decrees were grounded in local practice developed sometimes over hundreds of years. The issue of widower priests, for example, had been continuously discussed and regulated since the time of Metropolitan Petr, in the first half of the fourteenth century. This too was “tradition”, but in a local sense, as a particular case of Christian law. These transformations over time were highlighted by Volotskii’s treatise claiming that traditions can be changed, according to new needs. The *Stoglav* also displays an active interest in connecting the council’s decisions

40 A rather similar conclusion was reached by Ostrowski, in his study on the conciliar period of the Russian Church; OSTROWSKI, “The Moscow Councils of 1447 to 1589”, 149.

to canon law. Even if local decisions were favoured, canonical texts or church fathers were referenced as authoritative sources, when possible. This selective usage is very well articulated in cases providing a general framework, such as excerpts from secular legislation, but when it comes to particular local issues, its shortcomings become visible. The reference to Basil the Great's letter concerning priests who live with women without being married dealt only partially with the issue of widower priests. Thus, the "tradition" the *Stoglav* claimed it restored became a mix of locally generated solutions and handpicked canons, aimed first and foremost at the strengthening of the metropolitan's authority and the local systematization of ecclesiastical regulations.

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