

## CONSCIENCE AND PEACE TAX INTERNATIONAL

### SUBMISSION FOR THE REPORT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF OPINION AND EXPRESSION ON CHALLENGES IN TIME OF CONFLICT AND DISTURBANCES

21<sup>st</sup> July, 2022

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This very belated submission (delayed to include the latest developments in Russia and Ukraine) focusses particularly on situations where restrictions in times of conflict on the freedom of opinion and expression guaranteed by Article 19 of the International Covenant on Civil and Political Rights also have implications for Article 18 – freedom of thought, conscience, and religion. If it is too late for formal acknowledgment, so be it; it is hoped that some of the information contained may nevertheless be helpful. Because of its cross-cutting nature, a copy is being sent for information to the Special Rapporteur on Freedom of Religion or belief.

An obvious area of concern is the right of conscientious objection to military service. As was observed by Sir Nigel Rodley in a concurring opinion endorsed by three other members of the Human Rights Committee in the case of *Min-Kyu Jeong et al v Republic of Korea*, “...It is precisely in time of armed conflict, when the community interests in question are most likely to be under greatest threat, that the right to conscientious objection is most in need of protection, most likely to be invoked and most likely to fail to be respected in practice...”<sup>1</sup>

Many States, for example the Republic of Korea, Azerbaijan, Armenia and now Ukraine have at different times claimed that a situation of conflict makes it impossible to fully recognise the right of conscientious objection to military service. In itself, this is not a freedom of expression issue, but it can lead to restrictions which are. Those encouraging individuals to declare themselves as conscientious objectors may find themselves prosecuted for “incitement to disaffection”, an offence which ought to be strictly limited to those encouraging serving members of the military to mutiny – although it should be remembered that, if based on conscience, objection to a specific war or military action is protected no less than an absolute pacifist objection.

The most notorious instance of this is the criminalisation by Turkey of all advocacy of the right of conscientious objection to military service, sometimes interpreted as stretching even to reporting on international standards under Article 318 of the penal code, “alienating people from military service”. Prosecutions under this article have even been brought for proclaiming “Every Turk is born a baby” – a deliberate parody of the slogan “Every Turk is born a soldier”.

Article 318 gained particular notoriety in the case of *Savda v Turkey (no 2)*<sup>2</sup> at the European Court of Human Rights (ECtHR). On 1st August 2006, Halil Savda (who had previously successfully brought a case to the ECtHR regarding his imprisonment for refusal of military service as a conscientious objector) together with four other members of the Anti-Militarist Platform had met in front of the Israeli Consulate in Istanbul to read a statement declaring their solidarity with Israeli conscientious

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<sup>1</sup> Views adopted on Communications 1642/2007 to 1741/2007, *Min-Kyu Jeong et al v Republic of Korea*, 24<sup>th</sup> March, 2011 (CCPR/C/101/D/1642-1741/2007, issued 5<sup>th</sup> April 2011, Appendix II, paras 14,15

<sup>2</sup> Application no. 2458/12; Judgement of 15<sup>th</sup> November 2016

objectors. For this he was charged under Article 318 and in August 2008, was sentenced to five months imprisonment. The Court of Cassation upheld that judgment in November 2010. In 2012 he made an application to the European Court of Human Rights claiming that the Turkish authorities had violated Article 9 (right to freedom of thought, conscience and religion) and Article 10 (Freedom of expression) of the European Convention. The Court did not in this case find a violation of Article 9, but it had no doubt that there had been a violation of Article 10.

It was under a similar charge “obstructing the legitimate activities of the Ukrainian Armed Forces” that Ruslan Kotsaba was prosecuted in 2016. Kotsaba, who in 2004 and 2014 respectively had supported the “orange revolution” and the Maidan protests, and thus by background far from the Russian apologist he is now painted as, reported as a journalist later in 2014 from both sides of the front line in Donetsk. Following the reintroduction of military conscription in Autumn 2014, he made a video appeal to then President Poroshenko in which he said, “I’d rather go to prison for two to five years than take a deliberate decision to kill my compatriots in the Eastern part. I say to all who listen to me: I refuse the mobilization and I call all reasonable people to refuse the mobilization. It is hell, a horror. It’s not acceptable that people are killed in the 21<sup>st</sup> Century because they want to secede.” Kotsaba was arrested on 5<sup>th</sup> February 2015 and was held in pretrial detention for over a year. During the hearing, of his case at the city court of Ivano-Frankivsk he said, “I have become a pacifist at the front... What’s going on in the Eastern part is a civil war with international interference on both sides, it’s fratricide.” As a journalist he was obliged to hear also the separatist viewpoint. “Freedom of opinion, freedom of thought, freedom of belief – that is civilization. They are currently trying to take it away from us.” On 12<sup>nd</sup> May 2016, he was sentenced to 42 months’ imprisonment, less 30 months in respect of the time he had spent in pre-trial detention. On 14<sup>th</sup> July, the Appeal Court overturned this sentence and also dismissed the prosecution’s demand for 13 years’ imprisonment on a count of treason, and ordered his immediate release.

This was however just the beginning of the saga. On 1<sup>st</sup> June 2017 the Supreme Court (“the High Specialised Court of Ukraine for Civil and Criminal Cases) annulled the Appeal Court verdict on the grounds that the code of criminal procedure had not been followed, particularly because the Appeal Court had not conducted a full reinspection of the evidence presented by the public prosecutor. On 31<sup>st</sup> January 2018, the case was reopened in Bohorodchany Court. Aware perhaps of international interest, the Court declared that it was not competent and referred the case back to the Court of Appeal in Kiev. The retrial has subsequently been repeatedly postponed, sometimes because of the non-appearance of witnesses, but the first hearing was heard on 19<sup>th</sup> July 2022. and reheard the testimony of 20 of the 58 witnesses called. The prosecutor announced he will abandon the remaining witnesses, some of whom had failed to appear, while the evidence of others was dismissed as hearsay, and asked the court to start substantial consideration of the case, ordering Kotsaba and his lawyers to appear before the court in person. The defense recalled the dangers of appearing before the court in person (physical attacks by the local far-right, anticipating impunity for their actions), and the court asked the prosecution to submit its request in writing. Further hearings are set for 4<sup>th</sup> and (if required) 26<sup>th</sup> September.

In a statement published on ZouTube on the eve of the July hearing, Kotsaba said “...I would like to clarify my position. I am consistent pacifist. Yes, I will always criticize. I am a journalist, I am a pacifist, and I criticize our militarized government indeed, corrupted and irresponsible militarism. But Putin is even greater fool. Putin is attacker, he is guilty. It is a war of Russia against Ukraine. Saying this, I am not going to blame Russian people. Listen, Russians too don't like war, they are under influence of Russian propaganda in the same way as we have in Ukraine dumb and idiotic Ukrainian propaganda (...) But I feel the state intends to throw me into jail, demonstratively, to humiliate all pacifist movement and all people who understand that any war is finishing with peace, after any war, even a long one, there will be a ceasefire. ...”

e all pacifist movement and all people who understand that any war is finishing with peace, after any war, even a long one, there will be a ceasefire (...) it will be people, widows, orphans, cripples returning from the frontline, from hospital, and they will ask: who benefit from war, why Zelenskyy amidst escalation of war didn't wanted to find diplomatic solution, and generally is Zelenskyy an independent figure or just a pawn. War will not solve the problem, it will make it more complicated, at the cost of our Ukrainian lives, and in Russia at the cost of Russian lives. ..”

A further problem in Ukraine has been apparent self-censorship by the Office of the Parliamentary Commissioner for Human Rights (Ombudsman). In reply to a 2021 questionnaire from the European Bureau for Conscientious Objection, the Commissioner stated “ (...) a number of provisions of the Law of Ukraine "On Alternative (Non-Military) Service" of 12 December 1991 No 1975-XII are inconsistent with the requirements of the Constitution of Ukraine, international agreements and the case law of the European Court of Human Rights regarding the procedure for guaranteeing a person's right to undergo such service. Thus, Article 9 of the Law No 1975-XII stipulates that to resolve the issue of referral to alternative service, citizens have to personally submit the motivation written statement to the relevant structural unit of the local state administration at the place of residence no later than two calendar months before the start of the statutory period of conscription for military service. However, the second part of Article 35 of the Constitution of Ukraine provides an exhaustive list of grounds on which the right to alternative (non-military) service may be limited. The violation of the deadline for submitting an application or other procedures by a person whose religious beliefs do not allow to perform the military service are not included in this list. In order to prevent these violations, the Commissioner repeatedly addressed the Regional State Administrations aiming to take into account the clarification on the inadmissibility of refusing conscripts to be sent for alternative service on these grounds. Most regional state administrations took into account the clarifications and informed the Commissioner about it. The Commissioner has taken measures to restore the rights of citizens to perform alternative (non-military) service according to the appeals received from the conscripts. Their requests for alternative (non-military) service were usually decided positively as a result of the intervention of the Commissioner. At the same time, there were cases when, due to disregard for such a position, the Commissioner took an active part as a third party on the plaintiff's side in the consideration of this category of court cases on which decisions were made in favour of the plaintiffs.”

Excellent, as far as it goes, although it noticeably does not mention one major respect in which the provisions in Ukraine do not match international standards - the restriction of recognition to members of an exclusive list of ten religious denominations.

However in a letter to the Ukrainian Pacifist Movement on 22<sup>nd</sup> January 2022 – even before the Russian invasion, - the office said “the question of normative regulation in Ukraine of rights of citizens to conscientious objection to military service (when they have no relevant religious beliefs) may be realized after cessation of aggression and regaining of control of the state over all territories occupied by the Russian aggressor.” This despite the recommendation of the UN Human Rights Committee on 11<sup>th</sup> November 2021 “that alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection,”<sup>3</sup>

In a statement in the debate on the human rights situation in Ukraine following the Russian invasion at the 50<sup>th</sup> Session of the UN Human Rights Council, recently-appointed Commissioner Dmytro Lubinets focussed exclusively on human rights violations committed by the invading Russian forces, which one would have imagined other branches of the Ukrainian State were equally well-placed to

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<sup>3</sup> See European Bureau for Conscientious Objection, Annual Report, Conscientious Objection in Europe 2021, Brussels 21<sup>st</sup> March 2022, pp 64-67.

document, to the detriment of his mandate to monitor the human rights performance of the Ukrainian authorities themselves.

It is of course important to recognise good practice, and it must be admitted that there has been no widespread silencing of dissident voices in Ukraine. Commentaries by the Ukrainian Pacifist Movement are widely shared internationally and although in the current atmosphere it encounters considerable public hostility this has to date not been backed up by significant official harassment.

The equivalent is not the case in Russia. Ironically, in the State whose greatest literary work is “War and Peace”, both words are currently taboo. The “special military operation” in Ukraine may not legally be referred to as war, but at the same time it is considered treasonous to call for peace.

Russia’s arsenal for stifling the freedom of expression includes the “foreign agents” Law, the Law permitting the designation of organisations as “terrorist”, prosecution of independent news media and blocking of internet sites.

Provisions in Russia allowing for the exemption from military service of conscientious objectors are still in place and functioning, but those organisations which formerly advocated for the right, such as Citizen. Army. Law have been declared “foreign agents” on the grounds that they have received money from abroad. Citizen, Army, Law had been closely connected with the country's most respected human rights group Memorial, which was closed down in 2021 by order of the Prosecutor General's Office and the Supreme Court, and it itself has since effectively ceased activity.

On October 1<sup>st</sup> 2021, FSB, the Federal Security Service published a list of information that while not classified as secret, could “harm Russian Federation” but if it reached foreign states and citizens, The collection and dissemination of such information, including for example about the morale and psychological state in military units, the state of health of military personnel and violations of the law in military units is subject to prosecution. This described the sort of information collected by the Soldiers’ Mothers of St Petersburg its support of conscripts and conscientious objectors; that organisation has therefore reverted solely to providing individual advice, with no broader informative function.

Meanwhile the number of recognised conscientious objectors has been greatly reduced as a result of the extraordinary decision by the Supreme Court in 2020 to label the Jehovah’s Witnesses, who renounce armed violence in any situation, a “terrorist” organisation.

On 4<sup>th</sup> March this year (2022), in a move reminiscent of the Turkish restrictions, Russia promulgated new Articles of the Criminal Code and the Administrative Code, under which a number of persons, particularly clergy of the established Russian Orthodox Church have been prosecuted for preaching in favour of peace, or simply for biblical quotations which seem critical of State policy. The legislation and subsequent prosecutions have been documented in a series of reports by Victoria Arnold on the Forum 18 website.<sup>4</sup> on which the following summary is based.

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<sup>4</sup> “Russia: Patriarchate priest fined for condemning war in Ukraine”, 11<sup>th</sup> March 2022  
“Russia: First known criminal prosecution for opposing Ukraine war on explicitly religious grounds” 5<sup>th</sup> May 2022  
“Russia: Religious opposition to the war in Ukraine – prosecutions and detentions” 6<sup>th</sup> May 2022  
“Russia: Opposition to war in Ukraine – official pressure and censorship”, 13<sup>th</sup> May 2022  
“Russia: Orthodox priest detained for opposing war ‘outraged by absurdity of accusations’”, 8<sup>th</sup> July 2022  
“Russia: Second Orthodox priest facing criminal charges for opposing Ukraine war”, 11<sup>th</sup> July 2022  
“Russia: Administrative prosecutions for opposing Ukraine war.”, 15<sup>th</sup> July 2022

The new Article 207.3, Part 1 of the Criminal Code criminalised “Public dissemination, under the guise of credible statements, of knowingly false information about the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens [and] maintain international peace and security, as well as about the exercise by state bodies of the Russian Federation of their powers outside the territory of the Russian Federation for those purposes”.

Breaches are punishable by:

- a fine of 700,000 to 1.5 million Roubles – ie up to about twice average annual wages
- or up to one year's correctional work;
- or up to three years' [assigned work](#);
- or up to three years' imprisonment.

Heavier penalties are stipulated under Part 2 if the offence is committed "a) by a person using their official position; b) by a group of persons; c) with the artificial creation of evidence for accusations; d) for selfish motives; or e) for reasons of political, ideological, racial, national or religious hatred or enmity, or for reasons of hatred or enmity against any social group" , and under Part 3, if it has “grave consequences”, with up to 15 years' imprisonment and subsequent “deprivation of the right to hold certain positions or engage in certain activities for up to five years”.

The offences under the new Article 20.3.3 of the Administrative Code are defined in almost identical terms, except that they relate to actions and public calls for changes in policy. If these include "calls to hold unauthorised public events" or to create any form of disruption, they can attract fines of up to 100,000 roubles for private individuals, or ten times that amount for legal entities. , described above, Superficially less controversially, any such actions "resulting in death by negligence and/or causing harm to the health of citizens, [or] property, [or causing] mass violations of public order and/or public safety, or interfering with or stopping the functioning of life support, transport or social infrastructure, credit organisations, energy facilities, industry or communications." are punishable by a fine of up to a million roubles and imprisonment / prohibition from public office of up to five years.”

A further new Article of the Criminal Code, 280.4 ("Public calls to implement activities directed against the security of the state"), which carries up to five years' imprisonment for individuals and was signed into law on 14th July 2022 punished a repeat offence within a year under the Administrative Code Article.

Prosecutions under the new administrative code article began almost straight away, reaching 144 by 8th March. (By the time of writing, in July 2022, they had exceeded 3,000, with some 1,800 convictions). Charges have been brought for statements quoting the Russian Constitution or President Putin’s own past speeches, and also for using quotation marks when referring to the “special military operation”.

On 10th March, the Article was invoked for the first time over a church sermon. **Fr Ioann Burdin** of the Moscow Patriarchate's Kostroma Diocese was fined the equivalent of one month's average local wages for online remarks and a Sunday sermon in church condemning Russia's invasion of Ukraine and stressing the importance of the commandment, "Thou shalt not kill". On 25 February 2022, the day after Russian troops invaded Ukraine, Burdin posted a statement on his parish's website, signed by both himself and fellow priest Fr Georgy Edelshteyn: "Brothers and sisters! In the early morning of 24 February, Russian troops attacked Ukraine. There is shelling of Kiev, Odessa, Kharkov, Mariupol and other Ukrainian cities. Russian soldiers are killing their brothers and sisters in Christ. We Christians do not dare to stand aside when a brother kills a brother, a Christian kills a Christian. Let us not repeat the crimes of those who hailed Hitler's action on 1 September 1939. We cannot shamefacedly close our eyes and call black white, [or] evil good, [or] say that Abel was probably wrong in provoking his older brother. The blood of the inhabitants of Ukraine will remain on the hands of not only the rulers of the Russian Federation and the soldiers who carry out this order. Their

blood is on the hands of each of us who approved this war or who simply remained silent." Fr Ioann also posted a link to a change.org petition against the war started by human rights activist Lev Ponomaryov (which has more than 1,200,000 signatures as of 11 March) and links to statements by foreign Orthodox clergy criticising Russia's invasion or calling for an end to the conflict. The text of Fr Ioann's statement also appeared on the parish's VKontakte page, and the parish Twitter account bore a "No to war [NET VOYNE]" banner until 9 March. In his sermon on Sunday morning, 6 March, Fr Ioann again condemned the bloodshed, and emphasised the importance of the commandment "Thou shalt not kill". He also prayed for the people of Ukraine and for an end to the war.

The official charge read: "while in a public place, on the premises of the Church of the Resurrection of Christ, during a religious service he was conducting in the presence of about ten parishioners, carried out public actions aimed at discrediting the Armed Forces of the Russian Federation, who are carrying out a special operation on the basis of a decision of the President of the Russian Federation and a decree of the Federation Council of the Federal Assembly of the Russian Federation .. by means of public statements and the imposition on the church's parishioners of information about the Russian armed forces' attack on Ukraine, the ongoing shelling of Ukrainian cities (Kiev, Odessa, Kharkov, and others), the killing by Russian soldiers of the inhabitants of Ukraine, 'Brothers and sisters in Christ', and also by posting analogous information with agitational images on the parish website". The two witnesses in the case testified that Fr Ioann had said that Russian troops had "begun a war with Ukraine", that he would pray for Ukraine and "for a speedy end to the war", and that parishioners could find more information on the parish website.

"If a priest cannot preach 'Thou shalt not kill', then the space for preaching remains very narrow."

Fr. Johann subsequently observed.

An appeal has been dismissed, and a further appeal lodged with the Court of Cassation. Fr. Johann anticipates eventually taking his case to the European Court of Human Rights.

Further detentions and prosecutions with a religious aspect have included those of:

**Aleksandr Ivanov** the administrator of drevo-info.ru, an open online Orthodox encyclopaedia, who on 25<sup>th</sup> February, the day after the invasion, published on its website the statement:

"On 24 February 2022, Russia, on a far-fetched pretext, launched a full-scale invasion of Ukraine. This is not a 'special operation', this is a war. The fighting is conducted by the regular armies of Russia and Ukraine. Since President Putin has declared popular support, and the Russian church hierarchy is cowardly and silent, or gets away with general phrases ('do everything possible to avoid civilian casualties'), the editors of the 'Drevo' encyclopedia consider it their duty to state the following.

"We are categorically against Russia's invasion of Ukraine. There is no war in which civilians would not suffer. War is always blood, destruction, death and many broken human destinies. The consequences of this madness, our shame will be worked through [razgrebat'] by our children and grandchildren for a long time to come.

"We demand that our authorities immediately stop hostilities and withdraw the army from the territory of Ukraine. It's never too late to stop the war. Freedom and peace to Ukraine!"

This was reported by a visitor to the website, and he was charged under Administrative Code Article 20.3.3 on 20<sup>th</sup> June.

Ivanov announced on drevo-info.ru on 1 July that "I do not consider myself guilty and do not regret anything", but that "a repeated accusation brings the threat of a criminal case and imprisonment", so he would therefore remove the anti-war statement and the encyclopaedia's news section.

"For 15 years we have tried to collect the most important religious news in a single news feed, tried to be objective, did not hush up problems, did not bypass sensitive topics," Ivanov explained on the website. "However, under the present conditions, reposting information that is 'incorrect' from the point of view of the authorities can have sad consequences for me, as the owner of the site, and I do not want and will not maintain a combed and slicked-down feed of 'correct' news. Therefore, I am forced to suspend the work of the news section temporarily, until better times."

The news section of the website, (which invariably referred to events in Ukraine as “war”) had reported on the destruction of churches in Ukraine and on the declaration of autonomy by the Ukrainian Orthodox Church (Moscow Patriarchate) in May, and had re-posted anti-war statements from Orthodox leaders outside Russia. It also appeared to take a negative stance on alleged "seizures" of churches by the Orthodox Church of Ukraine (recognised as autocephalous by the Ecumenical Patriarch of Constantinople in 2019).

On 6th July, after the first hearing at Kaluga District Court, Ivanov commented on drevo-info.ru that "The case does not provide any evidence of guilt and does not indicate which statements are counted as discrediting the Armed Forces". He added that he had removed the anti-war statement because of the uncertain further implications of the imminent adoption of the new Criminal Code Article 280.4.

**Fr Nikandr Pinchuk**, Yekaterinburg Region, on 14<sup>th</sup> March. Fined 30,000 roubles. The judgement noted that Fr Nikandr had claimed "that the actions of the Armed Forces of the Russian Federation on the territory of Ukraine are directed against Ukraine's independence, that the Russian Federation has carried out an attack on Ukraine, is shelling cities, purposefully destroying Orthodox churches, etc.". In court, the decision added, Fr Nikandr stated that he had "expressed his opinion, which he considers correct. He believes that the Armed Forces of the Russian Federation are in Ukraine illegally, that [they] invaded the territory of another independent state in violation of international law. He considers this a crime." At the end of June, it emerged that a case had been opened under the new Criminal Code Article 280.3 for a repeated breach of the Administrative Code Article.

**Anastasiya Parshkova** who on 15<sup>th</sup> March, outside the Cathedral of Christ the Saviour, Moscow stood with a placard saying "6th Commandment. Thou shalt not kill", (detained but not charged)

**Nina Belyayeva**, a protestant and Communist party deputy on the Semiluk District Council in Voronezh Region, for remarks during a meeting of the Council in March 2022 which she had filmed on her mobile phone and subsequently uploaded to YouTube. She reportedly called the invasion of Ukraine a war crime, and observed that surrender is "a choice for every Christian .. one way for soldiers not to participate in actions that the leadership forces them to perform". This was the first prosecution with a religious aspect under the Criminal Code Article, but the case has not yet come to trial as she has fled the country.

**Deacon Sergey Shcherbyuk** in early April fined 30,000 roubles under Administrative Code Article 20.3.3. on charges that he had talked with one parishioner about Ukrainian civilian deaths and expressed the opinion that everything could have been resolved without military hostilities, and had also requested that a church worker edit a post she had made in the parish VKontakte group, which asked people to "pray for the soldiers fighting the Nazis and Bandera" was

**Yevgeny Biryukov** who on 17th April, outside the Cathedral of Christ the Saviour, Moscow: held up a piece of A4 paper with the words "6. Thou shalt not kill"; (Charged under Administrative Code Article 20.3.3.)

**Sergey Stepanov**, a Baptist preacher, on 22<sup>nd</sup>. April fined 40,000 roubles at October District Court in Tambov for anti-war posts he had made on his VKontakte page. These included the text of an open letter originally posted on 2 March on the website of St Petersburg Protestant publisher Mirt: "Our army is conducting full-scale military operations in another country, dropping bombs and rockets on the cities of our neighbour Ukraine", it begins. "As believers, we consider what is happening the grave sin of fratricide. (...) No political interests or goals can justify the deaths of innocent people (...) In addition to bloodshed, the invasion of sovereign Ukraine encroaches on the freedom of self-determination of its citizens. Hatred is being sown between our peoples, which will create an abyss of alienation and enmity for generations to come. The war is destroying not only Ukraine, but also Russia - its people, its economy, its morality, its future. (...)

We still have a chance to avoid punishment from above and prevent the collapse of our country, (...) We need to repent for what we have done, first of all before God and then before the people of Ukraine. We must give up lies and hatred. We call on the authorities of our country to stop this senseless bloodshed!"

Stepanov claimed that the prosecution had been retrospective because the offending post had reluctantly been taken down as soon as the new Article came into force.

**Aleksandr Malenkov**, who on 24<sup>th</sup> April (Orthodox Easter Sunday), in Nizhny Novgorod: was detained for holding up a placard reading "6th Commandment – Thou shalt not kill", but not charged.

**Andrey Kryukov**, who also on Orthodox Easter Sunday, in Red Square, Moscow: held up a placard with the words "Christ is for peace"; (Charged under Administrative Code Article 20.2 ("Violation of the established procedure for organising or holding a meeting, rally, demonstration, procession or picket"))

**Sergey Melnikov** who also on Orthodox Easter Sunday, outside a church in Mitino, Moscow: held up a placard reading "Enough war" ["Khvatit voyny"] beneath a picture of a church with the letters KhV (representing the Easter proclamation "Christ is risen"); Later charged under Administrative Code Article 20.3.3.

**Fr Ioann Kurmoyarov** arrested on 7<sup>th</sup> June and held in pre-trial detention under Article 207.3 of the Criminal Code for criticising Russia's invasion of Ukraine from a Christian perspective in multiple videos on his YouTube channel – "The Orthodox Virtual Parish" – arguing that "those who have unleashed aggression will not be in heaven" and "if you are not disturbed by what is going on in Ukraine, this outrage, then .. you are not Christians".

**Ivan Lyubimov** from Yekaterinberg has been detained for three separate posters:

On 1<sup>st</sup> June he was fined 40,000 roubles for on 24<sup>th</sup> May displaying a poster which read "Evil cannot win" and "Shame on war criminals! Put marauders, rapists, and child killers on trial!", and quoted Genesis 4:10: "The Lord said, 'What have you done? The voice of your brother's blood cries out to me from the ground'." On that occasion, the judge found that it "unequivocally discredits the actions of the Russian Armed Forces in the special operation and contains condemnatory statements".

On 27<sup>th</sup> May he was again detained for a poster showing an image of the Virgin of the Seven Sorrows surrounded by names of destroyed Ukrainian towns. A written police decision of 18th June, accepted Lyubimov's argument that his purpose was to emphasise that "every person's life is valuable" and was "exclusively humanistic"; and on that occasion he was released without charge.

On 23<sup>rd</sup> June he was detained over a further poster which highlighted the quotation "any man's death diminishes me, because I am involved in mankind" from Seventeenth Century English Metaphysical poet John Donne alongside the number of civilian deaths in Ukraine as given by the United Nations. It is not yet known whether charges are being brought.

By early July, it was estimated that in total at least thirteen prosecutions under the new administrative code article had related to the use of Biblical quotations. Under the new Administrative Code Article there had been more than seventy prosecutions, including those of Burdin and Kurmoyarov.

Apart from these prosecutions, it has been alleged that the State has actively intervened with religious authorities of all denominations and faiths concerning the content of their teaching. According to Archbishop Dietrich Brauer, head of the Evangelical Lutheran Church of Russia, the Presidential Administration issued a "clear demand" to all religious leaders to speak out in support of Russia's invasion of Ukraine. "Most did. [My] Catholic colleague refers to the Vatican and is silent, the Jewish



chief rabbi, who also has American citizenship, found clever words. He called on everyone to work for peace... “

Patriarch Kirill of the Russian orthodox Church issued the "Prayer for the Restoration of Peace" on 3 March to be read in all churches during the Divine Liturgy, including in Moscow Patriarchate churches in Ukraine. The prayer – in Church Slavonic – refers to the peoples of "Holy Russia", who come from "a single font of baptism under Holy Prince Vladimir" [of Kyiv, who brought Christianity to Rus] and asks that God "establish in their hearts the spirit of brotherly love and peace" and "thwart the intentions of foreigners who want to take up arms against Holy Russia". A letter from Metropolitan Mark of Ryazan and Mikhailov, dated 29th March and also posted on Fr Sergey's social media, stated that people who had attended the Church of the Intercession in the village of Turlatovo had informed diocesan authorities that Fr Sergey Titkov was not reading this prayer "Prayer for the Restoration of Peace" during services, a fact confirmed by the priest himself at a meeting with the diocesan secretary. The Metropolitan demanded that Fr Sergey provide a written explanation by 4 April of his "non-fulfilment of the blessing of the Holy Patriarch, who calls on faithful children of the Russian Orthodox Church to offer this prayer at every service". On 30<sup>th</sup> March Fr. Sergey requested to be made supernumary “fr health reasons”.

It is far easier to document cases than to suggest remedies. During a conflict is not the most promising time to suggest measures to protect freedom of expression. Far better that safeguards are put in place before conflict breaks out – urgently when conflict looks imminent; more productively when it appears distant.

One thing which all States might be encouraged to do is to abolish all legislation which protects the armed forces, or indeed any other part of the State apparatus, from criticism, and to make a firm undertaking that such measures will in no circumstances be introduced. Institutions should not benefit from the same protections as individuals against libellous falsehoods. The only opinions whose expression should be prohibited are those which explicitly advocate hatred or violence. Any suppression of information on the grounds of “national security”, must meet a high standard of necessity – is the information of concrete use to an enemy *and* not already available to him. Otherwise one is playing into his hands by misleading one’s own public.

To strengthen safeguards on the freedom of religion would also be helpful. Perhaps preachers of all kinds, (along with journalists of all kinds) should be guaranteed privilege with regard to immunity from prosecution with regard to the content of their professional utterances, with the very minimum of safeguards against the advocacy of hatred or violence.

The widespread use of social media to counter disinformation is also useful, even though once again in a time of conflict this is likely to encounter psychological as well as physical barriers. Perhaps the seeds lie in basic education. Children should be brought up to be sceptical of all information, to always wish to check the facts, to study counter-arguments even to what they themselves believe, to try to understand the opponent’s thinking, even without expecting to be convinced. Utopian, perhaps, but really the only thorough answer to the current tendency to seek only such information as will reinforce one’s current prejudices. Nor does this weaken a society in time of conflict; rather the opposite. A critical, well-informed population must be expected to prevail against one which mindlessly accepts a distorted view of reality.

Is it possible to hope that even in time of conflict States might come to compete over the transparency and reliability of their information? Perhaps the greatest “propaganda” victory of the current conflict in Ukraine was the unprecedented advance sharing of intelligence information pointing to an imminent Russian invasion. At the time, Russia had the power to turn this into “false news”, simply by not proceeding as predicted. By choosing not to, it severely weakened its ability to make its case in those parts of the world which were not directly involved. It is interesting that Russian Foreign Minister reacted so promptly in July to the publication of new “intelligence” that referenda to justify the annexation of Ukraine’s Eastern provinces were imminent, by stressing Russia’s wider strategic goals (although of course these are not necessarily incompatible with annexation referenda).