

Punishment by Penance in 18th-Century Russia

Church Practices in the Service of the Secular State

ELENA MARASINOVA

Historians look for special terms to characterize every era, and capacious metaphors often predominate over scholarly terminology. Perhaps no period in Russian history has attracted as many figurative designations as the second half of the 18th century. Researchers refer to the reigns of Elizabeth and of Catherine II as the Age of Enlightenment and the development of legal monarchy; as a key stage in the secularization, Westernization, and modernization of the empire; and as the “golden age of the nobility,” a period when serfdom became most deeply entrenched.¹ These well-known characterizations acquire new meanings as scholars shift focus, casting key events in a new light.

This article focuses on the process by which the state actively came to rely on church practices and religious worldviews and values in prosecuting grave felonies committed by lay people. This change—which is clearly evident in legislation, official pronouncements and declarations, judicial proceedings, and sentences—was conditioned by many factors. First, the number of murders markedly increased during this period, especially crimes committed “under the influence of alcohol and while in a drunken stupor” (*p’ianym delom i v bespamiatstve*). The latter trend grew, indirectly at least, from the establishment of a unified grain market, the great profitability of distilling alcohol, and, as a result, the great availability of grain alcohol.² Second,

¹ See, e.g., O. A. Omel’chenko, *Zakonnaia monarkhiia Ekateriny Vtoroi: Prosveshchennyi absoliutizm v Rossii* (Moscow: Iurist, 1993); Isabel de Madariaga, *Russia in the Age of Catherine the Great* (New Haven: Yale University Press, 1981); Simon Dixon, *Catherine the Great* (New York: Ecco, 2009); and David L. Ransel, *The Politics of Catherinian Russia: The Panin Party* (New Haven: Yale University Press, 1975).

² The 18th-century writer and memoirist A. T. Bolotov bore witness that a “countless multitude of avaricious noblemen” did not pass up such an opportunity: “Everywhere, massive distilleries have begun to be constructed.” As Bolotov ascertained, the ubiquity and

landowners, having gained full jurisdiction over their serfs, treated returned runaways and those implicated in theft with special cruelty, sometimes causing their deaths. Third, the spectrum of punishments for noble persons party to grave crimes was significantly curtailed during the second half of the 18th century. Catherine II's Charter to the Nobility of 1785 stipulated that persons of noble birth were not to be "touched" by the knout or whip. The moratorium on capital punishment, tacitly introduced by Elizabeth, was also confirmed in these years.³

At first glance, therefore, Russia's Age of Enlightenment and secularization would seem to be at odds with the phenomenon described here: the state's growing reliance on the authority of faith and appropriation of church rituals, especially penance, in the fight against criminal offenses committed by lay persons. Complex social, ideological, and spiritual developments that were then underway in Russian society help explain this paradox. No study has been devoted to this specific topic, which promises to help scholars reinterpret such important conceptual problems as the relationship between church and state; mechanisms of social control; the role of the monarch's personality in shaping government policy; and the compatibility, as contemporaries perceived it, between God's commandments and state law.⁴

inexpensive price of vodka had a "lamentable influence on the people's moral condition, especially among village residents" (*Sovremennik ili zapiski dlia potomstva* [St. Petersburg: Bibliograf, 1891], 21, 30–31). See also Rossiiskii gosudarstvennyi arkhiv drevnikh aktov (RGADA) f. 248, op. 61, d. 5110, ll. 712–16; the decree "On Allowing Landowners to Distill Wine for Both Personal Consumption and Market Delivery," *Polnoe sobranie zakonov Rossiiskoi imperii s 1649 goda: Sobranie pervoe s 1649 po 12 dekabria 1825 goda* (hereafter *PSZ*), 45 vols. (St. Petersburg: Tipografiia II-ogo otdeleniia Sobstvennoi Ego Imperatorskogo Velichestva Kantseliarii, 1830), 13:367–68, no. 9813, 30 October 1750; and the Charter Law on Distillation at Private Factories, *PSZ*, 13:258, 17 September 1781, among others. See also L. V. Milov, *Velikorusskii pakhar' i osobennosti rossiiskogo istoricheskogo protsesssa*, 2nd ed. (Moscow: ROSSPEN, 2006), 346–48.

³ *PSZ*, 22:347, no. 16187, 21 April 1785. Three other categories were exempted from corporal punishment: the upper two guilds of merchants, eminent citizens (*imenitye grazhdane*, a legal category created under the same charter), and members of the clerical estate (369). Exclusion from these protected groups did not remove individual immunity from such punishment. Only under Paul I was it decreed, "As soon as noble rank is taken away, then the privilege no longer applies" (*PSZ*, 24:590–91, no. 17916, 13 April 1797).

⁴ John LeDonne included a section on "Punishments" in his detailed and synthetic *Ruling Russia: Politics and Administration in the Age of Absolutism, 1762–1796* (Princeton, NJ: Princeton University Press, 1984), 184–201. Here he discusses the traditional influence of Orthodox precepts on the Russian judicial system. The question remains as to why it was in the late 18th century, when the sphere of the church's jurisdiction was being constricted, that the government adopted church practices in punishing laymen.

The 20-Year Moratorium on the Death Penalty

It is well known that in the 20 years of Empress Elizabeth's reign, from 1741 to 1761, the death penalty was hardly ever carried out. The decree of 7 May 1744 stayed executions for convicts sentenced to the supreme penalty.⁵

The decree met with strict compliance, despite complaints from local authorities who were forced to continue feeding pardoned prisoners.⁶ The Senate's expressions of "grave concern," too, went unheeded.⁷ Elizabeth likewise rejected "political death" (*politicheskaia smert'*), a theatricalized imitation of an execution that consisted of mounting the scaffold.⁸ It seems that Prince Mikhail Shcherbatov was right when, describing the 1741 palace coup, he recalled the empress's prayer and vow not to take the life of a single subject: "During the proceedings that led her to take the Russian throne, she vowed before the image of the Savior that, if ever she ascended to her ancestors' throne, then for the duration of her reign, no one would be condemned to death by her order."⁹

Scholars have expressed some skepticism regarding the plausibility of this scene in Shcherbatov's essay, so classical in its staging.¹⁰ Yet it was partially confirmed by the French envoy to the Russian court, the Marquis de La

⁵ According to the decree, chanceries were to send the Senate a description of the cases and await further instruction (*PSZ*, 12:114, no. 8944, 8 August 1746). See Elena Marasina, "The Prayer of an Empress and the 18th-Century Death Penalty Moratorium in Russia," *Journal of Religious History, Literature, and Culture*, forthcoming; and Marasina, "Smertnaia kazn' i politicheskaia smert' v Rossii serediny XVIII veka," *Rossiiskaia istoriia*, no. 4 (2014): 53–69.

⁶ In 1746, for example, the Chancellery of Reval Province submitted a petition not to abjure the "age-old justice" of local Landräte. They must retain the privilege of taking convicts' lives without confirmation from higher authorities, for the task of feeding a growing number of "evildoers" was becoming difficult (*PSZ*, 12:583–84, no. 9312, 5 August 1746).

⁷ Senators tried to reason with the monarch, mobilizing a series of arguments against the moratorium. First, they posited that the population of thieves, brigands, murderers, and counterfeiters would steadily rise. Second, subjects, seeing this impunity, would become more inclined toward evil, and soldiers would grow more prone to disobedience. Finally, the senators opined that pernicious mercy ran counter to the tradition of Russian legislation. It particularly contradicted the strict state institutions of the ruling empress's father "of blessed and ever-dignified memory, Peter the Great," who punished "mortal guilt" with severity (RGADA f. 248, op. 113, d. 919, ll. 1–4, 5 ob., 10–10 ob.; d. 1023, ll. 14–16 ob.; *Senatskii arkhiv* (St. Petersburg: Tipografiia Pravitel'stviushchego Senata, 1892), 5:651; *Senatskii arkhiv* (1893), 6:62, 642).

⁸ RGADA f. 248, op. 113, d. 1023, ll. 11–16 ob.

⁹ "O povrezhdenii npravov v Rossii" kniazia M. Shcherbatova. "Puteshestvie" A. Radishcheva, facsimile ed. (Moscow: Nauka, 1984), 55.

¹⁰ One encounters a similar scenario in earlier Russian sources. Accepting the tsar's crown from the patriarch on 1 September 1598, Boris Godunov ceremoniously promised not to execute anyone for five years. See N. G. Ustrialov, *Skazaniia sovremennikov o Dmitrii Samozvantse: Berova letopis' moskovskaia* (St. Petersburg: Tipografiia Imperatorskoi rossiiskoi akademii, 1831), 11–12.

Chétardie, who, having played a key role in the coup of 5 December 1741, reported to Paris the next day: "On 5 December ... the [princess's] allies persuaded her to decide to act on her intentions. On that very night of 5–6 [December], she first prayed to God, [then] climbed into her sleigh and set off for the barracks."¹¹ The reliability of the marquis's account is supported by the memoirs of Christof Hermann von Manstein, at that time a major-general in Russian service, and by the Dutch expatriate Marcelis de Swart.¹²

The empress's prayer was no momentary passionate gesture, yet her vow not to deprive a single one of her subjects of life, taken before an icon of the Savior, lacked any foundation in rational principles connected with the humanist ideas of the Enlightenment. The Russian monarch's actions on the eve of the coup were more likely motivated by deep religious feeling. Shcherbatov keenly observed, "Although it cannot be denied that Elizabeth had a heart animated by good will toward people, executions were stayed upon her elevation to the throne, not on the basis of any programmatic philanthropy but solely out of piety."¹³

For the empress, the icon that had opened her path to power acquired a deeply sacral meaning. In September 1742, the secretary of the Saxon embassy, Johann Sigismund von Petzold, reported to Augustus III, "Last Thursday saw the first statewide church holiday at the empress's behest, given in honor of the miracle-working icon that Peter I had been accustomed to take with him during treacherous and important undertakings, and which was carried before the empress on the night in which she led the guards soldiers out of their barracks and took the throne." Elizabeth created a distinctive cult of this icon of Christ, transferring it to the Donskoi Monastery, regularly traveling in the company of the court to pray before it, and obtaining a 30,000-ruble diamond for its revestment.¹⁴

It seems that Elizabeth's decision to prohibit executions and political death without confirmation by the highest authorities was exclusively a matter of her relationship with her God. As such, there was no moratorium

¹¹ P. P. Pekarskii, *Markiz de lia Shetardi v Rossii 1740–1742 godov: Perevod rukopisnykh depesh frantsuzskogo posol'stva v Peterburg* (St. Petersburg: Iosafat Ogrizko, 1862), 398–400.

¹² See K. G. Manshtein, *Zapiski Manshteina o Rossii, 1727–1744* (St. Petersburg: V. S. Balashov, 1875), 259; and Pekarskii, *Markiz de lia Shetardi*, 425–26. In 1754, a Francophone newspaper in Utrecht (*Gazette d'Utrecht*) confirmed the idiosyncratic introduction of a moratorium on capital punishment in Russia, enacted as a result of a "ceremonial vow" given by the Russian empress during a night of "miraculous change, [which] brought her to the throne." See *Arkhiv kniazia Vorontsova* 3 (Moscow: Grachov i Ko, 1871), 649–50.

¹³ M. M. Shcherbatov, "Razmyshleniia o smertnoi kazni," *Chteniia v Imperatorskom obshchestve istorii i drevnostei rossiiskikh pri Moskovskom universitete* 1 (1860): 66.

¹⁴ "Diplomaticheskie dokumenty, otnosiashchiesia k istorii Rossii v XVIII stoletii," *Sbornik Imperatorskogo russkogo istoricheskogo obshchestva* 6 (1871): 442.

decree, which would have been accompanied by expansive interpretations and acclaim of the monarch's mercifulness. Instead, there followed only semisecret instructions—in no way intended as a “declaration for the information of all”—ordering that “executions of those sentenced to capital punishment or political death should be stayed [and] summary briefs should be sent to the Senate, to await further instruction.”¹⁵ It goes without saying that no instructions were forthcoming, and the Senate was swamped with lists of convicts, while prisons and other places of detention overflowed. Death sentences continued to be handed down as before but remained only on paper.¹⁶

As a result, less than ten years after the promulgation of the 1744 decree, the Senate had acquired a backlog of 279 death sentences and a further 3,579 cases connected with murder, robbery, and brigandage remained open, awaiting the empress's confirmation. The number of “convicts increased from hour to hour, escapes were made,” and the guards could not keep up with their duties.¹⁷ The particular fate of the reprieved criminals, the salvation of their sinful souls and potential rehabilitation, did not concern the empress in the least. They all would die, if not by the knout then in the backbreaking conditions of hard labor.

All the same, the 20-year moratorium on executions and their imitation in the form of political death did become a reality. Perhaps Cesare Beccaria was inspired by this fact to ask “whether the death penalty can truly be useful and just under a well-ordered government.” Either way, the Italian enlightener was one of the first to hail with open delight “the 20-year reign of Empress Elizabeth of Muscovy (during which she gave the fathers of nations an illustrious example, equal at least to the many victories purchased with the blood of her country's sons).”¹⁸

Just a few decades earlier, bodies still hanging from the noose, marked by sheets of tin listing their crimes as a warning to others, were a common sight in the Russian social landscape.¹⁹ By the end of Elizabeth's reign, Russia had

¹⁵ PSZ, 12:114, no. 8944, 7 May 1744.

¹⁶ See Cyril Bryner, “The Issue of Capital Punishment in the Reign of Elizabeth Petrovna,” *Russian Review* 49, 4 (1990): 389–416; S. V. Zhil'tsov, “Smertnaia kazn' v istorii otechestvennogo prava” (Doctor of Sciences diss., Tol'iatti, 2002).

¹⁷ PSZ, 13:256, no. 10086, 29 March 1753. See also E. V. Anisimov, *Russkaia pytki: Politicheskii sysk v Rossii XVIII veka* (St. Petersburg: Norint, 2004), 256.

¹⁸ Cesare Beccaria, *Dei delitti e delle pene* (Paris: Dal Molini Librajo rue du Jardin, 1780), 74, 76–77.

¹⁹ In January 1726, for example, two commissioners of the Obonezhskaia region in Novgorod Province, Nikita Artsybashev and Grigorii Baranov, and the clerk Iakov Volotskii were sentenced to death: “hang them in that [same] Obonezhskaia region and write their crimes on tin; nail [them] to those gallows and do not remove their bodies from the gallows.” The crime

raised two generations who had never seen a scaffold, and the ruling elite had become accustomed to the idea that death sentences existed only on paper and that public executions were not the main means of preserving order in society.

Catherine II thus inherited from Elizabeth's reign the tradition of a tacit moratorium on the death penalty, together with thousands of unprocessed cases of convicted criminals whose punishment, according to the legislation in effect at that time, should have been a death sentence. As Empress Catherine later recalled of her first months on the throne, "the prisons were so filled with convicts that, though Empress Elizabeth had freed as many as 17,000 before her death, there were still up to 8,000 left at my coronation on 22 September 1762."²⁰

Catherine held the effective suspension of the death penalty by "our auntie Elizabeth" in higher esteem than even the "most brilliant of conquests."²¹ Even so, she did not immediately confirm the decree on the nonexecution of the death sentence without the Senate's sanction, although she did refrain from mandating the enactment of sentences that had not been carried out during the previous reign. At the same time, the first half of her reign was marked by three highly visible executions, carried out by various techniques, including beheading, quartering, and hanging by lot (in which the instigators of the Moscow Plague Riot of 1771 were required to draw lots to determine who would be executed).

The propriety of reinstating the death penalty after the 20-year moratorium required the authorities to justify their decision with extensive arguments, as can be seen in the sentences meted out to Lieutenant Vasilii Mirovich, the instigators of the Moscow Plague Riot of 1771, and participants in the Pugachev Uprising of 1773–74. Characteristically, these arguments relied on Christian doctrine. Criminals were accused of flouting not only the laws of the state but also the commandments of God, while the benevolent image of a compassionate monarch was isolated from the death sentences.

advertised in this manner was bribery and embezzlement, including the use of the recruitment poll tax revenue to purchase food, and the use of district postal routes without paying tolls (*PSZ*, 7:564–65, no. 4826, 24 January 1726).

²⁰ "Sobstsvennoruchnaia zapiska Ekateriny II o pervykh godakh ee tsarstvovaniia," in M. N. Kovalenskii, *Khrestomatiia po russkoi istorii* (Moscow: Mir, 1917), 3:200–1.

²¹ N. D. Chechulin, ed., *Nakaz imperatritsy Ekateriny II, dannyi Komissii o sochinenii proekta novogo Ulozheniia* (St. Petersburg: Imperatorskaia akademiia nauk, 1907), 62.

The Mirovich Case, the Murder of Amvrosii, and the Pugachevshchina

Second Lieutenant Vasilii Mirovich of the Smolensk Infantry Regiment stood accused of attempting to usurp the ruling monarch and bring to the throne Prince Ivan Antonovich, long languishing in the Schlüsselberg Fortress.²² The major participants in the 1771 uprising in Moscow were to be punished for the murder (*sviashchennoubiistvo*) of Metropolitan Amvrosii, sacrilege, and disturbing the “general quiet and peace.”²³ The impostor Pugachev had on his conscience the illegal appropriation of a monarch’s name, the insult to Her Imperial Highness, and the “towns and villages that had been turned into ash.”²⁴ These crimes were accorded extraordinary status, and the sentences for them were handed down by the Senate, the Synod, presidents of the administrative colleges, and representatives of the first three—and in the case of the Moscow uprising five—classes.

The sentences declared that the condemned had broken the highest commandments. Mirovich had encroached on the empress’s throne, entrusted to her by “divine providence,” and attempted to place on it Prince Ivan, who had been “deposed by divine decision,” “rendered unintelligible by thick speech, and, likewise, deprived of reason and human sense by divine agreement.” This list by no means exhausted the criminal’s acts of sacrilege. During the investigation, Apollon Ushakov, a lieutenant of the Velikolutskaa Infantry Regiment, testified that Mirovich, before embarking on his odious undertaking, had entered the church of the Holy Mother of Kazan and “plied Lord God himself with vain promises, calling on his aid in this lawless deed.” As was well known, God did not heed the conspirator’s prayers but instead deprived the hapless prince of life, so as to “thwart greater evil [by his own] divine providence.”²⁵ Obviously, the guilt of the perpetrators of the Moscow uprising and of the murderers of a church heirarch could be described only as a “disgrace abominable to God.”²⁶

The weightiest evidence that commandments had been broken was marshaled in the “Sentence of the Punishment by Death of the Traitor Pugachev.” In great detail, the sentencing document cited chapter and verse of the clauses of “law of the all-powerful lord and creator” that the “perpetrator of this hellish undertaking” had violated: the Book of the Wisdom of Solomon

²² See PSZ, 16:890–92, no. 12228, 17 August 1764; and 16:897–907, no. 12241, 15 September 1764.

²³ PSZ, 19:364–71, no. 13695, 10 November 1771.

²⁴ PSZ, 20:1–15, no. 14233, 10 January 1775.

²⁵ PSZ, 16:890–92, no. 12228, 17 August 1764; 16:897–907, no. 12241, 15 September 1764.

²⁶ PSZ, 19:364–71, no. 13695, 10 November 1771.

(6:3, 4), the Law of Moses (five points from the Second Reading), the Gospels of Mark (12:17), Matthew (22:21), and John (19:12), Paul's first epistle (1:18, 19), and so on. This list was itself sufficient to give the Holy Synod the right to consign "Pugachev and all his wicked accomplices to eternal perdition and torment in Tartarus." In this way, the sentence according to "civil laws" condemned the impostor to the "harshest death penalty" and, by divine law, to "eternal torment."²⁷

The authority of religious texts was subtly exploited in such sentencing documents, which sounded more like political pamphlets, consciously aimed at creating a particular image of power.²⁸ Most important, the sacred image of the monarch was elevated above the final decision, which was taken by the honored assembly. The Senate, the presidents of the colleges, persons of the first three ranks, and other bureaucratic hierarchs—excepting the Synod, which fastidiously recused itself from signing death sentences—thus appeared to adopt full responsibility for these sentences. By these means, the "unprecedentedly merciful and compassionately humane heart of Her Imperial Majesty" remained unblemished.

With regard to the case of Lieutenant Mirovich, it was even announced that the empress had added a note in her own hand to the Senate report, forgiving the lieutenant for insulting her person, yet on account of his attempt on the "integrity of the state and the public welfare, [she gave] full authority to the assembly" to condemn him to death.²⁹ The image of the empress as promoted in the sentences imposed on Archbishop Amvrosii's killers and the participants in the Pugachev Uprising was associated primarily with acts of mercy, not the decision to apply the death penalty. Mercy was emphasized even if it meant only that some but not all the men implicated in the Plague Riot—the two who drew the short straws—were hanged, while the rest were beaten with the knout and exiled to hard labor. The imperial decision to grant clemency to the Cossacks who had betrayed Pugachev was read aloud in a triumphant tone from the Kremlin's Red Staircase to a large crowd on the day after the public executions. This text referred to the empress's clemency as the

²⁷ The names of the holy texts as well as chapter and verse citations are given as in the original text (*PSZ*, 20:1–15, no. 14233, 10 January 1775).

²⁸ V. M. Zhivov argues that Russian legislation had already begun to absorb "didactic and polemical" functions during the reign of Peter I, and that the boundary "between a juridical decision and a political treatise" became blurred at that time ("Istoriia russkogo prava kak lingvosemioticheskaiia problema," in *Razyskaniia v oblasti istorii i predystorii russkoi kul'tury* [Moscow: Iazyki slavianskoi kul'tury, 2002], 271–72).

²⁹ *PSZ*, 16:890–92, no. 12228, 17 August 1764; 16:897–907, no. 12241, 15 September 1764.

“unprecedented mercy of our sovereign, exceeding all mortals’ and resembling the one God’s in the effusion of its bounties.”³⁰

Looking beyond the fact that only three well-known cases ended at the gallows or the executioner’s block, the term “capital punishment” appeared relatively frequently over the 30 years of Catherine’s reign in documents emanating from the throne and addressed to subjects. Decrees of a cautionary or admonishing character announced in the most definitive terms that—as a penalty for such-and-such actions—the death sentence would be carried out in the cruelest manner. With regard to capital offenses that had already been committed, the reprieved criminal was pronounced freed from the gallows only by the “monarch’s unprecedented mercy.” In these documents, the very concept of capital punishment became tightly interwoven with the motif of mercy as emanating from the autocrat.³¹

Regularly and with great ceremony, those sentenced to death were granted clemency, and the announcements were designed to coincide with important events to heighten the pathos. The 1762 coronation and confirmation of the new empress, the 1775 victory over the Ottoman Porte, and the 1782 unveiling of the monument to Peter I were all marked by the lifting of the death sentence from convicts.³² The preambles to these manifestos appealed to the evangelical sanctity of mercy and may to some extent have expressed the sentiments once held by Empress Elizabeth: “We consider it our duty to reveal to God our sincere gratitude, but by what means can we express it? It is His essence to love humankind; He wants mercy, not sacrifices; ... we cannot better render thanks than to proffer His divine mercy to the guilty.”³³

Widespread, demonstrative executions of participants in the Pugachev Uprising could not but devalue the image of the merciful empress, nor could they significantly aid in pacifying her subjects, for repressive measures never promote the welfare of a society. For this very reason, only a few weeks after the suppression of the rebellion, the empress ordered the events be consigned to “oblivion and deep silence,” the corpses exposed for display taken down and buried, and the places of execution “eradicated.” Only then, in the spring of 1775, did Catherine confirm Elizabeth’s decree banning capital punishment

³⁰ PSZ, 19:364–71, no. 13695, 10 November 1771; PSZ, 20:1–15, no. 14233, 10 January 1775.

³¹ As Richard Wortman perceptively observed about Catherine’s rule, “It was rule by humane feelings, if not by institutional guarantees” (*Scenarios of Power: Myth and Ceremony in the Russian Monarchy from Peter the Great to the Abdication of Nicholas II* [Princeton, NJ: Princeton University Press, 2006], 54).

³² PSZ, 16:69–70, no. 11667, 22 September 1762; PSZ, 20:82–86, no. 14275, 17 March 1775; PSZ, 21:649–50, no. 15488, 7 August 1782.

³³ PSZ, 20:82–86, no. 14275, 17 March 1775; PSZ, 21:649–50, no. 15488, 7 August 1782.

without the confirmation of the Senate and empress.³⁴ Yet the provisions of this law stood out for their boldness and rational simplicity. Elizabeth had commanded sentences against persons condemned to capital punishment or political death not be carried out. Rather, some should be branded with the word “thief” (*vor*); others should have their nostrils slit; all should be beaten with the knout and sent off to do penal labor; summary briefs were to be sent to the Senate and to her imperial highness, supported by argumentation to await instruction.³⁵

During Catherine’s reign, in contrast, the potential of a death sentence was in most cases immediately annulled at the lowest level of administration and confirmed at the highest level only where members of the nobility were involved. Although political death was occasionally imposed, the concept itself, which had been in active use during the preceding reign, was utterly forgotten.³⁶ Slitting the nostrils became an archaism, and the semantics of branding, indeed the very manner in which capital offenses were understood—perhaps sin itself—changed. Whereas during Elizabeth’s reign the word “thief” was used to brand those sentenced to death—real or political—a different rite of shame was occasionally applied to criminals under Catherine: “standing under the gibbet, the first letter of the word ‘murderer’ should be painted on the forehead.”³⁷ Since Elizabeth’s decree had never been announced to the general public, however, it follows that in the reign of Catherine II it was impossible to openly declare the suspension of capital punishment.

Punitive institutions, having essentially lost the ability to apply the death penalty, were severely limited in the punishments they could apply to grave crimes. Gradually, corporal punishment became the lot only of the lowest orders, while offenders among the privileged estate were usually stripped of their membership in that estate and rank, banned from future service, and deprived of their property, which, according to the legislation of the second half of the 18th century, was not confiscated but instead passed to kin. Those found guilty of capital offenses under Catherine were forced to perform penance in addition to their sentences, which could be combined

³⁴ *PSZ*, 20:104–6, no. 14294, 6 April 1775.

³⁵ *PSZ*, 14:235–36, no. 10306, 30 September 1754.

³⁶ See, e.g., S. M. Solov’ev, *Istoriia Rossii s drevneishikh vremen*, 15 vols. (Moscow: Izdatel’stvo sotsial’no-ekonomicheskoi literatury, 1960–66), 15:115–16.

³⁷ *PSZ*, 14:235–36, no. 10306, 30 September 1754. The meaning of the Russian word “thief” (*vor*) was considerably broader in the second half of the 18th century than groups of individuals who took silverware home from a dinner to which they had been invited or played cards with a trick deck. On this punishment for murderers, see, e.g., RGADA f. 10, op. 3, d. 4, ll. 50 ob.–51; d. 5, l. 51 ob.; f. 248, op. 61, d. 5110, l. 431; d. 5159, ll. 199–99 ob.; *PSZ*, 20:958–61, no. 15032, 9 July 1780.

in various configurations with penal labor, exile, recruitment into the army without rank, and so forth.³⁸

“Induce to Repent with the Help of Religious Sentiments”

Imperial confirmations of death sentences and sentences for capital crimes testify to the role Catherine II personally played in increasing the application of “punishment by penance.” Each morning, the empress did much more than pen missives to Voltaire and Baron Grimm; she heard reports about all sorts of crimes, sometimes reviewing summary briefs herself, including those left over from Elizabeth’s reign. Literally thousands of documents required her personal confirmation and were collated in special “journals.”³⁹

The Senate relayed its opinions to the empress using the following formulations: “deserves natural capital punishment”; “for this crime the law requires capital punishment”; or, in reference to the nobility, “subject to deprivation of noble status, rank, and life.” Yet Catherine was not once forced to commute such decisions. Even at the level of the lower land courts, death sentences meted out according to the 1649 Law Code (*Sobornoe ulozhenie*) or Peter’s Military Statute of 1716 were automatically subjected to later imperial rulings, thereby sharply limiting the application of capital punishment in Russia. What makes these imperial confirmations so valuable is that the empress herself personally supplemented them with “punishment by penance.”⁴⁰

One verdict of penance, issued in 1766 and written in Catherine’s own hand, has been preserved. It concerns the murder of Ivan Shchulepnikov, a surveyor, and the investigation had already dragged on for more than eight years. All suspicion fell on the surveyor’s widow, Fedora, daughter of Andrei, Shchulepnikova, but she stubbornly denied her guilt while offering confused and conflicting testimony. At the inspection of her husband’s corpse, she had declared that he had died suddenly. In her petition to the Chancellery of the Voevoda of Uskol’sk, however, she related a strange tale. She had fallen asleep in her chambers during the day but then found herself locked in. In response to her knocking, serf housemaids ran to the door and, after entering

³⁸ This article does not analyze crimes by the clergy or infractions by lay persons against the interests of the faith and church.

³⁹ They were labeled “Zhurnaly vysochaishim konfirmatsiiam, sostoiavshimsia na dokladakh Senata i drugikh mest i na raznykh predstavleniiakh i prosheniakh.” See, e.g., RGADA f. 10, op. 3, dd. 3–9.

⁴⁰ In this context, Claus Scharf’s observation about latent traces of Lutheranism in the empress’s mind is intriguing. Lutheran traditions of penance and redemption occasionally manifested themselves in turns of phrase in her polemic writings (Klaus Sharf, *Ekaterina II, Germaniia i nemtsy* [Moscow: Novoe literaturnoe obozrenie, 2015], 100).

the room, informed her of her husband's death. Ultimately, she pleaded that grief had clouded her memory and declared that she had forgotten most of her previous testimony. Officials at the Usol'sk Voevoda Chancellery and Galician Provincial Chancellery responded that "to ascertain the truth," Shchulepnikova ought to be interrogated under torture, but her status as a noblewoman complicated matters, and provincial bureaucrats erred on the side of caution by sending an inquiry to the Senate. Four senators—Count Martyn Skavronskii, Vasilii Suvorov, Prince Aleksei Kozlovskii, and Prince Petr Trubetskoi—were disinclined to take the risk and forwarded the report to the empress. Catherine responded, writing directly on the report in French: "There is much evidence against this woman, but her testimonies are contradictory.... I free her from [further] interrogation and order her to be incarcerated for one year in either a convent or a prison, not permitting her to see anyone but a priest, who must induce her to repent with the help of religious sentiments [*sentiments de Religion*], fasting, and prayer ... thereafter proceed as the laws instruct."⁴¹

One of the first high-level decisions to supplement punishment with penance during Catherine's reign was signed just a few weeks after her ascent to the throne. It is worth noting that this legal case and the sentence it produced, which passed without remark in the mid-18th century, may now serve as remarkable evidence to contradict the supposedly low valuation placed on a serf's life in Russia. On 7 August 1762, by an edict that the empress signed, the nobleman Petr Zhukov, sergeant of the Iamburg Dragoon Regiment, was transferred from the War Office into Senate custody. Reduced to the level of a recruit, he was to be transferred to active military service in the Russian army abroad. But first, he must spend several days bowing before the people in penitence at the Church of the Resurrection at the Nikitskii parish district on Bronnaia Street. Zhukov had inculpated himself as follows. A "sore" (*bolezni*) had formed on the chest of one of his men, Andrei Matveev, which the sergeant, accustomed to tending such wounds in such circumstances, attempted to lance. The homespun surgeon's operation went awry and, despite his best efforts, the peasant Matveev died. The sentence read: "Though it occurred by no murderous intent of Zhukov's, nevertheless the peasant still met his death."⁴² The ritual penitence was performed, as the priest Andrei Afanas'ev reported to the Synod upon its completion.

During the reign of Catherine II, penance was added "above and in addition to" (*sverkh i kupno*) in accordance with the manner in which contemporaries understood the most horrific crime and sin—namely,

⁴¹ See RGADA f. 10, op. 1, d. 146, ll. 1–4; *Sbornik Imperatorskogo rossiiskogo istoricheskogo obshchestva* 10 (1872): 98–100; Solov'ev, *Istoriia Rossii*, 14:8.

⁴² RGADA f. 1183, op. 1, ch. 14 (1762), d. 169, ll. 1–9.

homicide—without any consideration of the motives. Criminals who had deprived another of life, wittingly or unwittingly, “under the influence of alcohol and while in a drunken stupor,” were not only to suffer punishment as required by state law but to beseech God’s forgiveness through prayer.

According to the Law Code of 1649, drunkenness was considered a mitigating circumstance.⁴³ Yet by the beginning of the 18th century, perpetrators who committed capital crimes “under the influence” could not rely on lenience. “When anyone who drinks himself drunk and commits evil in his drunkenness [such as murder and the like],” Peter’s Military and Naval Statutes stipulated, “then he is not only not to be exculpated by that excuse but to be punished with the utmost harshness.”⁴⁴ During Catherine’s reign, murders committed in a drunken brawl, while intoxicated, or in an “inflammation of rage,” were treated as intentional. Manifold sentencing documents and imperial confirmations attest to this policy: “Although he had no precise intention to murder but did so in drunkenness, yet drunkenness in conjunction with such an evil cannot exculpate him.”⁴⁵

Though sentences were to some extent determined by a killer’s social status and motives, the victim’s social position was, as a rule, not a factor. This conclusion may seem surprising, given the prevailing conceptions of Russian serfdom in the second half of the 18th century. Yet whether he had killed a neighboring landowner, a priest, a chancery clerk, or even a fugitive peasant after a three-day beating, a nobleman could expect roughly the same punishment, supplemented by forced penance. In this way, the pragmatic considerations of the state with respect to its main taxpayers, the serfs, aligned with the Christian teaching about equality before God and His commandment “thou shall not kill.”

The Social Equality of the Dead

It cannot be denied that during the second half of the 18th century, the level of Russian serfs’ personal dependence was exceedingly high, while remarkably low value was placed on the “base soul.”⁴⁶ Privately owned serfs could be sent into forced labor, sold as recruits, and mercilessly whipped, but it was strictly

⁴³ “And [if] under interrogation the murderer starts to say he killed in a fight or while drunk [*v drake ili p’ianym delom*], then jail him until the ruler decrees; do not punish him with death” (PSZ, 1:148, no. 1, 29 January 1649; PSZ, 1:792–93, no. 431, 22 January 1669).

⁴⁴ PSZ, 5:333, no. 3006, 30 March 1716; PSZ, 6:65, no. 3485, 13 January 1720.

⁴⁵ See, e.g., RGADA f. 248, op. 62, d. 5278, ll. 429–34.

⁴⁶ Isabel de Madariaga rightly observed that for the “landowning class . . . the control of labor was economically of more importance than the control of land” (*Russia in the Age of Catherine the Great*, 94). See also N. L. Rubenshtein, *Sel’skoe khoziaistvo Rossii vo vtoroi polovine XVIII v.: Istoriko-ekonomicheskii ocherk* (Moscow: Gospolitizdat, 1957), 132.

forbidden to kill them. Admittedly, there were few means to uncover such crimes; serf denunciations appear to have been the main source, although this measure was highly risky for the serfs. The dead, however, had their own way of speaking, loudly announcing their existence in the briefs of case proceedings, where in some cases they stood on par with highborn victims.

In 1762—that is, during Peter III's brief reign—Filin Tikhonov, a serf belonging to Lieutenant Vasilii Nesterov, died in Voronezh Province. Tikhonov appears not to have been particularly hard-working or dutiful and was prone to "lewdness, theft, and flight." Lieutenant Nesterov repaid Tikhonov in short order. Having apprehended him, the lieutenant drank his fill and beat him, burned him, and left him overnight in a cellar. There his corpse was found the following morning. Startled into sobriety, Nesterov decided to remain quiet about the serf's death, burying him "in the ground beneath the threshing floor." The crime was discovered however, and the lieutenant taken under guard. In its report, the College of Justice could identify no appropriate decree to reach a verdict. "If serfs die as a result of unusual punishments inflicted on them by landowners [*pomeshchiki*], then what to do with those landowners—there is no specific decree." The Senate examined the matter without attending to the lieutenant's testimony that Tikhonov had robbed him, then attempted to stab him with a knife before poisoning himself. Ivan Nesterov was permanently exiled to Nerchinsk, and his estate was confiscated and transferred to his heirs.⁴⁷

The punishment meted out to the nobleman for the death of a serf was exactly the same one that he would have received had he murdered a person of any other social position. The ruling set a judicial precedent for the sentencing of other serf owners who subjected their people to "murder and unusual, tyrannical torments."

Fear of punishment drove landowners—otherwise short of conscience and elementary reason, as Catherine put it to Diderot—to eradicate the traces of their crimes.⁴⁸ The case of Lieutenant Nesterov, who attempted to hide the body of the peasant he had murdered, was far from unique. In 1782, Count James Bruce, governor-general of Novgorod and Tver', reported to the Senate on an event in the village of Valukhino in Vaksalovskaia Canton (*volost*). A certain Lieutenant Savin, to whom the village elder had delivered the runaway wench Marfa Samsonova, summoned his men Matvei Iakovlev, Ivan Ivanov, Nikita Fedoseev, and Ksenofon Grigor'ev to his chambers with

⁴⁷ *PSZ*, 15:923, no. 11450, 25 February 1762.

⁴⁸ "Every lord, the empress argued reasonably, who has common sense treads lightly with his cow" (Denis Didro [Diderot], *D. Didro: Sobranie sochinenii*, 10 vols. ed. I. K. Luppel, trans. P. I. Liublinskii [Moscow: OGIZ, 1947], 10:363).

their knouts. Marfa Samsonova was taken out onto the porch, stripped naked, and flogged mercilessly, after which she was taken to the servants' cottage and laid on a bench. She died shortly afterward, and her body disappeared toward evening. The house serf Ul'ian Maksimov, however, did not keep silence and told the peasants that, at Savin's command, he and the village elder had first carried her dead body to the kitchen, then buried her under a bridge. The next day, the same men who had beaten Marfa Samsonova to death set out to find the noble assessor Ensign Nikolai Nikonov and told him all.⁴⁹ The body was exhumed, the crime uncovered, and Lieutenant Savin was prosecuted.⁵⁰ Unfortunately, the case file does not include the full text of Count Bruce's findings. It does, however, contain a report, written in sincere and highly emotional terms, by Mikhail Fedotovitch Kamenskii, the governor-general of Tambov and Riazan', concerning a similar crime.

In the village of Nikitino in the Kadomsk region, an ensign's wife, Princess Matrena Tugushcheva, cruelly punished her house serf Matrena Kharitonova after an attempted escape, and Kharitonova died as a result of the beatings. Realizing what she had done, the princess ran to her mother, Anna Lopatina, for help. Lopatina then sent her own house serf Grigorii Petrov to dismember the body, place the remains in a chest, and bury the chest. But Tugushcheva's serfs Fekla Ivanova, Stepanida Kondrat'eva, and Vasilisa Epifanova decided not to cover up their lady's atrocity and reported the murder. Governor-General Kamenskii described Tugushcheva's crime as "murder with barbarous cruelty" and demanded that the house serf remain unpunished, "because he carried out the will of his lady, and under the present condition of servants, not a single servant will dare refuse their masters." The governor-general deemed it necessary that the serf women who had reported the crime "be freed from bondage, ordering them to choose whatever kind of life they wish, so as to validate the duty of servants before the court in such unfortunate situations (from which, may God spare society!)."⁵¹

In the second half of the 18th century, therefore, special investigative commissions were created in Russia in cases where serfs were killed by landowners. When necessary, they called on forensic pathologists and conducted exhumations of bodies. By mandating that punishments for noblemen would be identical for any murder, the authorities involuntarily

⁴⁹ Denunciations by serfs of masters who committed murder were not unusual. In such situations, the law of 1767, which threatened that people petitioning against their lord be punished with the knout and exiled to the Nerchinsk mines, did not apply (*PSZ*, 18:336, no. 12966, 22 August 1767).

⁵⁰ RGADA f. 248, op. 62, d. 5278, ll. 626–43 ob.

⁵¹ *Ibid.*, op. 61, d. 5195, ll. 292–93.

created a standard regarding human life that overrode estate. Not a single surviving summary brief contains even a hint that a sentence might be commuted solely because the victim was a serf. On the contrary, the final sentence, as a rule, called for “punishment by penance” and were sometimes filled with pathos, resembling sermons: “may the blood of the deceased be avenged, and may it not remain without restitution.”⁵²

It is telling that over the second half of the 18th century the understanding of penance as a judicial procedure acquired a dual meaning. On the one hand, members of the clergy were called in to edify and exhort prisoners toward penance and repentance, which required a voluntary and complete account of every circumstance connected to the case.⁵³ On the other hand, “punishment by penance” became an inextricable part of the highest authorities’ confirmations of criminal sentences. With increasing frequency, especially from the late 1770s on, it appeared in sentences carried out by courts at all levels of jurisdiction.⁵⁴

From Sacrament to Juridical Formula

The Russian Orthodox Church claimed a tradition of voluntary penance arising from the sacrament of confession, as well as forced penance, which was equated in practice with church-prescribed atonement. The church strictly controlled what one might call “gender relations,” as decreed in the Law Code of 1649, the “Experts from the Acts of the Church Council of 1667,” the “Supplementary Decrees” (*Novoukaznye stat’i*), and the Instructions of Patriarch Adrian. Those who took such liberties as “whoredom,” “bearing a child [out of wedlock],” entering a fourth marriage, or neglecting the marriage rites were sent to a convent or monastery under the strict observation of

⁵² Ibid., ll. 348–50 ob.; *PSZ*, 20:958–61, no. 15032, 9 July 1780.

⁵³ See, e.g., “Two chapters about how the exhorter [*uveshchatel*] [ought to] interact with those held under guard” (RGADA f. 16, op. 1, d. 203, ll. 1–15 ob.). LeDonne has observed that penance and repentance for a crime signified the pacification of pride, which itself had provoked the “evil deed.” Though confessing one’s guilt did not always lead to a commuted sentence, absence of remorse aggravated the criminal’s situation (LeDonne, *Ruling Russia*, 184–85).

⁵⁴ The multiple meanings of “penance” (*pokaianie*), often equated with “confession” (*ispoved*) and “atonement” (*epitimiia*), can also be documented for preceding centuries, albeit with one difference. In the 16th and 17th centuries, an Orthodox believer came to confession even when he was not under suspicion, to repent for his sins and atone for them according to the penance assigned by the church. In the 18th century, priests pressured sinners into confessing their crimes, which were punished by a secular court that used, among other things, religious penalties. See A. A. Dmitrievskii, *Bogoslužhenie v russkoi tserkvi v XVI veke* (Kazan: Tipografia Imperatorskogo universiteta, 1884), pt. 1: *Sluzhby kruga sed’michnogo i godichnogo chinoposledovaniia tainstv: Istoriko-arkheologicheskoe issledovanie*, 352.

a preceptor, kept “at work,” and required to attend church services and to prostrate themselves 100 times or more at the end of every liturgy.⁵⁵

As is well known, the church also had the authority to punish the earthly sins of the deceased by depriving them of a funeral service and interment in a church. Those unfortunates barred from resting in peace after their death included the “possessed,” suicides, criminals who had been executed, as well as those killed while committing criminal acts. An anonymous grave was prepared in the woods or field for anyone who drowned while playing in the water, died by falling from a swing, or died while drunk.⁵⁶ Yet this list pretty much exhausted the set of sinful behaviors for which a layman could expect a religious punishment. According to the Law Code of 1649, penances, excommunication, or exclusion from the church altogether served, as a general rule, as punishments in their own right, not simple addenda to imprisonment or corporal punishments including the amputation of hands or fingers. That was the status quo of Russian society as it entered the imperial and Synodal period.

Petrine legislation narrowed the church’s sphere of legal control amid the expansion of the imperial state’s power over crimes that, to a layman, would appear to be subject to religious punishment.⁵⁷ By imperial confirmation of a Synod report of 1722, secular courts were now to oversee cases of “fornication and lechery,” “breaking the commandments,” harboring Old Believers, and staging false miracles.⁵⁸

Beginning with Peter’s Military Statute, penance came to be viewed as a supplementary punitive measure, applied exclusively by secular authorities without any reference to the authority of the “rules of the great apostles and holy fathers.” Penance was due for idolatry, sorcery,⁵⁹ casting spells on weapons (*zagovor ruzh’ia*), incest, bearing false witness, invoking God’s name while intoxicated, exceeding the bounds of self-defense, and negligent homicide—

⁵⁵ PSZ, 1:130, no. 1, chap. 20, art. 80, 29 January 1649; PSZ, 1:699, no. 412, 17 June 1667; PSZ 3:418, 420, no. 1612, 26 December 1697.

⁵⁶ PSZ 3:417, no. 1612, 26 December 1697.

⁵⁷ A. S. Lavrov, *Koldovstvo i religiia v Rossii: 1700–1740* (Moscow: Drevlekhtranilishche, 2000), 347–93; E. B. Smilianskaia, “‘Sueveriiia’ i narodnaia religioznost’ v Rossii Veka Prosveshcheniia,” *Canadian-American Slavic Studies* 38 (2004): 51.

⁵⁸ PSZ, 6:652, no. 3963, 12 April 1722.

⁵⁹ PSZ, 5:320–21, 379, no. 3006, 10 January 1716. In this regard, Petrine legislation was remarkably recidivist toward medieval thinking: a person guilty of sorcery could be sent to the stake “if he had contracted with the devil” but could get off with shackles and penance if he had no contact with the enemy of man. For more on how to interpret this phenomenon, see Lavrov, *Koldovstvo i religiia*, 347–93; and W. F. Ryan, “The Witchcraft Hysteria in Early Modern Europe: Was Russia an Exception?” *Slavonic and East European Review* 76, 1 (1998): 64–65.

for example, by awkwardly handling a loaded musket in a crowded place, among other crimes.⁶⁰ Yet criminals were sentenced to religious humility with purifying prayers, in tandem with or in addition to the donation of their monthly salary to a hospital, confinement in shackles, or prison.⁶¹

Thus Peter expanded the spectrum of crimes for which laymen could be punished by religious penance while depriving such punishments of their status as ends in themselves and giving secular players the prerogative over sentencing. Yet the emperor's audacious decision barely shifted judiciary practices over the next few decades, remaining a dead letter on the pages of the Military and Naval Statutes. Compelling laypeople to undertake religious penance was all but forgotten in laws issued during Anna's reign. Elizabeth, who never publicized her moratorium on the death penalty, could afford not to worry about a possible increase in criminal activities. Only at the beginning of Catherine's reign did the perceived need to rehabilitate the criminal emerge as a well-defined and noticeable theme.

In the 1760s and 1770s, religious penance was typically prescribed only in the final stage of the judicial process, imperial confirmation. Gradually, however, the Senate became aware of the empress's inclination to involve the church in the struggle against capital crimes, and this tendency later communicated itself to the lower courts. By the late 1770s and early 1780s, especially in the wake of Catherine's Provincial Reform and the Regulation of Good Order, or Police Charter, penance appeared more and more frequently in sentences issued by the criminal chambers and land courts, and it was applied in cases in which it would not previously have been prescribed.⁶²

Gradually, the sacrament by which sinners confessed their guilt before God was transformed into an inextricable component of resolutions to grave crimes, pronounced as a formalized line in a sentencing document. For decades, the numerous volumes of the *Zhurnaly vysochaishim konfirmatsiiam* (Journals of Imperial Confirmations) and *Reestry reshennym delam po ugolovnoi ekspeditsii* (Registers of Cases Resolved by the Criminal Expedition) reproduced the same juridical formula with respect to noble convicts: "Having been kept to bread and water for a week, subject to church penance, and after divesting of rank and noble status, send into exile."⁶³

⁶⁰ PSZ, 5:322, 366–68, 373, 379, no. 3006, 10 January 1716. Many points in the Military Statute were reproduced almost to the letter in the Naval Statute (PSZ, 6:49–50, 78, no. 3485, 13 January 1720).

⁶¹ PSZ, 5:322, no. 3006, 10 January 1716.

⁶² See also LeDonne, *Ruling Russia*, 196.

⁶³ See, e.g., RGADA f. 10, op. 3, d. 3, ll. 17, 18 ob., 25, 37 ob.; and f. 248, op. 62, kn. 5269–439, ll. 79–80, 137.

Some sentences that intensified punishment by requiring atonement and church penance offered explanations justifying these measures. But whereas under Elizabeth such arguments took the form of general comments on the criminal's right both to look after his soul prior to being punished and to "ask God to be merciful," under Catherine these remarks centered on "cleansing the conscience" and the rehabilitation of life in this world. Thus, for example, it was held that the knout would give rise only to "anguish," whereas penance could produce "heartfelt sensitivity to the evil deed" and "transformation into a useful member of society."⁶⁴

Penance at the Monastery

In the second half of Catherine's reign, "in addition to and above, punish by religious penance" became a widespread practice with an elaborated set of procedures. In the case of noblemen, judgment rested in the hands of the land court, the criminal chambers, the College of Justice, the Senate, or the empress herself, each of which held the power to select the type of spiritual penalty. Secular players, members of the bureaucracy, handed the criminal over to the religious authorities—usually the local consistory, accompanied by an explanation of the case. From here, he was either sent to a monastery with the prerogative to hire post horses and orders that he be fed and reliably supervised, or he was sent home and placed under the supervision of his parish priest.⁶⁵

Russian monasteries had long served as places of refuge from vain worldly cares and as places of imprisonment. It was not much of a stretch to take a large estate with vast grounds and economic resources, subjected to a strictly regimented regime, and hermetically sealed behind high walls and make it perform the punitive functions of a prison or a corrective mission of spiritual oversight. Yet numerous church lands had been secularized in 1764 and two million monastic peasants transferred to the College of the Economy. Under these circumstances, the spiritual administration found "supervision, provisioning, and providing domicile and correctional care" to be an onerous burden.⁶⁶ If one also bears in mind the unofficial moratorium

⁶⁴ See, e.g., *PSZ*, 20:958–61, no. 15032, 9 July 1780; and *RGADA* f. 248, op. 61, d. 5195, ll. 75–91 ob.

⁶⁵ See Gregory L. Freeze, *The Russian Levites: Parish Clergy in the Eighteenth Century* (Cambridge, MA: Harvard University Press, 1977), 13–45, on the place of the parish clergy in the broader hierarchical structure of the Russian Orthodox Church, which had been integrated, one way or another, into the empire's bureaucratic apparatus.

⁶⁶ See, e.g., *Polnoe sobranie postanovlenii i rasporiashenii po vedomstvu pravoslavnogo ispovedaniia Rossiiskoi imperii* (St. Petersburg: Sinodal'naia tipografiia, 1910), 1:379, no. 327, 6 November 1766.

on capital punishment, excluding the special cases mentioned above, and the introduction in practice of mandatory spiritual punishment for “lethal crimes,” then it becomes clearer why a stream of petitions for relief flowed from the monasteries, dioceses, consistories, and ultimately from the Synod to the Senate and to the empress personally.⁶⁷

The response was of little comfort to the clergy. They were told to keep murderers and robbers under guard, drawing on their own resources, especially since, from the state’s perspective, the number of criminals sentenced to penance was relatively small. Indeed, they were told, they were assigned to monasteries in such a manner as to be “inoffensive to each diocese.”⁶⁸ In fact, the secular courts specified the location where religious punishment should be served either under the general formula a “distant monastery,” or a “monastery in Siberia,” only sometimes naming a specific location for penance.

The costs of providing board to all comers—“people of various ranks and various crimes for correction by means of church atonement”—had been the responsibility of monasteries prior to secularization, much to the pleasure of secular administrators. Even after 1764, when the College of the Economy was supposed to pay cash for their maintenance, however, impoverished monasteries incessantly complained of a lack of funds for convicts’ upkeep. Ultimately, in 1770, a compromise was reached according to which criminals serving sentences of religious punishment were responsible for covering the costs of their own confinement, while the college paid a 2-kopeck per diem for the “repenting destitute.”⁶⁹

The authorities endeavored strictly to regulate criminals’ stays in monasteries. At least twice a year, each diocese was to report to the Synod and College of the Economy, as well as to the Senate, on the nature of the offenses for which the prisoner was being punished, the duration of his assigned penance, how much bread and money he was due based on the “trading price in each place,” and the progress of his spiritual correction.⁷⁰

⁶⁷ Perhaps for this very reason, the authorities generously decreed that monasteries would not be required to take in prisoners who had not been sentenced to religious punishments (RGADA f. 1183, op. 1, ch. 20 [1774 g.], d. 537, l. 3). On petitions, see RGADA f. 1183, op. 1, ch. 20 (1774 g.), d. 537, l. 2; *PSZ*, 19:119, no. 13500, 23 August 1770; and *PSZ*, 20:512, no. 14597, 11 March 1777.

⁶⁸ *Polnoe sobranie postanovlenii*, 1:61–63, no. 71, 15 November 1762.

⁶⁹ RGADA f. 1183, op. 1, ch. 17 (1770 g.), d. 223, ll. 5–5 ob.; *PSZ*, 16:565, no. 12060, 26 February 1764; *PSZ*, 19:151, no. 13508, 9 September 1770. As a point of reference, in 1787 Prince D. K. Kantemir, imprisoned for life in the Reval Fortress for killing a peasant, was allowed a per diem of 50 kopecks from his own estate (RGADA f. 248, op. 62, d. 5271, ll. 497–506 ob.).

⁷⁰ See, e.g., *Polnoe sobranie postanovlenii*, 1:61–63, no. 71, 15 November 1762; and *PSZ*, 20:512, no. 14597, 11 March 1777.

Depending on the severity of his crime, a convict could be cloistered permanently in the monastery “under close supervision, in irons, and in special seclusion”; alternatively, he might live among the monastery’s brethren and atone for his guilt through labor and ascetic practice.⁷¹ Such convicts split logs, carried water, shoveled out cinders from stoves, washed laundry, herded livestock, and performed other “black monastery labor.” The most strenuous tasks included cooking and baking, including kneading dough and sifting flour, which was sometimes done in shackles and demanded continuous physical exertion, lasting up to 20 hours per day.⁷²

Notably, it was predominantly under Elizabeth that convicts were kept in this manner, when sentences to exile at a holy dwelling place rarely made mention of “punishment by penance.”⁷³ It goes without saying that the confined were required to attend vespers, but overall, the punishment for lethal crimes at a monastery closely resembled penal servitude or imprisonment. The inner reclusive potential of the Orthodox monastery remained unrealized; punishment was primarily directed at the flesh and its mortification, rather than the rebirth of the soul. Usually, it ended rather quickly—in a burial mound without a cross or plaque to mark the name of the deceased.⁷⁴

During Catherine’s reign, monastic penance meant not only hard labor and ascetic conditions but a whole range of religious practices aimed at making the convict “feel the crime in his heart and thoroughly mend his ways.” Sentencing documents, instructions for the upkeep of convicts, and priors’ reports reveal that in the second half of the 18th century, prostrations were the most common form of penance—between 30 and 500 at matins, vespers, and liturgies. These were coupled with a prayer intended to “inspire the fear of God” in the convict—“God, be merciful to me, a sinner”—and psalms that were to be read “without hurry but with reverence.”⁷⁵ In those

⁷¹ See, e.g., RGADA f. 1183, op. 1, ch. 14 (1762 g.), d. 136, l. 5.

⁷² *Opisanie dokumentov i del, khраниashchikhsia v arkhive Sviatishchego Pravitel'stviushchego Sinoda* (Petrograd: Sinodal'naia tipografiia, 1914), 50, pt. 1, 80; N. P. Rozanov, *Istoriia moskovskogo eparkhial'nogo upravleniia so vremeni uchrezhdeniia Sviatishchego Sinoda (1721–1821)* (Moscow: Tipografiia Russkikh vedomostei, 1870), pt. 3, bk. 1, 73; M. A. Kolchin, “Syl'nye i zatochennye v ostroge Solovetskogo monastyria v XVI–XIX vv.: Istoricheskii ocherk,” *Russkaia starina* 56 (1887): 60–63.

⁷³ See, e.g., the accounts of prisoners held in the Solovetskii Monastery between 1742 and 1786, with a listing of the crimes and prescribed punishments, in Kolchin, “Syl'nye i zatochennye,” 591–613.

⁷⁴ The gardens attached to the famous Spaso-Efimievskii Monastery in Suzdal' are one notable example, for they were in fact a vast cemetery of unmarked graves. See A. S. Prugavin, *Monastyrskie tiur'my v bor'be s sektantstvom (k voprosu o veroterpimosti)* (Moscow: I. N. Kushnerov i Ko., 1905), 17.

⁷⁵ RGADA f. 16, op. 1, d. 203, ll. 1–1 ob.; Rozanov, *Istoriia moskovskogo eparkhial'nogo upravleniia*, 73–74; Kolchin, “Syl'nye i zatochennye”; *Opisanie dokumentov i del*, 50, pt. 1, 78.

cases where a monastery was used exclusively as a prison, the instructions were that condemned convicts “not be released anywhere but to church.” If a monastery received a prisoner sentenced to complete isolation, then only the prior and a priest to hear confession could visit his cell. Admonition and edification were to be delivered by a “kindly and righteous elder,” whose goal was to elicit the prisoner’s repentance and the cleansing of his conscience.⁷⁶

The Priest as Inquisitor and Exhorter

The bishop or archbishop of a diocese was supposed to possess complete information about each convict and the circumstances of each case so that the penance assigned to him would achieve its goal: the “healing of the soul” of the criminal. Yet church officiators, whether at monasteries or parish churches, did not always possess the flexibility and highly observant “sensitivity” that one might have expected from men of the cloth. Secular authorities needed to issue regular reminders about the need to demonstrate “caution” in dealing with penitent criminals; indeed many directives reflect a deeper grasp of human nature than that of church and monastery preceptors. One decree, “On the Confirmation to Priests that They Proceed More Cautiously in Assigning Atonement to Criminals,” divided persons subject to penance into various psychological types. Some were “hard of heart” and incapable of any kind of repentance; others were cold and indifferent; still others were inclined toward despair. But there were also some who “admitting to their sins will bear remorse.” Accordingly, it was important that persons responsible for supervising criminals in monasteries and parish churches and exercising oversight over the performance of penances “measure [their] mercy.” Where they observed sincere feeling in the criminal, they should reduce the sentence of religious punishment.

Clergymen were to ensure that convicts performed confession at least once a year and did not stray from prayer during holy days, Sundays, and for the duration of the three main fasts. Religious officials were not only to concern themselves with convicts’ “tender and heartfelt remorse,” however, but also to act as statisticians, gathering data and reporting to the Senate bureau on the number of penitent convicts, as well as the time and place and date of their last confession prior to their crime and arrest.⁷⁷ To offer one particular example, it was on the basis of reports from dioceses about

⁷⁶ *Opisanie dokumentov i del*, 50, pt. 1, 78; Kolchin, “Ssyl’nye i zatochennye,” 61.

⁷⁷ *PSZ*, 16:889–90, no. 12227, 16 August 1764; *PSZ*, 17:10–11, no. 12312, 17 January 1765; *PSZ*, 18:153, no. 12919, 21 June 1767; *PSZ*, 20:498–99, no. 14579, 11 February 1777; *PSZ*, 20:958–61, no. 15032, 9 July 1780; RGADA f. 248, op. 61, d. 5110, ll. 712–12 ob.; d. 5195, ll. 75–91 ob., ll. 348–50 ob.

assignments of atonement that the Senate concluded there was an especially high incidence of murder among peasant homesteaders.⁷⁸

The authority of faith was actively used during the so-called exhortation (*uveshchanie*), during which the clergyman was to take on the function of an investigator and secure from the criminal both a “pure confession” and information concerning the details and circumstances of his crime. The word of a man of the cloth, it was proposed, could take the place of torture and mercy could minimize “bloodshed and torment.” Admittedly, it was soon recognized that such inquests required great psychological intuition and powers of argumentation, which in turn required—at a minimum—a thorough knowledge of the New Testament. For this reason the Senate issued a special decree providing a program for the remedial education of clergymen and an increase in the number of “learned clergymen”: “And as Her Imperial Highness is not unaware, there are some towns in which there are no learned clergymen, so compose for the admonition [of criminals] a special booklet containing sufficient proofs from Scripture.”⁷⁹ For this task, the authorities called on Bishop Afanasii Volkhovskii of Rostov and Iaroslavl’. Discovering after 13 years, however, that the “prescribed booklet has yet to be written,” the Senate ordered that, for the time being, criminals should be informed—without the mediation of the church—in short and comprehensible terms that “true confession will spare them from torments and tortures.”⁸⁰

Thereafter, church authorities took to the pen themselves, assembling instructions for the exhorters, clergymen thrust into these roles as investigators. For the church, this was an opportunity for the law and court of God to direct the state court. A manuscript preserved among the papers of A. A. Bezborodko addressed clergymen and called on them to help gradually replace torture with convincing words. The “Two Chapters on How the Admonisher Should Approach Detainees Under Guard” represent a collection of specific tried and tested psychological techniques, aimed at manipulating the criminal’s mind, not only in order to procure the necessary information but also to change his inner motivations.⁸¹

⁷⁸ RGADA f. 248, op. 61, d. 5110, ll. 712–12 ob.

⁷⁹ PSZ, 16:889, no. 12227, 16 August 1764.

⁸⁰ PSZ, 16:146, no. 11744, 29 January 1763; PSZ, 16:162, no. 117599, 17 February 1763; PSZ, 20:498–99, no. 14579, 11 February 1777; *Polnoe sobranie postanovlenii*, 1:77, no. 80, 4 December 1762; *Polnoe sobranie postanovlenii*, 1:98, no. 103, 12 March 1763; *Polnoe sobranie postanovlenii*, 1:242, no. 199, 16 August 1764.

⁸¹ Here and below I cite the manuscript copied by a scribe from the papers of A. A. Bezborodko, “Dve glavy o tom, kak uveshchateliu obrashchat’sia s soderzhashchimisia pod strazheiu,” RGADA f. 16, op. 1, d. 203, ll. 1–15 ob. Strictly speaking, the practice of psychological priming for repentance existed earlier as well. In a number of prayer books from the 16th and

The personality of the exhorter is assigned primary importance in the manuscript—not necessarily his personal merits but his reputation and capacity for well-considered and convincing rhetoric. The manuscript continues with a list of best practices to gain the defendant's trust: indulgent and empathetic conversation, an inclination to be open and to recount the defendant's "own life story." The exhorter should further remind the detainee of his poor wife, children, and indeed all his "loved" ones, mentioning the possibility of a brief visit from them; he should also reassure the defendant of full confidentiality. In brief, it was necessary to take on the role of the "suffering father who pitied his situation."

Competent psychological analysis was also demanded of the exhorter, together with an understanding of the reasons for the anger or embitterment that led to the crime: "was it from unbelief or superstition, or from growing accustomed to a sinful life, or from despair that happiness would never return, or from fear of punishment?" The exhorter was to seek the origins of the crime both in the deepest psychological sources of crime and in its social origins, among which the following were held to be especially likely: ill-disposed parents who provided a poor upbringing; bad people; poverty; abuse of office; and the personality of the victim. Meanwhile, the author of the instruction made sure to clarify that not all poverty is the same: a person might end up in a pitiful situation because of waste and laziness but also for "external reasons." No less probing was the elaboration of the social profiles of victims capable of provoking a crime: "the master who does not feed his servant; the superior who does not anticipate disorder; someone who creates disorder due to his poor capacity for leadership."

In the last stage, according to the instruction, the exhorter must underpin his efforts by invoking the moral imperative of a just God

17th centuries, the sections on the rite of confession included models for "preconfessional exhortations." However, these instructions to priests were clearly intended to constitute part of a judicial inquest and were unlike later instructions for the elaborate manipulation of a person to repent. The main goal of these early preconfessional exhortations was to prompt a person who had come to confession to sincerely describe his sins. As A. I. Almazov noted, however, these preconfessional exhortations were, at least with regard to their content, "poor, both in what they had to say about the priest's qualities of heart and in their general lack of edificatory ideas." See "Obraz nastavleniia uznika k serdechnomu sokrusheniiu," and "Obraz iereiskogo nastavleniia osuzhdennykh na smert' uznikov, pri izvedenii na smert' osuzhdennogo," in *Chin iereiskogo nastavleniia v puti vechnye zhizni bolezniushchikh, s prilozheniem podrobnogo po vsem zapovediam o grekhakh ispytaniia: V kupe zhe obraz nastavleniia osuzhdennykh na smert' uznikov* (Pochaiv: Sviato-Uspens'ka Pochaivs'ka lavra, 1776), 39, 45 ob., 50 ob., 56 ob.; and A. I. Almazov, "Nastavlenie dukhovniku: Po Trebniku XVI v.," in *Tainaia ispoved' v vostochnoi pravoslavnoi tserkvi (Opyt vneshnei istorii: Issledovanie preimushchestvenno po rukopisiam)* (Odessa: Tipografiia Shtaba odesskogo voennogo okruga, 1894), 3:265–67; 1:451–595.

and the truths of the Scriptures. He should soften the criminal's soul by using the Parable of the Prodigal Son to "arouse in him a heartfelt repentance." Next, he must remind the prisoner that all are sinful before God and of the inevitability of His judgment, comforting him with the possibility of saving his soul, even in the last moment before death, while threatening him with the fires of hell—for anyone who hid the truth entered into a pact with the devil. Naturally, it was appropriate that a person awaiting the judgment of a government court once more hear declaimed the words of Paul to the Romans, so beloved by all rulers: "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God; whosoever therefore resisteth the power, resisteth the ordinance of God." The author of the instruction went one step further, however, by extending God's blessing to the sphere of the courts, announcing that "judges are ordained by God, whereby their court is of God, and the obstinate silence [of the criminal] represents perjury before God." All that remained was to tell the detainee that he was not merely a slave of God, but a "son of the Fatherland," who has "alarmed it with his crime but would be restored to peace by his confession." In this context, judges were to "calibrate the punishment" according to the gravity of the crime, taking into account any services the criminal had rendered to the authorities.

The instruction closed by expressing confidence that any exhorter from among the clergy would be versed in the Scriptures but, just in case, inserted 20 pages of verse from the Old and New Testaments so that "they might give him ideas and that his ideas be firmed up by them." Still, the author perceptively conceded that the canons are not dogma but a teaching that might help the exhorter understand the criminal's vice and the "virtues that are repugnant to it."

By all appearances, these instructions were never published. The manuscript's contents, however, clearly reflected the needs of the authorities, who used representatives of the clergy during criminal cases both as exhorters and as inquisitors.⁸²

Secularization in 18th-Century Russia

In any society, the problem of the death penalty and the punishment for murder exceeds the bounds of jurisprudence and is filled with questions that hinge on one's attitude toward life, of philosophical and existential

⁸² See, e.g., RGADA f. 248, op. 61, d. 5119, ll. 602–3 ob.; d. 5195, ll. 75–91 ob., 348–50 ob.; op. 62, d. 5278, ll. 626–43 ob.; *PSZ*, 18:153, no. 12919, 21 June 1767; *PSZ*, 20:498–99, no. 14579, 11 February 1777; and *PSZ*, 20:958–61, no. 15032, 9 July 1780.

meaning. For 18th-century Russia, the topic conceals within itself great scholarly potential, revealing deep layers in the history of Russian—even ancient Russian—law, social consciousness, religious sentiment, and relations between the priesthood and tsardom.⁸³ Thus in the era of enlightenment, reglamentation, and secularization, one finds, sprouting through the thick sediment of the centuries, the traditions of church legislation and religious thought.

Piety was fully capable of defining a person's motivations at critical junctures, and if such a person happened to be the ruler of an autocratic empire, then it could fundamentally change the content of state policy. During the reign of Elizabeth, Christian values directly influenced the decision by secular authorities that the death penalty must not be allowed. Paradoxically, this decision was reached without spiritual admonition by the church hierarchs. Moved, most likely, by her own understanding of Christian teachings, the empress introduced a tacit moratorium on capital punishment and even its theatrical derivative—the ceremony of mounting the scaffold, or “political death.” Richard Wortman detects a similar instantiation of religious feeling in the autocratic ruler when he describes Elizabeth's coronation, at which she placed the crown on her own head and recited the prayer of Solomon, “a supplication for guidance from above,” communicating directly with God and without the interference of the officiating prelate. This ritual demonstrated the sacred character of imperial power and rendered the empress (not the church) the chief guardian of public morality.⁸⁴

It is obvious that Grand Duchess Ekaterina Alekseevna would pray neither to a Russian god nor a German one the night before the palace coup that brought her to power. She made no vows to anyone before an icon or crucifix and read not from the New Testament but from the “prayerbook of all princes,” *The Spirit of the Laws*, written by a simple mortal, the Frenchman Montesquieu.⁸⁵ For this reason, she had no intention of taking an uncompromising stand against capital punishment or abusive tortures,

⁸³ The evolving reception of juridical norms in Russian society has been carefully examined by V. M. Zhivov. In essence, he argued that from the moment of Russia's conversion to Christianity, there existed two sets of law: Church Slavonic, based on translated Byzantine sources; and Russian, closely tied to customary tradition and paganism. From the middle of the 17th century, legislative activity acquired a cultural status, losing its profound pragmatism and becoming instead a prime tool of cultural transformation. See, e.g., Zhivov, “Istoriia russkogo prava,” 187–305.

⁸⁴ Wortman, *Scenarios of Power*, 1:101–2.

⁸⁵ Quotation from Catherine II, “Letter to d'Alembert, 1765,” *Sbornik Imperatorskogo rossiiskogo istoricheskogo obshchestva* 10 (1872): 29–31.

although she avoided torture and execution as practices incompatible with her enlightened rationalism.

Yet the authority of God's commandments and the institution of the church remained important elements of social control by the state, even as the sphere covered by church law narrowed precipitously. Sentences of punishment by penance against laymen for crimes that were not directed at the faith and morality with respect to family relations were doled out without consultation with the clergy. Priests were permitted only to carry out the sentences, a rather burdensome duty for them. The heads of monasteries were required to adhere to rules that were set by the secular players. The latter issued the documents that accompanied the criminal as he arrived at his secluded destination and dictated the conditions of his confinement.

The state's use of religion for the moral correction of criminals was a clear trend during Catherine's reign, and it manifested itself in a "reasonable attitude" toward regulations of the ecumenical councils and a new view on exclusion from communion. It turned out that the threat to deprive someone of the sacrament of the Eucharist was ineffective in light of a general weakening of religiosity among parishioners of the Synodal church, on the one hand, and the significant number of secret Old Believers on the other: withholding the sacrament had "once been a curative treatment, showing the vileness of sins; not only has it now ceased to frighten many, but it has become desirable for the lazy, and among secret Old Believers it is downright beloved."⁸⁶ As Isabel de Madariaga rightly observed of Catherine, "Religion was to her a valuable element in the preservation of public and the maintenance of public and private morality."⁸⁷

Though it is commonly said that in autocratic Russia each ruler opens a new age, the material referenced here brings to light a number of common trends in the political and sociocultural evolution of society and state. Over the course of the 18th century, the principal virtues attributed to monarchs were gradually exchanged: all the way from the brutal inculcation of "inborn fear" in subjects, of which General-Lieutenant Prince Vasilii Urusov spoke with regard to the conquest of Bashkiria, to mercy toward criminals.⁸⁸ Unlike Peter I, both Elizabeth and Catherine II attempted in one way or another to distance themselves from making decisions about the death penalty, and

⁸⁶ PSZ, 20:926–27, no. 14996, 21 March 1780; PSZ, 20:954–55, no. 15029, 2 July 1780.

⁸⁷ De Madariaga, *Russia in the Age of Catherine the Great*, 503. Solov'ev, too, pointed out that since it was Catherine's "main aim to act against immoral phenomena by moral means, and not by cruel punishment, she turned to the church for help" (*Istoriia Rossii*, 14:126–27; 1:113–16).

⁸⁸ Solov'ev, *Istoriia Rossii*, 10:608.

especially from the scaffold and executions. The channels by which the state influenced the consciousness of society changed, too. This was particularly true of official political language, the most important mechanism of social control. The context in which the term “death sentence” was employed was transformed from terse decrees concerning the deserved punishment of the condemned to reticent neglect during the moratorium on executions to detailed argumentation, supported by scriptural authority or the glorification of the empress’s mercy in celebratory manifestos issuing amnesties and pardons.

At first glance, it may appear paradoxical that secularization coincided during Catherine’s enlightened reign with secular courts’ increasingly active deployment of religious practices in punishing laymen convicted of grave crimes by the secular courts. The multiple meanings of “penance,” equated in one way or another with both confession and atonement, became particularly noticeable in this period. Acting in the somewhat duplicitous manner characteristic of the empress, the state went over the heads of the clergy as it began to use the force of religious teachings for the moral betterment of subjects. Such usurpation of the right to God’s judgment was again conditioned by the native features of Russian statehood. On the one hand, the process by which state power was sacralized could not but influence the self-conception of the monarch. On the other, the will of the monarch, the sovereign anointed by God, was conceived as immutable. But for this other “empress of Russia,” not the object of Beccaria’s adulation but rather his student, the most edifying model was the experience of instilling morality in her subjects on the basis of the Scriptures while avoiding the clericalization of society.

Translated by Simon Belokowsky

Institute of Russian History
Russian Academy of Sciences
ul. Dmitriia Ul’ianova, d. 19
117036 Moscow, Russian Federation
LenaMarassinova@yahoo.com