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# The Role of Church and State in the Resolution of Marital and Family Disputes: Historical and Legal Analysis of Mediation Procedures

**Victoria A. Mun**

*Kutafin Moscow State Law University (MSAL), Moscow, Russian Federation*

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***Abstract:*** The paper examines the role of the Russian Orthodox Church in mediating marital and family disputes in pre-revolutionary Russia, emphasizing the perspective of canonists on reconciliation as the cornerstone of family stability. By exploring this transitional period in Russian history, the study reveals the Church's influence on resolving familial conflicts prior to the advent of the Soviet regime. An analysis of archival documents from the State Archive of the Russian Federation (Fund R3431), particularly the minutes and transcripts of the 1918 Synod sessions addressing the grounds for dissolution of church marriages, highlights significant unresolved issues in church law regarding marriage and family matters during the pre-revolutionary period. With the rise of the Soviet regime, the previously strict legal framework allowed us to identify the key issues of marriage and family in the church law that were calling for a solution but received no relevant and timely response in the pre-revolutionary period. With the establishment of the Soviet regime, strict laws that viewed marriage as "one's cross to bear" and family life as an "ordeal", patriarchal traditions that negatively perceived the idea of marriage dissolution, were replaced in the Soviet period by freedom of both marriage and its dissolution. The author highlights that with the decline of religious foundations in traditional family structures, the role of mediation practices employed by Soviet courts in resolving marital and family disputes gained prominence. In particular, the study explores the social and ideological factors that influenced the evolution

of mediation procedures within the context of family dispute resolution during the formative years of communist ideology and the establishment of the socialist family model. The introduction of previously inaccessible archival sources from the State Archive of the Russian Federation (Fund R9474) that provide a comprehensive analysis of the application of the Fundamentals of Legislation of the USSR and Union Republics on Marriage and Family has enabled the identification of distinctive characteristics of mediation practices during the Soviet period.

***Keywords:*** family mediation; mediation procedures; divorce; dissolution of marriage; family; the USSR; the Soviet court; family law; church law; marital and family disputes; the Russian Orthodox Church; wedding; spiritual court

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## Contents

I. Introduction ........ 734
II. The Role of the Russian Orthodox Church in Resolving Marital and Family Disputes ........ 736
III. Mediation Procedures in the Resolution of Marriage and Family Cases in Soviet Courts ........ 742
IV. Conclusion ........ 750
References ........ 752

## I. Introduction

*Mediation* derives from the Latin *medius* or *medium* meaning "in the middle". Current Russian law defines the mediation procedure as the "method of dispute resolution facilitated by a mediator and relying on voluntary consent of the parties for the purposes of achieving a mutually acceptable resolution".[1] In the future, mediation is expected

[1] Art. 2 Federal Law No. 193-FZ dated 27 July 2010 "On the Alternative Procedure of Dispute Resolution with the Participation of a Mediator (Mediation Procedure)". *Rossiyskaya Gaz*eta. No. 168. 30 July 2010. (In Russ.).

to become not only a dispute resolution tool but also a major element for family dispute prevention, therefore contributing to more harmonized family relations. In this regard, referring to the Soviet experience of using various tools within the framework of mediation procedures is of special interest.

It is worth noting that dispute resolution with mediation procedures was practiced in Tsarist Russia as well. For example, in the early 20th century, the Russian Empire had commercial courts for resolving commercial disputes. Another example comes from 1775 to 1866 in the form of the Courts of Conscience resolving civil law cases using the mediation procedure. However, when examining mediation techniques within family law, it is evident that the marital and family laws of Tsarist Russia were deeply intertwined with patriarchal structures, as illustrated by proverbs such as “do not air your dirty laundry in public” and “love grows with familiarity”.

In the Orthodox environment of the Russian Empire until 1917, only marriages formalized through church ceremony were considered as legal. Information about such unions was recorded in church books. The dissolution of marriage was a complex process: the spouse was required to petition the ecclesiastical court, which would then grant the priest’s blessing for dissolution. The grounds for initiating divorce proceedings had to be significant, such as demonstrated adultery, incapacity for marital cohabitation, a criminal conviction resulting in the loss of all marital rights for one spouse, or the disappearance of one of the spouses. The law explicitly prohibited the arbitrary dissolution of marriage by mutual consent without the court’s intervention.[2]

The lower chronological boundary line of the study is associated with the establishment of the Soviet regime and the adoption of the decree proclaiming the freedom of divorce in 1917,[3] after which the practice of resolving matrimonial disputes changed drastically. The legal oversight of marriage was taken out of the church’s jurisdiction and came to be

[2] Art. 45 Code of Civil Laws (1900). Code of Laws of the Russian Empire. Vol. X. Book 1. Section 1. (In Russ.).

[3] Decree of the All-Russian Central Executive Committee, Council of People’s Commissars of the RSFSR dated 19 December 1917 “On the dissolution of marriage”. *SU RSFSR*. 1917, No. 10. Art. 152. (In Russ.).

governed solely by secular laws. The reference to the earlier period — the beginning of the 19th century — in the characterization of church norms in the sphere of marriage and family relations is conditioned by the intent to demonstrate the crisis phenomena in church law on the eve of the Soviet regime and to identify the acute problems that required attention, but were not addressed when needed.

The upper chronological boundary line of the study is conditioned by the adoption and enactment of a unified legislation in the territory of the Soviet state that formalized the tasks and principles of marriage and family legislation — the Fundamentals of Legislation of the USSR and Union Republics on Marriage and Family in 1968[4] (hereinafter the Fundamentals). The paper analyzes the specifics of mediation procedures after the adoption of the Fundamentals, traces the dynamics of divorce cases in connection with the change of state policy that reflected the idea of preserving and strengthening the family.

## II. The Role of the Russian Orthodox Church in Resolving Marital and Family Disputes

Throughout the 19th century and in the early 20th century, both the Russian Orthodox Church and the State repeatedly initiated the matter of changing the divorce legislation due to the strictness of the norms that did not allow "unjustified" dissolution of marriage. In addition, great importance was placed on testimony, especially in cases of adultery or children born out of wedlock, which delayed dispute consideration and encouraged perjury. Negative consequences of conservative-patriarchal marriage and family law can also be observed in the statistical ranking of Russia among the highest in terms of husband homicides.[5] Despite the obvious archaic nature of the norms in this area, novelties were hardly introduced into the church law. Thus, in 1810, the State Council drafted the project "On the Reasons for Divorce" that expanded the

[4] Law of the USSR No. 2834-VII dated of 27 June 1968 "On Approval of the Fundamentals of Legislation of the USSR and Union Republics on Marriage and Family". *Vedomosti Verkhovnogo Soveta SSSR*. 1968. No. 27. Art. 241. (In Russ.).

[5] The State Archive of the Russian Federation (hereinafter GARF). F. R3431. Op. 1. D. 113. L. 52. (In Russ.).

list of grounds for divorce to include such reasons as false accusations of adultery by a husband and runaway of a wife. Even at that time, legislators proposed transferring the consideration of family disputes to the jurisdiction of secular courts, thereby removing them from the jurisdiction of spiritual courts. However, due to the resistance of the High-Procurator of the Holy Synod, Prince Golitsyn, this project was rejected (Sposobin, 1898, p. 72). At that time, as in later periods, attempts to discuss the liberalization of marriage and family law and to involve secular courts in these matters faced with resistance from the Church. Instead of resolving global issues, decisions were made on local aspects or private matters. For example, in 1892, a convicted spouse was granted the right to request dissolution of the marriage if the other spouse refused to accompany him into exile.[6]

The draft Civil Code, published in 1902, provided for the resolution of matrimonial and family matters by secular courts. The Code also included an extensive list of grounds not only for divorce, but also for the separation of spouses for a period of one to three years, or even indefinitely. Such grounds included, for example, cruel treatment of a spouse or children, serious insult, a "contagious and repulsive" illness of the other spouse, a "depraved or shameful" lifestyle, habitual drunkenness, or reckless and ruinous extravagance detrimental to the family (Art. 134, 137).[7]

Understandably, these provisions were met with perplexity and criticism from canon lawyers. Thus, Professor of canon law at the Yuriev University, M.E. Krasnozhen noted that taking these "unfinished" measures is akin to stopping in the middle of the road, "when one closes one's eyes to the fact that the hardship remains a hardship after all" (Krasnozhen, 1904, p. 37). However, despite the Church's efforts to maintain exclusive authority over family matters, the idea of introducing civil marriage in Russia was gaining increasing acceptance. Civil marriage was defined as a marriage registered by state authorities without the involvement of the Church (canon lawyer N.S. Suvorov,

[6] Art. 50 Code of Civil Laws (1900).

[7] Civil Code: draft of the Editorial Committee for the preparation of the Civil Code. Book 2: Family law. Saint Petersburg: Senate Printing House, 1902. P. 83. (In Russ.).

High-Procurator of the Holy Synod K.P. Pobedonostsev) (Suvorov, 1896, pp. 108–110). The main argument in favor of introducing state registration of marriage was that, in many cases, those getting married lacked genuine religious conviction regarding the church ceremony. As the clergy noted, many people did not understand the true meaning of the sacrament and participated in it merely as a formality to satisfy the legal requirements for marriage. It was therefore recommended that religious sacraments and rites be reserved exclusively for those who were genuine believers and sincerely desired them.

In 1913, the Ministry of Justice received an official response to the draft Civil Code from the Holy Synod. Thus, among the grounds for divorce proposed by the Council of State, the Synod agreed to recognize only ill-treatment, and even then, only on the condition that the spouses would first be permitted to live separately and make efforts to reconcile during that period. Other grounds for divorce — such as mental illness, syphilis, or the malicious abandonment of one spouse by the other — were rejected by the Synod, which argued that the purpose of Christian marriage is "not carnal pleasure for the spouses, but primarily their spiritual unity and perfection".[8] According to this view, even proven mutual adultery was not considered as sufficient grounds for the dissolution of marriage in the eyes of the Church.[9]

In 1916, even before the Soviet Government issued decrees that simplified the procedure of marriage dissolution, an Interdepartmental Commission was established under the chairmanship of Archbishop Sergius (Stragorodsky) to review the Statute on the dissolution of marriages and their recognition as illegal or invalid. The Commission developed a remarkably progressive draft law for its time, expanding the grounds for divorce. Among the new provisions were: "A spouse may request the dissolution of marriage in cases of severe insults or ongoing moral torment inflicted by the other spouse, if the spiritual court determines that continued married life has become unbearable for the petitioner and undermines the very foundation of the family". Another new ground allowed for divorce if the spouses had been separated for

[8] GARF. F. R3431. Op. 1. D. 105. L. 48.

[9] GARF. F. R3431. Op. 1. D. 105. L. 47.

at least three years due to persistent conflict or moral incompatibility.[10] However, the revolutionary events of 1917 interrupted work on this project and the issues of marriage and family legislation once again hung in the air. It is worth noting that in 1917, the Church did enact certain relaxations in divorce legislation, making the consideration of such cases simpler. However, given the rapidly changing internal political situation, these measures were clearly insufficient and implemented too late.

The Soviet decrees of 1917 made it possible to dissolve a marriage without impediments simply by applying to a local court (if the request came from one of the spouses) or to the marriage records department (if the divorce was a mutual decision).[11] Marriage registration was henceforth done only through the marriage and birth records department. "Church marriage, along with compulsory civil marriage, was henceforth the private affair of the intending spouses" (Art. 1).[12] Thus, the centuries-old pattern governing the registration and dissolution of marriage was changed.

The Church's response was swift. On 28 March 1918, the Local Church Council addressed the issue of the dissolution of church marriages, during which Metropolitan Sergius (Stragorodsky) remarked: "It has been said multiple times that it is impossible to imagine that by introducing reasons for the dissolution of marriage we forget about the sanctity of marriage and make the gates for spouses wide open. However, one speaker even suggested changing the title of the report and calling it not 'On the Causes of the Dissolution of Church Marriages', but 'On the Means of Making Marriage a Cheerful Way of Enjoyment'. It's completely out of line with everything".[13]

[10] GARF. F. R3431. Op. 1. D. 105. L. 48–49.

[11] Decree of the Central Executive Committee, Council of People's Commissars of the RSFSR dated 19 December 1917 "On the dissolution of marriage". *SU RSFSR*. 1917. No. 10. Art. 152. (In Russ.).

[12] Decree of the Central Executive Committee, Council of People's Commissars of the RSFSR dated 18 December 1917 "On civil marriage, on children, and on keeping books of deeds". *SU RSFSR*. 1917. No. 11. Art. 160. (In Russ.).

[13] GARF. F. R3431. Op. 1. D. 113. L. 48–54.

Subsequent relations between the State and the Church were characterized by the separation of the Church from the state and society, as well as the persecution of clergy. Church weddings, if performed, were not officially recorded, and the ceremonies themselves were conducted in secret and outside the law.

However, despite the decrees issued by the Soviet authorities, cases of the dissolution of church marriages continued to come to the Synod for approval. For example, in 1918, the Synod considered 145 divorce cases between February and April, 46 cases in May, 44cases in June, 62 cases in July, and 73 cases in November (Belyakova et al., 2011, p. 418).

Based on how the church argued its position on the introduction of the principles of the "Soviet family" into secular marriage and family law, one can infer its attitude towards the nature of marriage and mediation procedures in marital and family disputes.

First, D.A. Nesmeyanov at the meeting of the Holy Council stated that "marriage can be either a source of pleasure or a penal servitude, that is, a heavy burden". However, he was corrected, for "Christian marriage is neither one nor the other. This is one's cross to bear. Marriage represents a haven of quiet family joy. In marriage, it is easier to bear the difficulties of life. In the parable of those called to marriage, there is a phrase: 'the spouse bought oxen', which suggests a pair. Husband and wife are likened to two beings yoked together, journeying along the path of life as one. If one falters or grows weak, it is the other's duty to offer support".[14]

Second, under the regulations in force in the Russian Church prior to 1904, the party found guilty in a divorce was subjected to lifelong celibacy. However, by decree of the Holy Synod on 14 July 1904, such individuals were allowed to petition the ruling bishop for permission to remarry. At the same time, they could enter into a new union only after passing the seven-year penance for adultery established by the canon. Nevertheless, this measure was resented by women, mainly for financial reasons: they lost the right to financial support from their husbands and could not remarry. For the same reason, under the prevailing patriarchal system, women who cited their husbands' abuse or adultery were often

[14] GARF. F. R3431. Op. 1. D. 113. L. 31–32.

themselves opposed to the dissolution of marriage, since the issue of financial support for the "abandoned wife" and children was of concern (Belyakova et al., 2011, pp. 418–419).

Third, the Church viewed negatively the possibility of a marriage being dissolved because of a spouse illness arguing, "the healthy spouse should remain a brother or sister to the sick spouse. In such cases, the healthy spouse must bear the cross when the other spouse becomes mentally ill or suddenly becomes an alcoholic".[15]

Finally, it was emphasized that even if one of the parties had grounds for the marriage dissolution, this did not necessarily mean that the marriage would be dissolved. "All the Church regulations impose moral duties on both spouses and shepherds. Shepherds are required to exercise great rigor both in evaluating the circumstances preceding the marriage and throughout the time, the spouses are together, delving into all aspects of life and seeking to communicate the essence of true Christian life. If this is done, then, there will be no need for these prescriptions (secular laws)".[16]

Thus, from the Church's point of view, the essence of mediation procedures in resolving marital and family disputes was to carefully explain to the spouses the sacred scriptures emphasizing the sanctity of family life. The Church emphasized the need to care for each other in joy and sorrow, and that adversity should be seen as an ordeal that can strengthen relationships and deepen mutual understanding. In practice, however, under the patriarchal way of life, women often sought to preserve marriage, primarily under the influence of daily concerns and responsibilities.

With the establishment of the Soviet regime, church courts ceased to hear divorce cases and, according to official records, stopped performing weddings under threat of criminal penalties. This marked the beginning of a new era in the legal regulation of marriage and family matters, as patriarchal traditions and strict laws were replaced by new principles and ideological approaches.

[15] GARF. F. R3431. Op. 1. D. 113. L. 33.
[16] GARF. F. R3431. Op. 1. D. 113. L. 34.

## III. Mediation Procedures in the Resolution of Marriage and Family Cases in Soviet Courts

The Soviet judicial practice in family cases reflected communist ideology and the socialist model of the family. In this model, the family, regarded as the “cell of society”, was subject to control by the government and the Communist Party. This perspective gave rise to “public oversight” and allowed the Communist Party and trade union organizations to intervene in the resolution of family disputes.

The freedom of divorce without any restrictions, which was legally established in 1917, as well as the simplified procedure for dealing with divorce cases, contributed not only to ensuring equal rights for women and men, but also to the rapid growth of the number of divorces throughout the country.[17] For example, in 1913, 3,791 divorces were documented among 98.5 million Orthodox Christians (0.0038 %) (Yanenko, 2013). Undoubtedly, this low divorce rate demonstrates the strictness of the Tsarist Russia marriage legislation. However, in 1919 the number of divorces reached 24,233; in 1920 — 50,476; in 1921 — 101,264; in 1923 — 106,197 (Alyakrinsky, 1927) with the rates growing rapidly.

By mid-1930’s, official documents began to indicate that the relaxation of divorce laws and simplification of procedures for dissolving marriages had contributed to a “frivolous attitude toward the family and family responsibilities”.[18] Consequently, subsequent national family policy focused on making the divorce procedure more complex. For example, divorcing couples were required to appear in court in person, the fact of the divorce was to be recorded in their passports, and the state fee for filing a petition for divorce was increased.

[17] Decree of the Central Executive Committee, Council of People’s Commissars of the RSFSR dated 19 December 1917 “On the dissolution of marriage”. *SU RSFSR*. 1917. No. 10. Art. 152. (In Russ.).

[18] The resolution of the Central Executive Committee of the USSR No. 65, the Council of People’s Commissars of the USSR No. 1134 dated 27 June 1936 “On the prohibition of abortions, increasing financial assistance to women in labor, establishing state assistance to multi-family families, expanding the network of maternity hospitals, nurseries and kindergartens, strengthening criminal penalties for non-payment of alimony and on some changes in the legislation on divorce”. *NW USSR*. 1936. No. 34. Art. 309. (In Russ.).

Measures aimed at "preservation of families" also included the involvement of prosecuting attorneys, guardianship authorities as well as representatives of labor groups and public organizations in divorce cases. Additionally, as of 1944, initiating divorce processes required meeting several conditions, such as the mandatory publication of notices regarding the commencement of divorce proceedings in local newspapers.[19] In other words, in addition to the divorcing parties themselves, the "mediation procedures" at that time involved labor groups, employers, government authorities, and other individuals and entities. The intention was to engage the public in appealing to the conscience and moral sense of Soviet citizens, effectively "shaming" those deemed responsible for the "marital breakdown". Alcoholism was identified as one of the principal causes of divorce described as "a major evil destroying human body and soul, depriving children of parents, making it impossible for women to work and raise children properly, and taking away husbands and fathers from families". The second most common cause was careless attitude toward marriage, characterized by brief courtships and hasty decisions to marry, which frequently resulted in divorce proceedings.[20]

Engaging a wide range of individuals was considered essential to achieving the desired educational effect. For this reason, divorce cases were often heard during visiting court sessions held at workplaces of one of the parties or in other public venues. The Supreme Court of the USSR encouraged courts to practice visiting court sessions and noted that divorce cases required significant preparations. Civil cases were to be carefully selected to ensure "positive outcome", resulting in the preservation of the marriage. If these conditions were met, courts were recommended to hear cases in front of a community, provided there was confidence in its potential for positive influence. Nevertheless,

[19] Decree of the Presidium of the Supreme Soviet of the USSR dated 8 July 1944 "On increasing state assistance to pregnant women, large and single mothers, strengthening the protection of motherhood and childhood, establishing the honorary title 'Mother Heroine' and the establishment of the Order of Maternal Glory and the medal 'Medal of Motherhood'". *Vedomosti Verkhovnogo Soveta SSSR*. 1944. No. 37. (In Russ.).

[20] GARF. F. R9474. Op. 32. D. 11. L. 120.

according to the Letter of the Supreme Court of the RSFSR dated 31 December 1971, the selection of cases for visiting court sessions was not always effective. For example, the Kirovskiy District People's Court of Kazan held a number of court sessions at the Yunost and Krasnie Ugolky clubs that, nevertheless, resulted in divorce "due to alcoholism of the respondent or long-term separation of spouses when there was nothing to preserve".[21]

Another measure aimed at "reconciling the parties" involved influencing a "negligent employee" who was failing to fulfill marital obligations through their employer. In addition to workplace discussions, courts were encouraged to issue special rulings to the employers of the party involved in divorce proceedings, with the intention of "bringing them to their senses" to abandon immoral behavior. For example, the Samara District People's Court of the Kuibyshev Region issued a private ruling to the manager of the construction company where the defendant was employed, notifying the manager of the defendant's drunkenness, disorderly conduct (for which he was convicted), and the fact that his wife had filed the complaint with public organizations and authorities, but no action had been taken. The result of this special ruling is unknown, though it is believed the employer had a talk with the employee. In another case, the Soviet District People's Court of Kazan issued a special ruling notifying the head of the plant's committee of the trade union organization, stating that the spouses were given six months for reconciliation and requesting the head of the committee to respond appropriately.[22]

According to the Letter of the Supreme Court of the RSFSR regarding the review of divorce cases dated 31 December 1971, 8,865 visiting court sessions were held in 1970, resulting in 3,066 special rulings and 662 cases being held with members of the general public present. Overall, these numbers were deemed insufficient in relation to the total number of civil cases considered.[23]

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[21] GARF. F. R9474. Op. 32. D. 12. L. 356.

[22] GARF. F. R9474. Op. 32. D. 12. L. 356.

[23] GARF. F. R9474. Op. 32. D. 12. L. 357.

It is important to note that the effectiveness of these measures was questionable; in fact, they often resulted in procedural delays. For example, according to the Decree issued on 8 July 1944, in order to clarify the reasons for the divorce and attempt reconciliation, both partners seeking dissolution of the marriage were required to appear before the People's Court, and witnesses could be summoned if necessary. At the same time, the Instruction of the People's Commissariat of Justice of the USSR dated 27 November 1944 regarding the procedure for considering divorce cases, stated that "if the spouse filing for divorce has minor children, and it is difficult for him or her to travel to the respondent's place of residence, the court is authorized to consider the case at the petitioner's place of residence at his or her request".[24] This approach led to numerous adjournments in order to ensure the mandatory attendance of both parties.

The shortcomings of the existing legislation were most vividly described in 1957 by P. Skomorokhov in his article entitled "Brakorazvodnaya kanitel [The endless saga of divorce proceedings]", where he emphasized the bureaucratic obstacles present in divorce proceedings. For example, in *the Sharikov case*, the petitioner concealed the existence of his first marriage and illegally registered a second marriage, since it took a year for the court to review his application for dissolution of marriage without issuing any decision. In another example, the Permyakov divorce case dragged on for ten years, during which both parties had established new families, yet the court continued to postpone the case due to repeated absence of the parties involved. Skomorokhov concluded: "The courts in all these cases forgot that in addition to caring about the formal aspects of the process, they have another duty: to gain insight into the people's lives. As a result, the cases consisted of nothing but summons and statements" (Skomorokhov, 1957). Therefore, the excessively complicated and labor-intensive divorce proceedings were justified as necessary to prevent "careless" or unsubstantiated divorces.

[24] Resolution of the Council of People's Commissars of the USSR No. 1622 dated 27 November 1944 "On Approval of the Instruction of the People's Commissariat of Justice of the USSR on the procedure for consideration by courts of divorce cases". *Collection of decrees, resolutions, decisions, orders and orders of wartime*. 1944. Leningrad: Lenizdat, 1945, pp. 162–167. (In Russ.).

However, the court practice analysis shows that such complexity and inefficiency of the procedure did not contribute to strengthening the family. On the contrary, it often encouraged people to circumvent the law.

Ultimately, practicing lawyers, judges, and prosecutors, drawing on their professional experience, began to highlight the distinctive nature of family law cases and the specialized training required to handle such cases. For example, in 1950, N. Shumilov, the Deputy Chairman of the Astrakhan Regional Court, observed, few lawyers possess the specialized knowledge and skills necessary to resolve divorce cases correctly, as these cases are relatively new for most legal practitioners. While we understand the complexity of such cases, we still struggle to resolve them appropriately. It is known that successful handling of divorce cases requires not only legal expertise but also proficiency in family psychology, life experience, political awareness, and sensitivity in dealing with divorcees.

It is important to be able to unlock the secrets of the family life and to discern the underlying causes of marital discord. The main shortcoming in the work of divorce courts is the inability of judges to achieve the termination of the case due to reconciliation of spouses. In order to change the situation for the better, it would be more beneficial for the judges to explore the means and methods by which they could achieve greater success in this area. For example, it is known that articles published in the monthly magazine *Sotsialisticheskaya Zakonnost* cover current issues of the theory of Soviet law and the practice of legal institutions and serve as a great help not only for judges, but also for all practicing lawyers and legal theorists. N. Shumilov noted that the editorial board of the journal would be of great assistance to judges by addressing this aspect in divorce proceedings in their publications (Shumilov, 1950). Thus, the request from practicing lawyers to the scientific community was to identify a range of tools — beyond the legal framework — for resolving complicated marital and family disputes.

The urgency of this request was underscored by the dual responsibility placed on the courts — not only facilitate reconciliation between divorcees but also to educate the public on issues of marriage and family law. For example, analysis of court rulings of Kazakh SSR courts regarding child support recovery during the first half of 1971

identified an adverse situation: judges rarely published articles in print media or gave presentations on radio or television to explain matters of marriage and family law. According to justice department reports, courts across the republic conducted only 613 lectures and discussions on marriage and family law during the first half of the year, a figure that was deemed unsatisfactory.[25]

In their efforts to preserve families, courts sometimes dismissed petitions for divorce. For example, in one case, spouses Sh. had been married for seven years when the wife fell ill. In response to the illness, the husband initiated divorce proceedings. However, the court of first instance rejected his request for divorce. The Supreme Court of the USSR upheld the decision noting, "the husband's divorce application was aimed exclusively at avoiding his duty to provide moral and financial support to his wife and to assist her in her recovery" (Rabinovich, 1956, p. 26).

Data on the outcomes of paternity establishment, child support recovery, and divorce proceedings for 1969 indicate that Soviet courts heard a total of 475,482 divorce cases, dismissing 13,663 of them (2.9 %). In the first half of 1970, 249,029 divorce cases were tried, with 6,827 cases (2.7 %) dismissed. Thus, approximately one in every thirty-five divorce cases was dismissed.

As of 1965, the two-stage divorce proceedings were abolished, and petitioners were no longer required to pay for newspaper publication of divorce notices. Interestingly, this "simplification" did not result in any significant changes in divorce statistics. According to the Central Administration of Statistics of the USSR, the total number of divorces was 646,295 in 1967; 648,191 in 1968, and 615,155 in 1969.[26]

The situation changed dramatically with the adoption of the Fundamentals in 1968. The new law resulted in a substantial decline in the number of divorce cases — by more than a half.[27] With the adoption of the Fundamentals, uncontested divorce cases were transferred to the Civil Registry Offices for consideration. Nevertheless, the courts retained

[25] GARF. F. R9474. Op. 32. D. 12. L. 267–268.
[26] GARF. F. R9474. Op. 32. D. 11. L. 13.
[27] GARF. F. R9474. Op. 32. D. 11. L. 12.

the important responsibility of fostering reconciliation between spouses during divorce proceedings. In this regard, the Plenum of the Supreme Court of the USSR, in its Resolution of 4 December 1969, drew judges' attention to "the need for a comprehensive study of the relationship between spouses, as well as the motives that prompt them to divorce". Judges were instructed to pursue measures aiming at reconciliation. Moreover, the Resolution emphasized that "temporary discord in the family and conflicts between spouses caused by accidental reasons, as well as the unwillingness of one or both spouses to continue the marriage, which is not justified by serious reasons, cannot be considered sufficient grounds for divorce".[28]

It was the judges who were supposed to assess the "criticality level" of marital discord. In practice, this often translated into the court making every effort to reconcile the parties, frequently postponing hearings in the process. For example, reconciliation measures undertaken by the courts of Leningrad during the first two years under the new law resulted in the termination of 6,508 divorce cases — accounting for 14.4 % of all completed cases in this category.[29] It should be noted that the termination of divorce cases on the grounds of reconciliation of the parties was observed as a positive trend in nearly all courts in Ryazan, Vladimir, Leningrad, and other regions. For example, according to 15 People's Courts of the largest districts of the Moscow region, 1,980 cases — or 10 % of total completed cases — were adjourned during 9 months of 1969, with reconciliation deadlines set for parties. Of these adjourned cases, every second one was ultimately terminated due to the reconciliation of the parties.[30]

The following spouse reconciliation practice is noteworthy: some courts in the Lviv region, upon receiving a divorce application, sent letters to the spouses' workplaces, urging colleagues and the broader community to assist in reconciling the parties. One should note that this

[28] Resolution of the Plenum of the Supreme Court of the USSR No. 10 dated 12 April 1969 "On the practice of application by courts of the Fundamentals of legislation of the USSR and the Union Republics on marriage and family". *Bulletin of the Supreme Court of the USSR*. 1970. No. 1. (In Russ.).

[29] GARF. F. R9474. Op. 32. D. 11. L. 14.

[30] GARF. F. R9474. Op. 32. D. 11. L. 15.

approach was relatively effective. In some cases, petitioners withdraw their divorce petitions. In an effort to preserve families, People's Courts postponed cases for two to three months, and sometimes even for four to six months. This measure also led to positive results, as evidenced by the number of cases dismissed due to reconciliation or left without consideration. According to a report by S. Rudik, Chairman of the Lviv Regional Court, in 1969, out of 4,960 cases received, 1,055 cases (21 %) were not considered on the merits for these reasons. Similarly, in the first nine months of 1970, 708 cases (17.7 % of the 4,006 total cases) were not tried.[31] Therefore, mediation procedures resulted in the dismissal of a significant number of cases.

It should be noted that during the 1970s and 1980s, the scientific community actively debated the notion that "personal relations among family members are often not subject to statutory regulation" (Palastina, 1979). The complexity and significance of the matter attracted the attention of the Soviet legal scholars to circumstances and factors that either facilitate or impede the reconciliation of spouses and strengthening of families. Scholars observed that divorce regulations were developed for the purposes of contributing to reconciliation of spouses and preventing unwarranted divorces particularly in families with newborn children.

However, the most significant challenges arose in cases where spouses continued to have "warm feelings" for one another and shared plans for the future. In such circumstances, the courts were expected to play a key role in preserving family relationships (Nechaeva, 1982). The effectiveness of these efforts often depended on the individual judges' ability to engage with the parties thoughtfully and appropriately. As noted by Prof. Katz, "Trite admonitions and formal dry phases produce no desirable results. Certain judges summoned spouses not during their general working hours but at specially designated time or in the evening. This allowed the judges to hold informal discussions with the spouses, demonstrating a genuine interest in their family life" (Katz, 1982, pp. 14–15). At the same time, the uniqueness of each case, the public nature of court proceedings, and the limited time

[31] GARF. F. R9474. Op. 32. D. 11. L. 121.

available to judges often hindered thorough and careful examination of individual family situations and their prospects. It became apparent that, in addition to legal expertise, judges needed to employ innovative approaches, possess in-depth understanding of family psychology and exhibit a sincere intent and ability to assist the parties in identifying the causes and specifics of their conflicts. Such skills and knowledge extended beyond the traditional professional competencies of judges and required specialized training, experience, and expertise.

## IV. Conclusion

Thus, in pre-revolutionary Russia, marital and family disputes fell under the jurisdiction of the Church. Christian marriage was regarded as a lifelong, monogamous union between a man and a woman, in which both partners were expected to support each other under all circumstances. The dissolution of marriage was considered as an exception to the general rule rather than a norm or routine occurrence. The Church did not recognize the lack of desire for cohabitation, illness and other reasons proposed by the legislator as legitimate grounds for divorce, and it opposed the transfer of matrimonial cases to secular authorities. Even when one party presented valid grounds for divorce, granting of a divorce was not assured.

The Church required both spouses and clergy to rigorously assess the circumstances and to maintain constant attention to family life, believing that such vigilance could obviate the need for secular regulation. Regardless of the situation, spouses were expected to strive for reconciliation and live together in peace and harmony, viewing marital challenges as ordeals to be overcome jointly. The sanctity of family life and the importance of mutual care were strongly emphasized, but in practice, women often sought to preserve marriage primarily out of the need for financial support.

With the establishment of the Soviet regime, the strict legal framework governing marriage and family relations was replaced by new principles based on the concepts of freedom of marriage and divorce, as well as the transfer of jurisdiction over marriage and family matters

to secular authorities. The USSR court practice accumulated significant experience in utilizing various mediation procedures to resolve family disputes. This system was characterized by extensive state, party and public control over family life.

According to statistics, the bureaucratization of the divorce process made the procedure more complicated but did not yield effective results. It became common practice to involve labor collectives, government agencies, and the public in family dispute resolution. Various methods were used in attempts to preserve families. Coercive methods against individuals who led immoral lifestyles, resulting in family breakdown, included issuing special directives (rulings) to the person's employer, and refusing to grant the divorce petition. Persuasive methods involved the courts' efforts to reconcile the parties, often by repeatedly postponing hearings to encourage reconciliation. Certainly, it was the judge who was tasked with acting as a mediator between spouses, seeking to facilitate reconciliation. Nevertheless, over time, members of the academic community, practicing lawyers, public figures, and legal advocates increasingly recognized the unique nature of marriage and family cases. They also acknowledged the need to engage professionals with specialized expertise in family conflict resolution, who could better understand the nature and dynamics of such disputes and help the parties find compromises in order to preserve families.

Attention to the specifics of different approaches to the resolution of marital and family disputes is particularly relevant today. Historically, Russia has accumulated considerable experience with mediation procedures for addressing complex issues in this area. There have been two extremes: on the one hand, marriage was ascribed an exclusively religious significance, regardless of years of separation; on the other hand, the spiritual aspects and the seriousness of the marital union were disregarded. One thing is clear: it is difficult to find a family without some discord. It is important to understand the spouses' true intentions, the maturity of their relationship, and their perceptions of the nature of marriage and family. Additionally, state mechanisms aimed at creating comfortable conditions for preserving families, whenever possible, should be considered. The institution of family mediation can

be the missing element that helps to find the golden mean in developing optimal conditions for consensus between those seeking to preserve their relationships in such a delicate area as marriage and family relations.

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## Information about the Author

**Victoria A. Mun**, Cand. Sci. (Law), Associate Professor, Department of History of the State and Law, Kutafin Moscow State Law University (MSAL), Moscow, Russian Federation
mun.viktoriya@mail.ru
ORCID: 0000-0002-3010-1094

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