

## **Remedy for Failed Reform: The Politics of Child Welfare in Russia**

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Prepared for the Workshop on Public Policy Failure, Annual Meeting of the Canadian Political Science Association, Saskatoon, Saskatchewan, May 30, 2007.

*Draft:* Please do not cite without author's permission.

*Author's note:* I would like to acknowledge the support of Standard Research Grant no. 410-2006-0903 from the Social Sciences and Humanities Research Council of Canada for funding the research on which this paper is based. I also thank Natalya Akhmetgalieva and Dmitry Lysenko for their research assistance on this project. I thank Grace Skogstad for organizing the workshop.

In the late 1990s, the status of children attracted attention in Russian political discourse as a symbol of the failure of reform to address social welfare. The harsh impact of Russia's "shock therapy" economic policy on ordinary citizens was one of the most damning indictments that Russia's then-powerful political opposition could levy against the reforms of President Boris Yeltsin and his government. Throughout the decade, pensioners had attracted a great deal of attention as the elderly victims of the reforms, which defied the well-entrenched notion that the older generation deserved a reliable source of income after a lifetime of hard work.<sup>1</sup> By the late 1990s, in political discourse, children began to replace the elderly as the image of the primary victims of reform.

The perceived failure of reform to address children was a particularly damning indictment because it defied the rationale of major reform, which is always to create a better future. As critics increasingly argued, without healthy children, Russia would lack healthy citizens to build its future. Moreover, Russia's reform efforts had always presented an image of youth and vigour favourably contrasted with metaphors relating aging with communism. The existence of child poverty and child homelessness belied this image of youth.

The renewed attention to children showed that post-communist transition had reached a new phase, from focussing away from interpreting the past and reacting to the present, to thinking about the future. The concern with children demonstrated that reform could be short-sighted if it failed to provide for future generations. The theme of policy neglect permeates discourse on child welfare in Russia. There is a preoccupation with stating that attention to children is long overdue, that the state abandoned its children, and that children became the low priority for funding initiatives.

There is a great difference, however, between identifying failures of policy and remedying them. Russia's postcommunist experience helps to shed light on the dilemmas posed by many authors who write about policy failure. The literature suggests that policy failure is a slippery concept because it is in the eye of the beholder. As Samuel L. Huntington wrote almost four decades ago, reform is difficult to accomplish precisely because it rearranges existing institutions, and therefore inspires potential opposition from those who are displaced in the course of effecting change.<sup>2</sup> Policy failure, note the experts, is often a political judgement made by those affected, not an "objective" evaluation by those carefully weighing all the facts. Mosse (2004) discusses policy failure as simply a policy that does not achieve its intended purposes; but even this is imprecise, since different participants may have different perceptions of the reform's goals. He points out that we also need to distinguish more precisely between policies that disappoint because their design is flawed and those whose execution is questionable.<sup>3</sup>

Karen Remmer's empirical analysis points to a key political dilemma. Unpopular policies are not necessarily policy failures: they may in fact be successful policies, such as

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<sup>1</sup> See Andrea Chandler, *Shocking Mother Russia: Democratization, Social Rights, and Pension Reform in Russia, 1990-2001*. Toronto: University of Toronto Press, 2004.

<sup>2</sup> Samuel Huntington, *Political Order in Changing Societies*, New Haven: Yale University Press, 1968, find pp. 344-5.

<sup>3</sup> David Mosse, "Is Good Policy Unimplementable? Reflections on the Ethnography of Aid Policy and Practice," *Development and Change*, vol. 35, no. 4, September 2004, pp. 639-71.

stabilization programs that produced particular economic outcomes with social consequences. Remmer reminds us that governments may pursue unpopular courses of action because the choice to avoid reform may risk an even worse sense of failure.<sup>4</sup> Avoidance of policy change, therefore, may itself be perceived as policy failure. In turn, a policy may be successful in attaining desired results, but unsuccessful in gaining mass approval, especially when the policy becomes perceived as deviating from accepted ethical standards.<sup>5</sup> Policies may be seen as failures even when their results are achieved, if their completion goes way over budget, are tainted with possible corruption, or take much longer than expected.<sup>6</sup> In literature on social welfare policy, we understandably tend to see a debate between those who define policy success in terms of economic efficiency, and those who consider advances in social justice to be the essential criterion for evaluating policy.<sup>7</sup>

***What causes a policy to succeed or fail?*** Policy is more likely to succeed if it is grounded in society's existing institutions and presented as being based on accepted norms.<sup>8</sup> Tight organizational cohesion, a strong sense of mission, and engagement in policy reform as a group enterprise are key factors for accomplishing reform.<sup>9</sup> According to Bovens and t' Hart, a policy failure only occurs when the process of implementing a policy is insular, not allowing enough participation and involvement from the public and from stakeholders. Policies that are more inclusively and artfully executed, even if they do not produce the desired results, are not likely to be considered failures.<sup>10</sup>

***Does policy inaction in itself constitute a policy failure?*** Remmer's analysis suggests yes: if an economy worsens, for example, a government may suffer more from the failure to reverse negative trends than it would if it had pursued unpopular reforms.<sup>11</sup> Conversely, a government may be unwilling to reverse a policy that is not working well because it does not want to concede defeat in public, for fear that voters will reject a government associated with failure.<sup>12</sup>

The Russian case presents useful lessons for understanding policy failure. Indeed, I would argue that much of the literature on Russian politics, and indeed much of the political discourse within Russia, is premised on the idea that the Russian post-communist transition of the 1990s was a policy failure on a massive scale. The ruble crash of 1998, and Boris Yeltsin's rueful resignation as President in December 1999, are often seen as

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<sup>4</sup> Karen L. Remmer, "The Politics of Economic Policy and Performance in Latin America," *Journal of Public Policy*, vol. 22, no. 1, January-April 2002, pp. 29-59.

<sup>5</sup> Annika Brandstrom and Sanneke Kuipers, "From 'Normal Incidents' to Political Crises: Understanding the Selective Politicization of Policy Failures," *Government and Opposition*, vol. 38, no. 3, summer 2003, pp. 279-305.

<sup>6</sup> Mark Bovens and Paul 't Hart, *Understanding Policy Fiascoes*, New Brunswick, NJ: Transaction, 1996, pp. 4-6.

<sup>7</sup> See for example, Jacob S. Hacker, "Learning from Defeat? Political Analysis and the Failure of Health Care Reform in the United States," *British Journal of Political Science*, vol. 31, 2001, p. 76.

<sup>8</sup> Grace Skogstad, "Ideas, Paradigms and Institutions: Agricultural Exceptionalism in the European Union and the United States," *Governance*, vol. 11, no. 4, October 1998, pp. 463-90.

<sup>9</sup> Stephen Giacchino and Andrew Kakabadse, "Successful Policy Implementation: the route to Building Self-Confident Government," *International Review of Administrative Sciences*, vol. 69 (2003), pp. 139-60.

<sup>10</sup> Mark Bovens and Paul 't Hart, *Understanding Policy Fiascoes*, New Brunswick, NJ: Transaction, 1996.

<sup>11</sup> Remmer, op.cit.

<sup>12</sup> Robert A. J. Dur, "Why Do Policy Makers stick to Inefficient Decisions?" *Public Choice*, vol. 107, no. 3-4, June 2001, pp. 221-234.

markers of the failure of market reform in Russia. These failures have been variously attributed to weak governance, an insufficiently open economy, elite self-interested behaviour, or incomplete implementation of reforms.<sup>13</sup> But analysts do not always distinguish between Russian policy reforms that failed outright and policy reforms that were belated or slower than anticipated. Yeltsin's recent death provided an opportunity to reflect on the 1990s, and the fact that some observers were willing to give him credit for positive change suggests a need for greater nuance and complexity in evaluating the results of policy in Russia.<sup>14</sup>

Within Russian political discourse, there is a persistent narrative that starts with the assumption that the 1990s were a decade of ill-considered reforms, accompanied by inaction in the realm of social welfare and social justice. Reforms are considered to have benefited a small elite, while eroding the popular standard of living and failing to provide a sufficient social safety net. This narrative continues to penetrate Russian politics. Arguably, President Vladimir Putin has benefited from this narrative, because it enables the Russian government to position itself as the finder of solutions to remedy the failures of the Yeltsin era.<sup>15</sup> But the notion of failed reform served to undermine the legitimacy of the Russian government, and as a tool for the opposition to discredit liberalism in general. Policy failure thus serves as a rhetorical device that helps to advance nationalist positions in politics and to give credence to reform initiatives that centralize power. Yet the attention to the *idea* of policy failure and to reform does not necessarily lead to any actual improvement in policy, nor any systematic attempt to address some of the underlying weaknesses of the state.

I will lay out a framework for understanding policy failure in Russia and discuss it with reference to the case of child welfare. We can examine several policy issues relevant to children which have been rediscovered and debated as issues that warrant action: child welfare benefits; adoption, especially international adoption; children's rights under family law; policies for homeless, neglected and delinquent children; penalties for exploiting or corrupting children. The rhetoric of child welfare does not match results. The focus on children is mostly a discursive device that helped to discredit the 1990s approach to reform under Boris Yeltsin, which helped to legitimize a more statist, instrumental view of social reform, and which propagated a more conservative norm of personal responsibility.

While we do see increasing attention to developing punitive measures aimed at adults, the overall problems of governance that contribute to child welfare deficiencies still exist and are illustrative of the general problems of social welfare. These deficiencies include a tendency to delegate responsibility for children to lower levels of government, rather than to develop federal initiatives; weakness in monitoring implementation of

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<sup>13</sup> For example, Anders Aslund, *Building Capitalism: The Transformation of the Former Soviet Bloc*. Cambridge: Cambridge University Press, 2002; Allen Lynch, *How Russia is not Ruled*. Cambridge: Cambridge University Press, 2005; Juliet Johnson, *A Fistful of Rubles: The Rise and Fall of the Russian Banking System*. Ithaca: Cornell University Press, 2000; Alexander Sokolowski, "Institutional Determinants of Chronic Policy Failure in Yeltsin's Russia," *Demokratizatsiya*, vol. 11, no. 3, summer 2003, pp. 412-39.

<sup>14</sup> For example, see obituary of Boris Yeltsin in *The Economist*, April 28, 2007, p. 114.

<sup>15</sup> The idea that one of the keys to President Putin's leadership has been the depiction of his leadership as leading to a better-off Russia than his predecessor was quite rightly observed in "Russia after Boris Yeltsin: Crocodile Tears," *The Economist*, April 28, 2007, p. 44.

policies; and precariousness of funding. Central to my methodology is a discourse approach, where I examine the evolution of political debates over time (for example in Russia's Lower House of parliament, the State Duma), in order to examine the ways in which policy is discussed and the underlying meanings of these representations.<sup>16</sup>

On the next page, I set up a conceptual framework for understanding aspects of Russian social policy failures. This sets up my hypotheses regarding the various dimensions of defects in the country's social welfare system, to which I will refer in my analysis of the case study.

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<sup>16</sup> For the notion of discourse see for example Michel Foucault, *The Birth of the Clinic: an Archaeology of Medical Perception*. New York: Vintage, 1973, and Michel Foucault, *The History of Sexuality: an Introduction, vol. 1*, New York: Vintage, 1990.

## **Framework for Policy Failure in Russian Social Welfare**

### **1. Lack of vision**

- What is social welfare supposed to look like?
- How will the parts of the social welfare system fit together?
- How does social policy relate to economic reform?

### **2. Responsiveness**

- A reactive, crisis-management approach rather than a proactive approach
- Responding to problems too slowly
- Correcting one problem without applying the lessons to other areas.

### **3. Vagueness of implementation**

- Defining responsibility of levels of government
- Monitoring and accountability
- Predictable funding

### **4. Coordination/coherence**

- Contradictory policies can undermine goals

### **5. Uncertainty about outcomes**

- What goals are policies supposed to fulfill?
- How are these goals to be different from Soviet times?

### **Child Welfare in Russia**

We will turn now to our empirical case. At the outset of Yeltsin-era reforms, families with small children, especially with single parents or children with disabilities were identified as groups in need of short-term support.<sup>17</sup> Over the next two years, inflation and price liberalization made it clear that these problems would be more than short-lived phenomena. In 1995, two laws were passed that were of interest to children: a new family law code and a law on social benefits for families and children. I will deal with each of them separately, as each had different implications for children.

*The 1995 Family Law Code* emphasized the importance of the rights of children but also formally weakened state commitment to social welfare support of the family. The Family Code replaced the 1969 Soviet era code, whose main features were the recognition of equality of both parents, the obligation of parents to raise their children in the spirit of communist values, and the state's commitment to extensive social support of the family.<sup>18</sup> The new 1995 code was intended to match the post-communist system's new values: it limited the state's role in family matters, proclaimed the importance of respecting family privacy, affirmed parents' rights of choice in matters affecting their children, and provided a more defined system of dividing property between spouses, which was necessary now that market reform had established property rights.<sup>19</sup> Earlier changes had also expanded the responsibilities for non-custodial parents to pay child support, as well as alimony to spouses engaged in full-time child care.<sup>20</sup> The state's role in family matters was now primarily limited to adjudicating marital disputes and where necessary, protecting children who lacked sufficient care from their parents. The family law reform was controversial from a gender relations perspective: critics argued (rather spuriously) that it promoted adversarial relations between spouses and disadvantaged men, who could be taken to the cleaners by avaricious and irresponsible wives.<sup>21</sup>

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<sup>17</sup> Ukaz Prezidenta Rossiiskoi Federatsii, "O merakh po sotsial'noi podderzhke mnogodetnykh semei," *Vedomosti Soveta Narodnykh Deputatov Rossiiskoi Federatsii i Verkhovnogo Soveta Rossiiskoi Federatsii*, 14 May 1992, pp.1 1375-6; Ukaz "O povyshenii razmerov sotsial'nykh posobii i kompensatsionnykh vyplat v 1992 goda," *Vedomosti Soveta Narodnykh Deputatov Rossiiskoi Federatsii i Verkhovnogo Soveta Rossiiskoi Federatsii*, no. 22, 4 June 1992, pp. 1541-3; Ukaz "O dopolnitel'nykh merakh po sotsial'noi zashchite beremennykh zhenshchin i zhenshchin, imeiushchikh detei v vozraste do 3 let, uvolennykh v sviazi s likvidatsii predpriatii, uchrezhdenii, organizatsii," *Vedomosti Soveta Narodnykh Deputatov Rossiiskoi Federatsii i Verkhovnogo Soveta Rossiiskoi Federatsii*, 12 November 1992, pp. 3374-5.

<sup>18</sup> "Kodeks o brake i sem'i RSFSR," originally passed 30 July 1969. Moscow: Iuridicheskaia literature, 1986.

<sup>19</sup> See especially Article 1, "Semeinyi Kodeks Rossiiskoi Federatsii," *Rossiiskaia gazeta*, 27 January 1996, pp. 3-7. See also Maria Antolskaia, "The New Aspects of Russian Family Law," *California Western International Law Journal*, vol. 31, fall 2000, pp. 1-16; A.M. Nechaeva, "Novyi semeinyi kodeks," *Gosudarstvo i pravo*, no. 6, 1996, pp. 56-67.

<sup>20</sup> Ukaz Prezidiuma Verkhovnogo Soveta RSFSR, "O vnesenii izmeneniia v Kodeks o brake i sem'e RSFSR," *Vedomosti Verkhovnogo Soveta RSFSR*, no. 5, 2 February 1984, p. 135; Ukaz Prezidiuma Verkhovnogo Soveta RSFSR, "O nekotom izmenenii poriadka vzyskaniia alimentov na nesovershennoletnykh detei," *Vedomosti Verkhovnogo Soveta RSFSR*, no. 48, 27 February 1986, pp. 899-900; Russian Federation federal law, "O vnesenii izmenenii i dopolnenii v Kodeks o brake i sem'e RSFSR," 22 December 1994, *Rossiiskaia gazeta*, 28 December 1994, p. 5.

<sup>21</sup> See for example, Georgii Tiurin, "Kodeks stroitel'ia matriarkhata," *Nezavisimaia gazeta*, 10 November 1995, p. 6.

The Code was also significant because its creators stressed the law's emphasis on the rights of the child within the family. Pains were taken to affirm the child's rights to a secure upbringing within a family setting, as well as to health and education. The state had a constitutional duty to contribute to these conditions, but parents were assigned significant responsibilities to care for their children and support them financially. Children were also granted the right to consent to matters that directly affected them, such as adoption.<sup>22</sup> Adoption is important, and will be discussed in more detail below, but first I want to turn to the child welfare benefit.

In the mid to late 1990s as the budgetary system weakened, problems with children mounted. The government admitted that the economic situation was having an adverse effect on children and pledged to improve child health and education.<sup>23</sup> But government programs aimed at helping especially vulnerable children, and for prenatal health, were not being fully funded because of budgetary difficulties.<sup>24</sup> As child homelessness surged and as child welfare arrears grew, the opposition increasingly identified children as key victims of reform and as too low on the government's priority list.

A 1995 law established a *universal child welfare benefit*, to be paid to parents of children under 16 at the rate of 70% of the monthly minimum wage (higher for a single parent).<sup>25</sup> It was established as a universal benefit partly because the government argued that this would be easier to administer, but was relatively low because it was assumed that children generally had two income-earning parents.<sup>26</sup> However, in the years after the law was passed, the Duma expressed concern over growing arrears with child benefit payments, and charged that the government needed to put a higher priority on paying them.<sup>27</sup> The Duma also passed a substantial increase in the child benefit for single mothers.<sup>28</sup> Upon hearing details of the underfunding of programs for children, the head of the Duma committee on women and children said in the Duma, "Respected colleagues, the information we have heard leads to the conclusion that we must save children from their own government."<sup>29</sup> The federal government's position was that regional governments were actually responsible for paying the benefit, and that called upon

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<sup>22</sup> For example, remarks of G.I. Klimantova, Chair of Duma Committee on Women, Family and Youth, introducing the Family Code, in Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 104, 17 March 1995, pp. 33-5.

<sup>23</sup> "Osnovnye napravleniia gosudarstvennoi sotsial'noi politiki po uluchsheniiu polozheniia detei v Rossiiskoi Federatsii do 2000 g. (natsional'nyi plan deistvii v interesakh detei) utverzhdeny ukazom Prezidenta RF ot 14 sentiabria 1995 g.," *Rossiiskaia gazeta*, 21 September 1995, pp. 3-5.

<sup>24</sup> A.M. Panov, Deputy Minister of Labour and Social Protection, in Gosudarstvennaia Duma, *Stenogramma zasedanii*, 25 April 1997, pp. 34-9.

<sup>25</sup> Russian Federation law, "O gosudarstvennykh posobiiakh grazhdanam, imeiushchim detei," 19 May 1995, article 16, *Rossiiskaia gazeta*, 24 May 1995, p. 5.

<sup>26</sup> Liudmila F. Bezlepkina, Minister of Social Protection of the Population, remarks introducing the draft law in State Duma, *Stenogramma zasedanii*, b. 70, 9 December 1994, pp. 31-2.

<sup>27</sup> Postanovlenie Gosudarstvennoi Dumy, "O neotlozhnykh merakh po likvidatsii zadolzhennosti, sviazannoi s nevypolatoi gosudarstvennykh posobii na detei," *Vedomosti Federal'nogo Sobraniia Rossiiskoi Federatsii*, no. 10, 1 April 1997.

<sup>28</sup> Federal Law, "O vnesenii izmeneniia v stat'iu federal'nogo zakona 'o gosudarstvennykh posobiiakh grazhdanam, imeiushchim detei,'" *Vedomosti Federal'nogo Sobraniia Rossiiskoi Federatsii*, no. 2, 11 January 1997, pp. 107-8.

<sup>29</sup> A. V. Aparina, in Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 96, 25 April 1997, p. 39.

regional governments to end the arrears.<sup>30</sup> Moving away from the commitment to universality, the Duma began to debate whether limiting child benefits to families who truly needed them might help to alleviate the payments problem.<sup>31</sup> Despite opposition, the Duma eventually passed a law that would means-test the child benefit, on the grounds that the savings would make it easier to deliver the benefit to those who needed them.<sup>32</sup> Nonetheless, the government in 1999 told the Duma that it was now transferring more sums to the regions for child benefits, in light of the fact that only four regions (out of eighty-nine) were paying them on time.<sup>33</sup> In 1999, the Duma again passed a resolution criticizing arrears in child benefits, salaries and pensions, arguing that the delays were affecting the majority of the Russian population and causing health problems.<sup>34</sup> In 2000, the Duma again appealed, calling the arrears a “crisis situation.”<sup>35</sup>

The government claimed in 2003 that funding improvements had ended current child benefit arrears in 2001, but that there were still unpaid arrears from the past.<sup>36</sup> In 2004, the Russian government’s finance minister admitted that arrears in child benefit payments still existed in some areas, but considered this to be a problem for which regional governments were responsible.<sup>37</sup> In 2003, the Constitutional Court rejected a case that alleged that low child welfare benefits violated citizens’ constitutional rights, arguing that the state was not obliged to commit to specific social welfare expenditures.<sup>38</sup> Also, in 2004 the social benefits monetization reform put paying child benefits, and determining their size, completely into the hands of the regions (although with federal funds directed for this purpose).<sup>39</sup>

Concerns about the country’s declining population rate led to an increasing concern with protecting children in order to promote a secure and healthy adult population in the future. By the end of the 1990s, something changed in the discourse: political actors began to call for improvements in the child welfare situation not just in order to improve

<sup>30</sup> For example remarks of Oksana Dmitrieva, Minister of Labour and Social Development, to Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 180, 5 June 1998, p. 48.

<sup>31</sup> Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 137, 3 December 1997, pp. 18-22.

<sup>32</sup> Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 192, 15 July 1998, pp. 57-62.

<sup>33</sup> M. M. Zadornov, Minister of Finance, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 238, 12 February 1999, pp. 37-9.

<sup>34</sup> Postanovlenie Gosudarstvennoi Dumy Federal’nogo Sobraniia Rossiiskoi Federatsii, “Ob okazanii sotsial’noi pomoshchi detiam, pensioneram i maloimushchim grazhdanam,” *Vedomosti Federal’nogo Sobraniia Rossiiskoi Federatsii*, no. 10, 1 April 1999, p. 55.

<sup>35</sup> Obrashchenie Gosudarstvennoi Dumy Federal’nogo Sobraniia Rossiiskoi Federatsii, “K Prededateliu Pravitel’stva Rossiiskoi Federatsii M.M. Kas’ianovu ob izmenenii istochnikov finansirovaniia sviazannykh s realizatsiei federal’nogo zakona ‘o gosudarstvennykh posobiiakh grazhdanam, imeiushchim detei,’ Federal’nogo zakona “O sotsial’noi zashchite invalidov v Rossiiskoi Federatsii,” Federal’nogo zakon “O veteranakh.” *Vedomosti Federal’nogo Sobraniia Rossiiskoi Federatsii*, no. 19, 1 July 2000, pp. 64-6.

<sup>36</sup> A.P. Pochinok, Minister of Labour and Social Development, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 257, 8 October 2003, p. 24.

<sup>37</sup> A. L. Kudrin, remarks to State Duma, *Stenogramma zasedanii*, b. 39, 2 July 2004, <http://wbase.duma.gov.ru/steno>, accessed 8 February 2006.

<sup>38</sup> “Opredelenie Konstitutsionnogo Suda Rossiiskoi Federatsii,” no. 382-O, 2 October 2003, on-line at <http://www.ksrf.ru:8081>, accessed May 9, 2006.

<sup>39</sup> Zakon “O vnesenii izmenenii v zakonodatel’nye akty Rossiiskoi Federatsii I priznanii utravshimi sily nekotorykh zakonodatel’nykh aktov RF v sviazi s priatiem federal’nykh zakonov ‘o vnesenii izmenenii I dopolenii v federal’nykh zakon ‘ob obshchikh printsipakh organizatsii zakonodatel’nykh (predstavitel’nykh) i ispolnitel’nykh organov gosudarstvennoi vlasti sub’ektov RF i ‘ob obshchikh printsipakh organizatsii mestnogo samoupravleniia v RF.” *Rossiiskaia gazeta*, 31 August 2004, p. 9.

conditions for the children of today, but as a way of encouraging the country's flagging birthrate.<sup>40</sup> This began as an essentially nationalist discourse in the Duma, but under Putin's presidency the government embraced the notion that federal funding to alleviate conditions for children could also be a key part of an initiative to encourage people to have more children.<sup>41</sup> At the same time, political discourse showed an increasing preoccupation with two related issues involving children in the post-communist transition: the escalating numbers of homeless and orphaned children, and concerns over the regulation of adoptions.

**Adoptions.** In 1993, Russia signed the Hague Convention on Inter-Country Adoption, which provided a common set of standards for countries in cases where citizens of one nationality adopted children from another. The Convention established that adoption should proceed in the child's best interest, that it was desirable for a child to stay within his own country, that adoption should be a purely non-profit activity managed by professionals, and that states should cooperate to ensure that adoptions were resolved quickly.<sup>42</sup>

By 1994, the Duma had already voiced reservations about international adoptions of Russian children, and attempted to pass a law banning the involvement of "middleman" organizations serving as a liaison between foreign adoptors and Russian authorities. President Yeltsin vetoed the bill, on the grounds that it made insufficient distinctions between unscrupulous activity and legitimate non-profit or charitable NGOs that might facilitate adoptions for foreigners, and proposed a system of state licensing instead.<sup>43</sup> The Duma attempted (unsuccessfully) to overturn the veto, and in the process demonstrated a debate that continues in Russian political discourse to this day: whether international adoption agencies promote "trade in children" that turn children into saleable commodities, or whether international adoption serves to find families for Russian children who would otherwise find no permanent homes in their own country.<sup>44</sup> A compromise law reached in 1995 established the principle that Russian children should be adopted by foreigners only as a last resort, and that the adoptors had to sign adoption papers directly and accompany the child out of Russia. Meanwhile, the law obliged state adoption authorities to register an orphaned child for six months as being available for adoption within Russia before an international adoption could proceed. Finally, the law established "trade in children" as an offence under the criminal code and established administrative penalties for officials who violated laws with respect to adoption.<sup>45</sup> It is telling that the Duma considered the matter of adoption to be so urgent that they didn't

<sup>40</sup> For example, A.N. Greshnevikov, in criticizing means-testing of child welfare benefits, in Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 273, 18 June 1999, p. 15.

<sup>41</sup> For example, report of Olga Viktorovna Sharapova, Deputy Minister of Health, to State Duma, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 230, 2 April 2003, pp. 16-19.

<sup>42</sup> Hague Conference on Private International Law, Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, 29 May 1993, [http://hcch.evision.nl/index\\_en.php?act=conventionstext&cid=69](http://hcch.evision.nl/index_en.php?act=conventionstext&cid=69), accessed 18 August 2006.

<sup>43</sup> A. M. Yakovlev, Representative of Russian Federation President to the Federal Assembly, in Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 81, 20 January 1995, pp. 16-17.

<sup>44</sup> See remarks, respectively of Tamara I. Leta and B.A. Denisenko in Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 81, 20 January 1995, pp. 18-19.

<sup>45</sup> Russian Federation Law "O vnesenii izmenenii i dopolnenii v kodeks o brake i sem'e RSFSR, Ugolovnyi Kodeks RSFSR, Ugolovno-Protsessual'nyi Kodeks RSFSR, Kodeks RSFSR ob administrativnykh pravonarusheniakh." 7 March 1995, *Rossiiskaia gazeta*, 15 March 1995, p. 16.

wait until the passage of the new Family Code. However, it is also revealing that given their concern over possible abuses of the adoption process, they continued to leave adoptions in the hands of the regional governments and the courts, and the new Family Code left the powers of local adoption authorities (*organy opeki i popechitel'stva*, hereafter *OOP*) subject to local government, vaguely defined with few checks and balances.<sup>46</sup>

Three years later, the Duma again debated proposed amendments on adoption, that were aimed in part at limiting the involvement of third parties in foreign adoptions and to regulate foreign adoptions. Said A.P. Aparina, a child should have a legal right to be adopted "at home in his Motherland." She claimed that current law put Russians at a disadvantage relative to foreigners, and also argued, rather unrealistically, that Russia should have better methods for protecting adopted Russian children once they were abroad, including giving them Russian citizenship until they reached adulthood.<sup>47</sup> Human rights advocate Galina Starovoitova responded that too many obstacles to foreign adoptions would deprive Russian children of the homes that they needed, while restricting the involvement of NGOs would weaken the role of professional expertise in adoptions.<sup>48</sup>

The law was passed, and required the federal government to register children available for adoption in a national database, stated a preference for relatives in adoptions, and put further limitations on the role of third parties. The law declared parents ineligible to adopt if they lacked adequate or permanent housing, or had a criminal conviction.<sup>49</sup> A law passed at the same time again imposed new penalties for officials who violated adoption procedures.<sup>50</sup> Another amendment was passed in 2004, with the head of the Duma committee on women, family and youth arguing that the law needed to be reworked so that Russians were not at a disadvantage relative to foreigners because of their housing conditions.<sup>51</sup> The amendment changed the wording of the law with respect to excluding prospective adoptors on the basis of their housing conditions.<sup>52</sup>

Recently, a Duma appeal again criticized the government for international adoptions, charging that the government was not doing enough to encourage domestic adoptions.<sup>53</sup> Similarly, there was a continued effort to increase sanctions and penalties for trafficking in children – a concept which was not always clearly distinguished from international adoption. The Criminal Code of 1996 included punishments for buying and selling of

<sup>46</sup> "Semeinyi Kodeks Rossiiskoi Federatsii," *Rossiiskaia gazeta*, 27 January 1996, pp. 121-123.

<sup>47</sup> A. V. Aparina, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 174, 13 May 1998, p. 52.

<sup>48</sup> G.V. Starovoitova, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 174, 13 May 1998, p. 54.

<sup>49</sup> Law "O vnesenii izmenenii i dopolnenii v Semeinyi Kodeks Rossiiskoi Federatsii," *Vedomosti Federal'nogo Sobraniia Rossiiskoi Federatsii*, no. 19, 1 July 1998, pp. 59-60.

<sup>50</sup> Law "O vnesenii izmenenii v Kodeks RFSFR ob administrativnykh pravonarusheniakh," *Vedomosti Federal'nogo Sobraniia Rossiiskoi Federatsii*, no. 19, 1 July 1998, pp. 928-9.

<sup>51</sup> T.A. Fral'tsova, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 339, 2 July 2004, <http://wbase.duma.gov.ru/steno>, accessed 2 August 2006.

<sup>52</sup> Law "O vnesenii izmenenii v Semeinyi Kodeks Rossiiskoi Federatsii," 28 December 2004, *Rossiiskaia gazeta*, 30 December 2004, p. 18.

<sup>53</sup> "Obrashchenie Gosudarstvennoi Dumy k Predsedatel'stva M. E. Fradkova o sootvetstvii zakonodatel'nym aktam Rossiiskoi Federatsii postanovleniia Pravitel'stva Rossiiskoi Federatsii ot 4 noiabria 1996 goda n. 654 'o deiatel'nosti organov o organizatsii inostrannykh gosudarstv po usynovleniiu detei na territorii RF," *Parlamentskaia gazeta*, 28 November 2006, [http://www.pnp.ru/documents/obrashcheniegd/obrascheniegd\\_15html?template=25](http://www.pnp.ru/documents/obrashcheniegd/obrascheniegd_15html?template=25), accessed 23 April 2007.

children.<sup>54</sup> Amendments of 2003 included new categories of crime for “trade in people” across an international border or for transporting people across a border for purposes of prostitution.<sup>55</sup>

Concerns over adoption and potential sexual exploitation of children were related to a deeper root cause: the increase in children lacking adequate adult protection. By 2002, the government stated that there were 700,000 (and possibly more) children in Russia who were either orphaned or lacking parental care, and 300,000 homeless children.<sup>56</sup> As early as 1996, a law established in-kind benefits for children lacking parental care, and incentives for enterprises to hire them.<sup>57</sup> Later in the decade, it was acknowledged that there were significant increases in youth crime, as well as in juvenile alcoholism and drug addiction, and the Russian Deputy Procurator acknowledged that “family poverty,” rather than parental behaviour, had become a significant underlying cause of juvenile crime. He cited the inadequacy of orphanage facilities relative to the scope of unsupervised, indigent and parentless children, and lamented the decline of recreational opportunities for children in general.<sup>58</sup> Therefore, alleviating youth poverty and homelessness was a matter of public safety as well as social justice. In 1999, a new law affirmed that preventing youth crime and dealing with under-supervised youth was to be a social policy responsibility before a law-enforcement matter. It established local youth commissions to defend the rights of minors, and outlined the network of social institutions, from schools to clinics to adoption authorities, that would be responsible for youth. The law however was vague on who exactly was responsible for what, how the actors would be coordinated, which tasks specifically they would carry out in order to advance the interests of youth, and how these goals would be funded.<sup>59</sup>

Demographic trends, including a low birthrate and a high death rate of working age males, became a source of concern within Russia as data has become available.<sup>60</sup> Increasingly, the plight of children was discursively linked to Russia’s population crisis. In a report to the Duma on homeless and orphaned children, the Russian General Procurator V. V. Ustinov asserted “If we judge the spiritual and physical health of a nation by its youth, then it would not be a great exaggeration to say: the health of our

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<sup>54</sup> Article 152. “Ugolovnyi Kodeks Rossiiskoi Federatsii,” *Vedomosti Federal’nogo Sobraniia Rossiiskoi Federatsii*, no. 18, 21 June 1996, p. 1607.

<sup>55</sup> Russian Federation Law, “O vnesenii izmenenii i dopolnenii v Ugolovnyi Kodeks Rossiiskoi Federatsii,” 8 December 2003, *Vedomosti Federal’nogo Sobraniia Rossiiskoi Federatsii*, no. 35, 11 December 2003, pp. 34-85.

<sup>56</sup> V.V. Ustinov, Russian Federation General Procurator, Report to State Duma, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 150, 20 February 2002, p. 16.

<sup>57</sup> Russian Federation law, “O dopol’nitel’nykh garantiakh po sotsial’noi zashchite detei-sirot i detei, ostavshikhsia bez popecheniia roditel’ei,” 21 December 1996, *Vedomosti Federal’nogo Sobraniia Rossiiskoi Federatsii*, no. 36, 31 December 1996, p. 2939.

<sup>58</sup> V.I. Davydov, Deputy Russian Federation General Procurator, report to State Duma. Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 162, 13 March 1998, pp. 42-4.

<sup>59</sup> Russian Federation law “Ob osnovakh sistemy profilaktiki beznadzornosti i pravonarushenii nesovershennoletnykh,” 24 June 1999, *Vedomosti Federal’nogo Sobraniia Rossiiskoi Federatsii*, no. 20, 11 July 1999, pp. 16-42.

<sup>60</sup> See Michele Rivkin-Fish, *Women’s Health in Post-Soviet Russia: the Politics of Intervention*, Bloomington, IN: Indiana University Press, 2005; Nicholas Eberstadt, “Russia’s Demographic Straitjacket,” *SAIS Review*, vol. XXIV, no. 2, summer-fall 2004, pp. 9-25; Timothy Heleniak, “The 2002 Census in Russia: Preliminary Results,” *Eurasian Geography and Economics*, vol. 44, no. 6, pp. 430-42.

nation is in danger.”<sup>61</sup> Ustinov cited the ineffectiveness of local commissions on youth matters, inadequate monitoring of truancy, a lack of job opportunities for teenagers, and insufficient access to addiction treatments as contributing factors to the problems with children and youth.<sup>62</sup> The government became concerned that unsupervised and homeless youth were becoming criminalized by a strict juvenile justice system.<sup>63</sup> In 2002, a law was passed softening penalties for juvenile offenders, improving their legal rights in detention, and calling for greater access to education for juvenile offenders.<sup>64</sup>

There can be no doubt that attention to the problem of children resulted in part from incidents of media attention. For example, two tragic fires in orphanages in the spring of 2003 resulted in loss of life and called attention to the inadequate infrastructure of children’s homes.<sup>65</sup> Problems with international adoptions, such as the Irma Pavlis case in 2003, served to highlight public fears, influenced by nationalist discourses, that foreigners’ interest in adoption was predatory.<sup>66</sup>

There were various declaratory efforts to improve the status of children. A law was passed requiring an annual government report to the parliament on the status of children.<sup>67</sup> Programmatically this law recognized the state commitment to protecting the rights of children, including protecting them from “harmful” influences. In May 2006, a federal state committee on children’s affairs was established.<sup>68</sup> Policies were adopted to encourage domestic adoptions and to provide more benefits to parents. But a Duma deputy, from the women’s committee, claimed that nothing had changed, that children’s programs were funded only with whatever was leftover in the budget, and the status of the *bezprizornye* (homeless or neglected children) had not improved.<sup>69</sup>

### Underlying Causes of Child Welfare Policy Problems

A lack of effective reform makes declared efforts to help children more rhetorical than substantial. Laws and standards regarding care of children are weak, giving regions and local institutions variable and vaguely defined powers. Furthermore, regional/local control over children’s issues makes for a lack of universality and weak federal monitoring. For example, a law on registering vital statistics at registry offices (known as ZAGS) provided extensive detail on the processes to be used for registering births, deaths, marriages and adoptions; however, there was little provided on the oversight and

<sup>61</sup> Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 150, 20 February 2002, p. 16.

<sup>62</sup> Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 150, 20 February 2002, pp. 16-18.

<sup>63</sup> A.A. Kotenkov, remarks to Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 202, 20 November 2002, pp. 42-3.

<sup>64</sup> Russian Federation Law no. 111, “O vnesenii izmenenii i dopolnenii v federal’nyi zakon “ob osnovakh sistemy profilaktiki beznadzornosti i pravonarushenii nesovershennoletnykh i drugie zakonodatel’nye akty Rossiiskoi Federatsii.” 7 July 2003. “Zakon” database, Russian Federation State Duma website, <http://ntc.duma.gov.ru>, accessed 15 May 2007.

<sup>65</sup> See debate in Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 240, 14 May 2003, 17-27.

<sup>66</sup> Fred Weir, “Adoptions from Russia face a chill,” *Christian Science Monitor*, 23 June 2005, p. 1.

<sup>67</sup> Federal law, “Ob osnovnykh garantiakh prav rebenka v Rossiiskoi Federatsii.” *Vedomosti Federal’nogo Sobraniia Rossiiskoi Federatsii*, no. 24, 21 August 1998, pp. 27-40.

<sup>68</sup> Rashid Gumarovich Nurgaliev, Russian Federation Minister of Internal Affairs, *Stenogramma zasedanii*, b. 164, 17 May 2006, <http://wbase.duma.gov.ru/steno/nph-sdb.exe>, accessed 2 August 2006.

<sup>69</sup> N.A. Ostanina, *Stenogramma zasedanii*, b. 164, 17 May 2006, <http://wbase.duma.gov.ru/steno/nph-sdb.exe>, accessed 2 August 2006.

accountability of ZAGS offices, which were under the authority of regional governments.<sup>70</sup> There is also a persistent problem of insufficient funding and resources. For example, a 2006 law gave regional governments the right to set their own rates for paying support for children in foster care, which, as one deputy pointed out, would defy attempts to establish a common minimal standard.<sup>71</sup>

Another problem relates to policy contradictions. For example, the desire to protect children's rights in family law seems at odds with recent Housing Code reforms in Russia, which have provoked controversy because of the lack of protection that children of divorce have for housing, if a non-custodial parent is the legal owner of the family residence. One article published in the popular media cited the case of a mother of three who was evicted, along with her children, by a local court when her ex-husband sold their apartment.<sup>72</sup> An attempt by the Duma to amend the Code, to allow former spouses and children the right to stay in housing owned by the other spouse after divorce, failed in early 2007.<sup>73</sup>

A third problem is the tendency to scapegoat or punish problems after they have occurred rather than to prevent them, for example, by promoting child health, secure living conditions and education. This theme came out in the discussions of juvenile crime and in changes to the criminal code. Furthermore, there is a failure to articulate goals and tailor them accordingly. One example is the parliamentary debate in 2002 on defining the age of consent. Here, the Duma showed clearly conflicting ideas about how to define a child and what kinds of policies protect them. A draft law that would permit local governments to allow marriages as young as age fourteen, as exceptions to the general minimum marriage age of eighteen, failed when it was rejected by the Upper House of parliament.<sup>74</sup> The Duma formally abandoned the law following criticism that it was an attempt to lower the age for marriage.<sup>75</sup> In fairness, those who initiated the law argued that the draft was intended to establish a minimum age for marriage rather than to encourage teenage marriages.<sup>76</sup> (However, another Duma deputy argued in apparent seriousness that lowering the marriage age would be a good way to alleviate unplanned teenage pregnancies; another argued that the measure could increase the birthrate).<sup>77</sup> Nonetheless the draft law seemed somewhat inconsistent with other Duma efforts to

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<sup>70</sup> Russian Federation federal law, "Ob aktakh grazhdanskogo sostoianiiia," *Vedomosti Federal'nogo Sobraniia Rossiiskoi Federatsii*, no. 34, 1 December 1997, pp. 2633-2661.

<sup>71</sup> Russian Federation law no. 71-FZ, "O vnesenii izmeneniia v stat'iu 155 Semeinogo Kodeksa Rossiiskoi Federatsii," 3 June 2006, in "Zakon" database, <http://ntc.duma.gov.ru/bpa>, May 16, 2007.

<sup>72</sup> Elena Vasil'kova, "V Bomzhi po vole deputatov," *Rabotnitsa*, February 2007, pp. 10-11.

<sup>73</sup> Gosudarstvennaia Duma, *Stenogramma zasedanii*, no. 210, 9 February 2007, <http://wbase.duma.gov.ru/steno/nph-sdb.exe>, accessed 30 March 2007.

<sup>74</sup> Draft law no. 191278-3, "O vnesenii izmeneniia i dopolneniia v stat'iu 13 Semeinogo Kodeksa Rossiiskoi Federatsii," 10 December 2002, <http://www.duma.gov.ru>, click on "Zakonoproekty," accessed 11 September 2006; and "Postanovlenie Soveta Federatsii Federal'nogo Sobraniia Rossiiskoi Federatsii o vnesenii izmeneniia i dopolneniia v stat'iu 13 Semeinogo Kodeksa Rossiiskoi Federatsii," *Sobranie zakonov Rossiiskoi Federatsii*, no. 46, 18 November 2002, p. 10751.

<sup>75</sup> Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 32, 4 June 2004, <http://wbase.duma.gov.ru/steno>, accessed 3 August 2006.

<sup>76</sup> S. P. Goriacheva, remarks introducing the draft law in State Duma, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 181, 27 June 2002, pp. 23-5.

<sup>77</sup> Respectively, A. Iu. Vul'f and A.V. Mitrofanov, in State Duma, Gosudarstvennaia Duma, *Stenogramma zasedanii*, b. 194, 23 October 2002, p. 29.

protect children, in particular the successful effort in 2003 to raise the age of consent from age fourteen to sixteen in the Criminal Code.<sup>78</sup>

## Conclusion

It may be that social welfare reform is particularly vulnerable to policy failure, insofar as it affects so many people, and that diverse stakeholders (for example business elites versus pensioners) may have very different assumptions and values about what reform should involve.<sup>79</sup> In Russia, social welfare reform is a work in progress, so it may be hasty to evaluate it definitively. Social welfare reform has been one of the major initiatives of Putin's second term as president. Major reform projects are underway and are expected over the next two years. Nonetheless, it is telling that reform did not occur sooner, given the socioeconomic upheavals of the post-communist transition. The first major social welfare reform, of the pension system, occurred in 2001 – ten years after the collapse of the Soviet Union.<sup>80</sup> In my opinion, waiting until the second decade of transition is itself a policy failure.

In the past decade Russian political actors have developed a discourse where they often contextualize their positions within a framework of criticism of the reform policies of the 1990s, which they assume led to adverse social consequences. It is telling that at the same time, actors are promoting social policies that depart from the relatively liberal values of the 1990s, and more oriented towards the "national interest." This discourse presumes that the state, rather than civil society or the economy, bears responsibility for the social problems of the transition. While it is indisputable that Russia has seen immense social hardships since the collapse of communism, it is debatable that state policies themselves bear the main responsibility for this state of affairs. The discourse, then, tends to present a lack of vigorous state intervention as being equivalent to a failure of policy.

So policy debate demonstrates the renewed ascendancy of statist values in the political arena, whereas the 1990s showed a greater faith in the role of the family and the economy in guaranteeing social well-being. But policy change then points the finger at the wrong culprit: rather than improving the mechanics of governance, instead, Russian politicians find fault with liberal values and with international influences. When there is a sustained commitment to making children a priority, and when there is an improvement in establishing what O'Donnell calls "horizontal accountability"<sup>81</sup> – only then can we expect policy success.

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<sup>78</sup> Russian Federation federal law no. 162 FZ, "O vnesenii izmenenii i dopolnenii v Ugolovnyi Kodeks RF," 8 December 2003, *Vedomosti Federal'nogo Sobraniia Rossiiskoi Federatsii*, no. 35, 11 December 2003, pp. 34-85.

<sup>79</sup> See for example Paul Pierson, *Dismantling the Welfare State? Reagan, Thatcher and the Politics of Retrenchment*. Cambridge, UK: Cambridge University Press, 1994.

<sup>80</sup> Andrea Chandler, *Shocking Mother Russia: Democratization, Social Rights, and Pension Reform in Russia, 1990-2001*. Toronto: University of Toronto Press, 2004.

<sup>81</sup> Guillermo O'Donnell, "Horizontal Accountability in the New Democracies," *Journal of Democracy*, vol. 9, no. 3, July 1998, pp. 112-26.