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## Social Welfare or Moral Warfare?

### Popular Resistance against Children's Rights and Juvenile Justice in Contemporary Russia

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*Published in:*

International Journal of Children's Rights

*DOI:*

[10.1163/15718182-02404007](https://doi.org/10.1163/15718182-02404007)

2016

*Document Version:*

Early version, also known as pre-print

[Link to publication](#)

*Citation for published version (APA):*

Höjdestrand, T. (2016). Social Welfare or Moral Warfare? Popular Resistance against Children's Rights and Juvenile Justice in Contemporary Russia . *International Journal of Children's Rights*, 24(4), 826-850.  
<https://doi.org/10.1163/15718182-02404007>

*Total number of authors:*

1

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## **Social Welfare or Moral Warfare?**

### **Popular Resistance against Children's Rights and Juvenile Justice in Contemporary Russia**

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#### **Abstract:**

Since the mid-2000s, Russia has increased its efforts to strengthen the legal rights of children and to improve the systems of social assistance to vulnerable families in line with the UN Convention of the Rights of the Child. The reform drive has met fierce resistance by a grassroots mobilization in defence of 'traditional Russian family values'. Child rights are conceived of as weapons in a Western moral war against Russia, but simultaneously, the popular appeal of the campaign stems from a profound distrust in Russian state administrators, who purportedly use the CRC for personal gain. This paper suggests that this disbelief makes the protesters locate notions of citizenship primarily to the intimate social sphere, prioritizing 'parental rights' rather than 'civil rights' defined by the state-citizen relationship. It is also suggested that the confidence of citizens in their own state administration must be considered if the Convention is to be successfully implemented.

Keywords: Child rights, UNCRC, social policy, juvenile justice, corporal punishment, nationalism, Russia

**Pre-peer-reviewed version as originally submitted to publisher.**

**The final version is forthcoming in International Journal of Children's Rights, Volume 24, Issue 4 (December), 2016.**

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## ***Introduction***

During the past decade in Russia, the UN Convention of the Rights of the Child (CRC) has been the subject of a fierce public debate. Along with the proliferation of anti-Western sentiments at all levels of society, the notion of child rights has been transformed into a symbolic watershed between Russian ‘tradition and Western ‘degeneration’ of a rhetoric dignity comparable only to ‘homosexuality’. More specifically, the protests are targeted at ‘Juvenile Justice’, a popular but, as I will return to, inaccurate term for an ongoing state effort to improve the legal protection of children and the public systems of social assistance. The reform drive is an attempt to fulfil longstanding commitments to the Convention, but it is also permeated by profound budget concerns. It is fiercely resisted by a nationwide conservative grassroots movement of ultranationalist ‘concerned parents’ who in the past five-six years have received increasing support by mainstream mass media and established political actors.

As many reservations and objections to the CRC in other countries, the Russian protest campaign rejects the notion of children’s right to participation and, more generally, of them having separate rights from those of their parents and families in the first place. Nonetheless, the core issues of this debate are rather the right to protection and provision; the nature of rights in the first place; and, in particular, the role of the state as their ultimate guarantor. In other words: What exactly should children be provided with and protected from; how and by whom should this right be realized; and which are the implications of different types of rights for the relationship between children and parents on the one hand, and between the state and its subjects on the other?

This study investigates, firstly, the prevalent objections against the purportedly Western or liberal notion of child rights and the protesters’ own conceptions of what rights and duties of children and parents should imply. Secondly, I set these discourses against

the background of two pertinent tendencies in the current Russian political climate: radical anti-Westernism and neoliberal downsizing of the public sector. Hence my focus is not the legal dimension of the Convention or theoretical debates about its universal applicability (cf. Douglas & Sebba, 1998) inasmuch as the practical challenges posed to it by local moralities and social conditions. A similar perspective is taken by a number of studies questioning the applicability of the CRC in societies where the authority of elders and mutual family obligations are highly valued or, even, crucial for survival (Brown, 2001; Appell, 2004; Burr, 2006; Montgomery, 2010). In Russia, however, the challenge is not ubiquitous poverty or unanimously supported value systems (as the anti-CRC opposition would have it) inasmuch as the relationship between the state and its subjects and a politicization of the family as an institution. A more relevant comparison is therefore the American debate against or for a US ratification of the CRC (Hafen & Hafen, 1996 and Kilbourne, 1996 respectively), also because the Russian opposition appears to be influenced by many arguments of the former.

My main focus as an anthropologist is not the Russian laws bills per se, but the hermeneutics of the public debates that they generate and my primary sources are thus media archives (Integrum in particular) and a plethora of Internet forums dedicated to the struggle against Juvenile Justice (just like most of its contemporaries, this mobilization largely takes place at the Internet). In 2012, at an early stage of this project, I conducted semi-structured deep interviews with a dozen activists, four NGO-based social workers, and four professional advocates of human and child rights in Saint Petersburg and Moscow. They remain anonymous here, since I understood then that the topic of Juvenile Justice is enough charged (although not politically dangerous in a straight sense) to make certain statements, or just the mere contact with a foreign researcher, a liability among fellow activists, workmates, or close ones.

***Problems to be dealt with: social assistance, orphanages, violence***

Since Russia's ratification of the Convention in 1990, the CRC Commission and Russian child right advocates have repeatedly called attention to the insufficient social support system and a burgeoning sector of institutions for residential care of children. Other recurring concerns are the prevalence of violence against children and inadequate treatment of juvenile offenders and crime victims. Russia has also repeatedly been urged to improve its efforts to disseminate information about the Convention and to involve the civic sector in its implementation.

The current reform drive primarily concerns the system of social assistance to vulnerable children and families. Based on the Soviet logic of fixed subsidies to predefined categories (disabled people, single mothers, etc.), it lacks coherent structures for preventive and case-managed support. The child protective services<sup>1</sup> are authorized to intervene only when a child's life and health is at risk, and institutionalization is often the only available support. These 'social orphans' tend to remain in state care since nobody helps their parents to solve their problems and, in addition, due to a proneness of the institutions to label the children with inadequate diagnoses. It is difficult for parents to appeal, should they wish to, since the child protective services in themselves constitute a closed quasi-court system of sorts, more or less immune to public monitoring (Schmidt, 2009).

Since the 1990s, repeated official statements have called for a dismantling of the orphanage system, and a number of laws have been taken to grant socially vulnerable families and children the right to protection by the state (UN Doc. 2004; 2012). Federal

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<sup>1</sup> This term is a simplification since at least three state agencies are responsible for institutional care of minors; the Tutorship and Guardianship Agency (*Organy opyeki i popechitel'stvo*, which is most relevant in this text), the Commission of Children's Affairs, and the Psychological-Medic-Pedagogical Commission (c.f. Schmidt, 2009 for a further explication).

legislation is, however, a relatively insignificant factor in the *de facto* implementation of the Convention in comparison to regulations and routines at local and regional levels. ‘A federal law just says *what* has to be done’, I was told by an experienced human rights lawyer, ‘but to regulate *how* it is to be implemented, more laws are needed, especially local bylaws and decrees. So federal bills don’t say much really; all successful reforms were initiated regionally.’

Therefore, federal bills often stop short at being merely declarative, or may even (as I will return to) conflict with local initiatives, as all these different regulation often contradict or paralyse each other. The administrative system is in itself a hurdle with a variety of agencies at different administrative and regional levels being responsible for similar issues, all with their own regulations and local acts (cf. Schmidt, 2009). Moreover, the differences between regions are vast with regard to routines and resource provision, so improved administrative and regional coordination is a recurrent recommendation to Russia by the CRC Commission (UN Doc. 2005, 2014). An additional complication is corruption, since ‘the Russian Orphan Industry Corporation’ (*Rossirotprom*), in the ironic words of child right advocate Boris Altshuler, provides infinite options to transfer state funds into private pockets (Tsvetkova, 2013; Kravchuk, 2009).

The impotence of federal law notwithstanding, an abundance of local projects has over the years engaged in advocacy, preventive social work, and fosterage systems providing education and supportive counselling to prospective parents. The initiators are usually civic organizations who frequently cooperate with local authorities and international aid agencies. In some 40 regions, such joint ventures thus managed to significantly reduce the orphanage population between the late 1990s and 2008, when – ironically – a federal law restricted the administration of guardianship to federal

authorities, thus depriving local officials, orphanage managers, and NGOs of the authority to carry out their own projects (Tsvetkova, 2013).<sup>2</sup>

‘Juvenile Justice’ was originally an umbrella term for a number of such regional joint projects that targeted specifically at youth criminality. From the late 1990s onward, they developed new structures and routines for criminal proceedings, prevention, and rehabilitation. A couple of regions introduced youth courts, while others tried out forms of preventive counselling, awareness-raising programs on child rights, youth-friendly health clinics, community centres and helplines, and so forth (cf. Hakvåg, 2009; CIDA, 2009; Komarnitsky, 2012). An additional ambition was to integrate and streamline the plethora of state agencies dealing with youth at risk, and to establish legally the *de facto* cooperation between state agencies and civic organizations. A law package was prepared by the turn of the millennium to realize these objectives, but after two readings in the Duma (a law is finally taken after three readings) and many years of perpetual adjustments, it was finally turned down in 2010. Among other things, the bill proposed a federal structure of youth courts, but separate court systems are incompatible with the Constitution (which has not prevented the aforementioned regional youth courts to survive up to this day).

Since the mid-2000s, the federal government has increased its efforts to improve the lot of socially vulnerable families and children. Besides an improved fiscal situation after the chaotic 1990s, the escalating official focus on patriotism and national reassertion makes family and children a top priority of state policy. Year 2007 was declared Year of the Child and 2008 Year of the Family, and in the same period broad national strategies

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<sup>2</sup> Federal law No. 48, ‘On Tutorship and Guardianship’, established the routines of the child protective services and expanded their authority in order to prevent profiting by unserious actors. Later, many such foster systems managed to re-establish themselves, although I lack information about the concomitant legal turns.

were launched on family, youth, and education. Some reforms are strictly pronatalist and ‘traditionalist’, such as a plethora of financial incitements to increase Russia’s indeed weak birth rates (Rivkin-Fish, 2010) and a series of measures ostensibly protecting the morals of young people, but others are targeted straight at the systems of social assistance and child protection. In his annual address to the Parliament in May 2006, President Putin gave particular attention to the need of improved public support to socially vulnerable children and families, and announced intensified efforts to reduce the number of children in state care. In 2008, a new long-term strategy for social and economic development envisioned a modernization ‘according to international standards’ of the systems of social assistance to be completed by 2020.<sup>3</sup> The same year, a federal Foundation for the Support of Children in a Difficult Life Situation was established and a year later a Federal Child Rights Commissioner’s office (regionally, it has existed since 1998), and in the successive years a series of comprehensive legal initiatives were introduced. I will return to some of them in subsequent sections since they are of particular significance to the popular resistance against child rights and Juvenile Justice.

### ***The campaign against Juvenile Justice***

The Parents’ Movement, as activists often refer to themselves, dates back to the late 1990s, when a radically anti-Western ‘moralist’ media crusade against sexual education was initiated by conservative Orthodox laymen and clerics. Gradually, grassroots all over the country followed suit by setting up local groups in the defence of ‘traditional family

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<sup>3</sup> Concept for the Long-Term Social and Economic Development of the Russian Federation until year 2020, No. 1662-r, 17 November 2008, <http://base.garant.ru/194365/> (accessed 2016-04-28).



values', and in 2010 they were numerous enough to refer to themselves as social movement (cf. Højdestrand 2017).<sup>4</sup>

A significant catalyst for this expansion was a shift in priorities in the mid-2000s to child rights and Juvenile Justice. Haksvåg suggests that a misunderstanding of the nature and aim of youth courts may have underpinned the protests (2009:82), but the truth is rather that the terminology notwithstanding, youth crime prevention has never been of much interest to the protesters (be it that they, as advocates of tough-measures everywhere, reject any mitigation of repressive sanctions, cf. Nemnonov, 2010). Instead, the term *yuvnal'naia yustitsiia*, its nickname 'YuYu' and the adjective 'juvenile' (combined with 'technologies,' 'authorities,' 'mafia,' and so forth) serve as a convenient all-purpose category for a variety of supposedly Western-originated policies, practices, people, and sociocultural trends that are expected to erode parental authority over children and/or infringe on the integrity of the family vis-à-vis the state. Most 'juvenile threats' are constituted by law bills, but in a broader sense the category is applied also to outsourcing of social services and education, as neoliberal reform is assumed to aggravate service provision to the benefit of ideologically suspect non-state actors. Sex education, feminism, gay parades, and other manifestations of 'moral liberalism' are referred to as 'juvenile' because of their purported capacity to pervert the minds of young people and undermine parental authority and Russian 'tradition'.

The inclusion of Juvenile Justice into the agenda was triggered by a number of public awareness campaigns at the time about the social and legal vulnerability of battered and

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<sup>4</sup> The Parents' Movement has largely escaped academic attention, besides Sherstneva's (2014) analysis of its nationalist discourse and brief references by Haksvåg (2009) and Schmidt & Shchurko (2014) in the contexts of policy on youth criminality and child protection respectively. Elsewhere, I have elaborated substantially on its characteristics as a social movement (Højdestrand 2014; 2017).

socially disadvantaged children (Riabichenko 2010). Moreover, some well-known child right advocates were already under close conservative scrutiny due to their involvement in Western-funded projects on family planning and HIV-prevention. The new emphasis on Juvenile Justice and child rights was interpreted as a continuation of the prevailing ‘demographic warfare’ with an attack straight at the family as an institution. The core of the purported ‘juvenile lobby’ was thus defined prior to Juvenile Justice itself, and is now supplemented with allegedly liberal legal experts, social scientists, politicians, and state administrators – or, in short, with most key actors engaged in the articulation and implementation of social policy. There is, one should add, a grain of truth in the conservative labelling of these people as ‘Western agents’. Most experienced professionals and activists within this field have at some point, in the absence of other options, sought for foreign cooperation, knowhow, and funding, and their policies and programs are usually inspired by Western models – if nothing else, for lack of alternatives. Public social protection is a facet of the modern welfare state, and the only developed non-Western variant – the Soviet Union – now belongs to a world long lost.

The anti-YuYu campaign was initiated by ultranationalists within the most conservative sectors of the Russian Orthodox Church, not – as Russian critics tend to assume – by the apex of the increasingly reactionary ecclesiastical hierarchy. Some prominent figures are clerics, but most driving forces are lay folk, and in recent years secular groups, mostly pro-Soviet nationalists, have contributed to the movement’s rapid expansion. Only a few years back, liberal charity organizations within the ROC were engaged in Juvenile Justice projects on youth crime prevention (cf. Haksvåg, 2009:60; Zapisal, 2012), but the label as such disappeared after 2013 when the Church, as it were, latched onto the trend and rejected a so-called ‘Western model’ of Juvenile Justice (which, one should add, had little in common with the former understanding).

Western colleagues often suggest to me that Kremlin or the US Christian Right have a hand in the campaign. The former is certainly served well by its moralist anti-Westernism and a fair part of the current arsenal of official shibboleths was originally coined by the pro-traditional opposition. Not even the most skilled spin doctors of Kremlin would, however, be capable of conjuring such a plethora of independent grassroots groups over such an extended time period. Moreover, in spite of endorsing an authoritarian political system headed by a strong ‘tsar’, most anti-YuYu groups reject any form of state involvement in their activities (cf. Höjdestrand, 2017), and they indeed pose a challenge to far-reaching governmental strategies. The power elite recognizes their moral standing by occasional opportunistic assurances to ‘respect the will of the people’, but is more involved with a category of well-established and affluent pro-family organizations engaged primarily in charity and agitation against abortions and homosexuality. These ‘elite’ NGOs have never taken any independent initiatives against Juvenile Justice or criticized state policy in other respects, and are, in addition, associated with international pro-family organizations such as US-based World Congress of Families (cf. Levintova, 2014). Anti-YuYu grassroots are, in contrast, cautious to Western partners even when these are ideological compatriots, and while observing their activities for four years, I have neither seen evidence on personal Western contacts nor explicit references to foreign critique or reservations against the CRC. Still the Russian movement has appropriated a number of vital tropes and themes from American extreme right rhetoric, but, as it seems, largely via the Internet since the anti-YuYu campaign has developed concomitantly with the ‘onlining’ of Russia. This concerns major frameworks such as conspiracy theories about the United Nations infiltrating national governments (which are easily inscribed into century-old Russian anti-Western imaginaries) as well as more specific assumptions about the CRC, to which I will return.

### ***Spanking and the right to a traditional morality***

While the concrete targets of the anti-YuYu opposition tend to replace each other in conjunction with current political initiatives, one issue has remained equally relevant to conservatives, child right advocates, and mass media over the years: corporal punishment. The awareness campaigns about child rights in the mid-2000s contributed to increased public attention to domestic violence as a social problem. In 2008, President Medvedev publicly announced the need for legal amendments, and in 2010 the punishments were harshened and the definitions broadened for abuse and neglect of children. A couple of years later, the preparations began of a new draft law, ‘On the prevention of domestic violence’, which currently is constructed as a major ‘juvenile threat’ although it has not yet been presented in the Duma. This bill is expected to expand the definition of violence further, which the conservative opposition takes as a total ban on any attempt by parents to curb the impulses of their offspring, be it physical or not.

Such restrictions would, it is argued, violate not only the legal right of parents to bring their offspring up as they see fit, but also Russian tradition. The exact contents of ‘tradition’ are rarely elaborated upon, but some of the most influential and productive debaters interpret it as an archaic version of Orthodoxy that equals the hierarchy of parents over children with the one of God over men. The right to distribute corporal punishment is the proof, as it were, of the cosmological principle as such, which is more at stake in theory than in practice due to a proviso about ‘last choice’, ‘love’, and ‘outmost consideration’. The activists I talked to were, for example, as keen to defend their privilege as to assure me that they virtually never had to manifest it.

According to this logic, the parental prerogative to spank is a *sine qua non* for the realization of the only ‘right’ of children that matters: the right to a correct morality. As argued by conservative lawyer Larisa Pavlova: ‘Do we have a law about defending the

child from information? Do we have a law about protection of the morality of the child?' (Pavlova, 2010). Conservatives thus acknowledge child rights, but not according to a 'choice theory' of the child's right to actively do things or to participate, as promoted by certain child rights advocates, or to an 'interest theory' prioritizing material provision and protection, as emphasized by federal social policy. The focus is instead on children's supposed moral and spiritual interests, and how these should be protected from the acts of others as well as from the children themselves since they, *qua* children, are seen as 'becoming' moral agents only, not as 'being' subjects.

For obvious reasons, the anti-YuYu movement thus rejects the parts of the CRC affirming the child's right to privacy, information, free expression, association, and choice of religion. Due to the public topicality of child abuse, however, the rhetoric is more preoccupied with the provisions against physical and mental violence. At stake is not really what children should be allowed to do, but what parents may do in order to restrain them. It should be underlined, however, that even though the Convention is generally conceived of as an ill-willed instrument of Western cultural imperialism, the parts acclaiming national and cultural traditions (the Preamble and article 29) are occasionally used to justify demands for 'tradition-friendly' laws on media censorship, compulsory religious education, bans on gay propaganda, and so forth.

The parental right to safeguard children's morality is backed up further by psychological arguments. The most influential anti-YuYu debaters, the duo Irina Medvedeva and Tatiana Shishova, indeed work as child psychologists, but as noted by Irvine in the context of US sex education protests, a medicalized language is also more opportune in a society in which religion has no self-evident public authority (2004:114). Most Russians live secular lives even if they identify as Orthodox, and far from all religious practitioners subscribe to ultraconservative truth claims (the ROC certainly

endorses parental authority but has no official views on methods to maintain it). Popular attitudes to spanking are, moreover, ambivalent. In a survey from 2011, 49 percent of the respondents supported corporal punishment in exceptional cases, while 43 percent rejected it entirely. The ‘abolitionist’ cohort is growing, however, while ‘supporters’ are diminishing, and only a very small minority (5,5%) considers spanking to be indispensable for child-rearing (FPD, 2011).

Whether or not psychology is brought in intentionally to ‘pimp’ the message, it adds a tint of scientific authority to a cadre of ‘Orthodox psychologists’ (as they refer to themselves) whose main message is that children are incomplete moral beings whom only firm parental discipline can transform into mature social persons. In the words of Irina Medvedeva: ‘Hierarchy is [...] imprinted in the psyche of the child, just as it is in all people, his deep genetic memory knows that above him, there should be parental authority’ (interviewed by Klekovkina, 2012). This ‘natural’ sense of hierarchy, she argues, expresses itself as a benign sense of shame, which is a prerogative for the child’s mental health. It is not clear from her or other writers whether this ‘healthy’ desire is, as implied above, inherent and should merely be protected by parental discipline, or if the duty of parents is to inculcate it into a moral *tabula rasa*. Elsewhere, she and her co-writer Tatiana Shishova conclude: ‘[children] are capable of obstinacy, wilfulness, and demonstrative negativism, but to manifestations of positive will – not really’ (Medvedeva & Shishova, 2006). In effect, children are determined to misuse any privilege given to them against not only themselves but also their parents: ‘One time bomb [...] is the inculcation in the child’s consciousness of a feeling of control over his parents, the possibility to dictate conditions, to blackmail daddy and mummy. Even if this is not carried out, the mere sensation of the possibility [...] will mutilate a person morally’ (Shestakov, 2011).

From this perspective, the parental right to discipline is indispensable for children's right to a healthy moral and spiritual development. Without it, they grow up into unmanageable and fractious nihilists – a claim amply illustrated by cases in Western countries of youth riots and school shootings – or, on the contrary, passive and susceptible subjects easily controlled by a 'juvenile' One World Government (authors seem to emphasize different outcomes depending on their personal conceptualizations of the Apocalypse).

***'Traditional parents' versus transnational treaties and Russian bureaucrats***

While predictions differ about how a slack upbringing may harm the individual child, the anti-YuYu rhetoric unanimously depicts a future 'juvenile' society as a totalitarian nightmare. 'Traditional' parents are anticipated to be harassed by an unholy alliance between their own offspring and a mafia of 'juvenile authorities', Western-funded NGOs, and international agencies. An omnipresent network of emergency telephones, children's ombudsmen, advocacy organizations, and social services will monitor any manifestation of parental discipline – physical as well as verbal – and use it as a pretext to remove children into state care and – finally – adopt them to gay couples (i.e. paedophiles) in the West (Shestakov, 2011).

It is easy to read Soviet surveillance between the lines of these narratives, but the legacy of Stalinism is rarely if ever brought up in the anti-YuYu rhetoric. As nationalists in general, these activists are predominantly pro-Soviet, and like most Russians today, they associate social order to authoritarianism while 'democracy' still stands for the social chaos of the 1990s. Moreover, in the late Soviet period, surveillance concerned a minority of political dissenters, not a majority of families. Schools and hospitals certainly reported indications of child abuse to the police, but according to Kon (2011) the definition of 'cruelty' was narrow, and a failure to enrol one's child in the Pioneers was more likely to

catch the attention of the authorities than regular spanking (135). Hence memories of a control society – if people have them in the first place – tend to be projected upon the future or ‘the West’ instead.

Ironically, these narratives are most probably products of the same globalization as they reject. Some prevalent themes – persecution of parents for nonsense issues; children denouncing their parents; institutionalization as a mandatory form of intervention – appeared in the US anti-CRC propaganda already in the 1990s. If their appearance in the Russian anti-YuYu rhetoric indeed is a case of cultural appropriation (which I assume), it is very successful since they make more sense in Russia than in their original abode. American child right advocates refute the aforementioned claims by downplaying the purported conflict between the rights of children and those of their parents. On the contrary, they argue, the Convention is intended as a guide for governments in their attempts to help parents fulfil their duties, and most of its provisions prioritize family cohesion and parental prerogative. The aim is to protect the family against state infringements rather than the contrary, so the controversial autonomy of children stated in articles 12 to 17 is not targeted at their parents but should serve as a guarantee against authority abuse (Kilburne, 1996; Cohen, 2006).

A general weakness of these arguments is that they depart from the motives of the drafters of the Convention, not from the ways in which these are interpreted and implemented in practice by national state administrations. To Russian anti-YuYu activists, the intentions behind the CRC are of little relevance in comparison to the Russian law makers who are to transform the treaty into law bills that, in turn, are to be implemented by Russian state administrators and, finally, make an impact on Russian everyday lives. At stake is not, as an anti-YuYu activist told me, ‘this well-meant but naïve and misguided



treaty' inasmuch as the objectives and interpretations of each link in the domestic chain of mediators.

Russian anti-statism differs from its indeed very strong and deep-rooted American counterpart. Firstly, Russians have more tangible reasons for distrusting the state in the first place, considering their long history of state repression, bureaucratic inertia, and corruption. US anxieties about state oppression are, in contrast, usually voiced by a white middle class that historically has suffered considerably less from such evils than, for example, afro and native Americans (cf. Appell, 2004). Secondly, US anti-statism rejects federal power as such, assuming that it by necessity infringes on federalism and existing civil rights. Russians, in contrast, generally support a strong central state and approve of its federal legislation, but disapprove of politicians and civil servants. Conceived of as a separate caste, these cadres are assumed to pursue their own interests at the expense of the civil rights granted by the Constitution. Radical nationalists are of the same opinion, even if they blame corruption and bureaucratic inertia on the post-Soviet transition instead of the Soviet legacy. The reputation of the child protective services is particularly soiled, given that they have hitherto not been an agency of social assistance inasmuch as one of surveillance and forced intervention. Former Federal Child Commissioner Alexei Golovan dismisses these civil servants as 'totally unqualified and, most importantly, sluggish [...] a dusty bunch totally indifferent to children and their problems' (Boguslavskaia, 2009). He is exceptionally harsh, but it is nonetheless commonly held that this agency is chronically understaffed and in serious want of adequate education and professional competence.

The proliferated disbelief in politicians and state administrators complicates the kind of legislation that aims to transform popular attitudes rather than just to confirm them. Anti-spanking laws are, for instance, often legitimized by their assumed impact on public opinion. Frequently Sweden, my own country, is held forward as a role model (cf. Zolotor

& Puzia, 2010), although it is known for low levels of corruption and a high degree of trust in the state. In such a society, people may personally disagree with new laws but nonetheless accept them as democratically legitimate because they are taken by a justly elected parliament. In a country with an entrenched distrust in state agencies, people are more likely to dismiss new and controversial legislation as self-interested manipulations by corrupt politicians, or at the very least assume that incompetent civil servants will deprive the practical implementation of policy of all resemblances to its official justifications.

To safeguard the transparency between grassroots and the state, the CRC Commission has recommended the Russian state to strengthen the role of the civic sector when implementing the Convention. Unfortunately, this advice risks to backfire since semi-professionalized expert organizations with the required competence for such a task are poorly established among grassroots. Ordinary people may not embrace conservative conspiracy theories about a hostile fifth column, but they are nonetheless less likely to associate NGOs with transparency than with closed elite structures endowed with their own resources, networks, and career opportunities (Hemment, 2004). Hence a reliance on the civil sector is not – thus far – a solution of the Russian alienation between the state and the people.

### ***Legal menaces***

In the mid-2000s, representations of the state in the anti-YuYu rhetoric were usually vague and located to a future ‘juvenile’ dystopia in which civil servants figured as a potential aides to usurping foreign forces and irresponsible children. As the flow of policy initiatives related to children and family accelerated, it gradually emerged from the shadows and entered, as it were, the centrepiece of the stage. The decisive moment came in 2010 with a media hype about purportedly unjust removals of children. Until then, the press had been more attentive to disastrous failures of the authorities to intervene in crisis families, but

now the headlines spoke of authorities interpreting everyday mishaps as parental violence or construing temporarily empty fridges or dusty corners as ‘grave neglect’ (cf. Abrikosov, 2010; Schmidt & Shchurko, 2014).

Conservative debaters derived the allegedly new form of authority abuse to a growing plethora of regional decrees and a few recent federal legal changes implying harshened penalties for ‘cruelty against children’; simplified routines for emergency removals; and a series of new and unclear criteria for intervention into families. The same trend had prompted a stricter application of old standards, in particular with regard to living standards because, the opposition argued, the CRC’s provisions about children’s rights to health and adequate material comfort presuppose a Western ‘normative affluence’, not the poverty-stricken Russian reality. ‘Juvenile Justice’, as the conservatives rhetorically lumped together all these measures, had made it up to each civil servant to assess subjectively whether or not a child was subjected to ‘mental and physical abuse’, a ‘socially precarious situation’, ‘risk of life and health’, and so forth (Abrikosov, 2010).

Throughout this discussion, a seemingly disinterested legal discourse was (and is still) blended with conspiracy theory and calumnious diatribes of the West. The media focus on removals of children included incidents in Western countries (Finland in particular) of Russian immigrants losing custody of children, usually due to – according to Russian sources – false allegations of physical violence. With few exceptions, and with the eager assistance of anti-YuYu debaters, the press conveyed to the broad public an image of these cases as emblematic for a purportedly uniform Juvenile Justice system employed all over an equally essentialized and homogenized ‘West’. Misinterpretations and outright falsifications proved to be an efficient propaganda device, and the anti-YuYu movement expanded rapidly all over the country. A rich flora of groups from all walks of patriotic political life suddenly discovered the usefulness of Juvenile Justice in the promotion of

their own agendas, and for politically established actors, public rejections of what was vaguely denoted as ‘the Western model of Juvenile Justice’ became a convenient way to declare one’s allegiance to Russia and her ‘tradition’. In effect, the concept was thus finally incorporated into the standard battery of ‘patriotically correct’ tropes along with ‘demographic war’ and ‘Euro-Sodom’.

The negative publicity of Juvenile Justice culminated in 2012 and 2013 when new legal attempts were proposed to realize the longstanding aims at a modernization of the social security system. The first bill, ‘On Social Patronage’, was presented to the Duma in March 2012 and caused such a public outcry that it was mothballed within the year. It was very soon replaced by ‘On the Foundations of Social Services’, which in spite of fierce protests was taken in December 2013 and put into effect 1 January 2015.<sup>5</sup>

Both bills attempt aimed at a nationwide structure for preventive social work with families (a recurring request by child right advocates throughout the years) and were modelled on a dozen or so successful regional pilot projects (cf. Utro Rossii, 2012). The main idea is to avoid institutionalization of children by identifying potential risk families at an early stage and by providing adequate case-managed, non-monetary aid (social, pedagogical, psychological, medical, juridical) according to an individual treatment plan. The bills comply with long-standing recommendations by the CRC Committee to reduce regional differences in service provision, and also to involve the civic sector in the implementation of child rights by outsourcing most social work to non-state organizations.

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<sup>5</sup> Federal Law 42197-6 is officially named ‘About changes in particular legislative acts of the Russian Federation concerning questions about the realization of social patronage and the activities of the agencies for child custody and welfare’, and was authored in 2012 by Elena Mizulina, chairwoman of the Duma Committee on Families, Women, and Children. Federal Law 442, ‘On the Foundations of Social Services’, of 2013 was authored by Deputy Prime Minister Olga Golodets.

Regarded as cost efficient and in possession of the necessary expertise, NGOs are also central to a new system of public monitoring of institutions for residential care.<sup>6</sup>

To the opposition, these draft laws were merely a federal consolidation of a ‘juvenile’ transformation that in practice had already taken place in most parts of the country by way of regionally sanctioned reforms and pilot projects. Hence the critique merely reiterated the same anxieties as before. By threat of removing the children, it was argued, social servants may force reluctant parents to accept treatment plans on unjustified grounds or, even, harass them for economic or political purposes by employing vague definitions and categories such as ‘risking children’s life and health’ or ‘not complying with the treatment plan’ (Letkova, 2012; Kolesova, 2012; Yesipov, 2014). Furthermore, existing federal legislation on personal integrity would be violated if the social services were authorized to gather information about families from hospitals, schools, and other institutions and forward it to service providers.

To me personally, such claims make sense theoretically insofar that abuse is indeed a possible outcome of increased authority to state agencies in a weakly developed democracy. Nonetheless, these arguments beg the question about cause and effect. Since 2007, the total number of deprivations or limitations of parental rights has in fact decreased (Biriukova et al, 2014), and even though statistics do not show how justified such interventions are, the tendency might be caused by the introduction of local preventive programs as well as the contrary. Liberal child right advocates are, for example, as critical to the repressive tendencies of the child protective services as their conservative adversaries, but they consider reforms of this kind to be a remedy, not a cause (Tsvetkova,

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<sup>6</sup> In 2012, a separate Federal Law (3138-6, ‘On Social Control of the Guarantees of Rights for Orphans,’) proposed that NGOs take the lead in a new public monitoring system of orphanages (Altshuler 2013, Tsvetkova 2013). Although the bill was discarded, the same principle reappeared in the law of 2013.

2013; Basharova, 2011). Moreover, if the hypothesis about stricter assessments of crisis families holds water, there may be other causes. A social worker I interviewed confirmed the trend but derived it to new monitoring routines within the child protective services: ‘Before, they were criticized for *not* intervening when they should. Now, in contrast, they’re in real trouble if a child gets hurt because they’ve missed out something. So in ambiguous situations they just take the child to be on the safe side.’

The probability of increasingly totalitarian tendencies is, moreover, determined more by the general repressiveness of the regime than by the law as such. Most anti-YuYu activists in fact support an authoritarian regime that has already manifested repressive tendencies of the kind that they fear will be directed against themselves by an imagined ‘liberal’ totalitarian power. In 2009 and 2011, removal of children (or threats about it) were used a few times by local authorities to pressure politically inconvenient environmental and trade union activists (Zimbovsky, 2010; Aivazian, 2013), and in 2013, an ultraconservative deputy proposed an infamous draft law aiming to add ‘untraditional sexual orientations of parents’ to the legal grounds for deprivation of parental rights.<sup>7</sup> Few if any conservatives spoke out in either case, except a couple of ultranationalist leaders who supported the draft law in question (the Duma dismissed it – for this time).

A fair part of the critique concerns economy and neoliberal outsourcing of social services. ‘On Social Patronage’ and ‘On the Foundations of Social Services’ were both criticized for not taking active measures against poverty, the most proliferated form of social vulnerability in Russia. Arguably, monetary social assistance is covered by laws and agencies other than the ones concerned here, but they are nonetheless perceived to be utterly insufficient. Neither bill allocates additional budgets even for the new preventive

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<sup>7</sup> Draft Law 338740-6 ‘On the Introduction of Amendments into Article 69 of the Family Code: On a Broadening of the List of Grounds for Deprivation of Parental Rights’.

services, which was of big concern to most of my ‘non-conservative’ respondents. They were otherwise positive to the basic aims of the law on patronage (which was topical when we met in 2012). ‘It might work out if the state pays for everything it has promised’, one of them explained. ‘Prevention – counselling, psychologists, detox – all this costs money for the service providers. One can just hope that they [the state] will come to their senses, because if they don’t, everything will go on as usual – crisis families are ignored until there’s no choice but to remove the kids. The orphanages are surely much more expensive in the long run, but the structure is already there to be used.’

Wary after more than two decades of neoliberal social policy in my own country, I could have told her that neoliberal outsourcing by definition presupposes that services somehow pay for themselves while the state is unceasingly downsizing. This proved to be the case in Russia too (not least, I assume, because of the burgeoning military budget). ‘On the Foundations of Social Services’ even opens up for contributions by external financiers in unspecified ‘joint projects’, besides tightening the criteria for free provision of other types of social services (such as home care for the elderly). The bill on patronage only mentions ‘non-state organizations’ as future tenderers, while the law of 2013 explicitly encourages the development a commercial market for social services with profit as well as non-profit organizations.

Equally antagonistic to liberal economic policy and liberal morality, Russian conservatives tend to discursively collapse these two dimensions into each other. Although critical to the parsimony of the state, they are far more preoccupied by the novel options of ideologically suspect external actors to tap the state budget. Of particular concern is a phrasing in ‘On the Foundations of Social Services’ that technically permits foreign organizations to enter the social service market, which is taken as a strategy by liberal law makers to keep the door open for transnational aid agencies whenever the ideological tide

turns (in this, I agree). As for domestic actors, the conservative rhetoric makes no difference between commercial enterprises and so-called non-profit organizations (often referred to as ‘grant eaters’). Both are expected to profit on public contracts by identifying any petty family issue as a ‘socially dangerous situation’, so as to enlarge their clientele and keep it under continuous control: ‘The more “unfortunate” families [...] they discover for their “preventive measures”, the more money their NGOs will receive’, as concluded by the coalition ‘The All-Russian Parental Resistance’ (RVS, 2014).

The hitherto most radical attempt at a cost-efficient solution of the orphanage dilemma is a government decree of July 2015, which orders a rapid dismantling of the entire system by transferring an optimal share of its residents to adoptive or foster families.<sup>8</sup> Critics – liberals as well as conservatives – assume that the concerns prompting this initiative are related more to the state budget than to children’s best interests, as an orphanage resident costs the state three times as much as a foster child. A perennial problem is the large proportion of foster and adoptive children being returned to the institutions by new parents who regret their commitment, because the only remedy – continuous monitoring and counselling – costs money (Filina, 2015). In my own opinion, this initiative, as well as ‘On the Foundations of Social Services’, suffers from an additional weakness. In both cases, federal law makers were inspired by successful local programmes in relatively wealthy regions. Such local pilot projects are developed over a long time, moreover by a variety of actors who continuously adapt to specific local conditions. The question is if they can serve as models for a uniform top-down transformation all over such a vast and heterogeneous country, including its less affluent peripheries. It seems to me that many such reforms have succeeded not only because of the

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<sup>8</sup> Decree 481 ‘About the Handling of Organizations for Orphans’, <http://www.rg.ru/2014/05/27/detdom-site-dok.html> (accessed 2016-04-28).



agenda as such, but because they are local, while the gigantic scope of federal projects is in itself a serious obstacle.

### ***Conservative visions of parental rights***

Whether or not the current attempts at social reform are utopian – which only the future can tell – the conservative vision certainly suffers from the same affliction. Generally, the anti-YuYu rhetoric does not present alternatives in a proper sense since it consists mainly of negative contentions, and when something is suggested at all, it is usually a ban on some purported threat to children's morality. Nonetheless, organizations within the movement have in fact drafted a few law bills. The hitherto most ambitious one, 'The Rebirth of the Family in Russia on the Foundation of Traditional Spiritual-Moral Values' is authored by the coalition Association of Parental Committees and Societies (*Assotsiatsiia Roditel'skikh Komitetov i Soobshestv*, ARKS) and proposes a series of amendments to existing laws (ARKS 2012). In the current Family Code, ten lines are devoted to the parental rights to upbringing and to choice of education. ARKS extends this list by six times by entitling parents to all forms of decisions over their offspring. Children can be commanded to perform domestic chores, school work, and religious duties, and to be subjected to 'measures of incentives and punishment', while their current rights to file legal charges against their parents and to choice of medical treatment (above the age of 15) are abolished. A short section on 'children's duties' obliges them to obey their parents, study conscientiously, and refrain from harming other people.

The primary target of ARKS' draft law is not the autonomy of children, however, but the state and, in particular, the social services, whose authority to intervene into families it circumscribes to cases when a breach of law can be legally proved. In addition, the regulation of such measures is confined to federal law, to avert potentially 'juvenile' bylaws and administrative decrees to slip through at the regional level. International law is

disarmed by given the Russian Constitution supremacy over international law, which currently is prioritized over Russian family legislation.

ARKS provides no information about when and how this bill is to be launched in the Duma, but until then (if it will ever happen) it serves as a political statement on the nature of citizenship and rights in an imagined 'traditional' society. By emphasizing 'parental' rights rather than civil or human ones and by introducing 'children's duties', it articulates citizenship in terms of reciprocal relationships within the family rather than as a contract between the state and autonomous individuals. Here and in the anti-YuYu rhetoric at large, the family emerges as the only social sphere in which trust and confidence may be invested. Since the intimidating arena of 'ordinary' civil rights includes also children, such a 'parental citizenship' requires a strict principle of age hierarchy to be justified.

Such a conception of human rights excludes everything and everyone external to the family. The sole aim is a legal fortification of the family, idealized as a sanctuary from an evil outside world. In effect, neither this draft law nor the anti-YuYu rhetoric in general acknowledges the social problems at which the recent laws on social assistance are in fact targeted. Children and families suffering from other problems than a plain lack of money are left out entirely in these discussions. The utterly few comments I have seen on the issue are as inarticulate as they are inconsistent, calling for anything from public centres for preventive treatment of crisis families (Elfimov, 2009) to forced institutionalization of substance addicts (Timoshina, 2012). The suggestions reveal the vagueness of the conservative conception of 'Juvenile Justice': the first one is very close to what the despised draft laws are proposing, while the latter would logically result in state care of children (i.e. of said addicts) which the anti-YuYu movement ostensibly opposes. A closer look at the rhetoric reveals, however, that the bone of contention is perhaps not children being deprived of their families inasmuch as 'normal' parents being deprived of their

offspring – it is telling that no anti-YuYu debaters spoke out to the defence of the presumably ‘untraditional’ parents in the aforementioned cases of political blackmailing and homophobic law making.

In spite of highlighting a number of pertinent problems of the child protection system and of upcoming legislation, the conservative critique thus remains unconstructive and utterly utopian. Speaking exclusively for an imagined category of respectable families and ‘deserving’ poor, it dismisses the complexities of social vulnerability and offers no other remedies than ‘moral resurrection’.

***‘Who is guilty?’ and ‘What to do?’***

These ‘cursed questions’ have since the 19<sup>th</sup> century permeated Russian classical literature and political discourse. In this particular controversy, they have unfortunately been hijacked by different parties who, as a result, perpetually talk past each other. The conservative camp finds faults and fifth column schemes in any attempt at social reform, without ever presenting alternative solutions or giving anyone else the benefit of the doubt. It is telling that public figures who reject Juvenile Justice tend to express a great concern about children’s morality while they rarely have much experience in social policy work or, even, charity.<sup>9</sup> Their scapegoats, the so-called ‘juvenile lobby’ of policy makers and child

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<sup>9</sup> An exception is Elena Mizulina, chairwoman of the Duma Committee on Family, Women, and Children, and author of the mothballed law on Social Patronage. With a Law Ph.D. on probation systems, she used to support Juvenile Justice *qua* youth crime policy but denounced ‘the Western model of Juvenile Justice’ in 2010, while preparing the bill. Aware of its ‘juvenile’ qualities only when the massive protests were a fact, she has since then restricted her concern for children to their right to morality by authoring the ban on homosexual propaganda and opposing the 2013 law ‘On the Foundations of Social Services’. Pro-traditional Federal Child Commissioner Pavel Astakhov, on the other hand, is a former celebrity lawyer and TV-profile who is less engaged in policy work than in anti-YuYu agitation and personal interference into high-profile child-removal cases.

right advocates, reiterate the need of preventive social work, deinstitutionalization, and community participation, but they fail to address the prevalent anxieties about increased state surveillance and authority abuse.

Throughout this dead-end discussion, the powers-that-be seemingly attempt to exploit both sides in a somewhat intriguing balance act. The distrust in the state bureaucracy notwithstanding, the anti-YuYu opposition positions itself as a patriotic popular movement that, in contrast to certain ‘liberal’ counterparts, does not challenge the authoritarian power structure or its main ideological vector. Nonetheless, it denigrates as ‘Western moral warfare’ a major reform programme intended as a patriotic drive for Russian social welfare. Regardless of whether its ‘true’ motives are humanitarian, fiscal, or related to Russia’s international prestige, the government proceeds with the reforms while simultaneously trying to appease the conservative opposition with moralist legislation, such as the bans on homosexual propaganda and adoptions to countries permitting gay marriage.

Cultural difference is at the heart of this controversy, albeit not, as the opponents of YuYu would have it, in terms of civilizational differences between a “traditional” East and a “modernized” West. The distinction does not concern methods of child rearing or the status of parental authority inasmuch as the citizen-state relationship and concomitant conceptions of civil rights and human dignity. In this respect, the anti-YuYu rhetoric’s division of the world into ‘liberal elites’ and ‘the conservative people’ makes some sense, be it that neither self-proclaimed conservatives nor purported liberals are homogenous and neatly bounded cohorts occupying opposite ends of a one-dimensional continuum. The anti-YuYu movement is far more heterogeneous than I can do justice for here, and there are also voices as critical to the anti-YuYu propaganda as they are to the reforms, arguing that the ‘shock therapy’ of the 1990s once and for all proved that Western models, however

benign in theory, cannot replace the degraded and inert domestic systems by the mere wave of a bureaucratic wand. Furthermore, the term ‘liberal’ is, as noted already, inclusive enough to embrace everyone within the public and civic sectors who engages in policy making, advocacy, and certain kinds of social work. All these people do not, for obvious reasons, have uniform agendas or views on what child rights should really imply.

Rather, the dividing line is about something else than ideology in a strict sense – it pertains to hope and fear respectively, and, perhaps, to a kind of cultural capital in Bourdieu’s sense. So-called liberals are united only by their conviction that a reform of the present system is necessary and by their belief that something in fact can be changed to the better – or, at the very least, that it is worth trying. Law makers are for understandable reasons more inclined than others to trust the system that they act upon, but even civic activists, academics, and others who fiercely criticize the fallacies of their own state administration are fuelled by some sort of confidence in their own mission. Neither can refute the value of their own work and accept the broad assumption that state authorities by logical necessity are bound to misuse their mandates, or that anyone who comes into contact with them – civic organizations included – will contract the same disease.

But to people who expect nothing but evil from the state and who are foreign to the world of expertise and activism, it is more difficult to believe in the visions of policy making and, even, to perceive the ‘official’ society and the state–citizen relationship as the locus of one’s rights and value as a citizen, a human, and a parent. Instead, the private sphere, family and parenthood, remains as the most viable alternative.

In conclusion, this controversy reveals an inherent weakness of the CRC. Not only does it presuppose that member states are willing and capable of securing (and, one may add, paying for) the rights and protection of children, but also that the citizenries in question have faith in the ambitions and the competence of their own state administrations

to realize these goals. If this is not the case, subjects may, as they do now in Russia, project the fallacies of the state onto the Convention and its promoters. Somewhat ironically, the resistance against child rights in Russia is an effect of the failure of the state to realize many of the objectives of the CRC– if at least some reforms had worked out successfully much earlier, the successive ones would not have met so much resistance. The Convention indeed provides a considerable scope for interpretation and local adaption with regard to parent–child relationships, but to understand its capacity as a realistic policy guide in a specific member state, the general conditions in that country with regard to civil and human rights must be taken into account.

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