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Russia's International Adoption Policies: Realities of the Soviet Happy Childhood Myth

Hannah L. Freeman

Illinois Wesleyan University, hfreeman@iwu.edu

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Russia's International Adoption Policies:
Realities of the *Soviet Happy Childhood Myth*

Hannah Freeman

Advisor:
Dr. Marina Balina

Board Members:

Kathleen Montgomery
Leah Nillas
Linda French

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“There must be no deprived and homeless children in the republic.
Let there be young and happy citizens”¹- Vladimir Lenin

Introduction

The “happy child” became the icon of socialist transformation² very early on in the creation of the Soviet Union. Soviet leaders and citizens, including such prominent authors as Grigory Belych and Leonid Panteleev (*SHKID Republic*, 1927), as well as Anton Makarenko (*Pedagogical Poem*, 1935), promoted the ideal of a happy and unrepeatable socialist childhood. Their stories “reflect the utopian discourse of the nation and bear witness to the tortuous path to happiness that Soviet authorities had charted”³ for their young citizens. What Soviet leadership neglected to admit, however, were the thousands of children which included orphans, waifs (*bezprizornye*), and children of many of the cultures and regions of the Soviet Republics who were systematically left out of this happy childhood; meaning, that this so-called “happy childhood” was not as all-inclusive as the Soviet government proclaimed it to be. My research focuses exactly on those children who did not become part of this “happy childhood” and were left out of the proverbial Soviet mythology of the privileged existence of its young citizens.

Soviet Myth of Happy Childhood: Happy Participants and Excluded “Pariahs”

¹ Ball, Alan M. *And Now My Soul Is Hardened: Abandoned Children in Soviet Russia, 1918-1930*. 127. Berkeley: University of California, 1994. Print.

² Kirschenbaum, Lisa F. *Small Comrades: Revolutionizing Childhood in Soviet Russia*. 163. New York: Garland, 2001. Print.

³ Balina, Marina, and E. A. Dobrenko. *Petrified Utopia: Happiness Soviet Style*. 100. London: Anthem, 2009. Print.

The Soviet myth of happy childhood revolved around the idea that children were of the only privileged class in the new socialist world. The particularity and sacredness of their childhood experiences served as the foundation of this myth; the myth that Soviet children lived in a world of their own in which childhood was a unique and “perfect” formative stage of development and therefore needed unlimited State support. This support was provided in the form of access to free education, free extracurricular activities for everyone that included physical education, visual arts and music education, as well as various specialized schools that focused on languages, sciences, and art. The palaces of former nobility were converted into children’s centers, the infamous Palaces for Young Pioneers, where ideology and proper political upbringing were integral parts of art and science education. Even today in the world of the post-Soviet reality, there is obvious nostalgia toward this “happy childhood” world.

The State itself, was responsible for this “happy childhood”, and therefore, accounts of unhappy childhoods were dismissed⁴ from the Soviet discourse or identified in literature and arts as relics of the pre-revolutionary world. Lenin has been frequently quoted⁵ stating: “All the best [...] belongs to the children”⁶ and therefore, all should have been provided to them. Although there were many children of the political elite who did lead this “privileged” life, attended school, were involved in Young Pioneers, had a family structure, etc., there were thousands of children who were not so lucky. As Catriona Kelly concludes in her anthology on Russian childhood:

⁴ Kelly, Catriona. "Chapters 5-8." *Children's World: Growing up in Russia, 1890-1991*. New Haven [Conn.: Yale UP, 2007]. 6. Print.

⁵ The accuracy behind this quote is debatable. It is unclear whether or not Lenin actually used this phrase. See Balina p. 100, footnote 5.

⁶ *Slovar' sovremennykh tsitat*, ed. K.V. Dushenko (Moscow: Eksmo 2007), 215. qtd. in Balina, 100.

[...] there were serious failures [of the Soviet system]: not only the grossly inadequate provision of consumer goods, but the persistence of inequalities in children's experience depending on their social status, and the often dismal provision made for children in institutions once considered the flagships of the new society. In time, as expectations rose, these factors were to produce, at least among more articulate sectors of the adult population, a sense of dissatisfaction, leading to the covert demise of the sustaining myth that children led a uniquely happy life in 'our country' – and hence to the removal of a crucial plank in the Soviet system's political legitimacy.

As Lisa Kirschenbaum states: “in the Soviet case, revolutionaries tend to conflate (or confuse) the “real” children who had to be fed, clothed, and educated and the metaphorical children who stood as icons of the revolution's future”⁷. It is important to understand the lives of the vast majority of children who were left out of this divinely joyous childhood through the hands of the state itself.

One such group that was excluded from a chance at “happy childhood” was those who belonged to the *kulak* social class. The *kulaks*, the new group of hardworking and therefore wealthier peasants, who came into being after the *Decree on Land*, 1917,⁸ were not particular to any specific region of the Union, but rather lived all throughout the USSR. In 1929 Stalin set forth the policy of “eliminating *kulaks* as a class” in a statement given to *Pravda*.⁹ *Kulaks*, who for generations had been respected by poorer, peasant peers, found themselves being hunted by the Soviet State as a sect of the capitalist bourgeoisie.¹⁰ Now, “the very peasants who had helped the Soviet economy recover now found themselves as parasites”¹¹. Wealthy and productive

⁷ Steedman, Carolyn qtd. in Kirschenbaum, 2.

⁸ The Decree on Land introduced the idea of land ownership among the peasants. This ownership was reinforced in the 1920's by the new economic policy introduced by Lenin. However in the 1930's the new course of the party eliminated this privilege and Stalin's *collectivization* started that converted the *kulaks* into “class enemies”. See James H. Billington “The Icon and the Axe” an Interpretive History of Russian Culture” Vintage Books Edition September 1920, 541.

⁹ Stalin, *Works*, 12:173; *Pravda*, December 29, 1929 qtd. in Brooks, Jeffrey. Thank You, Comrade Stalin!: Soviet Public Culture from Revolution to Cold War. Princeton, NJ: Princeton UP, 2000. Print. Brooks, Jeffrey, 132.

¹⁰ Frierson, Cathy A., and Semen Samuilovich. *Vilenskiĭ. Children of the Gulag*. New Haven [Conn.: Yale UP, 2010. Print, 34.

¹¹ Frierson, 82.

farmers were not the answer to the socialist idea of universal equality; rather collective farming was seen as the proletariat choice. Therefore, this group did not fit into the new Soviet hierarchy and needed to be “eliminated”.

The liquidation of the *kulaks* occurred through numerous means. Forcible seizure of goods and farms, jailing, violence, and deportation were common practices utilized to eliminate the population. These actions directly affected the livelihoods of peasant children who found themselves mixed into the unwarranted violence and unjustified deportations of their parents or entire families. Deportation was incredibly damaging to children of all “enemies of the state”. Separation from parents, family members, and a “normal” life (which would include but not be limited to education, food, and clothing) was detrimental to the childhood of those affected by the State’s decisions. These changes affected all aspects of life, and by no means enabled these children to have the happy childhood that was so adamantly promulgated by Soviet leadership.

Kulaks were not the only group within the Soviet Union whose children were affected by these decisions. Cathy A. Frierson and Semyon S. Vilensky, in their study *Children of the Gulag*, provide quantitative data that reveals the mass number of children of different cultural and regional groups that were affected by ethnic cleansing in the Soviet Union between the years 1935 and 1953. They state that

“Children of deported peoples [also] became victims of Soviet ethnic cleansing subject to mass deportations, family destruction, execution of one or both parents, and internment in Soviet orphanages because of the ethnic or national identity of one of their parents, and

usually because of where they lived in the Soviet Union or in territories acquired after the Molotov-Ribbentrop Pact of 1939.”¹²

To better understand the extent to which these groups and children were affected, it is necessary to see the quantity of people, from all over the USSR that was affected. Frierson’s and Vilensky’s data¹³ on deported peoples from regions under USSR influence is included below for that reason.

<i>Year</i>	<i>Affected peoples</i>	<i>Number of deportees</i>
1935	Finns from border with Estonia and Finland	30,000
	Germans on border with Poland and Romania	42,000
1935-1936	Poles and Germans within Soviet territories	45,000
1937	Koreans from Far East	172,000
	Kurds and Armenians on borders in Central Asia and Caucasus	2,000
1939-1940	Poles after division of Poland	200,000
1940-1941	Baltic peoples, Romanians, and Poles from annexed territories	>500,000
	From border regions with Norway: Germans, Poles, Chinese, Koreans, Greeks, from Murmansk City and region	1,700
1941-1944	Wartime deportations: persons of German background living in the Soviet Union	1.5 million
	From Leningrad region:	
	Finns	89,000
	Germans	6,700
	Non-Russians from the Crimea, Georgia, and Black Sea	

¹² Frierson, 235.

¹³ Ibid., 236.

	coast:	
	Bulgarians	12,000
	Armenians	10,000
1943-1944	The “Punished Peoples”: Karachaevs, Chechens, Ingushetians, Balkarts, Crimean Tatars, Bulgarians, Italians, Greeks, Romanians, Turkic peoples, Iranians, Kurds, Meskhetians, Muslim Armenians, Azeris	Approximately 900,000 to 1 million
1945-1953	Postwar deportations from the Baltic republics	140,000

The children included in, or children with parents included in these groups, were very seriously affected by the day-to-day policies of the Soviet political establishment; but it was not necessary to be included in one of the above groups to be in danger: the fear of deportation and family separation was universal for all people living within the sphere of Soviet power as at any moment one might be labeled as an enemy of the state. In fact, the 2012 Newberry Award winning short story, “Breaking Stalin’s Nose” describes this situation quite clearly in a coming-of-age tale in which the young narrator recognizes the reality of the Stalinist regime.¹⁴ Consequently, it follows that a large percentage of the youth population would not fulfill their childhood destinies, but would rather suffer an opposite fate: a very *unhappy* childhood, that, in many ways, was most often brought upon by the State.

As so many groups of children were negatively affected by Soviet policies, I have chosen to focus on one particular group of those children affected by deportation, war, famine, and abandonment: orphans. Many orphans had become parentless as a direct result of the ethnic

¹⁴ Yelchin, Eugene. *Breaking Stalin's Nose*. New York: Henry Holt, 2011. Print.

cleansing and mass deportations that occurred. Therefore, this group reflects the controversy of Soviet “happy childhood” myth.

Orphans in many cases were seen as the perfect building blocks for Soviet citizenry. They had no family structure, lived communally, and were under full protection and care by the State itself. However, this research will discredit, through an overview of the historical care and upbringing of orphans and abandoned children, the idea of the Soviet “happy childhood” and reveal the actuality of that childhood that created inequality from the beginning and that has continued to haunt the childhoods of orphans in present-day Russia. Orphans became a very particular group of children included, or rather excluded, from the myth of “happy childhood” as their place in society was very controversial. As wards of the State their “happy childhood” should have fallen into place quite easily, and for that reason, alternatives to their institutionalization, like adoption, were never considered as real possibilities for these children. My research reveals the inadequacies of the Soviet Russian orphanage system and adoption policies of the past and describes the present state of international adoption from Russia as it is a new chapter in Russian history.

Russia’s Orphans: History and Present

Pre-1917, or Pre-Revolutionary, Russia dealt with street, abandoned, and orphaned children mainly through private, charitable institutions. One of the most well-known and successful philanthropic organizations that worked with these children was the Empress Maria Department. This organization provided not only monetary aid but also shelter and food to those in need. Additionally, volunteers and inspectors to the orphanages and institutions were provided by the Department as well. While it seems as though the government played a significant role in

the upkeep of these institutions, “the government departments had, at best, a ‘semi-state’ character: they acted not as sources of finance for institutions, but as regulators for private initiatives”.¹⁵

The 1917 Revolution produced thousands of abandoned and orphaned children needing shelter and education through institutional means. In 1917 there were 30,000 children in orphanages; by 1918 there were 75,000, and by 1919 there were 125,000 children in institutions. Additionally, after the 1920 famine, the number rose from 400,000 in 1920 to 540,000 in 1921.¹⁶ The major difference in institutional care during this period was the transfer of authority from the private to the public sector. The Soviet government delegated specific duties in children’s institutions to separate ministries, mainly *Narkompros* (the Education Commissariat), *Narkomzdrav* (the Health Commissariat), and *Narkomsotsbes* (the Social Security Commissariat), causing “jurisdictional rivalries to flare now and again during [...] the decade”¹⁷. These ministries and others were assigned different tasks within the same orphanages or institutions which further exacerbated the ineffectiveness of the orphanage system, causing confusion between ministries and intensifying their inability to provide adequate care for the children.

In 1919 the First Congress of Child Protection Activists determined that ‘in [Communist society] there must be no deprived children, no children “belonging to no one”¹⁸, yet there were hundreds of thousands of children left without parents, food, or shelter, many times as a

¹⁵ Kelly, 162.

¹⁶ Goldman, 69-70, qtd. in Kelly, 193.

¹⁷ Ball, 89.

¹⁸ *Pervyi vserossiiskii s’ezd deyatelei po okhrane detstva (2-8 febralya 1919 goda v Moskve)* (M., 1920), 5, qtd. in Kelly, 200.

direct result of the government policies themselves. And, despite the assignation of many people from numerous ministries to take care of providing for the orphanages and institutions caring for children, the fact of the matter was that “many homes could not provide adequate care even to the low proportion of abandoned children who actually reached them”¹⁹.

These very serious issues caused by overcrowding and underfunding were exacerbated by the 1918 Code on Marriage and the Family which had banned adoption. Even before the famine of 1921, “investigations of children’s institutions around the country revealed that shortages of food, clothing, buildings, equipment, and staff not only complicated the opening of new facilities but prevented many already in existence from meeting their charges’ most basic material needs (to say nothing of education and rehabilitation)”²⁰. Health and sanitation standards of the homes as well as a lack of adequate food and clothing made many of the institutions only supplementary to the street life lived by the orphans and abandoned children residing in these places.

Despite these horrific conditions, adoption as a remedy to the overcrowding, underfunding, and mass number of abandoned children was never seen as a solution in Russia. Children who were not actually orphans, who still had living parents, were often turned away from the institutions beginning in 1920, and subsequently, in 1924, many times children with any living relatives whatsoever were discharged from these institutions²¹. These were very backwards policies since the reason that these children ended up at the institutions was because of the lack of care at home or by other family members or guardians. The thought behind these decisions is one that is carried through to the present day: Russia still values blood relations over

¹⁹ Goldman, 96, qtd. in Kelly 204.

²⁰ Ball, 98.

²¹ Kelly, 211.

non-family members in the care of orphaned or abandoned children. An exception to the ban on adoption was created in 1926, allowing peasant families to adopt, at a maximum, one child per household²². Nonetheless, while peasant families in the country were somewhat willing to adopt, most likely for monetary or work-related reasons, adoption and foster care remained difficult and stigmatized in urban centers.

A change in policy occurred in 1934 when it became legal to adopt a child even if its parents were living, provided the parents gave consent²³. Unfortunately, “the general public, by and large, had at best a limited sympathy for homeless children” and were more-or-less unwilling to adopt or hire them in employment circumstances. Foster homes and foster care were also acclimated to a higher level through the overarching theme that family life is important to a child’s upbringing. Nevertheless, these practices remained minimal in the caring for orphaned and abandoned children. A very small proportion of the children in institutions were actually placed in foster care and the foster system itself had many flaws including a lack of resources to keep up with inspections²⁴. Institutions remained the primary caretakers of orphaned and abandoned children at this time and also remained grossly underfunded and incapable of providing for the children. There are of course exceptions to this norm, there were some homes that provided very well for their children; however the overwhelming majority of institutions were unable to provide for their children in some aspect (adequate food, clothing, linens, space, heating, cleanliness, etc.).

²² Kelly, 212.

²³ *SYu* 20 (1935), 21. ctd. *Ibid.*, 225.

²⁴ *Ibid.*, 226.

The advent of World War II greatly changed the view on adoption. Like the Revolution, WWII produced thousands upon thousands of newly orphaned and abandoned children creating a need for support outside of the already crowded institutions. In 1943, the Council of People's Commissars passed a decree that "commended adoption (*usynovlenie*), long-term fostering (*patronat*), and short-term fostering (*opeka*) as ways of keeping children from waifdom"²⁵. Decisions on children's welfare were made according to this new law and the Russian Supreme Court ruled true to law which stated that adoption should be allowed only in the best interests of the child²⁶, and, typical of Russian adoption policy, "the emphasis on biological relationships continued in the postwar period [and the Court] adhered to the notion that close biological links, when they existed, took precedence over all other relationships"²⁷. The change of opinion concerning adoption was truly a necessary measure given the sheer number of children struggling for survival in post-war Russia and the incredible strain that was put on the institutional system.

Not much information has been declassified concerning the lives of children in orphanages and other institutions of the post-Stalin era²⁸. However, what is known reveals that although conditions in the institutions were improving, they still were not adequate. Lack of food and other supplies, such as clothing and bed linens, still defined the system. Adoption was, by and large, becoming a more frequent occurrence, although it was still under strict control²⁹. It was not until the 1980s that positive evaluations of adoption appeared; finally, adoption was

²⁵ *KhSZUP*, vol. 3, p. 328. qtd in Kelly, 243.

²⁶ Bernstein, Laurie. "Communist Custodial Contests: Adoption Rulings in the USSR after the Second World War." *Journal of Social History* 34.4 (2001): 843. JSTOR. Web. 3 Oct. 2011.

²⁷ Kelly, 849.

²⁸ *Ibid.*, 263.

²⁹ *Ibid.*, 265.

being seen as a positive, long-term solution to the orphan and abandoned child issue facing the country³⁰. That being said, adoption in Russia through the 1990's continued to be *only* domestic. The pool of adoptive parents remained solely Soviet citizens—even after the wars when the institutional system and adoptive parent pool simply could not care for the amount of orphaned and abandoned children in the country.

The fall of the Soviet Union only exacerbated the problems regarding orphaned and abandoned children:

Rising prices mean that fostering and adoption became a less realistic option for Russian families. Throughout the early 1990s there was a downward spiral of rising abandonment, declining institutional provision, and declining numbers of prospective adoptive families. [...] no type of home could do a decent job when starved of cash³¹.

However, a positive aspect of the fall of the USSR in respect to adoption was the internationalization of the adoption process and the introduction of international organizations (public and private) that condemned the state of affairs within the orphanage and institutional systems. This was the first time that non-USSR citizens, were able to adopt from the country and the first time that outside organizations were allowed into the country, making the grave human rights abuses occurring in many of these institutions known to the international community.

Toward New Life... Abroad: Intercountry Adoption

³⁰ Irina Ovchinnikova, "Eti nerodnye rodnye deti" *N* 20 (1982), 7. ctd. Ibid, p. 269.

³¹ Ibid., 594.

Actual Practices

Intercountry adoption has come under intense scrutiny since the creation of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption in May of 1993. Numerous accounts of corrupt adoption rings, selling children for vast sums of money, abduction of children, selling children into slavery, and the increasing difficulties in distinguishing legal adoption from trafficking proved the need for regulation in the adoption process³². The Hague agreement aims to end such abuses within the system and foster trust between its signatories. However, like any international agreement, each state has a right to refuse the Convention, thereby abiding by its own laws regarding intercountry adoption policy. Although the United States of America has recently ratified The Hague Convention, the Russian Federation has not. The aim of this section is to examine the process of intercountry adoption between these two states and to reveal the inadequacies of the existing adoption policies in Russia. The main focus of this research will concentrate on the current state of foreign adoption and, in particular, the adoption of Russian children by American citizens. The established legal practices will be compared with the actual human experience of three American families, whom I personally interviewed, who went through the process of Russian adoption.

Since the immediate aftermath of the fall of the Soviet Union, the laws, rules, and regulations concerning the adoption process have been solidified. While Russia is a signatory of the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, the Convention still has not been ratified, meaning that the country is not

³² Kapstein, Ethan B. "The Baby Trade." *Foreign Affairs* 82.6 (2003): 115-25. Academic Search Premier. Web. 7 Sept. 2011.

legally obligated to follow international protocol regarding the treatment of and dealings with orphans or abandoned children. The laws regarding domestic and international adoption in the Russian Federation are found mostly in its Family Code. However, this new openness did not last long since in 1998, President Vladimir Putin made international adoption a much more difficult process. This change in policy occurred for a number of reasons, including his typical anti-West, nationalist, political agenda, and once again, the United States and Russia are undergoing changes to their bi-lateral agreement as of the summer of 2011 as a direct result of Russian popular backlash against the mistreatment of Russian adoptees in America.

Between the years of 1996 and 2008, fifteen Russian adoptees have died under the care of their United States citizen adoptive parents³³. There are no excuses for the neglect of these children that ultimately led to their deaths; however it is interesting to examine the Russian response to these deaths in comparison to the similar situations that are occurring much more frequently within the Russian Federation itself. There has been an ongoing debate in the Russian Duma concerning the well-being of Russian citizens who are eligible for, or have gone through the process of, intercountry adoption. The lower house of the Duma was “seriously concerned about the death of Russian children adopted by foreign nationals and taken out of Russia”³⁴. Although the deaths of these fifteen children are very unfortunate, the fact of the matter is, these cases are abnormal in the United States. In fact, in this period from 1996 to 2008, over 54,525

³³ Bryntseva, Galina. ""Rossiiskaya Gazeta": “Orphans Abroad”." Сайт Председателя Правительства Российской Федерации В.В.Путина. The Official Site of the Prime Minister of the Russian Federatio . Web. 03 Nov. 2011. <<http://www.premier.gov.ru/eng/premier/press/ru/2486/print/>>.

³⁴ Ibid.

Russian children were adopted by families in the United States³⁵. That means that the death of these children represent .0275 percent of the adoptions that occurred during that period.

Also, Russia has its own problems regarding the maltreatment of its children, yet the few cases of this occurring in the U.S. have gotten more attention and reaction than those in Russia itself. In fact,

Sergey Markov, a member of parliament, explained the motives for making changes in federal law: "Public opinion might be unfair sometimes," he said. "We are aware of the fact that hundreds of children die every year from family violence in Russia. Anyhow, public opinion and the overwhelming discussion in Russian mass media about Russophobe attitudes in the West did influence our policymaking: we will harden bureaucratic rules for adoption to better protect Russian orphans adopted by foreign families"³⁶.

Most recently, the catalyst for reviving bilateral agreements between the U.S. and Russia was the story of a seven-year-old male Russian adoptee being sent back to Russia, alone, on a plane, with a note for the Ministry of Education stating that the boy was "violent and has severe psychopathic issues"³⁷ and directing the Ministry to return the child to the institution from which he came³⁸. This, in addition to the already negative sentiments felt towards intercountry adoption among Russian politicians, has led to the current bilateral agreement that is underway between the U.S. and Russia. The Department of State and the Department of Homeland

³⁵ U.S. Department of State ctd. Nemstova, Anna. "Who Will Adopt the Orphans? | Society | Russia Now: In-Depth Coverage of Russia News, Russia Politics, RussiaBusiness and More - Washingtonpost.com." Washington Post: Breaking News, World, US, DC News & Analysis. Russia Now. Web. 03 Nov. 2011.

³⁶ Nemstova.

³⁷ Cave, Damien. "In Tenn., Reminders of a Boy Returned to Russia - NYTimes.com." The New York Times - Breaking News, World News & Multimedia. 10 Apr. 2010. Web. 03 Nov. 2011.

³⁸ Interfax. "Adoptee Sent Back From U.S. to Russia." Article. Russia & FSU General News. Regional Business News, 8 Apr. 2010. Web. 24 Sept. 2011.

Security announced on July 13, 2011 that Secretary of State Hillary Clinton and Russian Foreign Minister Sergey Lavrov signed an agreement “that will strengthen procedural safeguards in adoptions between [... the two] countries”³⁹. Until the changes in the bilateral agreement are published, the laws put in place by Vladimir Putin in 1998 are the same laws that exist between the two countries as of April 2012.

Laws and Regulations

The first matter of adoption concerns who may be adopted. The Family Code states that the Russian Federation will determine the cases of children left without parental care, and, ensure the placement of that child (in a family or institution) following the child’s information being placed on the regional and federal databases of children who have remained without parental care⁴⁰. Article 124 of the Code specifies that adoption of a child left without parental care should be a priority, yet, that it should remain in the child’s best interest; however, it is obvious that the Russian Federation’s policies favor domestic adoption over international as Article 124 also states that

“the adoption of children by foreign citizens or by stateless persons shall be admitted only in cases when it is impossible to give these children for upbringing into the families of citizens of the Russian Federation, who permanently reside on the territory of the Russian Federation, or for adoption to the children’s relatives, regardless of the citizenship or the place of residence of these relatives”.

³⁹ "Notice: Secretary Clinton and Russian Foreign Minister Lavrov Sign Adoption Agreement." Country Specific Alerts and Notices: Intercountry Adoption. US Department of State, 13 July 2011. Web. 7 Sept. 2011.

⁴⁰ The Family Code of the Russian Federation No. 223-FZ of December 29, 1995 (with the Amendments and Additions of November 15, 1997, June 27, 1998, January 2, 2000, August 22, December 28, 2004, June 3, December 18, 29, 2006, July 21, 2007, June 30, 2008), State Duma §§ I-VII (1995). Art. 122. Print.

In addition, a child's information must have been placed on the federal database of children without parental care for at least six months before any child may be adopted by prospective international adoptive parents⁴¹.

Additionally, in terms of who may be adopted, it is necessary to indicate the adoption pool. The Russian children put up for adoption today are of very different backgrounds than the majority of those children who were before the fall of the Soviet Union. Before 1991, most children in orphanages and other state and privately run institutions were orphaned in times of war, or because of religious or financial reasons. Nowadays, the children who are found in many of these institutions are victims of mistreatment, disease, and disability. These features that have become so characteristic of Russian orphans prevent domestic adoption as these children are seen as "damaged goods"⁴².

According to Human Rights Watch, "much of the neglect and abuse [of children continues in institutions and] results directly from the fact that the various institutions for orphans are often underfunded and forced to wade through a bureaucratic maze in order to obtain the resources that they need to carry out their duties"⁴³, meaning that this "questionable pool" of children cannot be well-taken care of by the state. There is abundant research available on the negative effects of this type of treatment of such children in these institutions, and this treatment only makes the situations of these children worse.

⁴¹ The Family Code of the Russian Federation, Art. 124.

⁴² "Personal Experiences of Intercountry Adoption with the Russian Federation." Personal interview. 30 Sept. 2011. See Appendix for more information.

⁴³ Human Rights Watch, *Abandoned to the State: Cruelty and Neglect in Russian Orphanages* (1998). Ctd. Brown, Andrew C. "International Adoption Law: A Comparative Analysis." *The International Lawyer* 43.3 (2009): Academic Search Premier. Web. 7 Sept. 2011.

For children who are already suffering from some sort of disabling characteristic (whether it be Fetal Alcohol Syndrome, which is extremely common in Russia, a physical disability, or a developmental disability), and even for those who begin suffering once they enter the institution from lack of care within these facilities, the likelihood of domestic adoption decreases significantly. The more or less unsuccessful domestic adoption that existed and still exists in Russia dictated the need for the country to open its doors to international adoption. Thousands of children are left in these orphanages with almost no hope of finding a domestic home. During the adoption process Russian adoptive parents have first choice of the orphans (see Family code in regards to domestic adoption always preferred over international), those children who are left in the system, and subsequently available for intercountry adoption, are generally the children who have some type of disability (physical or mental) or are viewed by Russians as being inadequate in some way, shape, or form. Although there is no statistical or official data concerning these issues, the practice reveals that this is what is occurring.⁴⁴

The Family Code also includes the regulations regarding who may adopt. The Code provides this information through a list of those who would be deemed ineligible to adopt. The Russian Federation concludes that an adult of either sex may adopt provided that they are not:

recognized as either fully or partially incapable by the court; that they have not been deprived of parenthood or guardianship rights; that they have not been involved in a previous adoption that has been denied through the court by fault of their own; those who have no permanent residence; those who have a record of intentional crime; those whose living conditions do not meet health or sanitary standards; persons who do not have an income to ensure minimum

⁴⁴ "Personal Experiences of Intercountry Adoption with the Russian Federation."

subsistence levels; and finally, persons who are deemed unfit to perform parental duties due to health issues⁴⁵.

Russia also forbids the adoption of a child by homosexual couples; however, since Russia allows adoption by individuals, a loophole exists that allows homosexuals to adopt through Russia's allowance of unmarried individuals to adopt⁴⁶. This list of regulations is put in place in an effort to secure the well-being of the adoptee and continue the Code's efforts to place a child according to the child's best interests as consistent with the ideals of the Russian lawmakers.

In addition to Russian policy, American prospective adoptive parents also must follow United States' regulation on intercountry adoption. American law of course has its own requirements determining the eligibility of prospective adoptive parents. There are three types of law which American parents must follow: federal, state, and the laws of the foreign country in which the child resides. Each U.S. state has its own laws regulating both domestic and intercountry adoption, so there is no way to generalize the rules. The United States government recommends that prospective parents research prior to beginning the adoption process through the website run by the Child Welfare Information Gateway under the section *U.S. state laws*⁴⁷.

Furthermore, these parents, who are adopting from Russia, must follow a specific set of regulations for adoptions that are carried out with a non-Convention nation. In other words, an adoption carried out with a second party, in this case Russia, which is not an acting member of the Hague Convention. The Hague Convention gives certain rights and waives certain obligations of signatory states given the fact that these states are held to more rigorous

⁴⁵ The Family Code of the Russian Federation, Art. 127.

⁴⁶ Franco Ordonez, For Gays, Adoption Irony, Boston Globe, May 8, 2004. qtd. in Brown.

⁴⁷ "Eligibility to Adopt." Eligibility to Adopt: Intercountry Adoption. U.S. Department of State. Web. 7 Sept. 2011.

requirements and to higher standards regarding the care, development, and treatment of their children than non-signatory states.⁴⁸

Since Russia has not ratified the Convention, the adoptee cannot qualify as a “Convention Adoptee” (this makes the process more direct and in many cases simpler); instead the prospective adoptee must be determined as an orphan under the “Immigration and Nationalities Act in order to be allowed entrance into the United States”⁴⁹. The parents must fill out applications provided by the US government to obtain eligibility to adopt. The first, form *I-600A* (Application for Advance Processing of Orphan Petition), is to be filled out prior to identifying a specific child for adoption. This form requires particular details of the prospective adoptive parents that demonstrate the capabilities and eligibility of the said parents⁵⁰. Form *I-600* (Petition to Classify Orphan as an Immediate Relative) is filled out in cases where the child is known prior to adoption and when prospective parents will be travelling to the country where the adoptee is living⁵¹. Furthermore, no matter the paperwork required for any given situation, the prospective adoptee must remain in its country of residence until all paperwork has been processed and approved⁵².

In addition to the paperwork required by the United States, the documents listed above are only the first documents needed to start the adoption process, there are numerous documents required by the Russian Federation. The Ministry of Education and Science is the Ministry that

⁴⁸ Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. 29 May 1993. Chapters I, III, V, VI.

⁴⁹ The Family Code of the Russian Federation, Art. 129. qtd. in Brown.

⁵⁰ United States of America. Department of Homeland Security. U.S. Citizenship and Immigration Services. Instructions for Form I-600A, Application for Advance Processing of Orphan Petition. 2011. Print.

⁵¹ United States of America. Department of Homeland Security. U.S. Citizenship and Immigration Services. Instructions for Form I-600, Petition to Classify Orphan as an Immediate Relative. 2011. Print.

⁵² "Eligibility to Adopt."

oversees Russian adoption. On its adoption website, www.adoptinrussia.ru, the Ministry outlines the process for prospective adoptive parents. The following is a list of documents that may be required by the Russian Federation and adoption agency through which the prospective adoptive parents will be working:

- a) An application form for adopting a child and a petition for a dossier from the database of children that would fit their requirements;
- b) Personal details forms;
- c) A written commitment to register the adopted child with the local consular office of the Russian Federation according to the established procedure;
- d) A written commitment to admit authorized officials to examine the living conditions of the adopted child;
- e) A copy of an identification document of a Russian citizen residing outside the Russian Federation, a foreign citizen or a stateless person, recognized by the Russian Federation;
- f) A document from an authorized agency in the country of citizenship of the adoptive parents describing their living conditions and their capacity to be adoptive parents. Photos of the adoptive parents' family must be included;
- g) A commitment from an authorized agency in the country of residence of a Russian citizen living outside the Russian Federation, foreign citizen or stateless citizen to supervise the living conditions of the adopted child and provide reports on the living conditions of the child in the adoptive family;
- h) A commitment from an authorized agency in the country of residence of a Russian citizen residing outside the Russian Federation, foreign citizen or stateless citizen to guarantee that the adopted child be registered with a local Russian Federation consulate;
- i) A copy of a license (or any other document) of the foreign agency confirming the authorization of the agency to issue the documents mentioned in paragraphs "f" to "h" of the present Procedure.

Documents “a” through “d” are valid for one year from the day they are produced while documents “f” through “h” are valid from the day they are produced.⁵³

Included in the previous list, paragraphs “d”, “f”, and “i” concern the part of the pre and post adoption procedure that is known as the home study. This procedure includes obtaining an authorized agency to inspect the prospective adoptive parents’ home. This inspection also includes personal interviews concerning the lives of the prospective parents, and if applicable, other children in the family, including work, social, financial, and other personal information. The home study is a way for both the U.S. and Russian governments to determine the eligibility of the family to adopt. If eligibility is granted, the home study continues once adoption has taken place, and the same agency returns to the home at several intervals afterwards to check on the adoption⁵⁴.

Furthermore, the Russian Federation Civil Code also requires documents of the prospective adoptive parents. In the adoption application the following documents must be included:

- 1) A copy of the birth certificate of the adoptive parent, if the child is adopted by an unmarried person;
- 2) A copy of the marriage lines of the adoptive parents (parent), if the child is adopted by a married couple (person);
- 3) The spouse’s consent to adoption, or a document confirming the spouses’ separation for over 12 months, if the child is adopted by one of the spouses. If no such documents are available, the application form should contain evidence confirming these facts; and
- 4) A physician’s conclusion on the prospective parent’s (parents’) health.

⁵³ "Information for Adoptive Parents." Adoption in Russia. Ministry of Education and Science of the Russian Federation. Web. 23 Sept. 2011.

⁵⁴ Parents C. "Personal Experiences of Intercountry Adoption with the Russian Federation." Personal interview. 11 Nov. 2011.

- 5) A position and pay statement from the applicant's employer, or a copy of the applicant's income declaration, or another income statement;
- 6) A document confirming the applicant's right to use a residence, or his/her ownership of an estate; and
- 7) A certificate that the applicant is registered as a prospective parent.

There must be two copies of each of these documents to be presented in court. And, all of the documents required and presented in court (from both previous lists) must be "certified according to an established procedure, translated into Russian, with the translator's signature authenticated either in a Russian consulate or diplomatic mission in the applicant's country of residence, or by a notary in Russia"⁵⁵.

In addition to the paperwork and documents that are obligatory for the adoption process, there are other requirements concerning the physical process of adoption as well. One of the changes that were made in 1998 under Putin is the requirement of adoptive parents to meet their child two times before being eligible to adopt as opposed to the one time which was required previously⁵⁶. Now, the first trip is meant as a way for prospective adoptive parents to meet a child and get acquainted with him/her. The second trip is then meant for the parents to attend court and to finalize the adoption process. Generally, these meetings require two trips to Russia because the time between the meeting between parents and child, the processing of all required documents, and the court hearing can take months. Because of this, most families find it easier to make two separate trips since most people cannot stay in Russia for the amount of time needed for the entire process. However, although two trips might be easier given the amount of time

⁵⁵ "Information for Adoptive Parents."

⁵⁶ Finn, Peter. "U.S. Families Urge Putin to Ease Adoption Rules." *Washingtonpost.com*. The Washington Post Company, 23 Feb. 2005. Web. 24 Sept. 2011.

needed to complete adoption, it of course makes the process more difficult and more of a financial burden on the prospective adoptive families⁵⁷.

American Adoption of Russian Orphans: Case Studies

There are loopholes that exist in this part of the requirement. There have been other ways for American prospective adoptive parents to meet their child. For example, although this program can no longer bring Russian orphans to the U.S. due to Russian legislation, the Russian Orphan Lighthouse Project, from 1999 to 2009, brought orphans from Russia to the U.S. for a ten-day vacation bible school⁵⁸. However, this is not the only aim of the project. Personal interviewees who utilized this program in their adoption process, made it clear that the Russian government was unaware of the fact that the program is designed for people who have already decided to adopt from Russia. Although the program does not require the adults who host the children to adopt, it is an unspoken rule that it is expected of them to do so⁵⁹. This first meeting of child and prospective parent actually is recognized as the first meeting between prospective parents and child so therefore, the program offers an incentive for the parents who are able to remain in the comfort of their own home, where hopefully, one day, they will be returning with the same orphan they host as their adopted child.

Finally, the second meeting of prospective parent and child must be in Russia. This trip, as previously mentioned, finalizes the adoption process through a closed court hearing. The prospective parents must be present at this hearing where the adoption application will be considered. This is a legitimate hearing in the sense that adoption is not guaranteed but rather the

⁵⁷ Finn.

⁵⁸ The Russian Orphan Lighthouse Project. Web. 20 Nov. 2011.

⁵⁹ Parents A. "Personal Experiences of Intercountry Adoption with the Russian Federation." Personal interview. 5 Nov. 2011.

judge makes a decision as to whether or not he/she will grant or decline to request for adoption. The judge can grant, deny, or delay the judgment on adoption as he/she feels necessary⁶⁰. If the adoption is granted, there is a ten day waiting period in which the adoptive parents must wait with their child in Russia, finalizing paperwork, and spending time with their child, before legally being allowed to leave⁶¹.

Some of the most telling information concerning the intercountry adoption process between the United States and Russia comes from the families who have gone through the process themselves. Through three interviews with families who have adopted from Russia, and one interview with a Russian native who now lives in the U.S. and who has worked with these families and the children, the inadequacies and surprises of the system itself are revealed.⁶²

Firstly, as of yet, the financial aspects of adoption from Russia have not been discussed. "The costs of adopting a child from Russia can be more than \$50,000"⁶³. These costs include everything from paying the agencies through which the adoptive parents are working, paying for certified documents, translators, travel, and other unexpected costs. One of the aspects of the adoption process with which every single family interviewed was concerned was the way that the financial matters were dealt with upon arrival in Russia. The money owed to the Russian agency is required to be paid, upon arrival, in cash. The families interviewed who all adopted at different periods of time ranging from 1991 to 2004, carried tens of thousands of dollars on their bodies through international airports and finally, handed the money off to a complete stranger. Although

⁶⁰ "Information for Adoptive Parents."

⁶¹ "Personal Experiences of Intercountry Adoption with the Russian Federation.", Parents A, Parents B., and Parents C. "Personal Experiences of Intercountry Adoption with the Russian Federation." Personal interview. 11 Nov. 2011.

⁶² Please see Appendix for the full list of questions asked of interviewees.

⁶³ Nemstova.

the families had been working through these companies for months, none of them really seemed to fully know or expect what would be happening in Russia.⁶⁴

In addition to the money required of the families, the prospective adoptive parents were required to also bring with them “financial and humanitarian support” for the orphanage and others along the way. None of the families had any problems providing gifts and needed support to the orphanages from which they acquired their children, but they did have issues with some of the other “gifts” that were required to move their adoption processes along. Parents A were actually required to bring a briefcase for a specific person from the staff of the Russian agency through which they were working. In fact, the request stated that the woman “preferred leather”.⁶⁵

Parents B shared an even more disheartening story concerning a gift given to the judge during the court hearing. This family had a particularly difficult hearing since the adoptive father had been previously married, had two of his own children, and was divorced. The judge barraged the man with personal questions regarding his last relationship and his objectives in adopting. Although the couple found this irrelevant and very disrespectful, it is understandable that the judge would ask these questions since it is his duty to make sure that the adoption is being made in the orphans’ best interest and that the adoption will ultimately be successful. Nonetheless, the judge attempted to delay his decision regarding the adoption. The translator working with the parents told them that he did not want to grant them the adoption and so, the translator suggested bribing the judge. So, either the judge had a completely arbitrary change of heart, or the two bottles of expensive whiskey that the couple had brought with them and subsequently gave to the

⁶⁴ "Personal Experiences of Intercountry Adoption with the Russian Federation.", Parents A., Parents B., and Parents C.

⁶⁵ Parents A.

judge after learning of his decision, changed his mind. They were ultimately granted the right to adopt their two children.⁶⁶

Conclusion

The process of intercountry adoption between the United States and Russia is full of loopholes, difficulties, and inadequacies. Although the aim of my research is not to explain the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, it is obvious that this Convention plays a large role in the future of Russian intercountry adoption. However, the fact that Russia has yet to ratify the Convention despite the fact that Vladimir Putin signed onto the agreement in 2000, is very telling of many of the issues Russia will face in the adoption sphere. The numerous accounts of human rights abuses coupled with corruption, and ultimately the lack of resources with which orphanages and other institutions must work, will cause very serious problems for Russia if the country is in fact serious about joining the Convention.

There is no easy or quick fix to the innumerable problems that surround the adoption process in Russia. The signing of the Hague Convention is just a microcosm to the failure of the political and social situation in Russia itself- Putin signed the Convention because it is what should be done. The children should be protected and should have an opportunity to live and grow comfortable and happily. Yet, because the Convention has not been ratified and because it the ratification of the Convention would require an enormous overhaul of the present hierarchy

⁶⁶ Parents B.

and arrangement of the orphanage and adoption system in Russia, the ratification of the Hague Convention does not seem to be a likely solution to the problems⁶⁷.

The issues surrounding intercountry adoption between Russia and the United States are incredibly relevant today. Right now, the bilateral agreements between the two countries are still being discussed and finalized. Both countries realize that there are problems within the system that must be ameliorated to ensure not only the safety and happiness of the adoptees, but also to ensure that Americans continue to adopt from the pool of thousands of Russian children who are left in the orphanage system every year. The current laws regulating intercountry adoption create a bureaucratic maze that is all too familiar in Russia. The adoption process is lengthy, meticulous, and a hassle for prospective adoptive families. The current state of Russian-American affairs regarding intercountry adoption is a perfect opportunity for Russia to overhaul its current process, and work out a way to better care for its institutionalized children and to ensure their happiness and safety once adopted. My research illustrates that the myth of “happy childhood” was controversial to begin with, and its legacy has continued to create controversy even after the fall of the Soviet Union. The State excluded thousands of children from this happiness through its own policies and ideology, and, “As a doctor wrote in 1989: ‘For decades we have placed the adjective “happy” next to the word “children”, and insisted that “the only privileged class in our country is children”. These slogans gradually drove out of our head any concern for children in real life’”.⁶⁸ This quote perfectly illustrates the current politics of international adoption when political and ideological issues overshadow children’s welfare.

⁶⁷ "Understanding the Hague Convention." Understanding the Hague Convention: Intercountry Adoption. U.S. Department of State. Web. 7 Sept. 2011.

⁶⁸ M. Rakhmanova, “*My sami ikh kalechim*”, *N* 43 (1989), 8. qtd. in Kelly, 283.

Appendix

The interviews were conducted with three separate families in the Bloomington-Normal, Illinois area as well as one interview with A Russian native, now United States Citizen, who has worked with children and families who have gone through the adoption process. The aim of these interviews was to learn more about the legal and social experience of US-Russian intercountry adoption. Please find below the questionnaire references in each interview.

Questionnaire

1. When you considered adoption, why did you give preference to international adoption rather than domestic adoption?
2. The most frequent place for international adoption among American families is either China or South Korea. You have chosen to adopt from Russia. What was your choice of the country based upon?
3. While going for adoption did you have any age preference and why?
4. While going through adoption did you have any gender preference and why?
5. While adopting from Russia you had to work with a particular agency that was representing your interests as well as the interests of Russian children. How did you search for those agencies?
6. Who was establishing the conditions of your Russian adoption? Russian lawmakers or the American adoption policies?
7. Did the financial aspect of adoption in Russia play a big part in your decision to adopt from this country?
8. Was the process of Russian adoption described to you prior to your actual experience? How different was the actual experience from the process that was outlined to you prior to the departure?
9. The Russian International Adoption Law requires two visits to the country; first to meet a child, and the second, to actually adopt him/her. What was your experience?
10. Describe any help and support you were offered from the adoption agency while in Russia.
11. Your day in Russian court; do you believe that the negative publicity on foreign adoption affected the process of you adopting a child in Russia? Were any special conditions assigned to your adopting a child such as preserving the language while living in America, informing the child on his/her rights to return to their native country, keeping contact with members of their family remaining in Russia, etc.?
12. Describe the process of bringing the child to America. What difficulties, other than overcoming the language barrier, did you face?

13. Are there any support structures for children who are adopted internationally in Bloomington-Normal? Have you worked with any organizations or individuals who helped you through the process of your child's assimilation?
14. Are there any stories you would like to share with me about your adoption experience in Russia or at home?
15. Do you believe that your children are still connected with Russia? Do they consider themselves Americans?

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