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Fertility Policy in post-Soviet Russia: Policy Analysis and Prescriptions

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Fertility Policy in post-Soviet Russia: Policy Analysis and Prescriptions

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Thesis

Presented to the Faculty of the Graduate School of

The University of Texas at Austin

in Partial Fulfillment

of the Requirements

for the Degree of

Master of Arts

The University of Texas at Austin

December 2011

Acknowledgements

This thesis would not have been possible without the guidance of Mary Neuburger and Inga Markovits. I would also like to thank Cornelia Brown for her information about the domestic violence community in Russia and in the United States.

Abstract

Fertility Policy in post-Soviet Russia: Policy Analysis and Prescriptions

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Russia has over the past century experienced a phenomenal drop in fertility. In the post-Soviet period, the birth rate per woman has dropped to one of the lowest in the world, and the population continues to age. While aware of the coming demographic crisis since the 1980s, the state has in the last decade publicly acknowledged the problem and begun drafting policy reforms aimed at increasing fertility. These reforms have included: limitations on abortions, parental leave policies, public competitions and campaigns, and direct transfer payments to parents. These generally unsuccessful programs, however, have suffered from a lack of long-term foresight, steady funding, and an acknowledgement of slowing of and recent reversal of population growth. In order to increase fertility and the health of the Russian population, future reforms will need to address the instability of tax inflows in to the federal budget, acknowledge broader infrastructure issues in the Russian economy, and decrease issues of sexual discrimination, misogyny, and abuse.

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INTRODUCTION

From its birth, the Russian Republic in the Soviet Union has experienced a series of periods of rapidly declining birth rate. From the creation of the regime through the end of the Second World War the Republic saw the largest decline in births per woman, and a second drop occurred under Khrushchev. Since the creation of the Russian Federation, the fertility per woman has declined even further, to a disastrous 1.3–1.5 children per woman.¹ Low fertility has created a group of problems for the Russian Federation which only threaten to intensify over the next several decades. The gradual aging of the last decent-sized generation of women, housing and other social spending issues, cultural preferences, and the fiscal structure of the government contribute to this problem and threaten only to accelerate it in the future.

The Russian Federation is at the very least committed on paper to advancing families within its borders and contributing to the material security of its citizens' lives. Its Constitution prioritizes the health of the family as the building block of society, and politicians have repeatedly publicly dedicated themselves and legislation to resolving this problem, making building families easier and pregnancy more attractive for Russian citizens. The state seems less willing to acknowledge broader contributing factors to familial health like nonchalance towards smoking and heavy drinking, and the

¹ Official Russian government statistics present the figure as hovering between 1.2 and 1.5 children per woman in the last ten years (Федеральная служба государственной статистики, Суммарный коэффициент рождаемости 2011, *available at* <http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/population/demography/#> (last visited Nov. 23, 2011)); while some outside sources believe that number is inflated (*See, e.g. RUSSIA, CIA WORLD FACTBOOK, last updated Nov. 20, 2011, available at* <https://www.cia.gov/library/publications/the-world-factbook/geos/rs.html> (last visited Nov. 23, 2011) (finding a slightly lower rate)).

overwhelmed state of the public medical system. There is a plethora of empirical research on the contours of this problem, including historical fertility rates, geographical and ethnic variations in the rate, and the demographic characteristics of mothers. There is also a body of political science research on general fertility policies and problems, including empirical responses to many types of policy. What the literature seems to be lacking, however, is an analysis of the Russian policies' characteristics, especially at a local and regional level, and Russia-specific policy prescriptions.

In this paper I strive to provide a review of Russian fertility problems, review existing policies aimed at resolving this problem, analyze the efficacy and goals of these programs, and then explain the reasons for the failure of these attempts. Finally, I attempt to prescribe solutions to the fertility issues experienced in Russia in light of the reasons for earlier policies' failures. I conclude by recommending a reworking of the tax system to rely less heavily on natural resource income, a public acknowledgment of and struggle against domestic abuse and misogyny, and reform of social spending to create structural stability for families considering having children. Many of the existing and proposed programs focus too much on the short-term time frame and the problems immediately surrounding childbirth, like neonatal care and money for goods, rather than addressing larger problems. "[F]ertility decisions [however] are shaped by socio-institutionalist context," and many of these programs attempt only to chip away at the edge of a much deeper problem in Russia.²

² Olga Avdeyeva, *Policy Experiment in Russia: Cash-for-Babies and Fertility Change*, 18 SOC. POL. 361 (2011).

Parameters of Crisis

The Russian fertility crisis is acknowledged by all to be an issue for Russia's future, and has been perceived by demographers and politicians for some time.³ According to the Council of Europe, Russia's replacement rate is a mere fifty-nine percent on a scale where one hundred percent means a perfect replication of each generation. "In other words: if Russia's childbearing patterns from the year 2001 were extended indefinitely, each new generation of Russians would be over [forty] percent smaller than its parents'."⁴ Even per the rosier picture painted by the Russian Federal Statistics Service, the Russian population in 1930 may be fifteen million smaller.⁵ In addition to a gradual aging of the population, a low birthrate increases the number of pensioners each working age adult must support, increases medical costs, increases burdens of family support on the younger generations, and lowers national productivity.

An aggravating factor for this crisis is created by the current existence of a moderately sized female population in the second half of their childbearing years. Given the lack off female children, teenagers, and women in their early 20s, this cohort of women born in the 1970s represents in some ways Russia's last chance to avert or

³ See, e.g. J. Newth, *The 1970 Soviet Census*, 24 SOVIET STUD. 200, 200 (1972).

⁴ Nick Eberstadt, *Russia's Demographic Straitjacket*, 24 SAIS REV. 9, 12 (2004), citing COUNCIL OF EUROPE, RECENT DEMOGRAPHIC DEVELOPMENTS IN EUROPE: 2002 81 (2003).

⁵ Федеральная служба государственной статистики, ИЗМЕНЕНИЕ ЧИСЛЕННОСТИ НАСЕЛЕНИЯ ПО ВАРИАНТАМ ПРОГНОЗА, available at http://www.gks.ru/free_doc/new_site/population/demo/progn1.htm (last visited Nov. 23, 2011).

minimize demographic disaster.⁶ This generation is at the tail end of their fertile lives, but is significantly larger than the generations that followed them. Given the relatively low age of childbearing in Russia, the prospect of enticing these women to give birth so late seems more daunting.

Although the coming demographic crisis was known to Soviet authorities by 1980 if not earlier,⁷ two main factors kept the crisis from immediately affecting demographics in the Soviet Union. First, a pattern of internal and international migration relieved the pressure created by an uneven birth rate across the Soviet Union;⁸ after the Stalinist period of expulsion of population from cities, a centripetal trend developed attracting millions of ethnic Russians and other Soviet Union citizens to European Russian cities where local birth rates were the lowest, effectively balancing the urban population.⁹ During the 1990s and into the mid 2000s, there was actually a decreasing amount of pressure on the working-age population from pensioners, the state, and other dependents because the working population increased from approximately 84 million in 1993 to over 90 million in 2006.¹⁰ At the same time, overall population decreased due to increased death rate and outmigration, leaving the society a very favorable ratio between working

⁶ Timothy Heleniak, *Russia's Population Perils*, in AFTER PUTIN'S RUSSIA: PAST IMPERFECT, FUTURE UNCERTAIN 133, 136 (Stephen Wegren and Dale Herspring eds. 2010).

⁷ ANATOLY VISCHNEFSKY ET AL, UNITED NATIONS DEVELOPMENT PROGRAMME, NATIONAL HUMAN DEVELOPMENT REPORT: RUSSIA FACING DEMOGRAPHIC CHALLENGES 18 (2009).

⁸ ANATOLY VISCHNEFSKY ET AL, UNITED NATIONS DEVELOPMENT PROGRAMME, NATIONAL HUMAN DEVELOPMENT REPORT: RUSSIA FACING DEMOGRAPHIC CHALLENGES 74 (2009).

⁹ Blaine Ball and George Demko, *Internal Migration in the Soviet Union*, 54 ECON. GEO. 95, 103 (1983).

¹⁰ ANATOLY VISCHNEFSKY ET AL, UNITED NATIONS DEVELOPMENT PROGRAMME, NATIONAL HUMAN DEVELOPMENT REPORT: RUSSIA FACING DEMOGRAPHIC CHALLENGES 74 (2009).

and non-working population for nearly two decades. This ratio also allowed the effects of low fertility to be ignored for longer. The generation born in the 1960s had been relatively large, and created large numbers of productive members of society through the 1980s, 1990s, and most of the last decade.¹¹ As this generation has aged and continues to age out of the workforce, the population crisis has made itself increasingly apparent, and threatens to only increase in severity as this generation leaves the workforce entirely.¹²

Structure

RUSSIAN FEDERAL LAW

Article 38 of the 1993 Russian Constitution as amended affirms that motherhood and childhood and the family shall be under the defence of the State.¹³ The Constitution imagines the family unit as the basis of society, and imposes mutual care requirements on both parents and adult children. The Russian Constitution itself envisions adult children as the caretakers of their parents, much as parents are to be responsible for their children's care:

1. Материнство и детство, семья находятся под защитой государства.
2. Забота о детях, их воспитание - равное право и обязанность родителей.

¹¹ ANATOLY VISCHNEFSKY ET AL, UNITED NATIONS DEVELOPMENT PROGRAMME, NATIONAL HUMAN DEVELOPMENT REPORT: RUSSIA FACING DEMOGRAPHIC CHALLENGES 18–19 (2009).

¹² Выбор формы представления результатов 484 Демоскоп, Nov 20, 2011, *available at* <http://demoscope.ru/weekly/ias/ias05.php?tim=0&cou=26&terr=1&ind=1&Submit=OK> (last visited Nov. 22, 2011).

¹³ CONSTITUTION OF THE RUSSIAN FEDERATION, (RF) art. 38 (1993).

3. Трудоспособные дети, достигшие 18 лет, должны заботиться о нетрудоспособных родителях.¹⁴

This structure for family rights and responsibilities is not uncommon in the so-called third wave of constitutions created after the fall of socialism. The Ukrainian Constitution, for example, provides almost identically that

... (2) Parents are obliged to support their children until they attain the age of majority. Adult children are obliged to care for their parents who are incapable of work. (3) The family, childhood, motherhood and fatherhood are under the protection of the State.¹⁵ While these provisions could provide support for a large number of suits enforcing the rights of children and parents, the Russian Constitutional Court has been exceedingly meek in taking on the government in these cases.¹⁶

The Russian Family Code again affirms the status of the family as protected by the state, but also includes fatherhood as part of the protected family. Guiding principles of the Family Code include self-support by the family unit, both of children by parents, and of parents by children; an upholding of children's rights with consideration for their ethnic and religious backgrounds; and the voluntary conclusion of marriage between women and men as spouses.¹⁷ In contrast to earlier versions of the Code, the current Family Code provides for joint jurisdiction between the federation and the subjects on

¹⁴ CONSTITUTION OF THE RUSSIAN FEDERATION, (RF) art. 38 (1993).

¹⁵ CONSTITUTION OF UKRAINE (UKR) art. 51, *available at* <http://www.rada.gov.ua/const/conengl.htm> (1996).

¹⁶ *But see Russian Dads Pursue Right to Parental Leave*, MOSCOW TIMES, Nov. 16, 2011 *available at* <http://www.themoscowtimes.com/mobile/article/447901.html> (*last visited* Nov. 20, 2011). The Court has several times in the last few years accepted challenges to laws limiting paternal protections in employment and leave policy.

¹⁷ THE FAMILY CODE OF THE RUSSIAN FEDERATION, NO-223-FZ (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) art. 1, *available in translation at* <http://www.jafbase.fr/docEstEurope/RussianFamilyCode1995.pdf> (*last visited* 18 Oct. 2011).

family relations, specifically delegating power to the sub-federal level on a number of subjects.¹⁸ This distinction, however, became less important after Vladimir Putin removed regional governors from the Federation Council¹⁹ and ended direct regional election of governors, opting instead to appoint representatives to the Council and regional governorships.²⁰ This centralization of power may actually have made potential fertility policy reforms more likely and easier to manage, despite its questionable constitutional status, due to the uniform oversight that can be provided by Moscow.

Property is divided in to two categories in a marriage: common property, acquired by either spouse or the couple jointly during the duration of their duly registered marriage; and individual property, acquired before the marriage or by gift or inheritance. Each spouse is perceived as having an equal share in the common property if a division is necessary, but a “marriage contract” is possible if spouses wish to make an independent settlement of their property affairs, so long as the agreement does not limit the legal capacity of the spouses, affect their recourse to courts to defend their rights, affect personal non-property relations or the relations of the spouses to their children, limit the right of a needy spouse to receive maintenance, or otherwise contain provisions

¹⁸ Age of consent to marriage (Article 13), choice of a double-surname by spouses (Article 32), granting of a surname and patronymic to a child (Article 58), the role of agencies of self-government in setting up guardianship over and care for children left without parents (Article 121), procedure for establishing a trustee for maintenance of a child (Article 150), arrangements for foster parents (Articles 152 and 155).

¹⁹ Kathryn Stoner-Weiss, *The Russian Central State in Crisis: Center and Periphery in the Post-Soviet Era* 127, in *RUSSIAN POLITICS: CHALLENGES OF DEMOCRATIZATION* (Zoltan Barany and Robert Moser, eds., 2001).

²⁰ *Russia Holds Last Regional Governor's Election*, Radio Free Europe, Jan. 23, 2005, available at <http://www.rferl.org/content/article/1057028.html> (last visited Oct. 18, 2011).

extremely unfair to one spouse.²¹ These types of rules are relatively standard, and seem unlikely to be the cause of great concern to either potential parent or otherwise make parenthood less attractive.

The application of Russian family law and associated laws, however, has proven much more spotty in terms of its success in supporting families. The Russian court system is overburdened; one estimate is that approximately three thousand judges were needed as of 2005 to fill all of the federal slots, and that in Moscow fifteen percent of the judicial slots are left unfilled.²² This problem exists across the country to various extents; and lowers the predictability of the resolution of familial disputes over custody, infidelity and alimony. Although there are competing accounts of how fair and unaffected Russian judges and courts are, and how independent they are of the political process, it is at least plausible that corruption of judges and the legal system would decrease couples' willingness to submit disputes to courts or their feelings of security and stability in the family unit.

STATE FINANCES

The Russian federal budget has been extremely volatile, subject to corruption, and often not actually funded by investments and tax income. This volatility is discussed more fully below, but is due in large part to a high dependence on the volatile price of natural resources on the international market for federal funds, a high degree of

²¹ W.E. BUTLER, *RUSSIAN LAW* (3d ed., 2009) § 10.34.

²² Irina A Lediakh, *Russia's Constitutional Court and Human Rights* 213, 215, in *PUBLIC POLICY AND LAW IN RUSSIA: IN SEARCH OF A UNIFIED LEGAL AND POLITICAL SPACE* (Robert Sharlet and Ferdinand Feldbrugge, eds. 2005).

corruption in the federal-regional relations, a regressive income tax system, and a large degree of untaxed capital outflow. In principle, the overwhelming majority of funds are sourced from the federal government either directly to recipients, in the case of transfers, or in the form of grants and regional budgets to okrug and regions, who then undertake programs with the funds.

REASONS FOR LOW FERTILITY

Housing Availability, Quality, and Cost

The housing situation in the Russian Federation is problematic, and in many ways unique. Several large cities have an incredibly high cost of living and an overwhelming shortage of accessible, affordable housing, as discussed below. Given the exorbitant cost of housing, and the prevalence of multigenerational households, young couples' decisions not to add a third or fourth generation to a small apartment is easily understood. There are currently approximately fifty-three million households for a population of over one hundred and forty-one million.²³ Families, especially in urban areas, continue to live together in rather cramped multi-generational quarters. Houses are remarkably small by international standards, especially for immigrant families with more than three children.²⁴

²³ Adisa Banjanovic, Euromonitor International, *Housing Russia Becomes a State Priority*, May 21, 2007, available at http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (last visited Nov. 26, 2011).

²⁴ Федеральная служба государственной статистики, Размер Общей (Полезной) площади жилья, занимаемого домашними хозяйствами, А. Все домашние хозяйства в зависимости от места проживания, available at

Large number of immigrants from Siberia, south-central Russia, and the Russian Far East, as well as from central Asia and the Caucasus, have flocked to European Russian cities., exacerbating the problem²⁵ The housing available in urban areas is generally quite expensive and is becoming increasingly so as the middle and upper classes grow in large cities.²⁶ The volume of new housing being constructed, however, has not remotely kept up with demand as cities have grown. The rate of construction peaked in the early 1990s and has fallen sharply since.²⁷

Putin at the beginning of his term identified housing construction and renewal as one of four main policy areas to focus on in the next twenty years—along with education, healthcare, and agriculture²⁸—but progress has been halting outside of the luxury market in Moscow and to a lesser extent St. Petersburg.²⁹ A large luxury apartment with

http://www.gks.ru/free_doc/new_site/population/uov/uov_631b.htm (last visited Nov. 19, 2011).

²⁵ ANATOLY VISCHNEFSKY ET AL, UNITED NATIONS DEVELOPMENT PROGRAMME, NATIONAL HUMAN DEVELOPMENT REPORT: RUSSIA FACING DEMOGRAPHIC CHALLENGES 74 (2009).

²⁶ Adisa Banjanovic, Euromonitor International, *Housing Russia Becomes a State Priority*, May 21, 2007, available at http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (last visited Nov. 26, 2011).

²⁷ Adisa Banjanovic, Euromonitor International, *Housing Russia Becomes a State Priority*, May 21, 2007, available at http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (last visited Nov. 26, 2011).

²⁸ Adisa Banjanovic, Euromonitor International, *Housing Russia Becomes a State Priority*, May 21, 2007, available at http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (last visited Nov. 26, 2011).

²⁹ Moscow Super-Rich Pour Millions Into Luxury Homes,” HUFFINGTON POST, Sep. 30, 2008, available at <http://www.reuters.com/article/2008/09/30/us-property-idUSTRE48T6XN20080930?feedType=RSS&feedName=oddlyEnoughNews&rpc=22&sp=true> (last visited Oct. 18, 2011); Alexander Zaitchik, “Luxury Russia,” USA TODAY, Jan. 25, 2008, available at http://www.usatoday.com/travel/destinations/2008-01-25-luxury-moscow-forbes_N.htm (last visited Oct. 18, 2011).

amenities like a shared yard, multistory underground garages, security services and private utilities service sells for approximately three billion rubles in Moscow, or over one hundred million American dollars.³⁰ Those markets have grown very aggressively, often at the expense of long-standing residents.³¹ For those millions of Russians not capable of participating in this market, this sort of construction offers them no help in finding suitable housing for families.

In addition to this shortage of affordable urban housing, experienced in many cities across the world,³² however, Russia also suffers from a mismatch between available housing and needs of the population. Thousands of rural villages are depopulated and even disappearing entirely in to nature.³³ A high availability of housing stock in these villages has proven useless in alleviating Russia's housing problems, as there are few jobs in these areas, a lack of infrastructure and medical care availability, and in some

³⁰ "Moscow Super-Rich Pour Millions Into Luxury Homes," HUFFINGTON POST, Sep. 30, 2008, available at <http://www.reuters.com/article/2008/09/30/us-property-idUSTRE48T6XN20080930?feedType=RSS&feedName=oddlyEnoughNews&rpc=22&sp=true> (last visited Oct. 18, 2011).

³¹ See, e.g. "Luxury Apartments: What Lies Beneath?," RT.COM, Oct. 31, 2008, available at <http://rt.com/news/prime-time/luxury-apartments-what-lies-beneath/> (last visited Oct 18, 2011).

³² INTERNATIONAL HOUSING COALITION, THE CHALLENGE OF AN URBAN WORLD: AN OPPORTUNITY FOR U.S. FOREIGN ASSISTANCE (2008), available at <http://intlhc.org/publications> (last visited Dec. 1, 2011).

³³ See, e.g. "Russian villages empty as population collapses," REUTERS, 16 Oct. 2005, available at http://www.dnaindia.com/world/report_russian-villages-empty-as-population-collapses_5986 (last visited Oct. 17, 2011) (discussing the plight of a small village between St. Petersburg and Moscow); Lisa Horner and Josh Wilson, *Eastern Siberia: Vast Potential*, SCH. OF RUS. AND ASIAN ST., available at http://www.sras.org/eastern_siberia (last visited Oct. 17, 2011) (providing overview of challenge facing residents and potential residents of Siberia).

remote Siberian villages, a total lack of electricity.³⁴ The already high internal migration rate to cities has not been countered by low prices and the ease of acquiring land in these areas due to a lack of interest. And huge infrastructure failures. Farm houses and rural cottages in these areas do not offer much to potential families, and are nearly useless in alleviating a housing shortage. Even suburban areas around large cities can be challenging to commute from in areas where the public transit is already overwhelmed: in Moscow nearly half of workers spend more than an hour commuting daily.³⁵

Finally, Russia's housing stock is also in many places of exceedingly low quality. According to the government, approximately ninety-three million square meters of housing should be seen as "dilapidated" and in dire need of repair.³⁶ The burden of creating and providing housing for local population was devolved from the federal government to local municipalities.³⁷ This devolution has resulted in an increased number of agents to fall subject to bribing and corruption, and has increased the fiscal burden on chronically underfunded local governments.³⁸ A Putin-era program was

³⁴ ADISA BANJANOVIC, EUROMONITOR INTERNATIONAL, HOUSING RUSSIA BECOMES A STATE PRIORITY, *available at* http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (2007) (*last visited* Nov. 26, 2011).

³⁵ Derek Andersen, *Daily Moscow Commute Gets Longer*, MOSCOW TIMES, Nov. 17, 2010.

³⁶ ADISA BANJANOVIC, EUROMONITOR INTERNATIONAL, HOUSING RUSSIA BECOMES A STATE PRIORITY, *available at* http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (2007) (*last visited* Nov. 26, 2011).

³⁷ ALEXANDER VESELOVSKY, WORKING PAPER SERIES, HOUSING SECTOR REFORM IN RUSSIA: IMPEDIMENTS ON THE NEW STAGE, MARCH 2, 2006, *AVAILABLE AT* [HTTP://PAPERS.SSRN.COM/SOL3/PAPERS.CFM?ABSTRACT_ID=885366](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=885366) (*LAST VISITED* NOV. 21, 2011).

³⁸ ALEXANDER VESELOVSKY, WORKING PAPER SERIES, HOUSING SECTOR REFORM IN RUSSIA: IMPEDIMENTS ON THE NEW STAGE, MARCH 2, 2006, *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=885366 (*last visited* Nov. 21, 2011).

pursued to address this problem. This program was to both provide limited funding for renovation and repairs, but also to place the legal burden of bringing housing up to code on the shoulders of occupiers and owners of the buildings.³⁹ This reform had not only the increased safety of buildings, but also the eventual creation of an invigorated Russian housing market as goals to be accomplished through an increased personal interest of owners in housing and the increased availability of mortgages, as discussed below.

These reforms, however, have been underfunded and wrought by corruption, and thus have had little impact on existing problems.⁴⁰ Existing problems with corruption and a very low level of trust in government and a stability of private property compound this problem and make its solution more elusive for the government.⁴¹ This problematic housing sector not only disincentivizes investment in property and its upkeep, but more generally presents another hurdle to families interested in establishing a stable place for their children to be born and raised.

The shortage of housing and patterns of internal migration has helped increase the already high cost of housing in larger cities. In 2006 alone, the cost of purchasing new housing stock in Moscow rose by a third, due to inadequate construction and quickly

³⁹ Russian Federation Government Resolution No. 797 of November 17, 2001, On the Subprogram “Reform and Modernization of the Housing and Communal Service Complex in the Russian Federation” of the Federal Targeted Program “ЖИЛИЩЕ” for 2002–2010. *See generally* ALEXANDER VESELOVSKY, WORKING PAPER SERIES, HOUSING SECTOR REFORM IN RUSSIA: IMPEDIMENTS ON THE NEW STAGE, March 2, 2006, *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=885366 (last visited Nov. 21, 2011).

⁴⁰ ALEXANDER VESELOVSKY, WORKING PAPER SERIES, HOUSING SECTOR REFORM IN RUSSIA: IMPEDIMENTS ON THE NEW STAGE, March 2, 2006, *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=885366 (last visited Nov. 21, 2011).

⁴¹ PEW RESEARCH CTR, TWO DECADES AFTER THE WALL’S FALL: END OF COMMUNISM CHEERED BUT NOW WITH MORE RESERVATIONS 7 (2009).

increasing demand.⁴² Very few Russians have mortgages, having received their homes free of cost twenty years ago, but having one in three Russian households subject to a mortgage is a long-term goal of the state, as a way to increase construction, house more Russians, and develop the mortgage sector and attracting desperately needed foreign direct investment to a potentially lucrative field.⁴³ This push towards mortgages seems to be picking up, and may eventually lower housing costs successfully.

Lack of suitable male partners

POPULATION IMBALANCE

One of the most defining characteristics of Russian demography is the striking imbalance between male and female citizens. Despite an improvement since the 1990s, Russian men continue to die much earlier than women. Risky behavior by men, especially those between the ages of twenty and twenty-four, is extremely widespread, with external causes like drunken falls, traffic accidents, and other injuries accounting for eighty percent of all deaths of that class of young men in 2006.⁴⁴ While men of all ages are at elevated risk of violent deaths, currently teenaged women are also at risk;

⁴² ADISA BANJANOVIC, EUROMONITOR INTERNATIONAL, HOUSING RUSSIA BECOMES A STATE PRIORITY, *available at* http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (2007) (*last visited* Nov. 26, 2011).

⁴³ ADISA BANJANOVIC, EUROMONITOR INTERNATIONAL, HOUSING RUSSIA BECOMES A STATE PRIORITY, *available at* http://www.euromonitor.com/Housing_Russia_becomes_a_state_priority (2007) (*last visited* Nov. 26, 2011).

⁴⁴ WORLD BANK, PUBLIC SPENDING IN RUSSIA FOR HEALTHCARE 8, *available at* <http://siteresources.worldbank.org/INTECAREGTOPHEANUT/Resources/PublicSpendingInRussiaforHealthCare.pdf> (*last visited* Oct. 9, 2011).

externally caused deaths account for a full fifty-four percent of deaths among fifteen through nineteen-year-old females.⁴⁵

‘The idea popular among politicians and in the mass media that the growth in mortality was caused by mass impoverishment of the Russian population has not been directly confirmed. Indeed, had absolute poverty been the cause of rising mortality, the most vulnerable and economically dependent groups of the population would have been the primary victims—children and old people...’ [but] the increase in mortality was greatest ‘was among the able-bodied population segments (the most active and economically affluent ... it is safe to say that the fall and, then, rise in alcohol consumption created the main conditions leading to the colossal fluctuations in mortality after 1984.’⁴⁶

This incredible population imbalance has plagued Russia for decades, and continues to make relationships less stable and families less likely

DOMESTIC ABUSE AND MISOGYNY

Like many countries, Russia has widespread domestic violence.⁴⁷ Amnesty International estimated in 2005 that “[e]very hour a woman in the Russian Federation

⁴⁵ WORLD BANK, PUBLIC SPENDING IN RUSSIA FOR HEALTHCARE 8, *available at* <http://siteresources.worldbank.org/INTECAREGTOPHEANUT/Resources/PublicSpendingInRussiaforHealthCare.pdf> (last visited Oct. 9, 2011).

⁴⁶ M. STEVEN FISH, DEMOCRACY DERAILED IN RUSSIA: THE FAILURE OF OPEN POLITICS 107 (2005), *citing* HUMAN DEVELOPMENT REPORT 2000: RUSSIAN FEDERATION, UNITED NATIONS DEVELOPMENT PROGRAMME 72 (2001).

⁴⁷ *See, e.g.* Christina Misner-Pollard, *Domestic Violence in Russia: Is Current Law Meeting the Needs of Victims and the Obligations of Human Rights Instruments?*, 3 COLUM. J. E. EUR. L. 145 (2002); Rebecca Adams, *Violence against Women and International Law: The Fundamental Right to State Protection from Domestic Violence*, 20 N.Y. INT'L L. REV. 57 (2007).

dies at the hand of a relative, her partner or former partner.”⁴⁸ In 2006, the United Nations Commission on Human Rights' Special Rapporteur on Violence Against Women issued a research report on Russia and found that “80% of violent crimes against women constitute domestic violence.”⁴⁹ In seventy percent of families where women are abused, children are also abused.⁵⁰

Although there are many potential contributing factors to the continued acceptance of domestic violence by many Russian men may be the degree of unnecessary brutality that many Russian men experience during their time in the military.⁵¹ Hundreds of stories of recruits dying during hazing rituals exposing them to extreme cold, or requiring consumption of large amounts of alcohol, or starvation diets have circulated.⁵² Conscripts in the Chechnyan wars were left unprepared and untrained in the conflicts, and often participated in widespread violence against locals they encountered, sometimes with the approval or encouragement of their superiors. As the demographic pressure has

⁴⁸ AMNESTY INT'L, RUSSIAN FEDERATION: NOWHERE TO TURN TO--VIOLENCE AGAINST WOMEN IN THE FAMILY, Dec. 14, 2005, *available at* <http://www.amnesty.org/en/library/info/EUR46/056/2005/en> (last visited Oct. 12, 2011).

⁴⁹ REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES, INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND A GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN, ADDENDUM, MISSION TO THE RUSSIAN FEDERATION, U.N. Doc. E/CN.4/2006/61/Add.2, para. 26 at 8 (Jan. 26, 2006).

⁵⁰ CORNELIA BROWN, MULTICULTURAL ASSOCIATION OF MEDICAL INTERPRETERS, «Дискурс» и социальные перемены: К борьбе против домашнего насилия (on file with author).

⁵¹ *See generally* (UN)CIVIL SOCIETIES REPORT: RUSSIAN SOLDIERS' MOTHERS DEPLORE ABUSIVE ARMY, RADIO FREE EUROPE 5 Feb. 2004, *available at* <http://www.rferl.org/content/article/1347194.html> (last visited Nov. 20, 2011).

⁵² (UN)CIVIL SOCIETIES REPORT: RUSSIAN SOLDIERS' MOTHERS DEPLORE ABUSIVE ARMY, RADIO FREE EUROPE 5 Feb. 2004, *available at* <http://www.rferl.org/content/article/1347194.html> (last visited Nov. 20, 2011).

increased and there have been fewer young men of enlisting age, the military has warned about the need to reevaluate the defense policy and reach deeper in to the male population in the meantime.⁵³ Since the late 1990s and early 2000s there has been increased international attention and internal pressure from Комитет Солдатских Матерей России, who in 1999 succeeded in increasing pensions for mothers who had lost two or more sons, and having representation in the United Nations' Commission of Human Rights.⁵⁴ Despite these successes, the demographic and military pressures on the overstretched Russian armed forces seem to guarantee the continued conscription of and possible mistreatment of conscripts who then return to Russian society with a variety of ailments and mental health issues.⁵⁵ Many of these issues contribute clinically to the use of brutality against others in the men's lives, including romantic partners.⁵⁶

Russia has also had a high incidence of and tolerance for domestic violence historically. The historical set of household rules known as the Книга Глаголемая Домострой (*book of household order*) arose most likely in the fifteenth century as a moral guidebook for wealth families.⁵⁷ It was propagated more widely in the sixteenth century, and circulated until the twentieth, prescribing a very traditionally male-

⁵³ "Russia must prepare for new 'Times of Troubles' says military analyst," RT.COM, Mar. 28, 2011, available at <http://rt.com/politics/russia-military-reform-war/> (last visited Nov. 22, 2011).

⁵⁴ Комитет солдатских матерей России, Из истории КСМ России, available at <http://www.soldiers-mothers-rus.ru/history.html> (last visited Nov. 20, 2011).

⁵⁵ Комитет солдатских матерей России, Расписание болезней, available at <http://www.soldiers-mothers-rus.ru/rasbol.html> (last visited Nov. 20, 2011).

⁵⁶ Комитет солдатских матерей России, Расписание болезней, available at <http://www.soldiers-mothers-rus.ru/rasbol.html> (last visited Nov. 20, 2011).

⁵⁷ Книга Глаголемая Домострой, available at <http://nesusvet.narod.ru/books/domostroy.htm> (last visited Sep. 13, 2011).

dominated and repressive family environment. Paragraph 33, for example, concerns “Как Мужу Воспитывать свою жену б том, чтобы сумела и богу тодить у к мужу своему приноровится, чтобы могла дом свой жлучше устроить и бсякий домашний обиход и пыкоделье знать, и слуг учить и самой трудиться.”⁵⁸ Although it has now taken on a negative connotation among most groups, the book is one example of the historical relation between the sexes in Russia, and Книга Глаголемая Домострой is still referenced in contemporary Russia.⁵⁹ Several organizations advocate adherence to a reformed book of household order.⁶⁰ Existing domestic abuse shelters in Russia have often been resisted by local governments, and are generally a result of Western philanthropic attempts.⁶¹ In a study on the rhetoric of employees in these shelters and crisis centers, many service providers complained that “Мы не имеем языка, чтобы обсуждать ДН! (domestic violence)”⁶² A service provider to Russian women abused in New York has expressed the need to teach Russian women the words for domestic

⁵⁸ Книга Глаголемая Домострой art. 33, *available at* <http://nesusvet.narod.ru/books/domostroy.htm> (last visited Sep. 13, 2011).

⁵⁹ E.g. The Domostroi, Голос России (Voice of Russia), *available at* <http://english.ruvr.ru/2009/11/10/2211853.html> (discussing the “priceless insights” that domostroi provides) (last visited Nov. 19, 2011)

⁶⁰ See e.g. КРИВАЯ ИМПЕРИЯ, Оглавление, <http://empire.netslova.ru/Dom/index.html> (last visited Nov. 29, 2011).

⁶¹ CORNELIA BROWN, MULTICULTURAL ASSOCIATION OF MEDICAL INTERPRETERS, «Дискурс» и социальные перемены: К борьбе против домашнего насилия (on file with author). (Западные филантропические фонды поощряют участие русских женщин в общественных организациях).

⁶² CORNELIA BROWN, MULTICULTURAL ASSOCIATION OF MEDICAL INTERPRETERS, «Дискурс» и социальные перемены: К борьбе против домашнего насилия (on file with author).

violence and its effects, as well as making it clear that physical violence is illegal and unacceptable behavior.⁶³

Although the Soviet Union's Constitution provided for full equality between the sexes,⁶⁴ universal medical care,⁶⁵ and care for children,⁶⁶ there was widespread factual gender inequality, discrimination, and imposition of additional burdens on women in society. Very few women reached the highest positions of power, although there was an impressive and marked increase of women in traditionally male positions like judges, doctors, and lawyers. In the home, however, women were left with a very heavy double burden due to continued expectations of women to primarily care for the home and her family. Domestic violence—generally referred to as “wife-beating” by non-specialists—continued to be considered a “private” matter by both the state and individuals, as it is today.⁶⁷ Estimates of domestic violence's occurrence are hard to come by due to the lack of federal statistics and the reluctance of police to report these crimes as such, but a conservative estimate is that Russian women appear to suffer instances of violence at the hands of their romantic partners approximately fifteen times more often as American

⁶³ CORNELIA BROWN, MULTICULTURAL ASSOCIATION OF MEDICAL INTERPRETERS, «Дискурс» и социальные перемены: К борьбе против домашнего насилия (on file with author).

⁶⁴ 1977 CONSTITUTION OF THE UNION OF SOVIET SOCIALIST REPUBLICS art. 35 (Seventh Session of the Supreme Soviet of the U.S.S.R. Ninth Convocation (October 7, 1977)).

⁶⁵ 1977 CONSTITUTION OF THE UNION OF SOVIET SOCIALIST REPUBLICS art. 42 (Seventh Session of the Supreme Soviet of the U.S.S.R. Ninth Convocation (October 7, 1977)).

⁶⁶ 1977 CONSTITUTION OF THE UNION OF SOVIET SOCIALIST REPUBLICS arts. 35, 53 (Seventh Session of the Supreme Soviet of the U.S.S.R. Ninth Convocation (October 7, 1977)).

⁶⁷ William E. Thornton & Lydia Voigt, “Russia,” in DOMESTIC VIOLENCE: A GLOBAL VIEW 97 (Allan M. Hoffman & Randal W. Summers eds., 2002); CORNELIA BROWN, MULTICULTURAL ASSOCIATION OF MEDICAL INTERPRETERS, «Дискурс» и социальные перемены: К борьбе против домашнего насилия (on file with author).

women.⁶⁸ This works out to approximate seventeen million Russian women experiencing domestic violence per year. Domestic violence decreases mental stability and fertility of its victims, makes suicidality more common, and decreases women's ability to maintain employment and amass wealth.⁶⁹ Unsurprisingly, an inability to fully care for children and maintain a healthy environment for them also can result from domestic violence.⁷⁰ As mentioned above, fertility is often reduced as a result of domestic violence, both as a result of physical violence and stress, but also due to a decreased interest in raising children with the perpetrator.⁷¹

Structural Barriers to Fertility

FLAT TAX

Relative to most developed and even developing countries, Russia offers relatively little incentive in the federal and local tax system for parents and families. Russia has historically relied overwhelmingly on money from excise taxes on oil and gas and other minerals. In the late 1990s tax reform was begun, setting up the foundation of

⁶⁸ CORNELIA BROWN, MULTICULTURAL ASSOCIATION OF MEDICAL INTERPRETERS, «Дискурс» и социальные перемены: К борьбе против домашнего насилия (on file with author).

⁶⁹ Adrienne Adams et al, *Development of the Scale of Economic Abuse*, 14 VIOLENCE AGAINST WOMEN 563, 564 (2008).

⁷⁰ S. Riger et al, "Measuring interference with employment and education reported by women with abusive partners: Preliminary data," 119–133 in PSYCHOLOGICAL ABUSE IN VIOLENT DOMESTIC RELATIONS (K. D. O'Leary & R. D. Maiuro eds., 2001).

⁷¹ Adrienne Adams et al, *Development of the Scale of Economic Abuse*, 14 VIOLENCE AGAINST WOMEN 563, 567 (2008).

a system that was then built in three steps under Vladimir Putin.⁷² Widespread nonpayment of taxes plagued Russia until 2003, and although the problem has improved since then, it remains widespread. The Russian Federation created a federal income tax only in 2001, and only then over great opposition.⁷³ It originally had three marginal rates—twelve, twenty, and thirty percent—, but tax evasion and resistance was widespread.⁷⁴

A mere two years later Russia reformed its system again, creating a controversial thirteen percent flat tax on all personal income.⁷⁵ Flat taxes are by nature regressive and similar to sales taxes, hitting low- and middle-income families much more heavily than the upper class and super wealthy, as much more of their income is devoted to the necessities of life. Because of the flat rate, getting married offers no incentive in tax policy, as it does in the American system. The high degree of capital loss from wealthy Russians and siphoning in to foreign accounts and investments adds to this inequality in tax burden and places a relatively high burden on average Russian citizens. Despite this increased tax burden placed on citizens' income, the Russian budget still receives the plurality of its funding from value-added taxes, excise taxes, and tariffs, mostly those

⁷² For current online version of the Russian tax code through Nov. 7, 2011, *see* “Законодательство о налогах и сборах и иные нормативные правовые акты о налогах и сборах,” ГАРАНТ, *available at* <http://base.garant.ru/10900200/1/> (last visited Nov. 21, 2011).

⁷³ Anna Ivanova et al, Inst. for Fiscal Studies, *The Russian ‘flat tax’ reform*, 20 ECON. POL. 397 (2005).

⁷⁴ Anna Ivanova et al, Inst. for Fiscal Studies, *The Russian ‘flat tax’ reform*, 20 ECON. POL. 397–98 (2005).

⁷⁵ “Законодательство о налогах и сборах и иные нормативные правовые акты о налогах и сборах,” ГАРАНТ, *available at* <http://base.garant.ru/10900200/1/> (last visited Nov. 21, 2011); Anna Ivanova et al, Inst. for Fiscal Studies, *The Russian ‘flat tax’ reform*, 20 ECON. POL. 397, 399 (2005).

based on the export of fuel, oil, the extraction of minerals, and other natural resources.⁷⁶

The negative effects of the flat tax system on policies available to governments are discussed below; the flat tax renders many traditional tax incentives much less valuable.

HEALTHCARE ISSUES

Although the Russian Federation does provide universal healthcare, several problems with the system affect the ability of women in Russia to receive high quality healthcare and maternity care. Russia has a remarkably high infant mortality rate, despite some improvement since 1990.⁷⁷ Russia also has a relatively high death rate for children.⁷⁸ Child and infant mortality have only a slight overall effect on the number of children who reach adulthood in Russia, but it also affects women's fertility and the chance of children living a full life. The Russian healthcare system has a number of problems ailing it, including under- and uneven funding, practices that lead to high infant mortality, environmental pollution, a legacy of abortion as the primary form of birth control, and sexually transmitted diseases.

Underfunding of Healthcare

⁷⁶ Федеральная Служба Государственной Статистики (ГосКомСтат), Налоговая статистика (current through 2010), *available at* http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/environment/doklad/soderzhanie/ek-sit_RF/finansy/gos_fin/nal_stat/index.html (last visited Nov. 18, 2011).

⁷⁷ Федеральная Служба Государственной Статистики (ГосКомСтат), Младенческая Смертность (current through 2010), *available at* <http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/population/demography/#> (last visited Nov. 28, 2011).

⁷⁸ UNICEF, STATISTICS: RUSSIAN FEDERATION, Mar. 2, 2010, *available at* http://www.unicef.org/infobycountry/russia_statistics.html (last visited Nov. 22, 2011).

Healthcare in Russia, though improving, is among the worst in the industrial world. Healthcare in general takes up a remarkably small amount of the Russian budget and gross domestic product, even compared with other post-Soviet states: according to a 2007 World Health Organization Report, five percent of Russian gross domestic product is spent towards all health expenditures, less than half the ratio spent by Germany and France, placing Russia below even Kyrgyzstan and Belarus.⁷⁹ In spending per person, the Russian Federation's situation appears slightly less dire; approximately \$550 is spent, to Monaco's approximately \$5,000, but significantly more than the central Asian republics.⁸⁰ Approximately sixty percent of the money spent in total on health expenditures comes from the government, the remaining coming from private households.⁸¹

Doctors and nurses are chronically underpaid, many sometimes even being left without pay for weeks at a time.⁸² Others are left unpaid for weeks, and then offered

⁷⁹ ELLIE TRAGAKES ET AL, WORLD HEALTH ORGANIZATION, LATVIA: HEALTH SYSTEM REVIEW 67 (2008).

⁸⁰ ELLIE TRAGAKES ET AL, WORLD HEALTH ORGANIZATION, LATVIA: HEALTH SYSTEM REVIEW 69 (2008).

⁸¹ ELLIE TRAGAKES ET AL, WORLD HEALTH ORGANIZATION, LATVIA: HEALTH SYSTEM REVIEW 70 (2008).

⁸² Carey Goldberg and Sophia Kishkovsky, *Russia's Doctors are Beggars at Work and Paupers at Home*, 16 Dec. 2000, N.Y. TIMES, available at <http://www.nytimes.com/2000/12/16/world/russia-s-doctors-are-beggars-at-work-paupers-at-home.html?pagewanted=all&src=pm> (last visited Oct. 17, 2011); "'Dirty Money' Offered to Russian Doctors," May 15, 2011, ABC NEWS, available at <http://abcnews.go.com/International/story?id=81090&page=1> (last visited Oct. 17, 2011) (describing the attempted replacement of months of salary with a delivery of manure to a Russian doctor).

their salary in alternative materials like food or farm materials.⁸³ An average Russian doctor in 2010 earned a mere 18,300 rubles, or approximately \$650 monthly.⁸⁴ Even in Moscow, where the cost of living was found to be fifth-highest in the world in 2010 below Geneva, Switzerland,⁸⁵ the average doctor earned about \$1,270.⁸⁶ These conditions understandably make the healthcare sector unattractive in Russia and healthcare harder to access for Russians.

As a result of this funding shortcoming and an established culture of bribery of authority figures, many citizens are left without access to their allegedly free health care unless they are able to gather large amounts of money to pay their healthcare providers.⁸⁷ “According to a summer 2006 study commissioned by [Transparency International], 13 percent of 1,502 respondents who had sought medical help during the previous year had to pay an average of \$90 under the table, out of wages averaging \$480 a month.”⁸⁸ An increasing number of Russian citizens—and nearly all ex-patriates living in cities there—

⁸³ Carey Goldberg and Sophia Kishkovsky, *Russia's Doctors are Beggars at Work and Paupers at Home*, 16 Dec. 2000, N.Y. TIMES, available at <http://www.nytimes.com/2000/12/16/world/russia-s-doctors-are-beggars-at-work-paupers-at-home.html?pagewanted=all&src=pm> (last visited Oct. 17, 2011)

⁸⁴ *Moscow to double city doctors' salaries by 2016*, RIA NOVOSTI, June 1, 2011, available at <http://en.rian.ru/russia/20110601/164360247.html> (last visited Oct. 15, 2011).

⁸⁵ MERCER CONSULTING, COST-OF-LIVING SERVICES 5 (2011).

⁸⁶ MERCER CONSULTING, COST-OF-LIVING SERVICES 5 (2011).

⁸⁷ See, e.g. Maria Danilova, *Despite oil wealth, Russia faces huge health care problems*, N.Y. TIMES, June 28, 2007, available at <http://www.nytimes.com/2007/06/28/business/worldbusiness/28iht-russhealth.4.6394606.html> (last visited Oct. 9, 2011) (discussing the plight of a man with a broken leg left alone in his room without painkillers or treatment until he could deposit \$4,500 in the hospital's account).

⁸⁸ Maria Danilova, *Despite oil wealth, Russia faces huge health care problems*, N.Y. TIMES, June 28, 2007, available at <http://www.nytimes.com/2007/06/28/business/worldbusiness/28iht-russhealth.4.6394606.html> (last visited Oct. 9, 2011).

are turning towards the expensive but competent private sector for care.⁸⁹ Private sector care offers international standard procedures, better customer service and an absence of informal payments and bribes, but is much more expensive than the public service, even with bribes taken in to account.⁹⁰ “[New private hospitals are] aimed at Russia's growing middle classes as well as the elite, including businessmen and members of the government,” commented a manager of a new private Moscow hospital.⁹¹

Unfortunately, the private sector is out of reach for the overwhelming majority of Russians, and does little to help issues of corruption and poor healthcare faced by the majority of the Russian population and potential parents. As one Muscovite trolley bus driver queuing to see a doctor in a Moscow hospital asked about a new Moscow hospital, “What difference is it going to make to me?”⁹²

High Infant Mortality

Russian infant mortality has fallen steeply over two periods in history: first during the immediate post-war and Khrushchev era from about two hundred deaths per thousand

⁸⁹ Alex Freedmann, The Russian Private Healthcare Services Market, 3 RUS. CORP. WORLD, available at <http://www.trcw.ru/en/articles/detail.php?ID=390> (highlighting foreign investment potential in quickly growing private healthcare sector) (last visited Dec. 1, 2011); Mark Franchetti, *Abramovich Builds Hospital for Russia's Rich*, Oct. 29, 2006, THE TIMES at 26 (describing the creation of a private hospital in a Moscow suburb with a two-to-one staff-to-patient ratio, and world class amenities) (last visited Dec. 1, 2011).

⁹⁰ Alex Freedmann, The Russian Private Healthcare Services Market, 3 RUS. CORP. WORLD, available at <http://www.trcw.ru/en/articles/detail.php?ID=390> (last visited Dec. 1, 2011).

⁹¹ Mark Franchetti, *Abramovich Builds Hospital for Russia's Rich*, 29 Oct. 2006, THE TIMES at 26.

⁹² Mark Franchetti, *Abramovich Builds Hospital for Russia's Rich*, 29 Oct. 2006, THE TIMES at 26.

to sixty in 1955,⁹³ and again in the late 1990s and 2000s.⁹⁴ Despite an increased governmental focus on care of infants and young children, even Russia's official statistics, often questioned due to a tendency to underreport deaths of infants under six weeks,⁹⁵ report that there are approximately eleven infant deaths per capita.⁹⁶ In Iceland, by comparison, the rate is approximately eighteen percent that.⁹⁷ Neonatal care is also in dismal shape in public hospitals across Russia, the government has announced a plan to build twenty-three neonatal centers across Russia.⁹⁸ Some doctors claim much simpler measures—like stopping maternal smoking and drinking—would achieve just as impressive results.⁹⁹

Combined with under-5 mortality, approximately one in forty children will not live to see primary school. Even according to official Russian statistics, child mortality

⁹³ Ellen Jones and Fred Grupp, *Infant Mortality Trends in the Soviet Union*, 9 POPULATION AND DEVELOPMENT REVIEW 213, 218 (1983).

⁹⁴ UNICEF, STATISTICS: RUSSIAN FEDERATION, Mar. 2, 2010, *available at* http://www.unicef.org/infobycountry/russia_statistics.html (*last visited* Nov. 22, 2011).

⁹⁵ *See, e.g.* UNICEF, SITUATION ANALYSIS OF CHILDREN IN THE RUSSIAN FEDERATION 29 (2007) (noting the ways in which the government's official Росстат statistics can vary from the reported numbers); Федеральная Служба Государственной Статистики (ГосКомСтат), Демографический ежегодник России 2009 http://www.gks.ru/bgd/regl/B09_16/Main.htm (parts of the Russian Statistical Service's data) (*last visited* Dec. 1, 2011).

⁹⁶ UNICEF, STATISTICS: RUSSIAN FEDERATION, Mar. 2, 2010, *available at* http://www.unicef.org/infobycountry/russia_statistics.html (*last visited* Nov. 22, 2011).

⁹⁷ UNICEF, STATISTICS: ICELAND, Mar. 2, 2010, *available at* http://www.unicef.org/infobycountry/iceland_statistics.html (*last visited* Nov. 22, 2011).

⁹⁸ Gregory Warner, The Addiction Economy: Russia's Illnesses Come With High Costs, Marketplace, Mar. 16, 2011, *available at* <http://www.marketplace.org/topics/world/russia-rx/addiction-economy-russias-illnesses-come-high-costs> (*last visited* Nov. 21, 2011).

⁹⁹ Gregory Warner, The Addiction Economy: Russia's Illnesses Come With High Costs, Marketplace, Mar. 16, 2011, *available at* <http://www.marketplace.org/topics/world/russia-rx/addiction-economy-russias-illnesses-come-high-costs> (*last visited* Nov. 21, 2011).

remains remarkably high, especially in rural areas.¹⁰⁰ Surviving children are less likely to live a full and healthy life as adults; in 2003 a full eighty percent of high school graduates had moderate or severe health problems.¹⁰¹ A lack of enforcement of children's right to healthcare accounts for some of this disparity: Children's rights and treatment may also affect peoples' decisions and ability to have children, as well as each existing child's mortality rate. Despite these serious problems, recent federal legislation has taken steps to improve children's health. The Fundamentals of Russian Federation Legislation on Health Care¹⁰² sets forth the basic outline of the Russian policy on child healthcare, a maternal health initiative was initiated in 2003, and a 2007 program that initiated *materinskii kapital* also created a system of routine health check-ups for children in orphanages, increased child care benefits, and limited reimbursement for preschool care.¹⁰³ While this process is very far from complete, the government does seem to be making limited progress in the field of children's health.

Pollution

The negative effects of environmental pollution both on women's decision to become pregnant and their chance of having a problem-free pregnancy and birth are well-

¹⁰⁰ Федеральная служба государственной статистики (Russian Federal Statistical Service), Младенческая смертность 2011, *available at* <http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/population/demography/#> (last visited Nov 23, 2011).

¹⁰¹ Federation Council of the Russian Federation Federal Assembly, *Analytical materials for parliamentary hearings on Protection of Children's Health in the Russian Federation* 35, 7 *Analiticheskii Vestnik* [Analytical Bulletin] 35 (2007).

¹⁰² Fundamentals of Russian Federation Legislation on Health Care, *Vedomosti S'ezda Narodnykh Deputatov RF I Verkhovnogo Soveta* 1993, No. 33, Item 1318.

¹⁰³ UNICEF, *SITUATION ANALYSIS OF CHILDREN IN THE RUSSIAN FEDERATION* 22 (2007)

documented.¹⁰⁴ Both air and water pollution can produce genetic damage, low birth weight, and lower performance later in childhood.¹⁰⁵ Environmental pollution and problems with the provision of clean water affect large areas of the Russian Federation;¹⁰⁶ in some eighty-four cities, the international standard level of contaminants is exceeded by at least 1000%, thirty-seven percent of childhood illnesses are attributed to air and water pollution, and natural abortions resulting from exposure to contaminants is high.¹⁰⁷ Increased numbers of cars on the road also contributed to this problem, and in many areas of Russia nuclear waste contaminates ground water. In Moscow, several former nuclear waste areas are being excavated and built upon, much to the chagrin of local residents and healthcare professionals.¹⁰⁸

Smoking, both in the immediate environment of children and of the mother during pregnancy, is a serious problem in Russia. Smoking and rates in Russia are among the

¹⁰⁴ Jennifer Parker, et al, *The International Collaboration on Air Pollution and Pregnancy Outcomes: Initial Results*, 119 ENVIRONMENTAL HEALTH PERSPECTIVES 1023, 1023 (2011); Andrea Rossnerova, *Micronuclei levels in mothers and their newborns from regions with different types of airpollution*, 715 MUTATION RESEARCH 72, 77 (2011).

¹⁰⁵ Andrea Rossnerova, *Micronuclei levels in mothers and their newborns from regions with different types of airpollution*, 715 MUTATION RESEARCH 72, 77 (2011); Gregory Warner, *The Addiction Economy: Russia's Illnesses Come With High Costs*, MARKETPLACE, Mar. 16, 2011, available at <http://www.marketplace.org/topics/world/russia-rx/addiction-economy-russias-illnesses-come-high-costs> (last visited Nov. 21, 2011).

¹⁰⁶ For a thorough discussion of contaminants common in different parts of Russia and government responses both in the Soviet Union and in the Russian Federation, see RUSSIA AIR POLLUTION (NO. 386), TRADE AND ENVIRONMENT DATABASE, AMERICAN UNIVERSITY, available at <http://www1.american.edu/ted/russair.htm> (last visited Nov. 22, 2011).

¹⁰⁷ RUSSIA AIR POLLUTION (NO. 386), TRADE AND ENVIRONMENT DATABASE, AMERICAN UNIVERSITY, available at <http://www1.american.edu/ted/russair.htm> (last visited Nov. 22, 2011).

¹⁰⁸ “Luxury Apartments: What Lies Beneath?,” RT.COM, Oct. 31 2008, available at <http://rt.com/news/prime-time/luxury-apartments-what-lies-beneath/> (last visited Oct. 18, 2011).

highest in the world,¹⁰⁹ the rate of smoking is increasing among fertile women,¹¹⁰ no smoking ordinances are nearly non-existent, and smoking by pregnant women is relatively common—half of all pregnant women continue smoking through their pregnancy.¹¹¹ These problems produce decreased physical ability and coordination for children,¹¹² low birth weights and shorter lifespan,¹¹³ and lower fertility.¹¹⁴

Environmental and neonatal exposure to contaminants affects both mothers' and children's health, and are not controlled by the overwhelmed medical system, producing an increase in mortality rate.

Legacy of Abortion Policy

In the Soviet Union after Stalin's death, abortion became the main, and in many cases only, form of birth control available to Russians aside from abstinence. Although the early Soviet Union made abortion widely available, even in the late 1920s public

¹⁰⁹ Anna Gilmore, et al, *Prevalence of Smoking in 8 Countries of the Former Soviet Union: Results From the Living Conditions, Lifestyles and Health Study*, 94 AM. J. OF PUB. HEALTH 2177, 2185–87 (2004) ; “Female smokers 'double in Russia,’” BBCNEWS, Jan. 27, 2008, available at <http://news.bbc.co.uk/2/hi/health/7209551.stm> (last visited Nov. 19, 2011).

¹¹⁰ “Female smokers 'double in Russia,’” BBCNEWS, Jan. 27, 2008, available at <http://news.bbc.co.uk/2/hi/health/7209551.stm> (last visited Nov. 19, 2011).

¹¹¹ Gregory Warner, *The Addiction Economy: Russia's Illnesses Come With High Costs*, Marketplace, Mar. 16, 2011, available at <http://www.marketplace.org/topics/world/russia-rx/addiction-economy-russias-illnesses-come-high-costs> (last visited Nov. 21, 2011).

¹¹² Matz Larsson and Scott Montgomery, *Maternal smoking during pregnancy and physical control and coordination among offspring*, 65 J. OF EPIDEMIOLOGY AND PUBLIC HEALTH 1151, 1156–58 (2010) (describing effects of maternal smoking on coordination among eleven-year-olds).

¹¹³ L. Vinikoor-Imler, *Neighborhood conditions are associated with maternal health behaviors and pregnancy outcomes*, 73 SOC. SCIENCE AND MEDICINE 1302, 1311 (1982).

¹¹⁴ L. Vinikoor-Imler, *Neighborhood conditions are associated with maternal health behaviors and pregnancy outcomes*, 73 SOC. SCIENCE AND MEDICINE 1302, 1311 (1982).

campaigns against abortion and promiscuity were undertaken,¹¹⁵ and in May 1936 abortions were outlawed.¹¹⁶ In 1954 women seeking abortions were no longer criminally prosecuted, and in 1955 they were again made available legally. Rates skyrocketed; in the mid 1960s, there were 2.72 abortions for every one live birth.¹¹⁷ Hormonal contraceptives of questionable quality were available during periods of Soviet history, but were properly viewed with skepticism. The number of abortions has since dropped significantly to around the number of live births,¹¹⁸ but abortions still number well over a million yearly in a country with fewer than forty million women of childbearing age.¹¹⁹ In 2006, there were 1.6 million official abortions, versus 1.5 million live births in a population of approximately 140 million.¹²⁰ In addition to often causing emotional or mental trauma to the woman and others involved, repeated abortions can cause serious

¹¹⁵ SHELIA FITZGERALD, *EVERYDAY STALINISM* 142 (1999), *citing* Shelia Fitzpatrick, *Sex and Revolution* 65 in SHELIA FITZGERALD, *CULTURAL FRONT*.

¹¹⁶ DECREE ON THE PROHIBITION OF ABORTIONS. JUNE 27, 1936, *Izvestia* 1936 AT 309, AVAILABLE AT [HTTP://WWW.RED-CHANNEL.DE/BOOKS/ABORTION.HTM](http://www.red-channel.de/books/abortion.htm) (LAST VISITED NOV. 21, 2011).

¹¹⁷ “15 новых независимых государств. Число аборт на 100 живорождений, 1960-2008,” 485-6 *Демоскоп*, Nov 20, 2011, available at http://demoscope.ru/weekly/ssp/sng_abo.php (last visited Nov. 22, 2011).

¹¹⁸ “15 новых независимых государств. Число аборт на 100 живорождений, 1960-2008,” 485-6 *Демоскоп*, Nov 20, 2011, available at http://demoscope.ru/weekly/ssp/sng_abo.php (last visited Nov. 22, 2011); Chloe Arnold, “Abortion Remains Top Birth-Control Option In Russia,” *RADIO FREE EUROPE*, June 28 2008, available at http://www.rferl.org/content/Abortion_Remains_Top_Birth_Control_Option_Russia/1145849.html (last visited Oct. 18, 2011).

¹¹⁹ Timothy Heleniak, “Russia’s Population Perils,” in *AFTER PUTIN'S RUSSIA: PAST IMPERFECT, FUTURE UNCERTAIN* 133, 136 (Stephen Wegren and Dale Herspring, eds., 2010).

¹²⁰ Chloe Arnold, “Abortion Remains Top Birth-Control Option In Russia,” *RADIO FREE EUROPE*, June 28, 2008, available at http://www.rferl.org/content/Abortion_Remains_Top_Birth_Control_Option_Russia/1145849.html (last visited Oct. 18, 2011).

side effects, including blood loss and permanent infertility.¹²¹ “‘The complications include bleeding and inflammation in the short term,’ says Lyubov Yerofeyeva, the director of the Russian Family Planning Association, an NGO that works to improve sex education in Russia. ‘In the long term, the most severe complication could be infertility.’”¹²² Russian women continue to express a relatively nonchalant attitude towards abortion and its effects.¹²³ This legacy has helped to create an attitude towards abortion as a default form of birth control, despite its high health risks, as well as a suspicion of hormonal birth control as unreliable or unhealthy.

Availability of Birth Control

Hormonal birth control and condoms are relatively expensive in Russia. Hormonal birth control costs about twenty-five dollars a month in a country with an average monthly income hovering around five-hundred.¹²⁴ Many women report feeling

¹²¹ Chloe Arnold, “Abortion Remains Top Birth-Control Option In Russia,” RADIO FREE EUROPE, June 28, 2008, *available at* [http://www.rferl.org/content/Abortion Remains Top Birth Control Option Russia/1145849.html](http://www.rferl.org/content/Abortion_Remains_Top_Birth_Control_Option_Russia/1145849.html) (last visited Oct. 18, 2011); Mari Larivaara, *Pregnancy prevention, reproductive health risk and morality: a perspective from public-sector women’s clinics in St. Petersburg, Russia*, 20 CRITICAL PUB. HEALTH 320, 320; Igor Kon, *Russia*, HUMBOLDT UNIVERSITÄT ZU BERLIN: INTERNATIONAL ENCYCLOPEDIA OF SEX, *available at* <http://www2.hu-berlin.de/sexology/IES/russia.html> (last visited Oct. 20, 2011).

¹²² Chloe Arnold, “Abortion Remains Top Birth-Control Option In Russia,” RADIO FREE EUROPE, June 28, 2008, *available at* [http://www.rferl.org/content/Abortion Remains Top Birth Control Option Russia/1145849.html](http://www.rferl.org/content/Abortion_Remains_Top_Birth_Control_Option_Russia/1145849.html) (last visited Oct. 18 2011).

¹²³ Igor Kon, *Russia*, HUMBOLDT UNIVERSITÄT ZU BERLIN: INTERNATIONAL ENCYCLOPEDIA OF SEX, *available at* <http://www2.hu-berlin.de/sexology/IES/russia.html> (last visited Oct. 20 2011).

¹²⁴ “Monthly Salary in Russia Averages \$550 in 2007,” KOMMERSANT, Jan. 30, 2008, *available at* <http://www.kommersant.com/page.asp?id=847117> (last visited Oct. 21, 2011).

uncomfortable asking their families for birth control information,¹²⁵ let alone for money to purchase medicine. A gynecologist with over twenty years experience in Tartarstan commented, “You can't say the idea of family planning and birth control is flourishing. The tradition in Russia is not to talk about sexuality loudly, not to tackle these issues -- even within a family, even between husband and wife. Sometimes they're not even communicating about their own sexual relations. These issues have always been very closed.”¹²⁶

Sexually Transmitted Diseases

Sexually transmitted diseases also inhibit childbirth and rearing in Russia. Just over a million Russians live today with HIV or AIDS.¹²⁷ For approximately the last ten years, Russia and other former republics of the Soviet Union have been the area of the quickest growth in HIV and AIDS transmission and infection.¹²⁸ In addition to the many hazards of AIDS among heterosexual citizens of childbearing age, many other sexually transmitted diseases—especially syphilis, gonorrhea, and herpes—are relatively

¹²⁵ Igor Kon, *Russia*, HUMBOLDT UNIVERSITÄT ZU BERLIN: INTERNATIONAL ENCYCLOPEDIA OF SEX, available at <http://www2.hu-berlin.de/sexology/IES/russia.html> (last visited Oct. 20, 2011).

¹²⁶ Chloe Arnold, “Abortion Remains Top Birth-Control Option In Russia,” RADIO FREE EUROPE, June 28, 2008, available at http://www.rferl.org/content/Abortion_Remains_Top_Birth_Control_Option_Russia/1145849.html (last visited Oct. 18, 2011).

¹²⁷ UNICEF, STATISTICS: RUSSIAN FEDERATION, Mar. 2, 2010, available at http://www.unicef.org/infobycountry/russia_statistics.html (last visited Nov. 22, 2011).

¹²⁸ UNICEF, STATISTICS: RUSSIAN FEDERATION, Mar. 2, 2010, available at http://www.unicef.org/infobycountry/russia_statistics.html (last visited Nov. 22, 2011).

widespread.¹²⁹ These diseases can similarly affect overall health and fertility.¹³⁰ Young people are generally quite interested in and receptive to information about contraception and sexually transmitted diseases,¹³¹ but the school system does not satisfy this interest.¹³² Increased spending on the importance of barrier methods of contraceptives to prevent spread of disease and on the availability of birth control outside of abortion can be expected to improve long-term fertility of Russian women.

PENSION SYSTEM PROBLEMS AND THEIR EFFECTS ON WOMEN AND MOTHERS

Problems with inadequate citizens' pensions and the general quality of life for elderly and disabled citizens have plagued every generation of post-Soviet Russian leaders. An almost total devaluing of Russian pensions in 1994 and again in 1998 has not repeated itself since Putin came to power, but real amounts of pensions have varied greatly, hitting southern Russia and the largest cities most severely.¹³³ Despite Vladimir

¹²⁹ UNICEF, STATISTICS: RUSSIAN FEDERATION, Mar. 2, 2010, *available at* http://www.unicef.org/infobycountry/russia_statistics.html (last visited Nov. 22, 2011).

¹³⁰ M. Fathalla, *Health and being a mother in the twenty-first century*, 98 INT'L J. OF GYNAECOLOGY AND OBSTETRICS 195 (2007); B. Barnett, *STDs, pregnancies affect women's health*, 17 NETWORK 24, 24 (1997).

¹³¹ Igor Kon, *Russia*, HUMBOLDT UNIVERSITÄT ZU BERLIN: INTERNATIONAL ENCYCLOPEDIA OF SEX, *available at* <http://www2.hu-berlin.de/sexology/IES/russia.html> (last visited Oct. 22, 2011). *See, e.g.* Федеральное государственное учреждение "Государственный научный центр дерматовенерологии Федерального агентства по высокотехнологичной медицинской помощи, Форум, *available at* <http://www.ipp.ru/content.php?tree=11> (last visited Nov. 22, 2011) (a discussion board sponsored by the federal government where preteens and teens can find out about diseases and their effects by asking nurses online).

¹³² Igor Kon, *Russia*, HUMBOLDT UNIVERSITÄT ZU BERLIN: INTERNATIONAL ENCYCLOPEDIA OF SEX, *available at* <http://www2.hu-berlin.de/sexology/IES/russia.html> (last visited Oct. 22, 2011).

¹³³ Федеральная Служба Государственной Статистики, НАЗНАЧЕННЫЕ ПЕНСИИ ПО СУБЪЕКТАМ РОССИЙСКОЙ ФЕДЕРАЦИИ, *available at* http://www.gks.ru/bgd/regl/b10_13/IssWWW.exe/Stg/d1/06-15.htm (last visited Nov. 23, 2011).

Putin's general success in bending the legislature to his will and reforming policy, pensions are one area in which he has been unsuccessful in pushing through reform to help families and ease the burden on caretakers. "[Putin] ... had a social agenda designed to turn Russia into a functioning market society. He also had an agenda that raised living standards, ensured that wages were paid on time, and began to reorient welfare services toward more targeted needs, although as president he failed to push through reform, something he was faced with as prime minister."¹³⁴ Many factors contribute to the challenges encountered in any potential reform of the pension system. The overwhelmingly high ratio between elderly and working member of society is perhaps the most glaring of these factors, and one that no politician can fix in his or her term.¹³⁵

The severity of this problem is only accelerating. Births have fallen sharply since the early 1980s, and a rapid rise in the dependence ratio of non-workers on working adults has begun.¹³⁶ Many Russians are rightfully worried about the continued salience of the infamously inefficient pension system, fearing for the eventual provision of pensions for their children and grandchildren, affecting their decision to start a family.¹³⁷

¹³⁴ Richard Sakwa, "Political Leadership" in *AFTER PUTIN'S RUSSIA: PAST IMPERFECT, FUTURE UNCERTAIN* 17 (Stephen Wegren and Dale Herspring eds. 2010).

¹³⁵ "Dire Demographic Trends Cast a Shadow on Russia's Future," Rand Corporation, Sep. 16, 2010, available at http://www.rand.org/pubs/research_briefs/RB5054/index1.html (last visited Nov. 28, 2011).

¹³⁶ "Dire Demographic Trends Cast a Shadow on Russia's Future," Rand Corporation, Sep. 16, 2010, available at http://www.rand.org/pubs/research_briefs/RB5054/index1.html (last visited Nov. 28, 2011).

¹³⁷ Kristina Block, *Russians Fear Pension Timebomb*, BBC.CO.UK, July 29, 2010, available at <http://www.bbc.co.uk/news/business-10803227> (last visited Oct. 7, 2011).

"I'm worried, very worried, because I think our grandchildren will not get any pension at all," remarked a Russian woman in Novosibirsk.¹³⁸ Two potential and well-tested solutions to an impending shortcoming in the pension system—employing a healthy over-sixty workforce, and decreasing absenteeism at work to increase payments in to the system—are rendered impossible by health and behavioral issues. The World Bank emphasizes that the costs of absenteeism related to illnesses account for a loss of between .55 and 1.37% of Russian gross domestic product each year.¹³⁹

A second factor contributing to the difficulty of pension reform is the relatively poor health and health habits of Russians. This situation means that pensioners and other dependants of the state often need more extensive healthcare than Western Europeans in order to maintain any given standard of health. A continued culture of heavy drinking and other bad habits has hurt the health of elderly people, especially men. According to the World Health Organization, after non-communicable diseases like heart attacks and cancer, the leading causes of death are "external," chiefly due to traffic accidents, but also other violent and alcohol-related deaths.¹⁴⁰ Sparse population in many rural areas

¹³⁸ Kristina Block, *Russians Fear Pension Timebomb*, BBC.CO.UK, July 29, 2010, available at <http://www.bbc.co.uk/news/business-10803227> (last visited Oct. 7, 2011).

¹³⁹ WORLD BANK, PUBLIC SPENDING IN RUSSIA FOR HEALTHCARE 10, available at <http://siteresources.worldbank.org/INTECAREGTOPHEANUT/Resources/PublicSpendingInRussiaforHealthCare.pdf> (last visited Oct. 9, 2011).

¹⁴⁰ Luke Harding, *No Country for Old Men*, GUARDIAN, Feb. 10, 2008, available at <http://www.guardian.co.uk/world/2008/feb/11/russia> (last visited Dec. 1, 2011); WORLD BANK, PUBLIC SPENDING IN RUSSIA FOR HEALTHCARE 10, available at <http://siteresources.worldbank.org/INTECAREGTOPHEANUT/Resources/PublicSpendingInRussiaforHealthCare.pdf> (last visited Oct. 9, 2011).

makes the largely elderly and female population especially vulnerable and in need of care from younger generations.¹⁴¹

All of these factors mean that many elderly and disabled Russians are left without remotely adequate support from the state. Although many elderly seek supplementary income, often in the form of produce selling or sewing, many are incapable of or unwilling to seek such additional income. In the overwhelming majority of cases, the elderly are left to fend for themselves or rely on younger family members for support. This reliance burdens the younger generation in several ways: an increased demand for living space, a decreased amount of money available for each household member, and the loss of time spent caring for dependent family members. Despite these overwhelming difficulties, Medvedev and Putin have attempted to increase the value of pensions and since 2004 they have been paid much more regularly than in the decade prior.¹⁴²

LABOR FORCE ISSUES

Another structural barrier to women's fertility is the lack of protection for them in the workplace. Formal equality is granted in the Russian Federation: Мужчина и женщина имеют равные права и свободы и равные возможности для их реализации.¹⁴³ Despite this, employment discrimination against women is widespread.

¹⁴¹ Luke Harding, *No Country for Old Men*, GUARDIAN, Feb. 10, 2008, *available at* <http://www.guardian.co.uk/world/2008/feb/11/russia> (last visited Dec. 1, 2011).

¹⁴² Федеральная Служба Государственной Статистики, НАЗНАЧЕННЫЕ ПЕНСИИ ПО СУБЪЕКТАМ РОССИЙСКОЙ ФЕДЕРАЦИИ, *available at* http://www.gks.ru/bgd/regl/b10_13/IssWWW.exe/Stg/d1/06-15.htm (last visited Nov. 23, 2011).

¹⁴³ CONSTITUTION OF THE RUSSIAN FEDERATION, (RF) art. 19 (1993).

Women's participation in the labor force and the ability of mothers to balance work or education with motherhood is a very important determinant in a country's overall fertility, as discussed above, and although Russian women comprised just over forty-nine percent of the Russian workforce in 2010, they were clustered in lower-paid occupations like teachers, government employees, and operators, and men were more likely to be found in business and engineering occupations.¹⁴⁴ Public attitudes towards women in the workplace are generally permissive relative to post-Soviet countries, but emphasize the importance of housework and childrearing to the female.¹⁴⁵ Women generally want to work more often than the general population believes they do,¹⁴⁶ but they, too, seem to expect that sexual discrimination will be directed at them.¹⁴⁷

Overall wealth and income inequality in society, related to issues of medical maternity treatment, is also a barrier to increasing fertility in the Russian Federation. Although the state may be willing to use short-term capital infusions to create an increase in the birth rate, a more progressive taxation system, wealth redistribution, and the opening of economic opportunities to those for whom advancement and financial stability has been made difficult would require a much more thorough reform and the

¹⁴⁴ Федеральная Служба Государственной Статистики, Занятое население по полу и занятиям, *available at* <http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/population/wages/#> (last visited Nov. 23, 2011).

¹⁴⁵ Akvile Motiejunaite and Zhanna Kravchenko, Family policy, employment and gender-role attitudes: a comparative analysis of Russia and Sweden, 18 J. OF EUR. SOC. POL'Y 38, 48 (2008).

¹⁴⁶ S. Ashwin and E. Bowers, "Do Russian Women Want to Work?," in POST-SOVIET WOMEN: FROM THE BALTIC TO CENTRAL ASIA (Mary Buckley, ed. 1997).

¹⁴⁷ Akvile Motiejunaite and Zhanna Kravchenko, Family policy, employment and gender-role attitudes: a comparative analysis of Russia and Sweden, 18 J. OF EUR. SOC. POL'Y 38, 40 (2008).

removal of privileges from some in power. The apparent lack of commitment to far-reaching and long-term changes seems the most salient barrier to a prolonged increase in fertility. The broad policy approaches that the government has attempted are reviewed below.

POLICY ATTEMPTS AND DEVELOPMENTS

Before analyzing new policy attempts, it is worth quickly reviewing long-standing policies involving maternity and childrearing. In addition to public schools and healthcare, the Russian Federation has long provided maternal leave of various lengths and in various amounts; currently the maximum amount granted without special leave is approximately \$6.70 daily for one hundred and forty days.¹⁴⁸ Pregnant women are legally protected from firing.¹⁴⁹ Despite a successful 2009 suit to remove the gender qualifier from the type of parents that are protected employees, and an ongoing constitutional law challenge mounted two weeks ago, men have not yet been successful in having paternal leave widely implemented.¹⁵⁰ After 2009, single fathers were made protected employees, but married men or those with joint custody have no protection, even if their wife is unemployed or family-member is disabled. The third main existing provision for fertility has provided a lump sum at childbirth since 1995, the amount

¹⁴⁸ This provision is in article 255 of the Labor Code (Federal Law No. 197-FZ of 2001), and currently Russian mothers are eligible to receive 100% of their gross income for seventy days before and after birth for a maximum of 25,390 rubles (or approximately \$950).

¹⁴⁹ Federal Law No. 197-FZ of 2001, art. 261.

¹⁵⁰ “Russian Dads Pursue Right to Parental Leave,” MOSCOW TIMES, Nov. 16, 2011, *available at* <http://www.themoscowtimes.com/mobile/article/447901.html> (last visited Nov. 20, 2011).

before *materinskii kapital* reforms have begun to come in to effect was limited to just under 10,000 rubles. These sums paid out are not very large, and the protection of pregnant employees is not highly enforced, but the final provision allowing women to keep their position without pay for three years while they raise children¹⁵¹ is considered highly valuable. None of these provisions are under threat by reforms, although the sums given to new parents may increase in the next few years.

Housing and Land Availability

Prime Minister Vladimir Putin has made a series of proposals this year to redistribute land in more productive patterns.¹⁵² His first term was marked by a strong emphasis on agricultural land reform as a way to advance Russia, help the country recover from extraordinarily low agricultural yields, and attract needed investment.¹⁵³ Despite difficulties overcoming political opposition,¹⁵⁴ this reform was generally viewed as a success and has arguably smoothed the way for this most recent round of land reforms. He began indicating interest in reforming residential land when he publicly

¹⁵¹ Federal Law No. 197-FZ of 2001, art. 256.

¹⁵² “Putin Proposes Land for Large Families,” MOSCOW TIMES at 7, June 14, 2011.

¹⁵³ See generally “Putin Considers Land Reform,” MOSCOW TIMES, Feb. 10, 2009, *available at* <http://www.themoscowtimes.com/news/article/putin-considers-land-reform/266883.html>; “Putin's Land Reform Moves Russia Forward,” MOSCOW TIMES, July 11, 2002, *available at* <http://www.themoscowtimes.com/opinion/article/putins-land-reform-moves-russia-forward/245369.html> (reviewing the dire situation of Stalinist-era farms lying fallow and Putin's drive for a bill allowing the sale of such land) (*last visited* Oct. 19, 2011).

¹⁵⁴ “Putin's Land Reform Moves Russia Forward,” MOSCOW TIMES, July 11, 2002, *available at* <http://www.themoscowtimes.com/opinion/article/putins-land-reform-moves-russia-forward/245369.html> (*last visited* Oct. 19, 2011).

observed in March of 2011 that the Russian Federation has approximately twenty-four million hectares of undistributed arable land ready for distribution, an area equal to approximately a third of the state of Texas.¹⁵⁵ This land is in many cases already occupied or worked upon, although workers are left in legal limbo as to their ability to continue to use and house themselves there.¹⁵⁶ Much of this land is in rural areas, a portion of the country whose development viewed as crucial by its leadership for economic, agricultural, and demographic development.

He proposed in early June of this year that free land be allotted to rural families with three or more families at a congress in the Mordovian Republic,¹⁵⁷ while also pushing for the withdrawal of ownership from owners of farmland who leave it uncultivated. This policy has yet to be widely implemented, but might function well to transfer land to those already living in the provinces and maybe increase investment in the well-being of land and property. This solution will not, however, attract those younger citizens who do not already reside in these areas to the towns or increase the population in the area.

Short-term policies

¹⁵⁵ “Putin Proposes Land for Large Families,” MOSCOW TIMES at 7, June 14, 2011; Ilya Khrennikov, *Putin Proposes Free Land for Rural Families With 3 Children*, BLOOMBERG, June 10, 2011, available at <http://www.bloomberg.com/news/2011-06-10/putin-proposes-free-land-for-rural-families-with-3-children-1-.html> (last visited Oct. 19, 2011).

¹⁵⁶ Putin Proposes Free Land for Rural Families With 3 Children, BLOOMBERG, June 14, 2011, available at <http://www.bloomberg.com/news/2011-06-10/putin-proposes-free-land-for-rural-families-with-3-children-1-.html> (last visited Oct. 19, 2011).

¹⁵⁷ Putin Proposes Free Land for Rural Families With 3 Children, BLOOMBERG, June 14, 2011, available at <http://www.bloomberg.com/news/2011-06-10/putin-proposes-free-land-for-rural-families-with-3-children-1-.html> (last visited Oct. 19, 2011).

Many of the programs meant to increase fertility are framed in terms of publicity stunts by local and regional leaders. Ulyanovsk's governor, for example, declared "Give Birth to a Patriot on Russia Day," where women who gave birth on June 12 would be guaranteed to win one of a series of prizes including "refrigerators, TV sets, washing machines, even cash."¹⁵⁸ They would additionally be entered in to a sweepstakes for the grand prize: a new Russian-made military jeep named the UAZ-Patriot.¹⁵⁹

Approximately one hundred finalist couples were eventually evaluated and one lucky couple giving birth to their fourth child received the Patriot.¹⁶⁰ To encourage participation the governor declared a day nine months prior a regional holiday to allow couples more time to procreate and widely publicized the competition, including through a poetry reading meant to inspire maternal urges in women.¹⁶¹

¹⁵⁸ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

¹⁵⁹ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

¹⁶⁰ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

¹⁶¹ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

This day, however, was approximately ten days too late to accommodate the average gestation period, resulting in a number of quite early and artificially induced births.¹⁶²

Our governor wants to create interest and excitement about this issue, while at the same time addressing the problems that have been holding the birthrate back," Anatoly Vasilev, the head of the Department of Social Defense, told [the journalist]. Vasilev oversees family and social services for the entire region and was charged with handling logistics. To him, it was all about setting up the necessary conditions to make a win possible and then ramping up public interest. After that, the population problem would take care of itself.¹⁶³

This approach to increasing fertility is not limited to Ulyanovsk, and is unsuccessful for many reasons. Most glaringly, these events generally influence only the timing of a family's decision to have a child, and not the ultimate question of whether to start a family. Although "[e]ighty-seven children were born in Ulyanovsk that day, nearly four times the region's average daily birthrate," it is likely that most of them would have born in the next several days, months, and years.¹⁶⁴ "[T]he June 12 spike was fed by births from adjacent days: There were two births on June 11, 18 births on June 12, zero on June

¹⁶² Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

¹⁶³ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

¹⁶⁴ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

13, and two on June 14. The normal rate would have been around four births per day.”¹⁶⁵ Additionally, one could question the wisdom of incentivizing births among those who can be motivated to parenthood by the promise of washing machine or jeep. Finally, the focus on giving birth on one day resulted not only in a number of induced pregnancies, but also the faking of contractions by mothers, the insistence on caesarian sections to be performed before midnight, an all-day shortage and exhaustion of doctors, and a shortage of drugs, leading to decreased chance of survival of the infants born.¹⁶⁶

As dire as Russian demographic problems may be, they are not historically unique in their severity. As commentator Harley Balzer observed, Russia’s professional demographers are well-acquainted with policies that have been relatively successful in France and Sweden [at raising fertility]. But these programs are complex, expensive and long-term. Throwing money at the problem appears to offer an immediate solution, even if the result is just a temporary increase in the birth rate. Onetime cash payments packaged as ‘maternity capital’ is much easier to provide than adequate housing, day-care programs, preschools and extended maternity leave....¹⁶⁷ These short-term attempts and techniques have failed both within and outside of Russia. It has been well-established that aggressive short-term fertility policies generally create a

¹⁶⁵ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

¹⁶⁶ Yasha Levine, *Incentivized Birth*, SLATE, July 10, 2008, available at http://www.slate.com/articles/news_and_politics/dispatches/2008/07/incentivized_birth.html (last visited Oct. 23, 2011).

¹⁶⁷ Harley Balzer, *Taming Russia’s Professionals*, MOSCOW T. at 8, June 16, 2011.

short-term rise in birthrates, followed by an even more abrupt drop in long-term fertility rates, both in studies of Western European and former Soviet states.¹⁶⁸

Examples of these short-term aggressive policies include the offering of a ticket to a lottery for a car, one-time cash payments, and a place in a subsidized apartment building for parents. Unfortunately for potential parents and Russian society as a whole, these short-term policies are the ones most often pursued by the Russian government and regional subunits.

Materinskii Kapital¹⁶⁹

After turning his attention to fertility in 2006, Vladimir Putin considered several potential programs to address fertility. The resulting program—*materinskii kapital*—most notably entitles second-, third- and more-time mothers to a certificate redeemable for two-hundred-and-fifty thousand rubles, worth about \$9,500.¹⁷⁰ This program does not address long-term structural problems, but attempts to make medium-term costs of a raising a child more manageable. This is not a direct cash transfer to offset money lost by the family during the mother's gestation or the adjustment of a household to a new

¹⁶⁸ See Alain Monnier *et al*, *A Survey of Modern Russian Fertility*, 7 POPULATION: AN ENGLISH SELECTION 1 (1995); "Russia's X Factor: Health and Demography in post-Soviet Space," Interview with Niholas Eberstadt, Henry Wendt Scholar in Political Economy at the American Enterprise Institute, available at http://demography.ru/xednay/demography/opinions/07/0907_washpro.eberstadt.html (last visited Dec. 1, 2011).

¹⁶⁹ Olga Avdeyeva, *Policy Experiment in Russia: Cash-for-Babies and Fertility Change*, 18 SOC. POL. 361 (2011).

¹⁷⁰ "Материнский капитал 2011 изменения: ипотека перспективы и разочарования," 12 Nov., 2010, BANK.RU, available at <http://bank.ru/publication/show/id/9381/> (last visited Nov. 18, 2011).

member. Instead, the certificate is redeemable three years later, on the child's third birthday, and only towards one of three approved items: the child's eventual education, the mother's pension, and the improvement of the family's housing conditions. This requirement's effect over the past few years is not yet clear, although a low level of trust in the government may make these incentives less convincing.¹⁷¹ Several regions have added to the federal incentives; in Ulyanovsk, the "Family Capital" program adds money to available benefits.¹⁷² This program may be a laudable step in the right direction, but it does not appear to have yet convinced many couples, although the new ability to redeem the benefit in cash may influence success positively in the short term.¹⁷³

Limits on Abortion

Despite recent drops in popularity, abortion remains the most widespread form of birth control for Russian women. In 2010, official numbers revealed approximately 1.2 million abortions, but many occurring on the black market or in private clinics were not reported.¹⁷⁴ This number has actually fallen sharply in the last five years by nearly a

¹⁷¹ PEW RESEARCH CTR, TWO DECADES AFTER THE WALL'S FALL: END OF COMMUNISM CHEERED BUT NOW WITH MORE RESERVATIONS (2009).

¹⁷² Губернатор и Правительство УЛЬЯНОВСКОЙ ОБЛАСТИ, В Ульяновской области планируется усовершенствовать процесс реализации государственных сертификатов на именной капитал «Семья», Nov. 22, 2011, *available at* <http://ulgov.ru/news/index/permlink/id/20583/> (*last visited* Nov. 23, 2011).

¹⁷³ "Материнский капитал 2011 изменения: ипотека перспективы и разочарования," 12 Nov., 2010, BANK.RU, *available at* <http://bank.ru/publication/show/id/9381/> (*last visited* Nov. 18, 2011).

¹⁷⁴ Tom Parfitt, "Russia set to tighten restrictions on abortion," 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (*last visited* Oct. 20, 2011).

quarter but remains very high.¹⁷⁵ In no small part due to the support of the Russian Orthodox Church, Russia has in the last two years considered the institution of limitations on safe sex education, public safe sex education, women's health clinics, and on the legal availability of abortions. 2003 was the first year in which late term abortions for non-medical reasons were limited, and this legislation represented a departure from decades of Soviet and Russian abortion policy.¹⁷⁶

Late this summer United Russia MP Valery Draganov introduced a bill in the Duma that attempts to make abortions much more difficult to get.¹⁷⁷ He openly told a British medical journal interviewing him, "The main idea of my *zakonoprojekt* is that the state should prompt women towards birth and motherhood, rather than the other way round... This is not a prohibitive law, it's a motivational one."¹⁷⁸ Although the bill has not yet been fully debated or passed, Medvedev signed a version of the bill, the Russian Orthodox Church was openly involved in its drafting, and United Russia continues to control a majority in the Duma, so an unchanged version may be pushed through going

¹⁷⁵ Tom Parfitt, "Russia set to tighten restrictions on abortion," 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011).

¹⁷⁶ Tom Parfitt, "Russia set to tighten restrictions on abortion," 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011).

¹⁷⁷ Tom Parfitt, "Russia set to tighten restrictions on abortion," 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011); Sophia Kishkovsky, *Russia Enacts Law Opposing Abortion*, N.Y. TIMES, July 15, 2011.

¹⁷⁸ Tom Parfitt, "Russia set to tighten restrictions on abortion," 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011).

forward.¹⁷⁹ This bill allows abortion for the first twelve weeks of pregnancy, but create a series of requirements for interested women. Women will be obliged to gain written permission for an abortion from their husband if they are married; look at an ultrasound picture of their fetus and listen to its heartbeat if it is more than six weeks old, attend a session with a psychologist or social worker, before deciding to have an abortion; sign a statement accepting the potential “negative consequences” of the procedure; and wait at least two days after visiting a doctor before having an abortion, or seven days if the woman is less than eleven weeks pregnant.¹⁸⁰ Women can only be prescribed drugs for a medicinal abortion from a doctor with whom they are registered.¹⁸¹ Positively, the bill requires the provision of information on the long-term effects of abortions on a woman’s health, as well.¹⁸²

Although this bill may be changed in the future, growing support has become obvious among the Orthodox Church and members of United Russia for limitations. As discussed above, abortion can lead to infertility and unsafe pregnancies for women, but the already existing black market is predicted by medical professionals and commentators

¹⁷⁹ Sophia Kishkovsky, *Russia Enacts Law Opposing Abortion*, N.Y.TIMES, July 15, 2011.

¹⁸⁰ Tom Parfitt, “Russia set to tighten restrictions on abortion,” 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011).

¹⁸¹ Tom Parfitt, “Russia set to tighten restrictions on abortion,” 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011).

¹⁸² Sophia Kishkovsky, *Russia Enacts Law Opposing Abortion*, N.Y.TIMES, July 15, 2011.

to increase if such a bill is passed.¹⁸³ Even the bill's sponsor, Valery Draganov was open to the possibility that his bill would increase black market abortions, commenting "[f]or that we have the law enforcement organs."¹⁸⁴ Commentators have also criticized the bill's single-minded focus on limiting abortion in order to increase instances of live births against the mother's presumed will: "a feminist activist who took part in one of the protests [against the bill] said: 'This is a violation of our rights. We don't think abortions are a good thing, of course. But we are convinced that restricting women's access to abortions will neither decrease the number of abortions, nor increase the birthrate. To cut abortions what you really need is a better social infrastructure, sex education, and targeted help for mothers.'"¹⁸⁵ The wisdom of forcing unwilling mothers to give birth in order to halt population decrease seems especially questionable when the parents' willingness to raise a child may be lowered, bringing the child in to a situation where its health and well-being might not be as zealously guarded as it might be by willing parents.

¹⁸³ See, e.g. "Birth Control in Russia," N.Y. TIMES, Sep. 3, 2003, *available at* <http://www.nytimes.com/2003/09/02/opinion/birth-control-in-russia.html> (last visited Oct. 20, 2011) (giving an overview of Stalinist limitations on abortion and the likelihood of modern Russian women turning to the black market again).

¹⁸⁴ Tom Parfitt, "Russia set to tighten restrictions on abortion," 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011).

¹⁸⁵ Tom Parfitt, "Russia set to tighten restrictions on abortion," 378 THE LANCET 1288, *also available at* [http://www.lancet.com/journals/lancet/article/PIIS0140-6736\(11\)61563-8/fulltext](http://www.lancet.com/journals/lancet/article/PIIS0140-6736(11)61563-8/fulltext) (last visited Oct. 20, 2011).

SUCCESS OF PROGRAMS, REASONS FOR FAILURE

Political reluctance to grant federal and enforceable positive rights

For centuries Russian courts have shown a comparatively weak will in standing up to other parts of the government, a trend that has not been totally reversed under Putin. The First Russian Republic's Constitutional Court was granted wide-reaching powers, but was discarded by Yeltsin when it appeared to support the duma in Yeltsin's struggle against the legislature.¹⁸⁶ Russia is widely perceived as having a corrupt judiciary and criminal justice system, but less attention has been paid to the nature of the constitutional court and its struggle with other branches of government to remain impartial and independent. Judicial independence is generally defined as "the insulation of judges from the influence of nonjudicial actors, such as other branches of government or the public."¹⁸⁷ Like all courts, there is a danger of government influence on decisions. The Constitutional Court is further hamstrung by its struggles with not only the executive but by the separate Supreme Court of Russia.¹⁸⁸ Currently, the Constitutional Court almost automatically has every suit against the government referred to it by the Supreme

¹⁸⁶ William Burnham and Alexei Trochev, *Russia's War Between the Courts: The Struggle over the Jurisdictional Boundary Between the Constitutional Court and Regular Courts*, 55 AM. J. COMP. L. 381, 381–382 (2007).

¹⁸⁷ Vanessa Baird and Debra Javeline, *The Effects of National and Local Funding on Judicial Performance: Perceptions of Russia's Lawyers*, 44 Law & Soc. R. 331 (2010).

¹⁸⁸ William Burnham and Alexei Trochev, *Russia's War Between the Courts: The Struggle over the Jurisdictional Boundary Between the Constitutional Court and Regular Courts*, 55 AM. J. COMP. L. 381, 382 (2007).

Court, and the 1995 Civil Code gives citizens the right to petition,¹⁸⁹ but the Court's ability to rule impartially against the government can be questioned.¹⁹⁰ Putin has been increasingly clear about his view of civil rights and liberties for individuals being tied to their behavior as law-abiding citizens in his state's eyes,¹⁹¹ and with the exception of the government-friendly holding granting increased parental rights to fathers, the Court has in the last few years shied from politically controversial rights-related decisions. In light of these difficulties, use of the Constitutional Court as an avenue for increasing fertility seems unlikely.

Budgetary Issues

Even the apparently generous increases in lump sums for childbirth and prizes for children born on Russia Day are tiny amounts relative to the amounts most developed nations spend on fertility policy, especially when policy is broadly defined to include infrastructure and child care. In order to both amass the funds needed for meaningful

¹⁸⁹ Grashdanskii Kodeks [GK] [Civil Code] art. 1 (R.F.).

¹⁹⁰ Determination No. KAS06-9 of Jan. 31, 2006 (*unpublished*), Russian Supreme Court website, available at <http://www.supcourt.ru> (last visited Oct. 20, 2011); William Burnham and Alexei Trochev, *Russia's War Between the Courts: The Struggle over the Jurisdictional Boundary Between the Constitutional Court and Regular Courts*, 55 AM. J. COMP. L. 381, 382 (2007).

¹⁹¹ Jeffrey Kahn, *The Search for the Rule of Law in Russia*, 37 GEO. J. OF INT'L LAW 353, 406; Steve Gutterman, *Khodorkovsky Trial Shapes Putin's Legacy*, ASSOCIATED PRESS, June 1, 2005, available at <http://www.comcast.net/news/international/europe/index.jsp?cat=EUROPE&fn=/2005/06/01/145537.html>; see also Editorial, *Kremlin's Win Is Russia's Loss*, MOSCOW TIMES, June 1, 2005, available at <http://web.themoscowtimes.com/stories/2005/06/01/005.html> ("Any remaining illusions that this trial had anything to do with the rule of law were swept away. What we were left with, after a year of testimony and volumes of documents, was a clear picture of a judiciary functioning as a tool of the state. Instead of the rule of law, we have the arbitrary use of law.") (last visited Nov. 2, 2011).

reform of fertility policy and improvements in general social spending and to maintain a stable budget from which funds can be drawn in the future, Russia should consider pursuing tax reform rendering the government less reliant on volatile sources of natural resource-based income, simplifying regional and local variants in to federal programs where less siphoning of funds can occur, and seek out other ways to diversify its economy beyond natural resources. Although natural resources have been a boon to Russia the past few years, the government's insistence on spending as prices begin to fall has frightened many and even led Finance Minister Alexei Kudrin to resign in protest this fall.¹⁹² If nothing else, Russia may consider building a larger Norwegian-style slush fund during years when natural resource prices are high, so the treasury can weather later years without large cuts, deficit spending, or defaults.

Scattered nature of programs

As discussed above, current attempts at fertility programs often take the form of publicity stunts or otherwise short-term policies. While these programs may draw attention to the issue, they tend to influence only the *timing* of families' decisions to have a child, rather than the decision *whether* to have a child. Cities in which these programs have been attempted have not experienced a lasting increase in birth rate, and in fact have seen dips in the birth rate following publicity-oriented program. Several of the programs have even served to highlight the dire straits of many Russian families willing to induce

¹⁹² Peter van Dyk, "Russian Finance Minister Resigns over Medvedev's Presidential Plan," MARKETPLACE, available at <http://www.marketplace.org/topics/world/russian-finance-minister-resigns-over-medvedevs-presidential-plan> (last visited Nov. 23, 2011).

birth for a chance at a household appliance. The scattered nature also allows for great inefficiencies in a system where regional, local, and federal governmental bodies are notoriously bad at transferring income and payments between each other.¹⁹³

RECOMMENDATIONS

Tax Reform to Stabilize Income

In spite of the recent imposition of a federal flat income tax on individuals, the Russian budget continues to receive most of its funding from value-added taxes, excise taxes, and tariffs, mostly those based on the export of fuel, oil, the extraction of minerals, and other natural resources.¹⁹⁴ Personal income taxes have yet to account for more than four percent of the government's budget.¹⁹⁵ The use of a flat tax in a country where national per capita income is a mere \$8,245¹⁹⁶ is also questionable; most countries attempt to create some sort of progressive structure by which the wealthier are more

¹⁹³ See, e.g. ALEXEI LAVROV AND ALEXEI MAKUSHKIN, *THE FISCAL STRUCTURE OF THE RUSSIAN FEDERATION: FISCAL FLOWS BETWEEN THE CENTER AND THE REGIONS* (2001); Kathryn Stoner-Weiss, "The Russian Central State in Crisis: Center and Periphery in the Post-Soviet Era" 103, in *RUSSIAN POLITICS: CHALLENGES OF DEMOCRATIZATION* (Zoltan Barany and Robert Moser, eds., 2001).

¹⁹⁴ Федеральная Служба Государственной Статистики (ГосКомСтат), Налоговая статистика (current through 2010), available at http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/environment/doklad/soderzhanie/ek_sit_RF/finansy/gos_fin/nal_stat/index.html (last visited Nov. 18, 2011).

¹⁹⁵ Anna Ivanova et al, Inst. for Fiscal Studies, *The Russian 'flat tax' reform*, 20 *ECON. POL.* 397, 411 (2005).

¹⁹⁶ Федеральная Служба Государственной Статистики (ГосКомСтат), Доходы, расходы и сбережения населения, available at <http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/population/level/#> (last visited Nov. 21, 2011).

heavily taxed, both as a matter of fairness and fiscal practicality, and in recognition of wealthy citizens' ability to move wealth abroad and invest it in lucrative investments. A slightly more progressive tax might produce more revenue to be used to stabilize the budget against changes in natural resource prices. This reliance on energy-related taxes increased during Putin's first term—in part due to rising oil and gas prices, but also his encouragement of companies to increase production—,¹⁹⁷ fell slightly in the economic crisis, and has again begun to rise.¹⁹⁸ This reliance on natural resource-based taxes is problematic for many reasons, including the effects of the always volatile price of oil and gas on the global market on the predictability of fiscal inflows,¹⁹⁹ the susceptibility of Russian oil and gas firms to corruption and the siphoning of funds,²⁰⁰ and the relative ease with which sophisticated producers—and not ordinary citizens—can negotiate to lower or avoid taxes. The 1998 crisis was due in part to this dependency on oil and gas revenues by the government; when Asian consumers of resources stopped producing,

¹⁹⁷ M. STEVEN FISH, *DEMOCRACY DERAILED IN RUSSIA: THE FAILURE OF OPEN POLITICS* 258 (2005).

¹⁹⁸ Федеральная Служба Государственной Статистики (ГосКомСтат), *Налоговая статистика* (current through 2010), *available at* http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/environment/doklad/soderzhanie/ek_sit_RF/finansy/gos_fin/nal_stat/index.html (last visited Nov. 18, 2011).

¹⁹⁹ For example, the low price of oil on the international market as Russia was emerging from the Soviet Union is considered by many to be a contributor to the failure of the First Russian Republic and the start of the constitutional crisis. *See, e.g.* David Francis, *New insights on the Soviet Union's collapse*, CHRISTIAN SCI. MONITOR, July 23, 2007, *available at* <http://www.csmonitor.com/2007/0723/p15s01-wmgn.html?page=603> (last visited Nov. 21, 2011). Similarly, Putin's success in his first term may be attributed in part to the rising price of natural gas.

²⁰⁰ M. STEVEN FISH, *DEMOCRACY DERAILED IN RUSSIA: THE FAILURE OF OPEN POLITICS* 127–29 (2005).

Russia lost its market, and tax revenue plummeted.²⁰¹ Reforms of corrupt organizations, notoriously GazProm, are made less attractive through the government's reliance on their output:

The restructuring of Gazprom is critical to ending the Soviet legacies of super-monopolization and non-transparency, but it would also make it much harder for the company to be used as a slush fund for financing Kremlin-backed political parties and other projects.²⁰²

The structure of the Russian economy produces only very slight increases in employment and average income when oil and gas prices rise, while excise taxes shoot upward, making a diversification of the tax base to stabilize federal income necessary, while it remains politically unfavored.

For well over a century, many Western governments have enacted pronatalist and neonatalist federal policies. While most of Europe has come to favor investment in schools, childcare, and direct federal and sub federal subsidies, these policies remain hard to implement in Russia for at least two reasons: the government's unstable inflows make predicting the next year's available funds difficult, and massive redirecting of federal

²⁰¹ Daniel Treisman, *Russia's Tax crisis: Explaining Falling Revenues in a Transitional Economy*, 11 ECON. AND POL. 145, 145 (2000) (A thorough discussion of Russian tax revenues in the Second Russian Republic, up to and including the 1998 financial crisis, and the ways in which natural resource reliance influenced tax revenues and reform).

²⁰² Alexander Bim and Kim Iskyan, *The End of the Putin Reform Era*, MOSCOW TIMES, Oct. 21, 2003.

funds on the local level (where many programs are to be managed) greatly weakens the effectiveness of any taxes used to fund general social programs.²⁰³

A second way of encouraging families to have and raise children is the direct transfer of capital in a repeated and routine, non lump sum nature to parents, a path that is slowly becoming more popular in western European countries. Although Russia has introduced similar direct transfers, albeit on a much more limited and controlled scale, budget problems, the inability of a family to define itself as a single unit, and problematic relationships between federal and regional governments limit the effectiveness of transfers. Family units are not benefitted by direct transfers, but individual parents, allowing more easily for manipulation of the system within a couple; a much more limited budget than those in western democracies; and corruption in federal-state relationships limit the effectiveness of these transfers. Overall, direct transfers have been questioned in the literature for their effectiveness in increasing birth rate. Most scholars have found structural spending on childcare, healthcare, education, and the elimination of employment discrimination much more helpful to an improvement in the birth rate.

There is, however, a third path available to governments interested in financially incentivizing birth or making childrearing less expensive. The American tax system has chosen an alternative way of benefitting families through the federal budget. The Department of Treasury's Federal Income Tax Code allows families to deduct a series of expenses and offset a series family and child credits against their overall tax burden.

²⁰³ Kathryn Stoner-Weiss, "The Russian Central State in Crisis: Center and Periphery in the Post-Soviet Era" 103, 115, 121, *in* RUSSIAN POLITICS: CHALLENGES OF DEMOCRATIZATION (Zoltan Barany and Robert Moser, eds., 2001).

Credits include one for childcare expenses and medical expenses, while standard deductions are available for dependents.²⁰⁴ Although increasingly controversial,²⁰⁵ this method is effective because the Internal Revenue Service's code and regulations allow families to be defined as a single taxable unit,²⁰⁶ so that parents can avail themselves of the maximum benefit regardless of the current employment status of either. Russia, on the other hand, does not allow families to file taxes joint returns.

This flat tax system renders traditional fiscal incentives to raise children ineffective, and necessitates the use of cash transfers or spending on structural projects. There was hope after the 2000 election and 2001 start of tax reforms that Putin would rationalize and standardize neonatalist policies, and generally build an economic environment much more stable and open than his predecessors. Although admirable strides have been made in many areas, economic policy has followed in many ways the pattern of judicial reform

Despite his rhetoric and the liberal cast of some of his early economic policies, however, Putin's commitment to economic liberalization has never been tightly held or consistently followed. He has swung between ... liberalization ... and ... gradualism.... What Putin *is*, however, is unwaveringly committed to increasing the state's control over society and his own control over the state.... In Putin's Russia, when the requirements of economic

²⁰⁴ *E.g.* Kathryn Stoner-Weiss, "The Russian Central State in Crisis: Center and Periphery in the Post-Soviet Era" 103, *in* ZOLTAN BARANY AND ROBERT MOSER, EDS., *RUSSIAN POLITICS: CHALLENGES OF DEMOCRATIZATION* (2001).

²⁰⁵ *See, e.g.* Hearings before the Committee on Ways and Means, House of Representatives, 96th Congress, Apr. 2 and 3 1980, No. 96-93 (for an indepth debate on the propriety of monetarily encouraging childbearing, and whether the tax code was the proper vehicle for such a policy).

²⁰⁶ 26 U.S.C.A. 21 (West 2010).

liberalization clash with the imperatives of political control, the latter will win every time.²⁰⁷

Some version of deep and continued tax reform to decrease dependence on volatile natural resource-based value added taxes, export fees, and tariffs is necessary if Russia is to have a stable budget from which money for the improvement of infrastructure, education, health care and direct transfer payments can be found.

Attention to Misogyny and Domestic Abuse

A glaring shortcoming in Russian public awareness campaigns is attention paid to domestic abuse and its effects on families' health. A program defining domestic violence and its illegality,²⁰⁸ both in schools and the broader community could make victims more likely to speak out and perpetrators more likely to reevaluate their actions, contributing to a slow social recognition of the unacceptability of domestic violence. Training of professionals in the schools and in police services to recognize and respond empathetically to possible cases of abuse would also help improve women's and children's health.²⁰⁹

Misogyny in the workplace remains widespread, as discussed above, and must be more seriously addressed by the state in order to further women's earning potential.

²⁰⁷ M. STEVEN FISH, *DEMOCRACY DERAILED IN RUSSIA: THE FAILURE OF OPEN POLITICS* 262 (2005).

²⁰⁸ See, e.g. CORNELIA BROWN, *MULTICULTURAL ASSOCIATION OF MEDICAL INTERPRETERS, «Дискурс» и социальные перемены: К борьбе против домашнего насилия* (on file with author).

²⁰⁹ Christina Misner-Pollard, *Domestic Violence in Russia: Is Current Law Meeting the Needs of Victims and the Obligations of Human Rights Instruments?*, 3 COLUM. J. E. EUR. L. 145 (2002).

Studies in the last fifteen years have repeatedly emphasized that those European and non-Muslim countries with the most progressive views towards women and equality in society have the healthiest economies and highest birthrates.²¹⁰ A recent OECD comparative study found that “more traditional family structures in modern economies face chronically low birth rates, whereas the birth rate trend is positive and the demographic structure more balanced in countries where gender equality in the workplace is more developed.”²¹¹ Olga Avdeyeva concluded that many of these

[n]ew policies do not challenge gender inequalities institutionalized in the labor markets, including pervasive discrimination against pregnant women and women with little children, and in domestic sphere, where the bulk of housework and child caring is squarely placed on the shoulders of women. Unchallenged gender inequalities will continue to depress fertility rates of Russian women.²¹²

Although low birthrate remains a problem across Europe, those countries with the highest birthrates per woman are not the more traditional Greek, southeastern European or Slavic countries; women-friendly Sweden and Iceland are the only countries with replacement fertility, while Denmark and Finland trail just behind them. As one social scientist

²¹⁰ Roger Mörtvik, *Does gender equality spur growth?*, 250 OECD Observer (July 2005), available at http://www.oecdobserver.org/news/fullstory.php/aid/1664/Does_gender_equality_spur_growth_.html (last visited Nov. 22, 2011); Florence Jaumotte, *Women and work: Resolving the riddle*, 248 OECD Observer (March 2005), available at http://www.oecdobserver.org/news/fullstory.php/aid/1573/Women_and_work.html (last visited Nov. 22, 2011).

²¹¹ Roger Mörtvik, *Does gender equality spur growth?*, 250 OECD Observer (July 2005), available at http://www.oecdobserver.org/news/fullstory.php/aid/1664/Does_gender_equality_spur_growth_.html (last visited Nov. 22, 2011).

²¹² Olga Avdeyeva, *Policy Experiment in Russia: Cash-for-Babies and Fertility Change*, 18 SOC. POL. 361 (2011).

observed, “the policies that work best will be those that help women reconcile not just work with family life, but allow scope for personal ambition and development as well.”²¹³ Although cultural factors need to be taken in to consideration, decades of commitment to female equality and dedication to building infrastructure to make families’ lives easier has clearly paid off in these countries.

In the end, a range of different policies can make a difference, though the evidence does suggest that well-functioning labour markets that do not block access to employment and generate opportunities for career development lead to higher female participation [in both the home and the labor market.] And family-friendly practices are fundamental. After all, policies that ignore families also ignore the needs of working women. Education is also important, not just for skills, but because it raises ambitions and independence and may also tilt preferences towards full-time rather than part-time work.... these factors may explain high female participation rates in countries as [culturally] diverse as the US and Sweden.²¹⁴

Although it may be more difficult politically, fertility policy is not generally successful when confined solely to the incentivization of childbearing and rearing, evidence suggests that broader reforms like those in employment policy are also effective.

²¹³ Florence Jaumotte, *Women and work: Resolving the riddle*, 248 OECD OBSERVER (March 2005), available at http://www.oecdobserver.org/news/fullstory.php/aid/1573/Women_and_work.html (last visited Nov. 22, 2011).

²¹⁴ Florence Jaumotte, *Women and work: Resolving the riddle*, 248 OECD OBSERVER (March 2005), available at http://www.oecdobserver.org/news/fullstory.php/aid/1573/Women_and_work.html (last visited Nov. 22, 2011).

Healthcare and Education Spending and Reform

Both the Russian healthcare and education systems can be improved by increased and more transparent spending; stable wages will make teachers and medical professionals less dependent on bribes to make ends meet, children will be more likely to reach adulthood healthy and well-educated, and corruption and siphoning of funds should decrease. Increased spending on lasting social goods also is predicted to help lessen Russia's severe "brain drain" of the growing middle class to the West, as increased spending on science incubators and education did in 2002 and 2003,²¹⁵ and thus lessen problematic capita flight to European and North American banks.²¹⁶

Education reform has been made a priority by President Medvedev.²¹⁷ He initiated the "наша новая школа" program aimed at increasing spending on schooling; standardizing the national secondary school test, and minimizing corruption in its administration; attracting more qualified people to the profession of teaching, upgrading dilapidated buildings, and involving the wider public in education, without increasing

²¹⁵ Quinn Martin, *IT Boom Reverses Brain Drain*, MOSCOW TIMES, June 4, 2003, available at <http://www.themoscowtimes.com/business/article/it-boom-reverses-brain-drain/238066.html> (last visited Nov. 29, 2011).

²¹⁶ Richard Lourie, *The Education President*, MOSCOW TIMES, Mar. 6, 2006, available at <http://www.themoscowtimes.com/opinion/article/the-education-president/206451.html> (last visited Nov. 23, 2011).

²¹⁷ "“НАША НОВАЯ ШКОЛА”: ПОСЛЕДНЯЯ НАДЕЖДА УЧИТЕЛЕЙ НА МЕДВЕДЕВА,” СВОБОДНЫЙ МИР, available at <http://liberty.ru/Themes/Nasha-novaya-shkola-poslednyaya-nadezhda-uchitelej-na-Medvedeva> (last visited Nov. 23, 2011); Richard Lourie, *The Education President*, MOSCOW TIMES, Mar. 6, 2006, available at <http://www.themoscowtimes.com/opinion/article/the-education-president/206451.html> (last visited Nov. 23, 2011).

costs to parents.²¹⁸ He plans to allow and encourage “разнообразных ‘экспериментов’, проводимых Минобрнауки и региональных инициатив” to give ideas for national reform.²¹⁹

So far results have been fleeting. A new test was introduced this past summer, but corruption and the use of teachers and college students posing as sixteen- and seventeen-year old students continued at historical levels: many teachers flat out admitted to handing students the standard answers at the beginning of the exam.²²⁰ Brain drain does not appear to have intensified, although young Russians increasingly express a desire to go abroad. Still, the integration of the public in to the school system and potentially increased funding may eventually render the school system more capable of educating healthy children and integrating immigrants.

An additional reason for increased spending on education comes in part as a result of internal migration problems. Many of the mothers with the highest fertility come from non-ethnic Russians who do not speak Russian at home. These children enter school and society at a disadvantage relative to their fellow students, and require increased attention

218 “‘НАША НОВАЯ ШКОЛА’: ПОСЛЕДНЯЯ НАДЕЖДА УЧИТЕЛЕЙ НА МЕДВЕДЕВА,” СВОБОДНЫЙ МИР, available at <http://liberty.ru/Themes/Nasha-novaya-shkola-poslednyaya-nadezhda-uchitelej-na-Medvedeva> (last visited Nov. 23, 2011).

219 “‘НАША НОВАЯ ШКОЛА’: ПОСЛЕДНЯЯ НАДЕЖДА УЧИТЕЛЕЙ НА МЕДВЕДЕВА,” СВОБОДНЫЙ МИР, available at <http://liberty.ru/Themes/Nasha-novaya-shkola-poslednyaya-nadezhda-uchitelej-na-Medvedeva> (last visited Nov. 23, 2011).

220 Boris Kargalitsky, *Testing Russia's Corruption Level*, MOSCOW TIMES, June 30, 2011, available at <http://www.themoscowtimes.com/opinion/article/testing-russias-corruption-level/439792.html> (last visited Nov. 21, 2011).

to thrive. Given the inevitability of population decline even after a very successful increase in fertility in the next few decades, spending an increased amount of money on the immigrants that Russia will need to maintain its population seems a wise investment. A plan was announced to allow 1.7 million immigrant to come legally to Russia in 2012, increasing the importance of infrastructure and education investments in the next few years,²²¹ and signaling an increased awareness on behalf of the government of its rising demographic trends. This change was announced over controversy and some backlash from right-wing politicians and groups—the leader of the Federal Migration Ministry admitted that the “[К]рики о том, что мигранты занимают рабочие места, - это несерьезно. И в советское время, и сейчас были рабочие места, которые старожилы не занимали. В Москве существовал набор по лимиту, набор иностранцев для работы в СССР?”—²²² but appears to increasingly be seen as a feasible solution by the Russian government.

Healthcare reform in order to increase fertility has also been initiated, but many of the problems facing Russians and their healthcare system today are the result of decades of choices; smoking, drinking, and risky behavior are not easily or quickly reformed with public awareness campaigns. Reliable funding and regulation of healthcare facilities and providers, however, could produce more immediate results. An ability to obtain

²²¹ “Разрешение на работу в России в 2012 году получат 1,7 миллиона иностранцев,” Демоскоп, Nov. 20, 2011, *available at* <http://demoscope.ru/weekly/2011/0485/rossia01.php#19> (*citing* НОВОСТИ, Nov 9, 2011) (*last visited* Nov 18, 2011).

²²² “Иностранные граждане должны быть заинтересованы законно работать на территории РФ,” Демоскоп, Nov. 20, 2011, *available at* <http://demoscope.ru/weekly/2011/0485/rossia01.php#19> (*citing* Перным, Nov. 3, 2011).

healthcare without bribes and have access to up-to-date facilities would help make Russians healthier.

CONCLUSION

Russia's severe demographic crisis has in the last ten years finally been widely acknowledged by politicians, policymakers, and citizens. A failure to address the problem could drastically alter Russia's future, increasing the number of pensioners dependent on the state and thus workers for their support, weakening the Russian military, and drastically decreasing the number of Russians going forward. In the last fifteen years, Russia has begun experimenting with and funding reforms aimed at increasing fertility, including limitations on abortions, parental leave policies, public competitions, and direct transfer payments. Unfortunately, these attempts have generally fell short of their aims for several reasons. First, a lack of a stable and predictable federal budget has made direct transfers and infrastructure investment hard to support. Second, many of these policies have been incredibly short-sighted in their design, sometimes increasing fertility, but only in the short-term, and often at expense to the health of families or the local infrastructure. Finally, these reforms have all but ignored the effects of long-term infrastructure issues, attempting to give land to young families in areas where running water is not guaranteed, for example, rather than addressing a need to rework rural plumbing and electricity.

Although the outcome of renewed attempts at reform like the *materinskii kapital* program is not yet clear, it is clear that Russian demographic terms have not reversed like

politicians hoped. In order to have success in future reforms, Russia's leaders need to address several issues. The reliance of the tax system on unpredictable income from natural resources and exports makes the federal budget unstable and the ruble heavily tied to foreign markets, allowing collapses like the 1998 Asian financial crisis to nearly bring down the entire economy and result in the nonpayment of salaries, electricity bills, and infrastructure across the nation. Tax reform focusing on a progressive income tax and the possible creation of a slush fund during periods of high tax income would help balance these dips in available funds and make government income and payments more reliable. Russia must also acknowledge the effects of misogyny and domestic abuse on its citizens' psyches, health, and family decisions, developing a program to raise public awareness about domestic violence, its effects, and the legal consequences, as well as train service providers in response. Finally, Russia must acknowledge the determining effect that the state of infrastructure in healthcare, education, and utilities have on the choices of women and families to have children and plan accordingly. Increased spending on healthcare may help Russians to live longer and make better healthcare choices, and increased spending on education can keep young Russians healthier, help integrate growing numbers of immigrants, and allow young citizens to set up their lives for a stable future.

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