

“Learning” to Offer an Alternative to Military Service: Norm Adoption in Russia

FLEMMING SPLIDSBOEL HANSEN

Abstract: Nearly a decade after the adoption of the Russian constitution, in June 2002, the Duma finally passed legislation on the status of the country’s conscientious objectors. Employing a framework of learning and behavioral change, this article traces the origins of the law, discussing what happened and why.

Key words: conscientious objection, Council of Europe, human rights, learning, norms, Russia

When adopting Russia’s current constitution in a nationwide referendum on December 12, 1993, the Russian electorate also voted in favor of offering conscientious objectors (COs) an alternative to traditional military service. As stated in Article 59 (3) of the constitution, “the citizen of the Russian Federation whose convictions and faith are at odds with military service . . . shall have the right to the substitution of an alternative civil service for military service.”¹

It was ten years later, however, beginning on January 1, 2004, that Russian conscripts would be offered the alternative otherwise guaranteed by the constitution. Moreover, the members of the Duma declared that this part of the “Rights and Liberties of Man and Citizen” (ch. 2 of the constitution) should have the duration of the alternative service exceed that of traditional service—from a standard twenty-four months to thirty-six or even a full forty-two months (for those performing civil service within the military and nonmilitary sectors, respectively).²

The adoption of the new law, which still leaves Russia open to criticism of discrimination, has clearly been a difficult and painful process for Russian policy-makers. In this article, I trace the origins of the law and explain why it appeared when it did and why it appeared in the shape that it did.

The study proceeds in four main steps. First, drawing on what is a rapidly expanding body of literature, I briefly outline relevant theories on social learning. Employing a basic distinction between “simple” and “complex” learning, I

Flemming Splidsboel Hansen lectures on European politics and international relations at the Central European University in Budapest. Copyright © 2006 Heldref Publications.

explain how cognition may reflect two principally different processes of policy transformation—one in which the means change, but the underlying assumptions remain intact and one in which the means change as fundamental values and belief systems are altered.³

Second, I go over the process leading to the adoption of the law. Well before 2002, strong pressure existed to pass legislation on the issue but, as demonstrated here, various Duma majorities prevented this for more than eight years. Domestically, the main source of the pressure was Article 59 (3) itself, the continued neglect of which was a constant reminder for critics of the relatively illiberal nature of post-Soviet Russia.⁴ Internationally, it was primarily generated by Russia's membership application to—and subsequent acceptance into—the Council of Europe (CoE). The central role played by this organization is explained not only by the strong human rights dimension of its work, but also because it remains the only major European security organization of which Russia has actually *earned* membership.⁵

Third, I link the first two sections, offering answers to the puzzles raised earlier. I suggest that the law on alternative service is primarily the product of a simple learning process. Although there seems to have been a growing recognition among Russian politicians concerning the importance of meeting international standards of conduct, the particular norm underlying the offer of alternative service clearly has not been fully internalized. In fact, it seems that there was a conscious effort made to ensure that the law meets a minimal interpretation of the letter of earlier commitments only. The members of the Duma, simply put, were more concerned about the interests of Russia than about those of the COs.

This, I argue in the final section, does not necessarily represent a failure on the part of either domestic critics or the international community. It marks a step in the right direction, even if a small one, and should be welcomed. Once introduced, even for instrumental reasons, human rights norms often gain wider acceptance through a gradual process, raising their legitimacy and making it less likely that they will be rolled back.

Learning

The underlying theme of this study is norm socialization. Depending on the level of internalization, norms will have a constitutive effect (that is, define the identity of the actor) as well as a regulative effect (that is, shape the behavior of the actor).⁶ As Thomas Risse and Kathryn Sikkink note, “human rights norms have a special status because they both prescribe rules for appropriate behavior, *and* help define identities of liberal states.” These types of norms, so they explain, “have constitutive effects because good human rights performance is one crucial signal to others to identify a member of the community of liberal states.”⁷

For strongly socialized actors, the regulative link between identity and behavior is relatively clear and uncorrupted. For weakly socialized actors, however, other interests are allowed to interfere more often, causing policies to deviate from the standard otherwise dictated by the identity and resulting in norm-violating behavior.⁸

A useful way of approaching this issue is through an ideal-type dichotomy of different behavioral logics. As explained by James March and Johan Olsen, under a “logic of consequentiality,” different alternatives are weighed against each other to produce an optimal outcome. The actor is self-interested, rational, and utility-maximizing and therefore employs the strategy most likely to advance whatever interests have been defined.⁹

Under a “logic of appropriateness,” on the other hand, norms simply guide behavior. Here, the actor is not concerned with the consequences of the different alternatives available, but instead asks, “what kind of situation is this?” “who am I?” and “how appropriate are different actions for me in this situation?” Based on the answers to these questions, an appropriate policy response can then be formulated.¹⁰

In real life, these ideal-type actors do not exist. Instead, actors follow different combinations of the two logics as they play out their multiple identities and roles.¹¹ Over time, the average behavior of individual actors will be situated somewhere on the continuum defined by these two extremes. The same is true for processes of social learning. Here, the extremes are defined by pure instrumental adaptation and by pure imitation—or by pure simple and complex learning, respectively.¹²

The level of socialization determines the position on the continuum at any given time. Studies, as well as logic, suggest that actors will move gradually from low to deep internalization and from communicative action (“talking the talk”) to formal action (incorporating the norm in question into the constitution or into domestic legislation) to behavioral action (actual implementation of norm-conforming policies).¹³

In this way, the gradual movement from a logic of consequentiality to one of appropriateness (or from simple to complex learning) reflects changes in the depth of internalization and in the attitude toward violations of specific norms. For nonsocialized actors operating on a basis of strict instrumentality, norm-violating behavior does not bring pain; because the norm is not believed in, it will not have a constitutive effect and violations will not contradict the identity of these actors. Consequently, there is no self-sanctioning, and pressure has to be applied by outside actors to make sure that at least some regulative effect is seen. Where states are involved, these actors represent the international community.¹⁴

For fully socialized actors, on the other hand, norm-violating behavior “is psychologically painful even if the direct material benefits are positive.”¹⁵ Because these actors have a strong belief in the validity of the norm, making it part of who they are, they uphold it regardless of other interests—external sanctioning therefore is not required. At this end stage, the norm “is taken for granted” and it is followed “because other ways of doing things are simply inconceivable.”¹⁶

The level of socialization also determines which policies will have an effect on the behavior of actors. At the low end of the continuum, negative material conditionality is the tool to employ. If the costs of violating a particular norm become prohibitively high, actors will adapt to these conditions, changing their policies for instrumental reasons. At the high end of the continuum, by contrast, teaching will be enough. Actors are looking to imitate “role-models” and, being committed learners, they just need to be shown how *we* do things.¹⁷

“Shaming” or finger-pointing is an in-between policy of special relevance for this study. A tool of social influence, it should be noted that

shaming requires that actors have declared their general support of the standard of legitimacy at an earlier point in time—either out of a sincere belief in its rightfulness or for instrumental reasons. When, in a specific situation, actors would prefer to deviate from the standard because it contradicts their self-interest, members of the community can shame them into compliance by exposing the inconsistency between their declarations and their current behavior.¹⁸

The medium of control in this conflict is legitimacy. Paraphrasing William Connolly, we should take note of the risk that when the distance between what the actor *is*, or at least claims to be, and what the actor *does* is great, the actor is likely to be held in contempt; it will be seen as either “unfree . . . or . . . deceitful.”¹⁹ By drawing attention to gaps between words and deeds, outside actors create categories of “us” and “them,” thereby excluding the norm violator from the in-group of norm upholders.²⁰

The more authoritative the in-group and the harder the actor struggles to have its new identity recognized by the former, the more painful and efficient shaming should be.²¹ In response to a policy of shaming, the norm violator may attempt to downplay the importance—that is, the constitutive effect—of particular values, or it may try to reinterpret those to its own advantage. By arguing in favor of a less restricted community identity, it can hope to convince the other in-group members that it should be considered part of “us,” even if its interpretation of a particular norm differs from that of most or even all of the others.²² From this follows the hypothesis that the clearer the norm has been stated and the more agreement there is on its interpretation, the harder it will be to escape the shaming of illegitimate behavior.²³

Opposition to the Law

As noted before, the idea of an alternative military service clearly has been difficult to accept for various generations of Russian lawmakers. The fact that the constitution, adopted on the same day that the first Duma was put together, does guarantee the right to this service, even in some unspecified form, suggests that members of parliament would have felt obligated to deliver what had been promised to potential COs.²⁴

However, having forcefully dissolved the earlier parliamentary structure in September 1993, the otherwise liberal forces headed by then-Russian President Boris Yeltsin had prepared the constitution in near-complete insulation from opposition pressure. As a result of this, the constitution suffered from a lack of legitimacy in its early years; parts of it, especially chapters 4 and 5, which deal with the distribution of power between the executive and legislative branches, were fiercely challenged, whereas other parts, mainly a number of provisions found in chapter 2, were largely ignored.

Liberal and centrist parties attempted to introduce legislation on the alternative service, but the opposition, often supported by the powerful Ministry of Defense and the General Staff, was able to block draft laws aimed at regulating

the status of the so-called *alternativschiki*.²⁵ This reflected the situation on the Duma floor. Thus, the first two elections, held in 1993 and 1995, respectively, saw major victories for the strongly nationalist Liberal Democratic Party of Russia (LDPR), headed by the infamous Vladimir Zhirinovskiy, and for the Communist Party of the Russian Federation (KPRF), led by Gennady Zyuganov.²⁶

In December 1994, a draft law on alternative service was passed in the first hearing, only to be permanently shelved as its supporting caucus fell apart under the pressure of the opposition. Following this, Yeltsin made direct appeals to the members of the first Duma to adopt the law before the end of their term, but the opposition proved too strong.²⁷ As noted, inside the Duma walls, the LDPR was

“In fact, it seemed inappropriate to even consider the possibility that while so many were suffering, a selected few should be given the possibility of escaping their national duty.”

the dominant force among the nationalist opposition, and its views on the COs were—and still are—quite clear. To illustrate, in a commentary marking the introduction of the law on alternative service, Zhirinovskiy openly suggested that men who fail to fulfill their “state duty” should lose not only their right to take up leading positions in state institu-

tions, but also their vote in both federal and regional elections.²⁸

Outside the Duma, the debate about the future of the armed forces was getting more heavily charged, making it hard for some of the early supporters of the law on alternative service to stand their ground. As the public discussed a whole catalogue of ills relating to the military sphere—reductions in spending, the need to reduce the overall number of troops, the appalling living conditions, wage arrears, the poor condition of conscripts, and, from December 1994 when fighting first broke out, the war in Chechnya—the issue of the COs seemed peripheral.²⁹ In fact, it seemed inappropriate to even consider the possibility that while so many were suffering, a selected few should be given the possibility of escaping their national duty.

This was how critics of the law on alternative service attempted to construct the debate. The recipe for improving the situation in the country—and, with that, the situation in the armed forces—was said to be an increase in patriotism. For instance, a 1994 commentary in *Krasnaya zvezda*, the Ministry of Defense newspaper, stated “the situation is bad. We are losing our young ones. . . . The state is losing patriots [and] the army is losing good soldiers loyal to the holy duty of defending the Fatherland.” One of the possible responses suggested for this was the introduction of a special tax for “the kind of people who are neither capable, nor willing to serve but still enjoy the armed protection of their peers.”³⁰

Partly as a result of conditions such as those mentioned above, the 1995 election resulted in the creation of a parliamentary opposition of even greater strength. As the Russian population in general increased its support for the KPRF, so also

did the military servicemen who saw in the party an ally in the fight against radical changes. Thus, although two years earlier the LDPR had been a clear favorite at the military polling stations, in 1995 it was strongly challenged by the KPRF (according to some reports, both parties received 20–22 percent of the military vote).³¹ Against this background, it was no surprise that when in late 1998 a modified version of the original 1994 draft law finally appeared on the Duma agenda, it was promptly rejected.³²

The Council of Europe

In this way, the opposition within the Duma to the law on conscientious objection easily survived the shake-up of the 1995 election. Arguably, it intensified after Russia was accepted into the Council of Europe (CoE) in February 1996. There were two reasons for that. First, for the opposition, accession came at an unfortunate moment, as Yeltsin was struggling to raise his approval ratings before the crucial mid-1996 presidential election. It also came at a controversial moment, as Russian troops continued to fight Chechen secessionists, giving rise to speculations that the CoE, undoubtedly concerned by the backlash of the recent election, was hoping to improve the position of the beleaguered incumbent by showing that the country was making progress internationally.³³ Needless to say, among members of the powerful opposition, this hardly added to the legitimacy of the CoE. In fact, the organization was already viewed with a good deal of suspicion because of its involvement in the Chechen conflict.

This, then, is the second and more general point. Since the December 1994 launch of the military campaign to restore federal control over Chechnya, there has been strong criticism leveled at Russia, especially by the Parliamentary Assembly of the CoE [PACE]. Relations reached a low when, in February 1995, PACE decided to defer consideration of Moscow's membership application, causing an outcry in Russia as leading politicians from all camps warned that this could only serve to undermine the role and status of the CoE.³⁴

Despite this tension, the membership offer was endorsed by an overwhelming majority in the Duma (304 to 18), demonstrating the strong agreement within the country of the need for Russia to be accepted as part of Western normalcy. As noted, the CoE remains the only major European security organization that has welcomed Russia after an examination of the country's policy record. And as accession to the European Union (EU) and the North Atlantic Treaty Organization (NATO) clearly is for the distant future, the CoE membership represents Russia's best argument as it tries to convince critics that it forms part of the community of liberal states mentioned above.

The actual accession of Russia to the CoE did not bring any immediate improvement in the relationship between the two parties. Looking to bolster his image before the election, Yeltsin showed little appreciation of the possible support given by the CoE when he urged the newly elected Russian members of PACE to "resolutely rebuff attempts to pressure Russia, interfere in its internal affairs, and apply double standards."³⁵ Although the first part of this statement referred to the PACE policy on Chechnya, the second part reflected a popular

belief in Russia that as the country was being ostracized because of alleged human rights violations, the CoE instead turned a blind eye to the mistreatment of ethnic Russians in the three Baltic states.³⁶

Whatever the disagreement over human rights conditions in Russia and elsewhere, when becoming the thirty-ninth member state of the CoE, the country committed itself to the introduction of legislation on the status of its COs. As part of the negotiations over accession, the Russian authorities agreed to meet a number of specific criteria, one of which concerned this issue. Thus, in a January 1996 statement adopted following the final debate on the Russian candidacy, PACE noted that

the Russian Federation shares fully its understanding and interpretation of commitments entered into as spelt out in [Article 3 of the CoE Statute] and intends: . . . xviii. To adopt a law on alternative military service, as foreseen in Article 59 of the constitution.³⁷

Although this statement reflected a central principle of CoE policymaking (raising the public commitments of member states, thereby making shaming easier and defection more costly in terms of reputation damage), it also indicated that the decision to accept the Russian request for membership was accompanied by a good deal of optimism; that the members of the second Duma, who were expressing strong support for the Russian candidacy, would deliver the law on alternative service.

This optimism seemed to have two sources. The first and most important of these was that by joining the CoE, Russia accepted a formal obligation to recognize the right to conscientious objection. The second was that by accepting membership, the country also placed itself under much greater informal pressure to adopt a law on the status of its COs.

Although the right to conscientious objection is not formally recognized in the 1950 European Convention on Human Rights (ECHR), a vast majority of CoE member states interpret the latter document more liberally, making the alternative service offer a well-established norm.³⁸ A clear indication of the strength of this norm is that it was adhered to also by the constitutional writers in Russia as they prepared the ground for a post-Soviet state based on true European standards.

Since the late 1960s, the CoE has consistently and repeatedly campaigned for the right to conscientious objection, thereby not only applying still more pressure on the norm violators, but also making it harder for these to hide from the watchful eye of the international community.³⁹ Most famous, perhaps, in a 1987 recommendation, the Committee of Ministers (CoM) urged all member states that had not already done so to make sure that “anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the right to be released from the obligation to perform such service.”⁴⁰

As noted by a group of experts, although not legally binding, “[this recommendation] may be considered as an authoritative interpretation of Article 9 [of the ECHR], which cannot simply be ignored by the national authorities.”⁴¹ PACE

has since worked to step up the CoE pressure on noncompliant states, passing more ambitious recommendations and calling on the CoM to follow its line.

In 2001, for instance, the year before the adoption by the Duma of the law on the alternative service, PACE recommended to the CoM to invite again

those member states [including Russia] that have not yet done so to introduce into their legislation: i. the right to be registered as a conscientious objector at any time . . . [adding that this right should be accompanied by] iv. [a] genuine alternative service of a clearly civilian nature, which should be neither deterrent nor punitive in character.⁴²

In reply to this, the CoM referred to its 1987 recommendation, emphasizing the importance of effective implementation, and then addressed different issues where the PACE recommendation was aiming higher than this document. One of these issues was the above-mentioned point iv. Although the CoM had certain reservations (discussed below), it expressed its agreement “in principle” with this point, stressing that access to alternative service “should be non-discriminatory and non-punitive.”⁴³

Since 1993, and more so since 1996, Russia was under strong pressure to act in accordance with what is a widely accepted standard for dealing with COs. The argument made above, that compliance with the norm on alternative service is an aspect of the constitution of a European identity, is not trivial. Since the Soviet breakup, Russia has found it agonizingly difficult to win acceptance as a European state, which suggests that compliance should have been both swift and unproblematic.⁴⁴ However, as already noted, nothing happened before the election in 1999 of the third Duma, the one that would eventually pass the law on the alternative service.

The Duma Debate

Commenting on the prospects of an alternative service law in late 2001, a disappointed Russian observer told her readers that “the generation of politicians who do not only know the rights of their fellow citizens but actually respect them has not yet come to power.”⁴⁵ Although this judgment seems to have been put to shame by the actual adoption only six months later of the much-awaited law, the members of the Duma seemed in little hurry to add substance to Article 59 (3). They only did so well into their third year, suggesting that the COs were not high on their agenda. However, to fully assess the quality of the legislative process—and, with that, the underlying behavioral logic—the Duma debate should be looked at more closely.

In addition to the extended term of service mentioned earlier, the law stipulates that the draftee is requested to present evidence showing that military service will violate either his “convictions or beliefs” (Art. 11 [1–3]); that, in the presence of the draftee, the evidence should then be examined by the local draft commission (Art. 12 [1–2]); that rejections may be appealed (Art. 15); and that, as a general rule, when a right to alternative service is granted, this should be performed outside of the CO’s region of permanent residence (Art. 4 [2]).⁴⁶

The law was given this shape during the second hearing on June 19, 2002. An earlier version had been adopted at the first hearing on April 17, 2002, but after

that, some very different drafts were prepared, indicating a lack of consensus on the issue. The most important of these drafts had been prepared by the government and, given the composition of the Duma, it was clear that it would be passed.

Before turning to the arguments advanced in favor of the law, it should be noted that strong criticism was voiced from within the liberal camp. Thus, a number of deputies complained that the second version was much stricter than the one passed in the first hearing. To illustrate, Vladimir Lysenko (Russia's Regions) suggested that

representatives of the Ministry of Defence and the General Staff went to the President and convinced [him] that we do not need a democratic law; that is why today [then Minister of Labour Aleksandr] Pochinok suddenly changed his mind so drastically and started questioning all the democratic amendments which are found in the [first version of the] law.⁴⁷

In the opinion of these critics, the draft law suffered from a number of fundamental weaknesses, among which were the extended duration of the civil service and the principle of exterritoriality. Commenting on the first issue, Vladimir Semeyonov (Union of Rightist Forces [SPS]) argued that

if we talk about the right of the draftee to choose either military or alternative service, then we should set up similar conditions for one and the other. I maintain that the long term of service is a punishment of the draftee because of his convictions. Moreover, the long term is a discrimination against the draftee and it contradicts the Constitution and the international obligations of Russia.⁴⁸

The government representative received this line of thinking with understanding. In the words of Pochinok,

the government is also concerned about the duration of the service, but, based on the overall number of working hours, it finds that there should be if only a rough similarity between the military service and the alternative civil service where [the CO] will only work the eight hours specified by the Labour Law . . . We are really afraid . . . that if we make one kind of service lighter than the other, then we will simply be unable to get the [required number of conscripts].⁴⁹

Other supporters of the government-sponsored draft openly favored a strong differentiation. When critics complained that the different terms (a factor of 1.5 and 1.75 is used to calculate the terms of service in the military and nonmilitary sectors, respectively) would discriminate against those COs who refuse to have anything to do with the armed forces, this was promptly rejected.

Infuriated, Vyacheslav Volodin (Fatherland—All Russia [OVR]) asked these critics if they wanted the alternative service “to be lighter, to have a shorter duration?” adding that “this will not happen! We want to keep the armed forces, to make sure that they are strong, powerful and that service in the armed forces is prestigious.”⁵⁰ Valery Dorogin (Russia's Regions) continued this line of thought, explaining that the alternative service will have to be performed within the military structures, “as the citizen has to do his duty in the defence of the Fatherland.”⁵¹ For both speakers, the motive seems to have been to force the draftees into the armed forces by making the terms of the alternative service unaccept-

able. As such, it clearly suggests that, in this case, support for the law was based on simple learning only.

It should be added that the main alternative draft, prepared by the Committee on Legislation and presented by Vladimir Barannikov (SPS), also recommended an extended term of service for COs. In this case, however, ordinary service would be multiplied by a factor of 1.5 only, bringing the extended service to a maximum of thirty-six months. If the CO then agreed to work in the military sector and away from his home region, it would be reduced to the standard of twenty-four months.⁵² Proposals to set the maximum term of service at thirty months for all COs had actually been sent to the committee, but here, too, there was concern voiced about the possible implications of this for the armed forces. As Barannikov explained, the proposal was seen as “far too liberal” and therefore rejected by the committee.⁵³

Following a convincing 240–61 vote, a third and final hearing was then scheduled for June 28, 2002.⁵⁴ As the issue had already been decided, the debate was relatively short. A

few critics tried to bring the draft back to a second hearing, arguing that by accepting it, “we may put an end to the discussion, but we do this by adopting a law which has nothing to do with an alternative service, thereby setting up a screen behind which there is nothing” (Sergei Ivanenko, Yabloko).⁵⁵

Some supporters of the law urged their critics to calm down, telling them that the law will only come into force in a year and a half and . . . until it is introduced, nothing prevents [you] from preparing amendments, for instance on the duration or the place of service . . . The present law on the day of today—it is just one decision of principle: Will there be an alternative service or will there not be one at all. This is how things stand. (Vadim Bulavinov, Narodny deputat)⁵⁶

Other supporters were less open to future changes, arguing that the law had been given just the right shape. To illustrate, Dorogin recalled how “we all aimed to make sure that the burdens of military service and alternative service are similar, we harmonised them.”⁵⁷ And, in an openly provocative display of simple learning, Zainulla Bagishaev (OVR) went further, making clear that, in his opinion, “the present law will allow all citizens of the Russian Federation to exercise their constitutional right to defend the Fatherland, to defend the state, and hereby all constitutional rights and obligations of the citizens . . . are respected.”⁵⁸

Dorogin’s comments brought Aleksei Arbatov (Yabloko) to the floor. Criticizing the underlying assumptions of the argument, Arbatov noted how

[our] colleague Dorogin described the law in its present shape very accurately when saying that it aims to make the [alternative service] as hard as military service, and that it is with this in mind that all the amendments have been passed. We always

“However, to fully assess the quality of the legislative process—and, with that, the underlying behavioral logic—the Duma debate should be looked at more closely.”

thought that, rather than to make it as hard as possible to serve, the aim of the [alternative service] was to bring maximum benefit to the state and to society, using the public work of the young people who are not doing military but alternative service.⁵⁹

This, however, did not change anything. And so, at the end of the hearing, the law was finally passed, 273–109.⁶⁰

Explaining the Whys

As noted earlier, it seems that the Duma majority wanted to balance two interests. On the one hand, they seemed more concerned than their predecessors about the lack of legislation on the status of the COs and therefore wanted to deliver where the two earlier Dumas had failed. Once the legislative process had been initiated, the law was easily passed, demonstrating that at this stage of development, the controversial issue was no longer whether Russia should have a law on alternative service, but how this service should be constructed.

On the other hand, they wanted to construct the alternative service in such a way as to make it an unattractive option. Some undoubtedly were guided in this by a fear that if it was made too attractive, the alternative service could undermine the armed forces that continue to rely heavily on conscription.⁶¹ Most, however, seemed guided by a belief that COs simply deserve an extra burden. When studying the transcripts of the Duma debate, readers are hard-pressed to find positive references to COs among the statements made by the majority members. The dominant line of thinking appears to be that although the alternative service should be introduced, any decision to actually accept it should come at a cost.

I see two main reasons for this—one internal and one external. First, and most fundamentally, there is simply a gap between the specific norm in question (recognizing the right to conscientious objection) and the dominant culture in Russia. Theories of norm diffusion inform us about the existence of a direct link between the “goodness of fit” and the efforts required for successful norm internalization.⁶² Based on these, we should expect that the lower the fit, the more likely it is that policy changes will reflect instrumental adaptation and simple learning only.

As demonstrated by several of the examples offered earlier, compulsory military service has remained a highly sensitive issue in Russia. Although, in general, conscription is quite unpopular, polls show that it is still supported by a considerable portion of the population (surveys usually put the level of support in the 25–40 percent range).⁶³ Part of the explanation for this has to be found in the fact that powerful actors have worked to preserve or even increase the “misfit,” essentially hoping to convince their audiences that conscientious objection is a non-Russian concept. A large part of the debate on patriotism has reflected this, especially when appearing in its religious variant, thereby aiming to set clearer standards for “true” Russian behavior.

When, in the early 1990s, the military began its campaign to preserve its status and to prevent the implementation of radical changes, it enlisted the support of the Russian Orthodox Church (ROC). For the military, this spiritual “rearmament” held the promise of bringing its existence and operations onto a higher plane—one of destiny, purpose, and history—and away from “ordinary” politics.

For the patriarchate, it represented a welcome opportunity to increase the visibility and raise the status of the ROC, which found itself challenged by a combination of secularism and rivaling denominations and faiths.⁶⁴

The cooperation between the military and the ROC has since become quite visible on the ground. For instance, the curricula of the military academies now include classes on religious studies and even Orthodoxy.⁶⁵ Another area is that of conscientious objection; here, in 2002, on an individual basis, draft commissions started introducing representatives of the ROC into their panels. The aim of this, according to a local military commissioner, was to identify the “scoundrels who hide behind faith and refuse to join the army,” adding that “in order to preclude such problems we decided to include a clergyman in the [draft] commission . . . And just as soon as a person in a cassock with a cross appeared in the commission there has been no case of refusal to join the army.”⁶⁶ This practice has stopped, but criminal courts may still invite Orthodox clergy to give “expert” statements when dealing with COs, thereby illustrating the special status enjoyed by the ROC as a “trusted” institution.⁶⁷

As the law on alternative service was being drafted, the patriarchate made it clear that from a theological perspective, no excuse will justify the refusal to perform military service. True, Aleksei II referred to the adoption of the law as “a necessity,” but at the same time, a member of the Synodal Department for Relations with the Armed Forces and Law Enforcement Agencies pointed out that the ROC “has always welcomed military [*ratnoe*] service as a sacred obligation,” adding that it does not support those who “refuse this service out of personal and selfish reasons.”⁶⁸

As suggested, by working to increase the “misfit,” the ROC could also hope to increase public opposition to a number of rival, especially Christian, religious groups. The controversial 1997 law on religion had already served to marginalize a number of these, but by adding the sensitive question of the willingness to defend the state to the debate, this process could be brought further.⁶⁹ Interestingly, in the Duma debate, opponents of the law also referred to this particular construction of “patriotism” when arguing against its adoption. To illustrate, Vasily Shandybin (KPRF) noted how

in a recent interview . . . [Boris] Nemtsov, when asked whether Russia should join NATO, said that the Russian [*russskaya*] nation is unable to defend itself . . . Let me say clearly to [SPS] that the Russians [*russkie*] are capable of defending themselves and of serving two [to] three years in the Northern Fleet [and] in the airforce.⁷⁰

Needless to say, comments such as these only served to question the motives and loyalty of the COs and to reduce the understanding among the general public of the need for the law on conscientious objection. As such, they made it harder for supporters of the law to introduce more liberal provisions into it later.

The second reason is related to the policies and status of the CoE. As the organization continued its campaign to have the right to conscientious objection recognized in all member states, the pressure on Russia was also maintained. Following the outbreak of fighting in Chechnya in September 1999, the CoE unleashed a new

wave of criticism, now focusing not only on the failure of Russia to honor some of the specific membership obligations accepted in 1996, but also on what it saw as the use of indiscriminate force against the population of Chechnya.⁷¹

Relations reached a new low when, in April 2000, PACE decided to suspend the voting rights of the Russian delegation, even calling on the CoM to suspend the country altogether from the organization. If taken, this decision would have left Russia out in the European cold with Belarus.⁷² For Russian President Vladimir Putin—and the strong Duma majority that supported him—this was an unwelcome development as he tried to convince a suspicious West that his comfortable win in the March 2000 election did not signal the introduction of a more illiberal regime.⁷³

One way to attempt to silence some of the critics was to deliver on the CoE obligations. What followed was a string of legislation on judicial and human rights issues, including some covered by the ECHR, causing, in April 2002, the otherwise critical PACE to praise the “undoubted progress made by Russia towards the rule of law and democracy.”⁷⁴ A large part of this undoubtedly was done simply because it was “the right thing to do,” but another part clearly was done for instrumental reasons; only a closer look at these different legislative processes will reveal what happened.

The law on alternative service, however, seems to fall under the second category. As the CoE has enjoyed a relatively low status in Russia, policymakers were less concerned about the finer elements of its behavioral standards, aiming instead for the bare essentials of the country’s membership obligations. In the case of conscientious objection, the new law meets those requirements.

As noted, when PACE in 2001 called on all member states to introduce “[a] genuine alternative service of a clearly civilian nature, which should be neither deterrent nor punitive in character,” the CoM expressed its agreement with this. However, so it was added in the CoM resolution, “in certain cases, the less onerous duties of civilian service may justify a longer duration than that of military service. [The council] considers that member states must enjoy a certain discretion in deciding the length and organisation of the alternative service.”⁷⁵ In other words, when viewed from a legal perspective, the criticism regarding the extended duration and the principle of extritoriality is unfounded.

What was achieved was that Russia fulfilled one of its CoE membership obligations, thereby hoping to confirm its “European” identity, and it did so at a minimal cost.⁷⁶ A brief look at the conditions offered to COs in the member states that still rely on conscription shows that although Russia is one of the least liberal (in terms of absolute and relative duration of the alternative service), a small group of states have actually adopted similar or even stricter regulations.⁷⁷

In this specific context, “European” behavior clearly is a contested concept. The introduction of an alternative service is a basic requirement, but beyond that there is little agreement on the contents of the “conscientious objection norm.” As suggested earlier, this means that it is much harder to define and identify “illegitimate” or norm-violating behavior and, once basic standards are met, the policy of shaming is also much less likely to have an effect on the target state.

Conclusion

The argument made here is that what we have witnessed is primarily a simple learning process. Being more sensitive to the question of Russia's image abroad, the members of the third Duma wanted to spare their country some of the extensive finger-pointing of the international community in general and of the CoE in particular. To achieve this, they introduced legislation that meets the basic requirement, that is, the offer of an alternative to military service. It is clear, however, that even this rests on a low level of socialization; absent the international pressure and the uncomfortable feeling caused by the shaming, it is doubtful that the law would have been passed. Clearly, the dominating behavioral logic was one of consequentiality—very little self-sanctioning can be observed in this case.

Does all of this suggest, as some critics have argued, that the decision to accept Russia into the CoE was premature?⁷⁸ Not necessarily. The CoE obligations and the shaming clearly did play a role, serving to convince this new generation of lawmakers that they had to close the gap between words and deeds. They seem to have settled for a low standard because they could get away with that; had there been a shared, more liberal interpretation of the “conscientious objection norm” (for instance, that the alternative service cannot exceed the military service by more than a factor of 1.5 or six months, whichever is less), then there seems reason to speculate that the Russian law would also have been more liberal.

The passing of the law marks a step—however small—in the right direction. Experience suggests that this step can easily be followed by others. Thus, as Risse and Sikkink explain,

the process of human rights change almost always begins with some instrumentally or strategically motivated adaptation by national governments to growing domestic and transnational pressures. But . . . this is rarely the end of the story. Even instrumental adoption of human rights norms, if it leads to domestic structural change such as redemocratization, sets into motion a process of identity transformation, so that norms initially adopted for instrumental reasons, are later maintained for reasons of belief and identity. While the old leadership is not persuaded, the new leadership has internalized human rights norms and shows a desire to take its place in a community of human rights abiding states.⁷⁹

Once implemented, reforms often prove hard to roll back. A recent example was the proposal put forward after the September 2004 massacre at school No. 1 in Beslan, North Ossetia, to lift the 1996 moratorium on the use of the death penalty, introduced as part of the country's CoE membership obligations. When polled, a majority of respondents supported the proposal, but even before the Duma vote, Security Committee Chairman Vladimir Vasiliev (United Russia) made it clear that the “reinstatement of the death penalty in Russia is out of the question now.”⁸⁰ In the Duma, the motion was flatly rejected, indicating that after nearly a decade, the moratorium may have had some effect on policymakers' understanding of “acceptable behavior.”⁸¹

Whatever these speculations, it is interesting to see how the formation of the law on alternative service closely mirrors the framework presented earlier: from communicative action (loose talk about Russia's “European” identity) to formal action

(including Article 59 (3) in the constitution) to behavioral action (actually giving COs the option of alternative service).⁸² For some, the behavioral action leaves much to be desired, but there has clearly been this progression. As suggested, what started as simple learning or “Potemkin harmonisation” often is followed by more complex cognitive processes, whereby the relevant norms are internalized still deeper.⁸³

By a twist of irony, as the law on alternative service was finally being adopted, Russian policymakers found themselves forced to accept plans providing for the gradual introduction of a professional army. The professionalization of the armed forces reflects an international development where troops are being reduced in numbers to be better trained, equipped, and paid, but it is also caused by the problems

“The CoE obligations and the shamming clearly did play a role, serving to convince this new generation of lawmakers that they had to close the gap between words and deeds.”

of maintaining a sufficiently high number of recruits. Since the law on alternative service was introduced, three draft sessions have produced just over two thousand and one hundred applications from potential COs, a figure that serves to demonstrate how unattractive and possibly stigmatizing the service is. Because the figure is so low, clearly it will not have

an effect on the ability of the armed forces to perform their tasks.⁸⁴

The problem instead is found within the armed forces. In recent years, the Ministry of Defense has failed to meet its recruitment targets, as only 9 percent of the annual pool of conscripts are inducted.⁸⁵ And not only that, a large share of those enlisted suffer from physical or mental problems, have criminal records or a history of drug addiction, and are poorly educated.⁸⁶ In response at least partly to this, the Russian administration has announced plans to reduce not only the overall number of conscripts but also (from 2008) the time of service to twelve months.⁸⁷ The hope is that by making the service lighter, the armed forces will be able to attract more well-qualified conscripts, putting an end to the present situation where young men hoping to escape the military service will either bribe their way into freedom or simply desert.⁸⁸

For the COs, this is good news. As the number of conscripts is lowered, it becomes less likely that potential COs will be drafted. And, as the duration of the military service is reduced, so is also that of the alternative service—from the present thirty-six and forty-two months to eighteen and twenty-one months (for service in the military and nonmilitary sectors, respectively). What remains, of course, is the differentiation between ordinary conscripts and COs—it seems that much will have to change before this ends.

NOTES

1. The Constitution of the Russian Federation (1993).
2. Federalnyi zakon ob alternativnoi grazhdanskoi sluzhbe, 113-F3 (July 25, 2002),

Art. 5 (1–2).

3. See Joseph Nye, “Nuclear Learning and U.S.–Soviet Security Regimes,” *International Organization* 41, no. 3 (1987): 380.

4. The Freedom House rankings (1 = most free, 7 = least free) indicate a deterioration in the civil liberties regime in Russia. Although the country was given a score of 3 in 1991, this changed to 4 the following year and to 5 in 1999. The political rights regime has largely mirrored this development, and in the most recent survey (2005), Russia therefore stands at 6/5, showing political rights and civil liberties, respectively, at <http://www.freedomhouse.org/research/freeworld/2005/table2005.pdf>.

5. As the official successor state, Russia automatically took over the Soviet membership in the Conference on Security and Cooperation in Europe (since 1994, the Organization for Security and Cooperation in Europe).

6. Another way of expressing this is to say that norms serve as mediums of social construction and control, respectively. See Nicholas Onuf, *World of Our Making* (Columbia: University of South Carolina Press, 1979), 52.

7. Thomas Risse and Kathryn Sikkink, “The Socialization of International Human Rights Norms into Domestic Practices: Introduction,” in *The Power of Human Rights*, ed. Thomas Risse, Stephen Ropp, and Kathryn Sikkink, 8 (Cambridge: Cambridge University Press, 1999), emphasis added.

8. A popular definition says that norms should be seen as “collective expectations about proper behavior for a given identity.” Although it misses the constitutive aspect of norms, this definition does draw attention to the fact that if actual behavior contradicts the identity proclaimed by the actor, it is norm violating. Ronald Jepperson, Alexander Wendt, and Peter Katzenstein, “Norms, Identity, and Culture in National Security,” in *The Culture of National Security*, ed. Peter Katzenstein, 54 (New York: Columbia University Press, 1996).

9. James March and Johan Olsen, *Rediscovering Institutions* (New York: Free Press, 1989), 22–23.

10. *Ibid.*

11. James March and Johan Olsen, “The Logic of Appropriateness,” *ARENA Working Papers* 9 (2004): 17.

12. See Frank Schimmelfennig, “Introduction: The Impact of International Organizations on the Central and East European States—Conceptual and Theoretical Issues,” in *Norms and Nannies*, ed. Ronald Linden, 12 (Lanham, MD: Rowman and Littlefield, 2002).

13. *Ibid.*, 10.

14. *Ibid.*, 11.

15. Robert Axelrod, “An Evolutionary Approach to Norms,” *American Political Science Review* 80, no. 4 (1986): 1104.

16. Schimmelfennig, “Introduction,” 10.

17. *Ibid.*, 12–13.

18. Frank Schimmelfennig, “The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union,” *International Organization* 55, no. 1 (2001): 64.

19. William Connolly, “The Dilemma of Legitimacy,” in *Legitimacy and the State*, ed. William Connolly, 225–26 (New York: New York University Press, 1984).

20. Risse and Sikkink, “Socialization,” 15.

21. Jeffrey Checkel, “Social Construction and Integration,” *Journal of European Public Policy* 6, no. 4 (1999): 550.

22. Schimmelfennig, “The Community Trap,” 65.

23. Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,” *Journal of European Public Policy* 11, no. 4 (2004): 661–79.

24. Before the Bolshevik revolution, four Dumas existed, technically making the 1993 Duma number five. In this study, however, the 1993 Duma is considered the first.

25. Yevgeniya Malakhova, "Budet li v Rossii alternativnyi voennii prizyv?" *Nezavisimaya gazeta—Religii*, December 11, 2001.

26. See Richard Sakwa, *Russian Politics and Society* (London: Routledge, 2002), 129–31.

27. "Yeltsin Calls for Passage of Alternative Service Law," *RFE/RL Newswire—Russia*, November 1, 1995.

28. In *Otvet Vladimira Zhirinovskogo dlya press-sluzhby Gosudarstvennoi Dumi: Vozmozhno reformirovanie nyneshnei armii ili yeyo nuzhno stroit zanovo?* March 1, 2004. According to the LDPR program, "the defence of the Fatherland" should be considered "a holy duty for all citizens of Russia . . ."; in *Programma LDPR—Natsionalnaya bezopasnost*, December 13, 2001; both available at <http://www.ldpr.ru/>.

29. For a description of the conditions, see Dale Herspring, "Putin and the Armed Forces," in *Putin's Russia*, ed. Dale Herspring, 157–65 (Lanham, MD: Rowman and Littlefield, 2003).

30. "U gosudarstva yest budushchee, esli molodoe pokolenie vybiraet patriotizm," *Krasnaya zvezda*, March 15, 1994, 1–2.

31. Sven Simonsen, "Marching to a Different Drum?" *NATO Research Fellowship Report* (1999): 15.

32. Transnational Radical Party Statement, "Civil and Political Rights: The Question of Conscientious Objection to Military Service" (1999), <http://www.radicalparty.org/comm55/item%2011.htm>.

33. See Pamela Jordan, "Russia's Accession to the Council of Europe and Compliance with European Human Rights Norms," *Demokratizatsiya* 11, no. 2 (2003): 285. In his 1996 State of the Nation address delivered shortly after Russia was accepted into the CoE, Yeltsin pointed to this as one of his main foreign policy successes. See "Yeltsin on Foreign Policy Priorities," *RFE/RL Newswire—Russia*, February 26, 1996.

34. See the comments in "Council of Europe to Debate Chechnya in Special Session," *RFE/RL Newswire—Russia*, February 1, 1995. PACE resumed its examination of the Russian application again in September 1995.

35. "Yeltsin on Council of Europe," *RFE/RL Newswire—Russia*, March 13, 1996.

36. A majority of members of PACE responded to this criticism by observing a minute of silence in honor of Chechen President Dzhokhar Dudaev when he was killed by Russian troops in April 1996. For a Russian view on the CoE handling of the Chechen case, see Igor Ivanov, *Novaya Rossiiskaya diplomatiya* (Moscow: Olma Press, 2001), 127.

37. PACE, "On Russia's Request for Membership of the Council of Europe," opinion 193 (1996).

38. See Directorate General of Human Rights of the CoE, *Conscientious Objection to Compulsory Military Service* (2003).

39. Consultative Assembly, *On the Right of Conscientious Objection*, Resolution 337 (1967).

40. CoM of the CoE, Recommendation Regarding Conscientious Objection to Compulsory Military Service, R (87) 8 (1987).

41. P. van Dijk and G. J. H. van Hoof, *Theory and Practice of the European Convention on Human Rights*, 3rd ed. (The Hague: Kluwer Law International, 1998), 545.

42. PACE, Exercise of the Right of Conscientious Objection to Military Service in Council of Europe Member States, Recommendation 1518 (2001).

43. The CoM of the CoE, Exercise of the Right of Conscientious Objection to Military Service in Council of Europe Member States, doc. 9379, March 1, 2002.

44. In early 1992, then-Foreign Minister Andrei Kozyrev identified as one of Russia's main goals the entry into "the community of states built on democracy and market forces" in *Vneshnyaya politika Rossii—Sbornik dokumentov, 1990–1992* (Moscow: Mezhdunarodnye otnosheniya, 1996), 197.

45. Malakhova, "Budet li v Rossii alternativnyi voennii prizyv?"

46. All in *Federalnyi zakon ob alternativnoi grazhdanskoj sluzhbe*.

47. Duma, Stenogramma zasedaniya 19 iyunya 2002 g, June 19, 2002, <http://wbase.duma.gov.ru/>.
48. Ibid.
49. Ibid.
50. Ibid.
51. Ibid.
52. Ibid.
53. Ibid.
54. Duma, Poimennye golosovaniya 19 iyunya 2002 g, June 19, 2002, <http://wbase.duma.gov.ru/>.
55. Duma, Stenogramma zasedaniya 28 iyunya 2002 g, June 28, 2002, <http://wbase.duma.gov.ru/>.
56. Ibid.
57. Ibid.
58. Ibid.
59. Ibid.
60. Duma, Khronika zasedaniya 28 iyunya 2002 g, June 28, 2002, <http://wbase.duma.gov.ru/>.
61. Herspring, "Putin and the Armed Forces," 166–67.
62. Thomas Risse, Maria Green Cowles, and James Caporaso, "Europeanization and Domestic Change: Introduction," in *Transforming Europe*, ed. Maria Green Cowles, James Caporaso, and Thomas Risse, 6–9 (Ithaca, NY: Cornell University Press, 2001).
63. "Most Russians Advocating Professional Army," *Center for Defense Information [CDI]—Russia Weekly*, May 14, 2004; and "Russian Society Has No Single Opinion on How to Form Army," *CDI—Russia Weekly*, October 1, 2004.
64. See Aleksandr Prasol, "Patriotizma bez dukhovnosti ne byvaet. Dlya armii eto osobenno aktualno," *Krasnaya zvezda*, March 4, 1994, 1.
65. V. Kolosov, T. Galkina, and O. Lavrenova, "Rossiya v religioznom izmerenii," in *Geopoliticheskoe polozhenie Rossii: Predstavleniya i realnost*, ed. V. Kolosov, 200 (Moscow: Art-Kurer, 2000).
66. Sergei Zhakaev and Dmitry Rudnev, "Orthodox Priests on Draft Commissions," *Izvestiya*, November 1, 2002, <http://www.stetson.edu/~psteeves/relnews/0211a.html>.
67. U.S. Department of State, *International Religious Freedom Report—Russia* (2004).
68. Malakhova, "Budet li v Rossii alternativnyi voennyi prizyv?"
69. The law recognizes four "traditional" religions (the ROC, Islam, Judaism, and Buddhism), which are all designated "religious organizations"; all others are recognized as "religious groups" and enjoy a lower status. For a political interpretation of the law, see U.S. Department of State, *International Religious Freedom Report—Russia*.
70. Stenogramma zasedaniya 19 iyunya 2002 g.
71. See PACE, *The Conflict in Chechnya*, Recommendation 1444 (2000).
72. PACE press statement, "Assembly Steps Up Pressure on Russia," April 6, 2000. The voting rights were returned to the Russian delegation in January 2001.
73. See Lilia Shevtsova, *Putin's Russia* (Moscow: Carnegie, 2003).
74. PACE, *Honouring of Obligations and Commitments by the Russian Federation*, Resolution 1277 (2002). In this resolution, PACE also "strongly urge[d] the State Duma to finally adopt a law on alternative military service."
75. CoM of the CoE, *Exercise of the Right of Conscientious Objection to Military Service in Council of Europe Member States*, doc. 9379, March 1, 2002.
76. For comments on the CoE and the "European" identity, see Sergei Karaganov, "O smertnoi kazni, Rossii i Evropa," September 30, 2004, <http://www.globalaffairs.ru/>.
77. This includes EU member states such as Greece, Finland, and Cyprus. See Quaker Council for European Affairs, *The Right to Conscientious Objection in Europe: A Review of the Current Situation* (April 2005), xv, <http://www.quaker.org/qcea/>.

78. William Jackson, "Russia and the Council of Europe—The Perils of Pre-mature Admission," *Problems of Post-Communism* 51, no. 5 (2004): 23–33.

79. Risse and Sikkink, "The Socialisation of International Human Rights Norms into Domestic Practices," 10.

80. "Death-Penalty Debate Continues to Rage," *RFE/RL Newswire—Russia*, September 17, 2004.

81. "Duma Rejects Bills to Criticize Government on Security and to Lift Death-Penalty Moratorium," *RFE/RL Newswire—Russia*, September 23, 2004; see also Karaganov, "O smertnoi kazni."

82. Schimmelfennig, "Introduction," 10.

83. *Ibid.*

84. Quaker Council for European Affairs, *The Right to Conscientious Objection in Europe*, 59. When asked why the applications are so few, a general staff spokesman explained that "that just means they are so few." "New Conscripts Promised Warmth and Safety," *Russia Journal*, April 1, 2004.

85. Natalya Kalashnikova, "Mirnoe bremya," *Itogi*, April 12, 2005, 33.

86. See Andrew Spivak and William Pridemore, "Conscription and Reform in the Russian Army," *Problems of Post-Communism* 51, no. 6 (2004): 33–43.

87. Vladimir Putin, *Annual Address to the Federal Assembly*, May 16, 2003.

88. Spivak and Pridemore, "Conscription and Reform."