

# Homelessness and Criminal Exploitation of Russian Minors: Realities, Resources, and Legal Remedies

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**T**he demographics of the Russian Federation are alarming. According to Russian president Vladimir Putin, the population of the country declines by roughly 750,000 persons per year.<sup>1</sup> If that trend continues, there will be fewer than twenty-two million Russian citizens in 2015.<sup>2</sup> Numerous problems account for the declining population: out-migration, as well as high infant mortality rates and low life expectancy rates that are in turn results of high unemployment and increased poverty, infectious diseases, environmental hazards, and substance abuse.<sup>3</sup> President Putin has addressed some of the problems publicly, but few concrete measures have been taken to deal with them, with the exception of increasing minimum wages and pensions. What about the children who are born into Russian society? How are they being cared for? What protections does the society provide to its children so that they can grow to be healthy and productive contributors to the public good?

One of the biggest threats to the future of Russia and to its demographic status is the ever-expanding problem of child homelessness and juvenile crime.<sup>4</sup> A homeless or neglected youth (*beznadzornyi*) is defined as a minor over whom control of behavior is absent as a result of the parents' or legal guardians' failure to fulfill, or to fulfill reliably, their child-rearing responsibilities." *Bespri-zornyi*—a more commonly used Russian term for a homeless youth—is defined legally as a *beznadzornyi* who lacks a place of residence (*zhitel'stvo ili preby-vaniye*); this usually refers to orphans and in some instances to children who have no place to sleep.<sup>5</sup>

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Homeless children are extremely vulnerable to enticement into criminal schemes and are increasingly being recruited, relocated, abused, and exploited for profit—especially by criminals such as drug traffickers, child molesters, black marketeers in transplant organs, and corrupt adoption agents seeking to exploit the demand for children’s “services.” According to the Main Directorate of Internal Affairs (GUVD) in Moscow, several cases of missing children are reported daily and for every reported child there are undoubtedly countless others who leave home voluntary or forcibly, or who escape from orphanages without their absence being recorded.<sup>6</sup>

I will address several aspects of the homelessness problem in Russia: environmental sources such as poverty and unemployment; similarities between the homelessness experienced in the interwar period in Soviet history and today; and law enforcement and legislative measures undertaken to address the problem. I call upon the Bush administration to bolster, with rhetorical and financial backing, programs that benefit children and the social welfare, health, and educational agencies that provide care for them in Russia.

#### **Source of the Problem: Nature or Nurture?**

Homelessness and juvenile crime are related phenomena, and many criminologists and sociologists call homelessness the “mother” of juvenile crime. As in many spheres of social science, the sources of these problems are debated and are usually placed either with “developmental” factors (such as genetics or child-rearing practices) or with adverse “situational” factors (such as poverty and unemployment). Although the debate has gone back and forth historically, in recent years many criminologists in the West have embraced the developmental over the situational factors and focused research on dysfunctional families and child-rearing practices. Psychological, physical, and sexual forms of abuse encountered in family settings are deemed the key determinants of homelessness, juvenile crime, and enhanced vulnerability to exploitation. Child homelessness is often a result of harmful familial dynamics in which children are physically, emotionally, or psychologically abused by alcohol- or drug-addicted, or psychologically impaired parents.

Research among Canadian sociologists, however, seeks to “break ranks” and demonstrate that bleak “situations”—shortages of food and housing due to socioeconomic conditions—in which children find themselves are better determinants in predicting homelessness and juvenile crime.<sup>7</sup> Simply put, hunger causes theft of food; lack of shelter and food leads to serious theft; and lack of shelter combined with unemployment is a precursor of prostitution among girls. Bleak economic situations—poverty, unemployment, and wage arrears—in which one-half to two-thirds of the citizens of the Russian Federation and other post-Soviet states find themselves, are most likely a driving force behind the catastrophic child homelessness trends of today. The Russian Academy of Science recently published a comprehensive study of demographic and socioeconomic trends that illustrates the severity of the situation. In January 1999, the minimum monthly salary was roughly 10 percent of the subsistence minimum (*prozhi-*

*tochnyi minimum*) and equaled about U.S. \$3.<sup>8</sup> Statistical analysis shows that 38.7 percent of the population, or four out of ten persons, live in poverty.<sup>9</sup> According to analysis conducted by the United Nations Development Program (UNDP), twenty million children live in poverty in the western former Soviet Union—Belarus, Moldova, Ukraine, and Russian Federation—and in 1997 alone, 72 percent of families with four or more children were living below the poverty line.<sup>10</sup> The indirect effects of poverty in the former Soviet Union have also taken an enormous toll: the decline in expenditures on family welfare and basic services for children—including regular immunizations and adequate health care—has resulted in high rates of diphtheria and tuberculosis among children.<sup>11</sup>

### **The Plight of the Russian Female Labor Force**

Women represented the backbone of the Russian labor force historically and in the Soviet era in particular. In fact, Russia had a very small “gender gap,” akin to that of Sweden, where the gap is the smallest in the world.<sup>12</sup> The Soviet social contract and planned economy offered women rather generous child support systems that enabled and indeed encouraged them to work outside the home. But with the transition from a command to a market-style economy, women have lost out to men in perhaps every aspect of the labor market. A UNICEF report suggests that women in the Russian Federation lost seven million jobs between 1990 and 1995 while men lost two million jobs.<sup>13</sup> Most of women’s work opportunities are in the public instead of the private sector, and this seems to be due in part to their perceived family responsibilities and associated nonwage costs.<sup>14</sup> In areas traditionally “manned” by women, such as textile and other light industries, numerous factories and processing plants have been closed in recent years. Indeed gender stereotypes about “women’s work” and “men’s work” are well entrenched and show few signs of abating. Even in conditions of extremely high poverty, men will refuse to take jobs that are considered traditionally female. Small private businesses have blossomed throughout Russia, and there was much hope initially that they would absorb a large percentage of state workers and create a new middle class.<sup>15</sup> However, *Goskomstat* figures reveal that very few women are hired to work in those businesses—those who are hired are part-time. Because female employees are viewed as less reliable and stable than male employees, their pay and benefits are usually less than those of men. According to a sociological survey, in the early 1990s the average working wage for women was nearly 70 percent that of men, but at the end of the decade it had dropped to 56 percent.<sup>16</sup>

Most single parents are women, who suffer from unemployment at greater rates than men in the post-Soviet period. One out of every seven children in Russia is raised by a single parent.<sup>17</sup> In attempting to care for their children single-handedly, mothers are working several jobs simultaneously and are therefore unable to devote adequate attention to them. Because women are often paid “under the table,” they are not eligible for the kinds of benefits that are supposedly guaranteed by Russian law.<sup>18</sup>

Articles addressing the problem of child homelessness appear frequently in

the press, and a number of legislative remedies have been discussed. One of the most outspoken public officials to raise these issues is Governor Aman Tuleev of Kemerovo oblast. In an open letter to President Putin last summer, Tuleev called the problem of homelessness a “humanitarian catastrophe” and noted that the estimated number of homeless in the Russian Federation ranges from two million to five million—a higher proportion than in the post–World War II period.<sup>19</sup> Those estimates are in keeping with the figures issued by the Russian General Procuracy (two million) and Ministry of Labor (three million).<sup>20</sup> It is a sobering thought that, according to reports from Primorskii Krai, one out of every ten youths becomes homeless,<sup>21</sup> and in the Russian Federation one in five children grows up in a dysfunctional family.<sup>22</sup> Tuleev also noted that every year 2,000 children commit suicide. Most of the homeless children eventually become victims of crime or become criminals themselves—today in the Russian Federation there are more than forty-five thousand juveniles in jail.<sup>23</sup> Although statistics on homelessness are very difficult to obtain in any country, including the United States, there is little disagreement that the problems of child homelessness and juvenile crime have reached crisis proportions in many of the impoverished regions of the Russian Federation.

### **Similarities between the First and Third Waves of Homelessness**

Many scholars and practitioners alike are calling the current wave of child homelessness (*Beznadzornost’/besprizornost’*) in Russia (1991-present) the “third” wave of homelessness in Russian society, following the postrevolutionary and the post–World War II periods. The current third wave of homeless children is much more vulnerable to criminal exploitation than in the first half of the century, when the Soviet Union was a closed society, when deviant behavior was suppressed and crime controlled by omnipresent police and militia. Today, the forces of technological progress and economic globalization have resulted in the rapid movement (physically and virtually) of labor and capital across highly penetrable borders, and revolutionary communication systems have enhanced the transparency of states. Nonetheless, the interwar period in the Soviet Union offers interesting parallels with the situation today. The first wave of homeless children, which occurred as a result of the dislocations and casualties of World War I, the Bolshevik revolution, civil war, the Volga famine, and epidemics in the early 1920s, was the largest and perhaps the most heart-wrenching. By 1922, there were seven million homeless children in Russia. In addition to the dislocations and suffering associated with famine and war, a contributing factor was the change in family codes of 1918 and 1926 that made divorce much easier.<sup>24</sup> Increased divorce left many single parents (mothers) with children they could not support. Bread-winning fathers abandoned their families, and women encountered more difficulty in securing jobs, much as is occurring today in the former Soviet Union. Numerous industrial sectors were shut down, social welfare agencies staffed largely by women were eliminated or suffered severe cutbacks, and in general, higher unemployment rates for women took a toll on mothers supporting children.<sup>25</sup>

The 1920s witnessed debates among criminologists about the sources of

homelessness and crime, resulting, at least temporarily, in the prevalence of the “nurture” school, which pinned the blame on situational and environmental factors. Until the mid-1920s the predominant view had been that “nature” was to blame—the *moral’no-defektivnost’* of children was traced to their psychology and genes instead of the environment. A piquant debate took place at the first Moscow conference on the struggle with homelessness in 1924 and those who clung to the *moral’no-defektivnost’* school of thought were sarcastically said to suffer from “scholarly defectiveness.”<sup>26</sup> The defenders of the “nature” or old school were known as the “Leningrad professors,” who opposed the “Moscow florists” (those who viewed children as the flowers of life). The florists’ arguments found acceptance within the People’s Commissariat for Education (*Narkompros*) and were bolstered by communist ideology. The idea that homelessness and juvenile crime could be blamed on innate defects of the children smacked of capitalism and its inherent disregard for people’s well-being. The capitalists were said to perpetuate cruel work environments that permitted the alienation and exploitation of man. Communist society, in contrast, offered its citizens environments of collectivity and mutual respect. In fact, some authors went so far as to suggest that street life could imbue children with such positive virtues as a collectivist mentality and resourcefulness. One delegate to the Moscow conference stated, “We regard the *besprizornyi* as a child of the revolution. If he is approached correctly, he can become an active builder of the socialist state.”<sup>27</sup>

Begging, theft, and prostitution were then, as today, the most common methods homeless children used to find food or obtain train fares. Children who hovered over cafeteria and snack bar tables in pursuit of leftovers and crumbs in Saratov were known as *tarelochniki* (those who sought plates).<sup>28</sup> Children also begged for food and money at markets and bazaars and in front of churches; they made up stories, feigned illness, and sang songs on the street for alms.

The head of the Soviet Secret Police (Cheka), Feliks E. Dzerzhinsky, was one of the first Communist officials to take on the problem of *besprizornost’* and establish official agencies and departments to deal with it. Although Dzerzhinsky is commonly regarded as a harsh, if not devious and cold-blooded, father of the Cheka, most Russian and Soviet works depict him as a person compassionate about children and highly motivated to improve their miserable plight. He created a group of *chekisty* to investigate the status of children’s institutions and work with the local administrations to improve care for homeless children. In 1921, Dzerzhinsky became the chairman of a commission devoted to the improvement of children’s lives within the All-Union Central Executive Committee (VTsIK). This *Detkomissiya* (children’s commission) was staffed by representatives of the people’s commissariats of education, nutrition, and health. In addition, the Cheka and Communist Party organizations such as the Komsomol, Zhenotdel, and the CPSU’s agitation and propaganda department were represented in the commission.<sup>29</sup> Millions of rubles were appropriated to feed starving children in the Volga and other regions where famine had hit hardest, and institutions were established to house homeless children and juvenile offenders. Nonetheless, the means available were still not enough to care for the “army” of homeless youths. Of the seven

### **Sentiments in Songs of Homeless Children, circa 1925**

Spit at me and throw your stones,  
It's nothing new, I will endure  
From you I can expect no pity,  
There's none to help me, I am sure.  
Other kids are treated fondly,  
And from time to time caressed.  
But for me the handling's cruel,  
I to none at all am blessed.

Source: Maro (M.I. Levitina). *Besprizornye. Sotsiologiya. Byt.* (Moscow) 1925 cited in Ball, *And Now My Soul Is Hardened*, 81–2.

### **Characterization of homeless children, circa 1999**

“For the past four years, there has been little change in the perception of homeless children about who can help them. Some responded as before [1995] that parents, relatives, and friends could help them. Now, a new group has appeared— children who are convinced that *no one can help them*. . . . Answering questions about their dreams and desires, homeless children in 1999 do not want, as they did before, nice clothing, toys, books. They do not hope to be adopted and do not want help with finding homes. Today’s homeless are tougher, less trustful and more pessimistic.”

Source: RAN, *Rossiya 1999: sotsial'no-demograficheskaja situatsiya*, 211–13.

to five million homeless children, only about half were housed and cared for by Narkompros or Detkommissiya. Campaign-style approaches to the problem, such as “The Week of the Homeless and Sick Child” were used to advertise the plight of the children. The Soviet citizenry was called upon to join in the fight at home as was the Communist International (Comintern) abroad.<sup>30</sup> In Moscow alone, some 500,000 rubles was collected from all sectors of society, enabling new children’s homes, communes, and colonies to be opened and others improved.<sup>31</sup> Most children’s homes and communes were run by Narkompros, and others were created and run by the secret police in the mid-1920s. Although the problem of homelessness was certainly not eliminated in the 1920s, concerted efforts to provide adequate care were put forth jointly by the Communist Party and the people’s commissariats of the government.

Stalin’s regime produced a change in attitude toward homeless children. Whereas in the 1920s, the war, famine, and disease that made large numbers of children homeless could be blamed in part on the imperialists, the homelessness perpetuated in the 1930s was a result of Stalin’s collectivization and industrialization policies. The environment was clearly to blame, yet Stalin did not want to accept responsibility and preferred to deny the impact on children of “environmental” policies. When Stalin took the helm, annual, three-year, and five-year program planning became the *modus operandi*, and homelessness, like many

other social ills and economic problems, could be eliminated as part of the “great transformation” of Soviet society. Numerous decrees were issued concerning children’s homes (*detdomy*) in the transformation of society through collectivization and industrialization. Brigades of urban *detdom* residents were sent for training at nearby factories and rural *detdom* residents were sent to the fields to assist with collectivization.

In denying the environment’s role in creating and aggravating child homelessness, the “nature” school of thought reemerged and the “nurture” school was repressed officially in sociological and criminological circles. Homeless children and especially juvenile offenders were viewed harshly as “deviants” and “criminals,” and the institutions serving them became more tightly disciplined. Corporal punishment and isolation were employed, and authoritative approaches became the norm that has persisted until the most recent times. Homeless children were forcibly swept from the streets and placed in institutions run by the MVD; and they were not permitted to move in and out freely. Little, if any, rehabilitation was offered to juvenile offenders and a templated approach that did not allow for individual differences was used. Although those conditions did little to heal the children, mechanisms for taking them off the street and either putting them in labor colonies or training them for work in factories and farms were set in place. Those mechanisms and institutions persisted throughout the remainder of the Soviet period; however, changes in the labor code virtually eliminated child labor. Today a debate over the merits of child labor as a means of getting children off the streets has reemerged, and one of its advocates is Governor Tuleev.<sup>32</sup>

### Current Homeless Trends

Russia is no longer a closed society and has been penetrated, like all countries, by the economic forces of globalization.<sup>33</sup> Today’s army of street kids are sitting ducks for enticement by persons from all over the world into a variety of unsavory activities from narcotics trafficking to prostitution rings. Children can be exploited in a broad variety of ways: sexually, through prostitution, perverse acts, and the creation of pornography; physiologically via illegal adoptions, surrogate motherhood, and extraction and transplantation of body organs; and by means of domestic servitude, forced labor, slave labor, and begging.

Reports have appeared in the Russian press about the use of children as “mules” for transporting narcotics. In one case, an eleven-year-old boy was asked to swallow seventy-five capsules containing 508.5 grams of heroin with cold tea and transport the drug in his stomach from Dushanbe to Moscow in exchange for \$300.<sup>34</sup> There are many reports of children recruited for sexual exploitation. Often homeless children are approached at train stations, where they tend to cluster, and are asked to perform sexual acts in exchange for as little as 30 rubles (about U.S. \$1) in the public restrooms and train platforms.<sup>35</sup> Some analysts are calling Moscow the new “San Jose” because Costa Rica is well known for its poverty stricken children who are exploited by sex tourists and pornography producers. Because many pedophiles are willing to pay any price for child pornography, its production and sale are attractive to criminals.

Interviews I conducted in summer 2000 uncovered sophisticated and lucrative human trafficking schemes. Shelter directors in Irkutsk revealed that fifteen young Russian girls had been approached by Koreans and enticed to travel with them to Korea for prostitution. It is much safer and easier for Westerners, for example, to come to Russia and seek children for prostitution than to do so on their own soil where the risks are higher and the penalties stiffer.<sup>36</sup> In the Siberian city of Novosibirsk, homeless boys were offered \$500 per month to perform sexual acts in front of the camera for the creation of pornographic videos.<sup>37</sup>

### **Illegal Adoptions**

There is little doubt that corruption and fraud have plagued the system of adoption in Russia. The demand for babies and children is great in the West among couples unable to have their own children but who can afford to adopt from abroad. The profits derived from the adoption transactions are substantial and can be used by criminal elements to fund other criminal activities. Under current conditions, as well as historically, adoption and foster care have not been traditions in Russia or the former Soviet Union as they have been in the United States.<sup>38</sup>

Law enforcement officials from Ryazan, Russia reported the attempted sale of a little boy to foreigners by his grandmother for \$45,000. They also expressed suspicion and concern for numerous children who are adopted every year, primarily by American families, from orphanages that are known to be corrupt and conceivably linked to criminal organizations. The criminals provide the families with documentation and charge them anywhere from \$8,000 to \$16,000 per child. A high-profile case was reported last year when three U.S. citizens were apprehended at the airport in Stavropol while trying to take an infant and a toddler abroad after adopting them illegally for \$8,500 from orphanage no. 58.<sup>39</sup> The Directorate for Fighting Organized Crime in Stavropol joined with colleagues in the airport police and arrested the director of the orphanage and two co-workers.

Once children are adopted, there is virtually no follow-up or means of inspecting the families and environments in which the children have been placed. Therefore, some procuracy officials are advocating the extension of reporting on adoptees from six months to three years. President Putin's decree regulating adoptions of Russian children by foreign nationals became law in March 2000. The new law is aimed at gaining control over adoption agencies that broker the adoption between orphanages and families. Now they will be required to obtain documents from the Ministry of Foreign Affairs and a special license from the inter-agency commission under the auspices of the Ministry of Education (that includes the MFA, MVD, and Ministry of Health).<sup>40</sup> The new law also requires couples wishing to adopt children from Russia to travel to Russia in person and follow new and better-regulated procedures. It also requires that the family register with the Russian consulate in the country where they and their adopted child reside.

### **Physical and Virtual Movement of Minors**

It is clear that the new technologies at our disposal, especially computers with Internet access, facilitate a variety of transnational crimes, particularly child



exploitation, and give rise to new ways of thinking about human trafficking. No longer is the trafficking of persons related exclusively to the physical movement of persons across federal or international borders for illicit purposes and in pursuit of profit. We can also conceptualize the “virtual” trafficking of human images in cyberspace across numerous borders—even around the globe. In the case of child pornography, that is a heinous form of abuse and exploitation that is very difficult to contain and arrest.<sup>41</sup> In the past, child pornography was distributed through the mail in the form of magazines and photographs. The source countries tended to be the Netherlands, Scandinavia, and Germany. Today pornographic images can be loaded from any country and transmitted across virtual borders instantaneously. Some of the key source countries are now Australia, Costa Rica, Russia, and the United States.

In a recent article, the head of U.S. Customs Cyber-smuggling Center stated that child pornography was “pretty much eradicated in the 1980s” but with the “advent of the Internet, it exploded.”<sup>42</sup> He noted that in the past, it was easier to investigate consumers of child pornography who used photo labs and overland mail. More than one-third of investigations into child pornography conducted by the United States postal service since 1997 have been successful in identifying child molesters—some of whom have criminal records.<sup>43</sup> Today, the previously isolated pedophiles and child molesters have discovered communities of like-thinkers on the Internet through chat rooms and Web site sharing. Moreover, they can share in those “communities” while protecting the anonymity that is crucial to them.

There is also a combined form of the physical and virtual movement—the enticement of minors by child molesters for physical encounters while on-line. In the United States there have been many cases of children logged on to computer “chat rooms” who are lured into “virtual” relationships with child predators. These predators establish trust with the children and in many cases arrange physical encounters with them. According to research from the National Center on Missing and Exploited Children, one in five regular Internet users between the ages of ten and seventeen is sexually solicited each year, and one in thirty-three was a victim of “aggressive” solicitation whereby she/he was invited to meet the solicitor at a given location or was sent packages or received telephone calls.<sup>44</sup>

Digital cameras also facilitate the movement of images to the Internet quickly and make it very easy to reproduce the images. Those industries have boomed with the proliferation of porn sites on the Internet and confront law enforcement in all countries with daunting challenges, especially where laws on child pornography are nonexistent. In the United States, President Clinton signed the Child Pornography Prevention Act in 1997, which adds a subsection to 18 U.S. Code 2256 that expands the definition of pornography to include visual depictions of sexually explicit conduct generated by computers. The law also set higher penalties for the production and distribution of child pornography.<sup>45</sup>

The transnational nature of these criminal schemes can be illustrated in the following examples. An American-Russian-Indonesian conspiracy was recently uncovered whereby pornographic images of children aged four to twelve pro-

duced in Russia and Indonesia were posted on Web sites entitled Landslide.com and KeyZ.com. An American company based in Texas, Landslide Inc., provided credit card approval and an adult verification system for access to the sites and collected most of the one million dollar profits.<sup>46</sup> The investigation began in 1997 with a tip to the Dallas police department and involved the cooperation of the U.S. Postal Service, Customs Service, FBI, and Department of Justice. The American owners of the company were arrested and issued an eighty-seven-count indictment. Prosecutors currently are seeking extradition of the Russian and Indonesian Web masters.

An Italian pornography ring was recently discovered by mirroring a Russian

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Web site permitting law enforcement to untangle links back to a person who registered the English language Web site in Alabama. Gruesome reports of the discovery of a Russian-Italian pornography ring purportedly showing the torture and murder of children on its Web site for necropedophiles brought even greater gravity to the issue of

child exploitation and Internet abuse. The children exploited and killed were reportedly homeless and were lured or kidnapped from Russian orphanages, parks, and circuses.<sup>47</sup>

There have been a few successful investigations into child exploitation by U.S. customs agents and the Criminal Search Division (MUR) of the Moscow City police.<sup>48</sup> One of the cases involved a hardcore pedophile, Dmitri Kuznetsov, who ran a video salon that featured young boys ages five to eighteen, posting his pornography on his Web site. Kuznetsov was caught selling child pornography to undercover agents from U.S. customs, at which time customs in Moscow learned that MUR was also investigating Kuznetsov. The two agencies began to work together and in February 2000, arrested Kuznetsov and his associates after searching his residence and finding more than 300 videotapes and other documents. The investigation led to many arrests and indictments in the United States, and links were established with many other countries, including Japan, Canada, Brazil, Hong Kong, and Australia. Unfortunately, Dmitri Kuznetsov was amnestied along with numerous other criminals by a State Duma resolution in conjunction with the fifty-fifth anniversary of the Victory of the Great Patriotic War last May.<sup>49</sup> Despite protests by the General Procurator, Vladimir Ustinov, the Duma upheld its decision, and many disease-stricken criminals who had committed very serious (*osobo tyazhkie*) crimes, in addition to the “lesser” crime of “perverse acts” (*razvratnye deistviya*) committed by Kuznetsov, were released.<sup>50</sup> After a long and seemingly successful investigation and arrest, the amnesty of Kuznetsov was a major blow to MUR and customs agents who worked on the case.<sup>51</sup>

Another successful investigation by U.S. customs and MUR involved the Web site known as "Blue Orchid" and sex tourism. An American sex tourist, Glenn Martikean, traveled to Moscow in January 2001 to recruit young boys. Because his previous purchases of child pornography from Blue Orchid had been recorded, he already had been identified, and when he arrived in Moscow, an undercover MUR officer met him posing as a pimp. According to Eduard Lapatik, chief investigator, "As soon as we heard him say 'please get undressed' police burst in and took the boy out of the room." When they learned that the boy was fourteen years old, they could not do anything about it, because in 1998 the age of consent for sex with minors was lowered by the Russian Duma from sixteen to fourteen. In the United States, however, a minor is still anyone under eighteen; therefore, Martikean was charged and indicted using American statutes on the distribution of pornography and sex tourism. Customs and MUR shared surveillance of the perpetrator and jointly conducted undercover operations; while he was in Moscow, customs agents had secured a search warrant to enter his home in the United States. Unbeknownst to Martikean, he was accompanied home to the United States by an undercover U.S. customs agent and on arrival was arrested. He now faces up to thirty years in prison.

### **Legal Remedies for Homelessness and Juvenile Crime**

The importance of finding solutions to child homelessness has been recognized at the highest levels of the Russian government for the past decade. In 1990, the Russian Supreme Soviet ratified the United Nations' Convention on the Rights of the Child. Presidential decrees on preventing homelessness and juvenile crime and improving care for children in the social sphere were issued in 1993 and 1995 respectively.<sup>52</sup> A state policy on homelessness and juvenile crime was developed by a group of scholars and practitioners based on criminological theory, law enforcement practice, and international recommendations. That policy served as the basis of the law adopted by the Russian Federal Assembly in June 1999 entitled "The Bases of the System of Preventing/Combating Homelessness and Juvenile Offenses."<sup>53</sup>

The new legislation, based on the UN Convention on the Rights of the Child and other international and domestic normative legal acts, seeks to put children's rights at front and center.<sup>54</sup> Children are regarded as a "special population" requiring protection from many forms of physical and psychological exploitation. They have rights to a healthful upbringing, a secure place of residence, health care, nutrition, and freedom of expression, as well as many other fundamental human rights. In general, efforts are aimed at improving the welfare of children as well as the health of Russian society in general.

The new law introduces the categories of "minor found in a socially dangerous situation" and "family found in a socially dangerous situation," enabling children to be legally withdrawn from environments that are harmful to them and holding parents accountable for the proper upbringing of their children.<sup>55</sup> The law enables the commission of juvenile affairs and the protection of their rights (*KDN or komissiya po delam nesovershennoletnykh i zashchita ikh prav*) and the agen-



Homeless boys at the Irkutsk railroad station.

*pravonarushiteley nesovershennoletnykh*) UVD.<sup>57</sup> A particularly successful raid was conducted in June, when approxi-

mately 80 mothers and fathers lost their parental rights and 800 children were found at risk, mistreated, and neglected in towns such as Angarsk, Bratsk, and Usol'e-Sibirsk.<sup>58</sup> According to official sources, 1,700 "families of misfortune" (*neblagopoluchenyie sem'i*) are registered in Irkutsk, representing at least the same number of potential homeless children. Statute 156 of the Russian criminal code and statute 164 of the administrative offenses code provide punishment for parents who fail to fulfill their child-rearing responsibilities.<sup>59</sup> During a six-month period in Irkutsk <sup>55</sup> suits against negligent and abusive parents were passed to the courts.<sup>60</sup>

In addition, the new law aims to promote juvenile justice, restrict punitive measures, create laws to protect and rehabilitate juvenile offenders, and train law enforcement units in child and adolescent psychology and approaches for dealing with minors more appropriately. As one of Russia's top juvenile crime experts put it, "No one paid attention to children's rights in the past." In her opinion, the new law is attractive and important in legalizing the protection of children's rights at the federal level and making their rights the centerpiece of preventative work for the first time in Russian legal history.<sup>61</sup> According to article 8 of the new law,

cies of internal affairs (OVD or *organy vnutrennykh del*) to conduct joint raids of homes where minors are suspected of being poorly treated, to take action against the parents, and/or retrieve the neglected children. <sup>56</sup>A three-month "Podrostok-2000" operation was conducted between mid-May and mid-October 2000 in Irkutsk oblast by the KDN and agencies for the prevention of juvenile offenses, OPPN/PPPN (*organy/ podrazdeleniye po profilaktike*



minors who are placed in institutions for homeless youth and juvenile offenders have the right to contest decisions adopted by officials in the system. Juvenile offenders are also guaranteed humane treatment, such as rehabilitation and psychological counseling, while incarcerated. Other more specific rights include access to telephone calls without limitation, the receipt of packages, letters, and other forms of mail, free meals, clothing, and other necessary objects as outlined in the Russian constitution. This is an important improvement over past practices when children were placed in punitive institutions that served no rehabilitative function at all. Earlier, children who emerged from orphanages or juvenile penal colonies were often psychologically harmed by the authoritative pedagogical approaches relying on *diktat* and leading to the suppression of personality (*podavlenie lichnosti*).

### **Restricted and Ambiguous Role of the MVD**

One of the most controversial aspects of the new law is the restricted role of the MVD in dealing with homeless children, including those who commit administrative offenses such as begging and loitering. Whereas agencies of the Ministry of Internal Affairs handled most of the preventative work in the past, the new law tasks administrative and social welfare agencies with those duties and restricts the role of the MVD to juvenile offenders exclusively. According to Article 21, part 1, "Direct work with juvenile and unsupervised minors does not fall within the purview of the PDN" (*podrazdeleniya po delam nesovershennoletnykh, OVD*).

This change appears to be part of the overall effort to move from a punitive to a more protective system of caring for homeless children—whether or not they commit offenses—in keeping with the UN Declaration on the Rights of the Child. The KDN oversees all of the other agencies now tasked to deal with homeless children. The delineation of responsibility at the federal level is regarded as path-breaking and potentially very helpful in coordinating efforts to combat homelessness.<sup>62</sup> A wide range of agencies are tasked with caring for homeless children. They include agencies of social protection (*organy sotsial'noi zashchity naseleeniia*), such as the children's temporary shelters and rehabilitation centers; guardianship agencies (*odely opeki i popechatel'stvo*) that belong to the administration of the city; juvenile affairs and offender agencies (OPPN) that belong to the Ministry of Internal Affairs (MVD); and agencies dealing with education, health care, youth affairs, and employment.

Yet the new law is ambiguous in some important ways. Although it claims that direct contact with homeless children who are either loitering or begging does not fall within the purview of law enforcement, PDN, this statement is contradicted elsewhere in the law. In article 21, it is also stated that the PDN maintains a role in "delivering" (*dostavlyat'*) juvenile offenders to the MVD, in keeping records of homeless youth, and in informing the parents of homeless youths who have been detained.<sup>63</sup> However, it goes on to mention that the information must also be transmitted to the social welfare agencies. Thus, the role of law enforcement in dealing with homeless minors who commit administrative violations such as loitering and begging remains unclear. Because of the ambiguity surrounding the

MVD's role in apprehending children caught begging and loitering, occasionally these youth are placed in closed institutions with those who have committed more serious crimes, even rape and murder. The new law also delineates two types of temporary shelters for homeless youth and juvenile offenders: open institutions and closed institutions. Whereas in the past, all street children were placed in shelters together, the new law dictates the creation of open institutions administered by the Ministry of Social Protection of the Population. This ministry has its own shelters, social rehabilitation centers, and social hotels for minors without parents or guardians who have not committed any violations.

Closed institutions or "centers for temporary isolation of juvenile offenders" (*tsentry vremennoy izolatsii nesovershennoletnykh pravonarushiteley*, TsVINPy) are strictly for youth offenders. An important feature of the new law is that minors may be placed in closed centers only with a court order and under very specific circumstances: when they have been sentenced; when they are awaiting trial, have committed a "socially dangerous act" but are below the age of criminal responsibility; and when they have committed an administrative offense such as hooliganism; they must also be generally healthy. Once placed in TsVINPy by law they are not permitted to stay longer than thirty days. However, most practitioners I interviewed were convinced that 90 percent of the children who end up in TsVINPy are later placed in closed institutions for more permanent residence.

#### **Realities of Applying the New Law: Views of Practitioners**

In interviews I conducted with representatives of agencies involved in implementing the new law, the consensus was that with time the new law has a lot to offer and should improve the plight of homeless children.<sup>64</sup> At the present time, implementation of the new law has led to increased homelessness in Russia because of the restricted role of the MVD and the failure thus far of social welfare agencies to take a proactive role in sweeping children from the streets. In the past, the MVD OPPN units conducted periodic sweeps of their jurisdictions and took all homeless children (offenders and nonoffenders) to shelters overnight. In some cases, the OPPN workers continue this practice out of necessity and even in defiance of the new law, even though the new law restricts their ability to deal with children who are not juvenile offenders.<sup>65</sup> Now their jurisdiction extends only to children who have committed some type of offense, and they are required to place those children in the shelters of temporary isolation, segregated from other homeless children. The new law provides for social welfare agencies and Russian courts to assume the main responsibility for locating and placing homeless children in shelters. However, most of the practitioners in the agencies lack either the training or resources—in some cases, the knowledge that the new law exists—to take on new responsibilities. Indeed, many of the agencies maintain a "pro-Soviet" character based on punitive, not individual, approaches to the children, because of shortages in funding and inertia.

It is unfortunate that while the social shelters are overcrowded, the TsVINPy are underutilized because of the complicated procedures for placing juvenile offenders there. Practitioners in Moscow have pointed out that in many cases,

documents are falsified intentionally to place youth in TsVINPy because the mechanism for doing so is time-consuming and complicated. Moreover, in the summer, when homelessness is at its peak, the law restricts shelters from accepting children outside their jurisdiction. Therefore, the children who travel to Irkutsk from rural regions are not given access to the shelters in Irkutsk and simply ride the suburban trains from station to station, sleeping wherever they can.

### Recommendations

Children of all countries are our future, and concern for their well-being must transcend national borders. The United States Congress and the Bush administration should allocate substantial resources to the social welfare agencies that serve underprivileged children in countries such as Russia that are undergoing drastic socioeconomic transformations resulting in poverty, unemployment, and increased child homelessness. All of the city and government agencies are specified in the Russian law, but funding for them is virtually nonexistent. Financial backing for the programs would not only be the compassionate response but would be an important investment in the human capital of the global economy of tomorrow.

The 1999 Russian law to combat homelessness and juvenile crime is a vitally important first step in placing the human rights of minors at the forefront and improving the conditions and treatment of homeless children and juvenile offenders. Even so, the new law cannot begin to be effective until it is better disseminated and understood by the agencies responsible for dealing with homeless youth. Practitioners in social and educational agencies need training in how to work proactively in protecting street children, a function that the police served in the past.

### NOTES

1. "What Kind of Russia Are We Building?" Speech by President Putin to the Federal Assembly of the Russian Federation, 8 July 2000, printed in *Vostochno-Sibirskaya Pravda*, 13 July 2000, 3.

2. Today the population of Russia is approximately 145,600,000, according to *Goskomstat*.

3. According to the CIA World Book, infant mortality in Russia is 20/1,000 as compared with 7/1,000 in the United States. Life expectancy in Russia is 67 years versus 77 years in the United States.

4. In this article, homelessness is used broadly to describe children (minors up to age eighteen) who are either unsupervised (*beznadzornyye*) or unsupervised and lacking in a place to sleep (*bezprizornyye*). It may also concern children "found in a socially dangerous situation"—a new category provided for in the new law on combating homelessness.

5. These definitions are drawn from the wording of the new law on homelessness and juvenile crime, *Ob osnovakh sistemy profilaktiki beznadzornosti i pravonarushenii nesovershennoletnykh*, article 1. The law was adopted by the Federal Assembly on 9 June 1999.

6. "Okhotniki za det'mi," *Izvestiya*, 16 May 2000.

7. Bill McCarthy and John Hagan, "Mean Streets: The Theoretical Significance of Situational Delinquency among Homeless Youth," *American Journal of Sociology* 98, no. 3 (November 1992): 597-627.

8. The subsistence minimum is derived in a manner similar to the United States—based on a food basket that guarantees a certain amount of calories per day and reflects the realities of the Russian market. For a comprehensive discussion of the term, see Alastair McAuley, “Russia and the Baltics: Poverty Research in a Changing World,” in his *Poverty: A Global View: Handbook on International Poverty Research* (Oslo: Scandinavian University Press, 1996) pp. 361–72.

9. N. M. Rimashevskaya, ed., *Rossiia: 1999—Sotsial’no-demograficheskaya situatsiia* (Moscow: RAN Institute of Social Economic Problems of the Population, 2000), 7. The study suggests that among the main deterrents to entrepreneurship and social reform in Russia today are harsh administrative regulation, the lack of rational ethics and personal activism, and responsibility.

10. Gaspar Fajth and Jane Foy, eds., *Women in Transition: A Summary* (Florence, Italy: United Nations Children’s Fund Regional Monitoring Report no. 6, 1999). 4.

11. S. Kovacheva, *Sinking or swimming in the waves of transformation? Young people and social protection in Central and Eastern Europe* (Brussels: European Youth Forum) cited in Richard Carter, *The Silent Crisis: The Impact of Poverty on Children in Eastern Europe and the Former Soviet Union* (London: European Children’s Trust, October 2000), 33–34.

12. Fajth and Foy, *Women in Transition*, 6.

13. Ibid.

14. Ibid., 7.

15. “Sotsial’no-ekonomicheskoye i pravovoye polozheniye zhenshchin—rabortnits malykh predpriyatii,” in Rimashevskaya, *Rossiia 1999*, 227.

16. “Gendernye aspekty kadrovoy politiki na predpriyatii” in Rimashevskaya, *Rossiia 1999*, 214.

17. “Polozheniye nepol’nykh semey,” *Rossiia 1999*, 240.

18. Ibid., 232.

19. “What Is Happening to Our Children Is a Humanitarian Catastrophe,” *Komsomol’skaya Pravda*, 18 July 2000, 7.

20. Rimashevskaya, *Rossiia 1999*, 209.

21. “Kazhdyi desyatyi podrostok stal besprizornikom,” *Zolotoy rog*, 21 November 2000.

22. Alisa Darevskaya, “Otkuda berutsya besprizorniki?” *Argumenty i fakty* 31 (August 2000).

23. Interview with Aman Tuleev, “Luchshe detskiy trud chem detskiy golod” in *Argumenty i fakty* 31 (August 2000).

24. Alan Ball, *And Now My Soul Is Hardened: Abandoned Children in Soviet Russia, 1918-1930* (Berkeley: U. California Press, 1994), 13. This is perhaps the single best work that examines in detail all aspects of child homelessness in the interwar period. I draw liberally from Ball’s research.

25. Wendy Goldman, “The Withering Away of the Family,” in *Russia in the Era of NEP: Explorations in Soviet Society and Culture*, Sheila Fitzpatrick (Bloomington: University of Indiana Press, 1991), 131.

26. Ball, *And Now My Soul*, 128.

27. Ibid., 129.

28. Ibid., 45.

29. F. E. Dzerzhinsky, *Biografiya* (Moscow: Politizdat, 1986), 286.

30. Ibid., 290.

31. The detdoma (orphanages) differed from communes in that the latter were voluntary and children could come and go as they pleased. Many of the communes were “labor” communes that required the children to work part time at factories.

32. Tuleev, “Lushche detskiy trud chem. detskiy golod.”

33. A. T. Kearney, “Measuring Globalization,” *Foreign Policy* (January–February 2001): 56–63. For some interesting research on the forces that resist globalization in Russia (and undoubtedly elsewhere), see Valentin Bazhanov, “Anti-Globalization Trends in Modern



Russia," unpublished draft, Ulyanovsk State University, 1999.

34. See "Narkotiki nachali privozit' v Moskvu v detskikh zheludkakh," and "Rebyonka-narkokur'era zastavliali zapivat' heroin kholodnym chaem," *Moskovsky Komsomolets*, 3 August 2000, 2.

35. "Okhotniki za det'mi" *Izvestiya*, 16 May 2000, 1. See also, K. D. Polukhina, "Seks gruppa prodlenogo dnya," *Komsomolskaya Pravda*, 11 February 2000, 29; and A. Elin, "Vozbuzhdenie: na real'noe porno idet virtual'naya okhota," *Izvestiya*, 10 November 2000, 9.

36. See one of the most successfully prosecuted federal cases against an American college professor, child exploiter, and trafficker: *United States v. Marvin Hersh*. Hersh received a life sentence for trafficking a young boy from Honduras to Florida and falsifying documents that claimed the boy as his natural son.

37. Interview with minor held at a temporary isolation facility for juvenile offenders, Irkutsk, Russia, July 2000.

38. Irina Ruzhnikova, "Tak ne dostavites- zhivy nikomu," *SM-nomer odin*, 23 November 2000, 5.

39. Lenta.RU: v Rossii, "Zaveduyushchaya detskim sadom prodala dvoikh detei amerikantsam za vosem' tysyach dollarov" <http://lenta.ru/russia/2000/04/14/deti/>

40. Lenta.Ru v Rossii: "Firmam, podyskivayushchim detei dlya inostrantsev, pridetsya poluchat litsenziyu." <http://lenta.ru/russia/2000/04/21/adoption/>

41. This conception of "virtual" trafficking is different from the use of "digital" or "morphed" images that are not actual photographs of children but are created by the computer. That is a separate issue and will not be discussed here. For a good discussion of definitional matters, see Anna Grant, et al., "Child Pornography in the Digital Age," *Transnational Organized Crime* 3, no. 4 (winter 1997): 172-75.

42. Rod Nordland, "The Web's Dark Secret," *Newsweek*, 19 March 2001, 46.

43. *Ibid.*, 47.

44. David Finkelhor, et al., *On-line Victimization: A Report on the Nation's Youth*, (Alexandria, Virginia: National Center for Missing and Exploited Children, June 2000), 9.

45. Yaman Akdeniz, "United States Section of Regulation of Child Pornography on the Internet," <http://www.cyber-rights.org/reports/uscases.htm>.

46. David Noack, "U.S. Website Allegedly Served as Gateway," APBnews.com, 14 April 2000, and "Fort Worth Pair Indicted in Child Porn Ring," *Dallas Morning Herald*, 14 April 2000, 31A.

47. News report, "Italy Police Uncover Big Internet Child Porn Ring" ABC news, 29 September 2000, <http://www.abcnews.go.com/wire/>, and in the Russian press see "Ubistvennoe porno," *Moskovsky komsomolets*, 3 October 2000.

48. The information about these criminal cases was provided by the U.S. Customs Agency at the International Law Enforcement Academy conference on combating human trafficking, 14 February 2001.

49. "Podlog: lobbiroval li kriminal'nyi mir nyneshnyuyu amnistiuyu?" *Sovershenno sekretno* 7 (2000): 4.

50. "Lesser crimes" refers to those carrying a sentence of three to four years or less.

51. "Podlog: lobbiroval li kriminal'nyi mir nyneshnyuyu amnistiuyu?" 3.

52. Presidential Decree, Ukaz no. 37, 12.09.93, art. 3449 and Ukaz no. 942, 14.05.95

53. Rossiiskaya Federatsiya, Federal'nyi Zakon "Ob osnovakh sistemy profilaktiki beznadzornosti i pravonarushenyi nesovershennoletnykh," adopted on 9 June 1999, *Sbornik federal'nykh konstitutsionnykh i federal'nykh zakonov Rossiiskoy Federatsii*, Vypusk 12 (84). See also the excellent analysis of the new law in an unpublished thesis "Obshchaya kharakteristika i praktika primeneniya Federal'nogo zakona "Ob osnovakh sistemy profilaktiki beznadzornosti i pravonarushenyi nesovershennoletnykh" by Andrei V. Kharitonov, Irkutsk State Economic Academy, Irkutsk, Russia, 2000.

54. United Nations Convention on the Rights of the Child, adopted by the General Assembly 20 November 1989; entering into force 2 September 1990.

55. The Russian criminal code already contains a statute to punish parents who do not fulfill their child-rearing responsibilities (art. 156) that some argue is rarely used by law enforcement. See "Ch'i eto deti?" in *RIO Panorama*, 22 July 2000, 4.

56. Joint operations to locate vulnerable and neglected street children and to check on their legal residence situations, such as "Podrostok" in Irkutsk, are conducted on a regular basis by OPPN and social agencies. Such joint operations are also conducted to root out drug addicts and alcoholics.

57. "Brodyagi k Irkutsku podkhodyat," *SM Nomer odin*, 11 August 2000.

58. "Letom menshe xhuliganyat," *Vostochno-Sibirskaya Pravda*, 8 July 2000, 2.

59. "Chi eto deti," *Nakhodka*, 22 June 2000, 4.

60. *SM Nomer odin*, 4.

61. Interview with Dr. Viola Yanovna Rybalskaya, professor of criminology, Irkutsk State Economic Academy, Law Department, July 2000.

62. At least eight agencies are tasked with juridical responsibility, from the MVD to education, health, and labor agencies.

63. See new law, article 21 and Kharitonov, "Ob osnovakh...", 68.

64. I conducted these interviews in summer 2000 in Irkutsk, Russia. The interviewees represented welfare, city administration, MVD, migration, and other city and oblast agencies dealing with homeless children.

65. Most railroad stations have "rooms for children" (*komnaty dlya detey*) where homeless youth can spend the night or wait until other arrangements are made by OPPN duty officers.