

EUROPEAN EXPERIENCE AND NATIONAL TRADITIONS IN RUSSIAN FAMILY LAW

NADEZHDA TARUSINA,
P.G. Demidov Yaroslavl State University
(Yaroslavl, Russia)

Twenty years have passed since the new Family Code of the Russian Federation (RF), which has become the key source for family law in Russia, was signed into law. During this period, the Family Code has frequently been criticized by experts on the administrative and judicial practice of civil jurisprudence. Legislators have begun to pay attention to these experts' assessments of the law to determine what reforms may be necessary. The purpose of this paper is to analyze the current problems with Russian Family Law by drawing upon the experience of both European Family Law courts and the Russian legal system.

Keywords: Family Code; gaps; legal traditions; European experience; legal innovations; family law.

DOI:10.17589/2309-8678-2015-3-2-97-108

1. Introduction

Since 1917, Russian family law has undergone several fundamental changes five times (in 1917–18, 1926, 1944, 1968–69, and 1995). The 1995 changes to the Family Code were undertaken as part of a general reform of legislation in Russia. Ultimately, the result of this new reform was an immature Family Code combining both Soviet traditions and earlier economic and political reforms of the 1990^s, sometimes in quite a contradictory manner. Twenty years of experience with Russian Family Law has given legal experts reason to question the efficacy of the law, but they have not yet been able to fully address concerns with Russian Family Law and come up with specific solutions to some of the problems that have been documented. These specific issues with Russian Family Law have been discussed and examined in open proceedings by a group of legal experts, the Concept of Family Law Improvement,

during a hearing of the Committee on Family, Women, and Children-Related Issues of the Russian Federation's State Duma in the autumn of 2014 at the Law Faculty of P.G. Demidov State University in Yaroslavl. The primary sources and inspiration for our following analyses come from these legal debates in addition to theoretical legal work that has already been done on the topic of Russian Family Law.

2. Some Common Aspects

Let us turn to the 'body' of the Family Code. Despite contemporary law-making technology, the general part (and then the special part) of this document does not contain the definitions of the key terms it uses, such as 'marriage,' 'family,' 'foster family,' 'adoption,' *etc.* We would expect to immediately receive an objection saying that it is impossible to define such terms because the essential features of marriage, family, *etc.* lie beyond the scope of the law.¹ Firstly, in response to this, we want to make clear that our task here is not to give a universal, complete definition to these terms. Secondly, the opponents of defining concepts do attempt to define some family institutions in their works (quite successfully, in their opinion). Thirdly, judicial and administrative practices, guided by family law, rely on the interpretation of crucial family-related legal concepts or structures in their decision-making without any indication from the legislature about what the essential features of family institutions are. Finally, the family law of the former Soviet republics does stipulate an essential set of definitions for family institutions; for example, the Law on Marriage and Family of the Republic of Kazakhstan offers 18 definitions in its first article, starting with 'marriage,' 'fictitious marriage,' and so on, up to 'foster family.' These definitions are probably not perfect, but this imperfection goes hand in hand with all legal systems and acts as a catalyst for their development. The fact that, when dealing with family-related legal norms, we encounter additional obstacles is a different matter: many such norms include a moral component, which is also not exactly specified ('disgraceful behavior in marriage,' 'based on mutual respect and mutual aid,' 'moral development of children,' *etc.*). Even though this lack of absolute certainty about definitions and the effect of changing ethical mores on the law does not make for a perfect system, we believe that it is an important facet of the Russian legal system, as the lack of certainty allows the Russian legal system to walk a fine line between the written law and people's social and moral expectations. As for terminology, we would prefer to use basic, commonly agreed-upon legal definitions: 'marriage is the union of a man and a woman aimed at the creation of a family which endows them with marital rights and obligations;' 'family is a union based on conjugal relations, blood relations, and other similar personal relations, characterized by joint living, common household, and mutual care of its members,' *etc.*

¹ See, *e.g.*, Jonathan Herring, *Family Law* 36–39 (3rd ed., Pearson Longman 2007).

The way that civil legislation and the Family Code interact is not perfect either. In the 1990⁵, the sovereignty of family law, which was shaped after 1917, became the subject of serious attacks, both doctrinal and legislative (such as the Civil Code of 1994). As a result, the following problems have arisen from the implementation of the 1994 Civil Code: a legal norm permitting subsidiary application of civil laws concerning family relationships; a conflict of provisions concerning the legal capacity of minors (formally, minors receive partial family capacity at the age of 10, and this capacity grows at the age of 14 and 16, while partial civil capacity starts at the age of 14); almost absolute freedom in marriage contracts in terms of selecting how the spouses' property is legally organized; the absence of standardized content that forms the components of family law contracts (agreements on marital relationship, upbringing of children, custody of minors, etc.); finally, the commercialization of guardianship and surrogacy. The legislature is still trying to fight these problems, but how long will they be able to do so?

The interaction between the Family Code and the Civil Procedural Code is also not completely flawless. On the one hand, family law has traditionally had a lot of influence in terms of civil practice due to a set of special norms contained therein dealing with procedural specifics of litigation in family-related cases. Some of the most eminent legal norms of the Civil Procedural Code are related to the court's activities² concerning the processes of divorce, termination of parental rights, and the annulment of adoptions. In the case of divorces, the court is obliged to determine a child's place of residence and to impose child-support obligations; in cases of the termination of parental rights and the annulment of adoptions, the court must impose child-support obligations. These legal powers (along with the way that the elements of the court, including the prosecutor, work together in family-related cases) demonstrate the distinct character of Russian civil procedural law.³

At the same time, there are many conflicts between the aforementioned Codes. The following examples of judicial activity in the field of family law are stipulated in the Family Code and the Civil Procedural Code: the existence of restrictions on a husband's right to file a divorce claim without his wife's agreement (during the wife's pregnancy and in the course of one year after the child's birth (Art. 17 of the Family Code)) does not correspond to the content of Art. 134 of the Civil Procedural Code, which does not allow a court to refuse a divorce claim by mutual agreement ('uncontested divorce'), which is performed by default within the framework of litigation regulations. Civil procedure scholars have drawn legislators' attention to the necessity of eliminating such contradictions on many occasions, but so far no response has been given. Also, the Family Code does not give explicit information

² See for details Dmitry Mareshin, *The Russian Style of Civil Procedure*, 21(2) Emory International Law Review 545–548 (2007), available at <http://papers.ssrn.com/abstract_id=2208488> (accessed May 17, 2015).

³ Малешин Д.Я. Гражданско-процессуальная система России [Mareshin D.Ya. *Grazhdansko-protsessual'naya sistema Rossii* [Dmitry Ya. Mareshin, Civil Procedural System of Russia]] (Statut 2011).

about the participation of children (of different ages and consequently with different legal status) in civil family-related litigations which deal with their rights, especially if there is a conflict of interests.⁴ As for the efficient implementation of ideas concerning family-related cases in general (primarily, disputes over children), it can be done, as is already known, through the internal judicial specialization, the creation of specialized family courts, or the introduction of better standards of juvenile justice that include greater protections and rights for juveniles. At this point, it seems that the feasibility of such a project is still a long way off.

3. Institutions of Marriage, Parent's and Child's Status, etc.

Institutional contexts also need to be clarified. The first group of contexts addresses the institution of marriage. In regard to the nature of marriage, some Russian civil law scholars liken the structure of marriage to a civil legal contract.⁵ But since the majority of people in the 20th century define marriage using the generic notion of a 'union,' the invocation of the idea of a civil legal contract is not an accurate description of current conceptions about what constitutes a marriage.

Two constitutive attributes of the marital union are in question.

The first one is gender. In some countries, including European ones, same-sex unions were legalized in the context of a right to privacy either in the form of a marriage or some type of partnership contract. The latest legislative provisions of Great Britain and France have strengthened legal protections for same-sex couples. However, Russia is not a member of the same 'club' as Great Britain and France. In its Ruling No. 469 on November 16, 2006, the Constitutional Court of the RF explicitly supported Art. 12(1) of the Family Code of the RF, which speaks of marriage as the union of a man and a woman as being constitutional and stated that the Russian position was conformant to the spirit of Art. 12 of the UN Convention for the Protection of Human Rights and Fundamental Freedoms. Nevertheless, the Russian position on gender and marriage is under attack. For example, M.V. Antokolskaya, driven by the European experience,⁶ believes that it would be best for Russia to create an institution of registered same-sex partnership⁷ 'for the time being.' Unlike Antokolskaya, we

⁴ Natalya Kravchuk, *The Child's Right to Express His / Her Views in the Context of Russian Culture and Democracy*, 2(3) Russian Law Journal 31–35 (2014), available at <<http://www.russianlawjournal.org/index.php/jour/article/download/22/18>> (accessed May 17, 2015).

⁵ Гражданское право: Учебник. Т. 3 [*Grazhdanskoe pravo: Uchebnik. T. 3* [3 Civil Law: Textbook]] 415 (Alexander P. Sergeev, ed.) (Prospekt 2009).

⁶ Masha Antokolskaia, *Harmonisation of Family Law in Europe: A Historical Perspective: A Tale of Two Millenia* (= 13 European Family Law) 273–312 (Intersentia 2006).

⁷ See, e.g., Danish Registered Partnership Act No. 372 of June 7, 1989; Steffen Jensen, *Partnership Law in Iceland*, ILGA Euro-Letter No. 42, June 1996; *Finland Proposes to Legalize Homosexual Unions*, ILGA Euro-Letter No. 85, January 2001; Loi n° 99-944 du 15 novembre 1999 relative au pacte civil de solidarité; Civil Partnership Act 2004; etc.

support the current gender specifications in Russian family law and the relations it regulates; that is, we do not want to create an additional civil legal contract partnership (particularly of the marriage union type). Secondly, we do not support a definition of civil partnerships (like those used in Western Europe) that contravenes the principles of nature. Thirdly, we accept the important role that leading religions have on the institution of marriage in Russia, and their attitudes towards same-sex marriage are clear (believers constitute the majority of the population). The fact that Russia is a state with European traditions does not imply that all of these traditions must be rigorously observed in legal matters, especially in the sphere of family law.

The principle of monogamy is also open to question. On the one hand, Russia is definitely a secular state, yet on the other hand, its Eastern cultural component has always been considerable. Thus, in the past, our family law did make some changes by allowing polygamy and even polyandry for Muslims in the early 20th century.⁸ We might suppose that future attempts to legalize polygamy are likely to be successful (they've already been made in Chechnya, Ingushetia, etc.) in the national-regional context. According to M.V. Antokolskaya: 'It is most likely that the root of the matter lies in the question of to what extent a monogamous marriage can be considered a universal value, separate from religious values.'⁹ The scholar I.A. Trofimets has stated that '[I]legally allowed polygamy would satisfy the interests not only of the Muslim population of Russia but also of people (both men and women) for whom this marriage model is acceptable.'¹⁰ It seems that such a liberal interpretation of the topic goes beyond the national and cultural context of Russia and it can be questioned in terms of gender neutrality.¹¹

Contemporary theory contains other doctrinal hypotheses: a return of the rule on the lowering of marriageable age in exceptional cases down to the age of 14 from the regional to the federal level (although the Concept of Family Law Improvement panel of experts has suggested a lower age limit of 16 years); transfer of the question on the lowering of the marriageable age to the courts;¹² substitution of voluntary

⁸ Шершеневич Г.Ф. Учебник русского гражданского права [Shershenevich G.F. *Uchebnik russkogo grazhdanskogo prava*] [Gabriel F. Shershenevich, *Textbook on the Russian Civil Law*] 587 (4th ed., Tipolitografiya Imperatorskogo Universiteta 1902).

⁹ Антокольская М.В. Семейное право: Учебник [Antokolskaya M.V. *Semeinoe pravo: Uchebnik*] [Mariya V. Antokolskaya, *Family Law: Textbook*] 134 (3rd ed., Norma 2010).

¹⁰ Трофимец И.А. Актуальные вопросы заключения и прекращения брака на постсоветском пространстве [Trofimets I.A. *Aktualnye voprosy zaklyucheniya i prekrashcheniya braka na postsovetskom prostranstve*] [Irina A. Trofimets, *Actual Questions of Marriage Conclusion and Dissolution in Post-Soviet Countries*] 11–12 (Yurlitinform 2012).

¹¹ See for details Nadezhda N. Tarusina & Elena A. Isaeva, *Gender Tendency of Russian Political Activity from the Perspective of Jurisprudence*, 11(12) *American Journal of Applied Sciences* (2014). doi:10.3844/ajassp.2014.1976.1979

¹² In general, this is similar to the European tendency of lowering of the marriageable age (in Germany and Great Britain).

medical examination by an obligatory one for any couple that wants to get married;¹³ permission, by way of exception granted by a court, to enter into a marriage with a legally incapable person (similar to the French legislation). Actually, all of the previous ideas except for the last one have been under discussion in the legal literature for a long time, mostly with a favorable disposition, and might be implemented. As for the 'treatment' of a legally incapable person concerning marriage, this proposition does not comply with the fundamentals of Russian civil law, in our opinion.

The idea of going back to the legal recognition of *de facto* marriage has been attracting more and more supporters recently.¹⁴ Firstly, according to the Code of Laws on Marriage, Family and Guardianship of the RSFSR of 1926, such marriages did have legal effect and it was regarded by Soviet scholars of that time as a structure, which would supposedly replace traditional marriage in the future. It seems that this future is still to come. In contrast, the phenomenon of *de facto* marriage has become quite evident in the legislation of the majority of European countries and in some countries of the former USSR. For example, the Ukraine is considering the possibility of allowing for a man and a woman living as a family to: arrange a regime of joint property ownership, alimony rights, and child-support payments (Arts. 74, 91 of the Family Code of Ukraine). According to many specialists in family law, it would be advisable and just to vest the rights of common property in *de facto* unions (or, optionally, the right of negotiating a contract modeled after a marriage contract), set up alimony rights (including the right to undertake legal action for the recovery of alimony), and protect by law the rights of fathers to partake in any familial benefits that normally would be accrued only by the mother.

The third group of doctrinal hypotheses addresses the legal status of children. There are a few aspects of this that appear to be of major importance. One of these aspects concerns the legal status of the child as a subject within a family. Firstly, the definition of this legal status in Art. 54 of the Family Code of the Russian Federation is unsatisfactory; it must be clarified by introducing different options for a child's potential emancipation (marital or civil). Secondly, the problem of the legal status of an unborn child is currently under debate, as is the moment when a child's status as a legal subject within a family begins. The opinions of legislators from a series of countries (the Netherlands, Germany, Slovakia, Czech Republic, USA, etc.) and the 1959 UN Declaration on the Rights of the Child are both sources of thought-provoking information. As per the UN Declaration: '[T]he child, by reason of his physical and

¹³ There is no single opinion on this question among European lawmakers. For example, according to French and Bulgarian legislation, medical examination is necessary (Art. 63 of the French Civil Code, and Art. 9 of the Bulgarian Family Code). The German Civil Code, as well as legal acts of the majority of European countries do not have this requirement.

¹⁴ See for details Тарусина Н.Н. Брак по российскому семейному праву [Tarusina N.N. *Brak po rossiiskomu semeinomu pravu* [Nadezhda N. Tarusina, Marriage in the Russian Family Law]] 130–157 (Prospekt 2010).

mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth'. The current state of the Russian legal system precludes us from being able to confirm whether a transition from the admittance of the necessity to protect some interests of the unborn child (with regard to inheritance, substantial limitation of late-term abortions, *etc.*) to the actual legal establishment of a child as a familial subject is possible. One of the key obstacles to this transition is the insolubility of the conflict between how a child's right to life and a woman's freedom to control her own body should be weighed. Thirdly, the question of what exactly constitutes and defines a child's legal status has not been systematized and clarified (especially in terms of age characteristics). Although in the sphere of family law a child is legally capable of having rights in all main situations (in legal relations of upbringing, care, *etc.*), his or her legal capacity to act could be characterized as changing depending on the age of the child, and the variable rights that depend on a child's age, as we have already noted, do not necessarily correlate with civil or educational legislation. It is advisable to take into account the child's abilities at different ages: to add to the list of cases that require the consent of a child starting from the age of ten (*i.e.* to add obligatory registration of a child's opinion on who their father should be, to determine what a child's place of residency should be if his or her parents live separately, *etc.*); to combine the right of a 14-year-old child to seek judicial protection on his or her own with a fixed list of persons entitled to bring an action on the behalf of the child in a number of categories of family-related cases (*i.e.* paternity determination, restriction or termination of parental rights, *etc.*); also, as we have already noted, to specify the child's ability to represent his or her own interests in a civil litigation. The modern situation of a 21st century child obviously needs more consideration of the above potential reforms.¹⁵ Fourthly, the authors of the Concept of Family Law Improvement insist on a child's universal right to know his or her parents by way of infringement of the principle of the confidentiality of adoptions. As the Concept of Family Law Improvement discussions have already shown, judicial authorities in Russia are not sure if this change in policy regarding the confidentiality of adoptions is necessary. There is no single opinion about this question in either European or American Family Law.¹⁶

And finally, the fifth point that concerns us is the opinion of the Family Code of the RF that a child only has rights and does not bear any responsibilities. Historically, this has been related to the rejection of the institution of parental power. Theoretically, the lack of responsibilities of children is substantiated by the immaturity of a child's mind and will and his or her lack of ability to carry out duties (*i.e.* his or her incapacity

¹⁵ Judy Cashmore, *Children's Participation in Family Law Decision-Making: Theoretical Approaches to Understanding Children's Views*, 33(4) *Children and Youth Services Review* 517 (2011); Barry Checkoway, *What Is Youth Participation?*, 33(2) *Children and Youth Services Review* 341 (2011).

¹⁶ See for details Татаринцева Е.А. Усыновление в Англии [Tatarintseva E.A. *Usynovlenie v Anglii* [Elena A. Tatarintseva, Adoption in England]] 154–166 (Prospekt 2014).

to act fully or partially in infancy).¹⁷ However, the latter facts of a child's psychological development contradict the provisions of the Family Code on the necessity of the agreement of a child to make certain decisions (starting from the age of 10), his or her judicial independence (from the age of 14), and that fact that the consideration of the child's opinion in family-related questions is required even before the age of 10 in some cases. The impaired psychological developmental facts concerning children also contradict the spirit of educational legislation, which definitely imposes some educational duties on children. On the other hand, as Soviet legal scholar O.S. Ioffe has remarked, the parental right of bringing up children inevitably goes hand in hand with a child's duty to submit to his or her parents' influence.¹⁸ The traditional concept of the recognition that citizens have legal duties that must be fulfilled and that state enforcement actions and penalties exist to encourage adherence to these duties does not eliminate deviations from these legal duties; traditional legal sanctions and typical strictly formal legal structures are especially not always applicable to family relations. The standard thesis that a child must submit to the educational decisions of his or her parents (within the bounds of lawfulness) complies both with the spirit of educational and family legislation and the practical needs of the child and family. There are also analogs to this Russian thesis in European norms, regulations, and experiences. For example, Austrian, Bulgarian, Hungarian, Spanish, and Italian legislation (along with several other countries) contain provisions concerning children showing respect towards their parents. According to § 1619 of the Civil Code of Germany, a child must help his or her parents around the house and in the parents' occupations (to the extent that the child's ability permits). The Rule of Art. 124(4) of the Family Code of Bulgaria states: 'Children must respect their parents, grandmother, and grandfather and help them.' Provisions of the Family Code of Ukraine are interesting insofar as they insure children against parental abuse: 1) all forms of child exploitation, physical punishment, and any types of degrading punishment are prohibited (Arts. 150(6)–(7)); 2) '[t]he child has the right to object to inappropriate discharge by parents of their responsibilities' (Art. 152(2)).

Special attention is paid by legal scholars to the problem of the status of parents living separately. Firstly, the authors of the Concept of Family Law Improvement support limiting the paternal rights of fathers whose rights have been limited by a court. Secondly, we believe that a 'status of a separately living parent (limited status)' should be established with a detailed series of regulations specifying child-mother-father relations. Based on the experience of several European countries and some states in the USA,¹⁹ the idea of allowing same-sex parenting, foster parenting, and

¹⁷ Гражданское право: Учебник. Т. 3 [*Grazhdanskoe pravo: Uchebnik. T. 3* [3 Civil Law: Textbook]] 295–296 (Yury K. Tolstoy & Alexander P. Sergeev, eds.) (Prospekt 2007).

¹⁸ Иоффе О.С. Советское гражданское право [Ioffe O.S. *Sovetskoe grazhdanskoe pravo* [Olimpiad S. Ioffe, Soviet Civil Law]] 238–239 (Yuridicheskaya literatura 1967).

¹⁹ See, e.g., Antony Hyden, QC, et al. *Children and Same Sex Families: A Legal Handbook* (Jordan Pub. 2012); Lynn D. Wardle, *Comparative Perspectives on Adoption of Children by Cohabiting, Nonmarital*

adoption raises serious concerns from the perspective of the Russian legal system. Such adoptions by foreign citizens have already been prohibited (Art. 127 of the Family Code). This has always been the case for Russian citizens: unmarried persons cannot jointly adopt the same child and according to Art. 12 of the Family Code, marriage is 'the union of a man and a woman.' Nevertheless, same-sex parenting may occur in Russia: the Family Code does not envisage any consequences for married citizens (having one child or more) if one of them officially changes his or her sex. The Concept of Family Law Improvement does believe that it is necessary to elaborate on legal regulations about family relations, such as in the case of the appearance of assisted reproductive technologies or the ability of citizens to change their official sex by law.

The fourth group of reflections touches upon contracts in family law (although theoretically, as we have already remarked, this question is underdeveloped). In our opinion, from a practical point of view, it is necessary to specify several positions. The universality of a marriage contract should be restricted in regard to the freedom of choice of the property regime since separate regimes of property without an obligation to reach an agreement on a family budget as well as the total lack of rules on the ensuring of children's vital interests during partition of the family property contradict the very first lines of the Family Code (Art. 1 of the Family Code). Regulations concerning agreements on the distribution of shares of a family's property, the partition of such property, the usage of common property or the property of each spouse, as well as regulations on surrogacy contracts are very scarce and of a general character. The same situation exists in the sphere of agreements on communication between a child and his or her parents living separately. As for the child's communication with close relatives of each of the parents living separately, such agreements are regulated by social norms, not by government law. We would suggest introducing a general norm regarding family contracts (the types and content of these contracts) in the Family Code.

The institution of child-support and alimony obligations may also need to be updated. Firstly, based on the experiences of Europe and the United States, we would suggest expanding the criteria for determining whether or not former spouses can receive alimony payments from their other spouses, particularly in cases of disability of one of the spouses that prevents work capacity or if a former spouse needs money in order to survive. Secondly, it is advisable to revise regulations about the minimum size of child support payments. Thirdly, the idea of a maximum size of alimony and child-support payments – in order to ensure they are used for the intended purpose (aid to the family member who is in need) – has been under discussion for a long time, although without any results yet. Fourthly, a bill has already been introduced in the State Duma that proposes limiting some of the rights of people who do not pay child support (*i.e.* by revocation of one's driver's license). The legal community

is also considering the idea of creating a child-support fund for children who for some reason do not receive such payments from a responsible parent (obviously, with parents who have not paid their obligations eventually being forced to pay back the state for any child-support not rendered). However, the current economic situation does not allow the state to assume another social obligation.

Over the past few years, approaches to the regulation of custody and guardianship relations with minors have significantly changed. According to A.M. Nechaeva, the Federal Law on Custody and Guardianship actually ignores the difference between the subjects and objects of care. For example, for legal adults and children, the Federal Law is oriented towards orphanages. It excludes alternative forms of family care (such as foster homes); it enhances the bureaucratic component of the orphanages, makes the property-related and contractual aspect of custodial care and guardianship dominating, and ignores the principles of family law concerning subsidiary application of civil law to family relations.²⁰ As Nechaeva's analysis of the corresponding custodial legislation of post-Soviet states shows, the above issues with current Russian custodial law are not shared there. Regulations from post-Soviet states use codified family laws as their main source, which inevitably involves a different methodology and specific means of controlling who has custodianship of children. It is obvious that Russian legislators should decline the civil legal approach to the institution of custody and guardianship over minors.

Recently, the tendency of the Russian government to minutely control parents and other custodians is being criticized. For example, termination of parental rights, cancellation of custodianship, and the withdrawal of children from their families demonstrate how much control the Russian government has over the details of guardianship. The same international practices are being criticized as well, especially in regards to what social services do in relation to determining the custodianship status of Russians who live in foreign countries.

4. Conclusion

Therefore, even a superficial overview of the body of the Russian Family Code makes it evident that it is in need of an update. At the same time, it is important to preserve traditional values that exist in Russian Family Law. Only the combination of classical and modern approaches, European experience, and the distinctive character of Russian law will allow any reforms to have a chance of maturing and properly reflecting the main trends, requirements, and challenges of Russian society.

²⁰ *Нечаева А.М. История законодательства об опеке и попечительстве над несовершеннолетними // Законы России: опыт, анализ, практика. 2013. № 4. С. 7–8 [Nechaeva A.M. Istoriya zakonodatel'stva ob opеke i popеchitel'stve nad nesovershennoletnimi // Zakony Rossii. 2013. No. 4. S. 7–8 [Alexandra M. Nechaeva, History of Legislation on Custody and Guardianship over Minors, 2013(4) Laws of Russia: Experience, Analysis, and Practice 7–8]].*

References

Antokolskaia, Masha. Harmonisation of Family Law in Europe: A Historical Perspective: A Tale of Two Millenia (= 13 European Family Law) 273–312 (Intersentia 2006).

Cashmore, Judy. *Children's Participation in Family Law Decision-Making: Theoretical Approaches to Understanding Children's Views*, 33(4) *Children and Youth Services Review* 517 (2011).

Checkoway, Barry. *What Is Youth Participation?*, 33(2) *Children and Youth Services Review* 341 (2011).

Herring, Jonathan. *Family Law* 36–39 (3rd ed., Pearson Longman 2007).

Hyden, Antony, QC, et al. *Children and Same Sex Families: A Legal Handbook* (Jordan Pub. 2012).

Kravchuk, Natalya. *The Child's Right to Express His / Her Views in the Context of Russian Culture and Democracy*, 2(3) *Russian Law Journal* 31–35 (2014), available at <<http://www.russianlawjournal.org/index.php/jour/article/download/22/18>> (accessed May 17, 2015).

Maleshin, Dmitry. *The Russian Style of Civil Procedure*, 21(2) *Emory International Law Review* 545–548 (2007), available at <http://papers.ssrn.com/abstract_id=2208488> (accessed May 17, 2015).

Tarusina, Nadezhda N., & Isaeva, Elena A. Gender Tendency of Russian Political Activity from the Perspective of Jurisprudence, 11(12) *American Journal of Applied Sciences* (2014). doi:10.3844/ajassp.2014.1976.1979

Wardle, Lynn D. *Comparative Perspectives on Adoption of Children by Cohabiting, Nonmarital Couples and Partners*, 62 *Arkansas Law Review* 31 (2010), available at <http://papers.ssrn.com/abstract_id=1898449> (accessed May 17, 2015).

Антокольская М.В. Семейное право: Учебник [Antokolskaya M.V. *Semeinoe pravo: Uchebnik* [Mariya V. Antokolskaya, *Family Law: Textbook*]] 134 (3rd ed., Norma 2010).

Гражданское право: Учебник. Т. 3 [*Grazhdanskoe pravo: Uchebnik. T. 3* [3 Civil Law: Textbook]] 415 (Alexander P. Sergeev, ed.) (Prospekt 2009).

Гражданское право: Учебник. Т. 3 [*Grazhdanskoe pravo: Uchebnik. T. 3* [3 Civil Law: Textbook]] 295–296 (Yury K. Tolstoy & Alexander P. Sergeev, eds.) (Prospekt 2007).

Иоффе О.С. Советское гражданское право [Ioffe O.S. *Sovetskoe grazhdanskoe pravo* [Olimpiad S. Ioffe, *Soviet Civil Law*]] 238–239 (Yuridicheskaya literatura 1967).

Малешин Д.Я. Гражданско-процессуальная система России [Maleshin D.Ya. *Grazhdansko-protsessual'naya sistema Rossii* [Dmitry Ya. Maleshin, *Civil Procedural System of Russia*]] (Statut 2011).

Нечаева А.М. История законодательства об опеке и попечительстве над несовершеннолетними // Законы России: опыт, анализ, практика. 2013. № 4. С. 7–8 [Nechaeva A.M. *Istoriya zakonodatel'stva ob opeke i popечitel'stve nad*

nesovershennoletnimi // Zakony Rossii. 2013. No. 4. S. 7–8 [Alexandra M. Nechaeva, History of Legislation on Custody and Guardianship over Minors, 2013(4) Laws of Russia: Experience, Analysis, and Practice 7–8]].

Тарусина Н.Н. Брак по российскому семейному праву [Tarusina N.N. Brak po rossiiskomu semeinomu pravu [Nadezhda N. Tarusina, Marriage in the Russian Family Law]] 130–157 (Prospekt 2010).

Татаринцева Е.А. Усыновление в Англии [Tatarintseva E.A. Usynovlenie v Anglii [Elena A. Tatarintseva, Adoption in England]] 154–166 (Prospekt 2014).

Трофимец И.А. Актуальные вопросы заключения и прекращения брака на постсоветском пространстве [Trofimets I.A. Aktualnye voprosy zaklyucheniya i prekrashcheniya braka na postsovetskom prostranstve [Irina A. Trofimets, Actual Questions of Marriage Conclusion and Dissolution in Post-Soviet Countries]] 11–12 (Yurlitinform 2012).

Шершеневич Г.Ф. Учебник русского гражданского права [Shershenevich G.F. Uchebnik russkogo grazhdanskogo prava [Gabriel F. Shershenevich, Textbook on the Russian Civil Law]] 587 (4th ed., Tipo-litografiya Imperatorskogo Universiteta 1902).

Information about the author

Nadezhda Tarusina (Yaroslavl, Russia) – Professor, Head of the Chair of Social and Family Law, Dean of the Law Faculty of P.G. Demidov Yaroslavl State University (10 Sovetskaya str., Yaroslavl, 150000, Russia; e-mail: nant@univ.uniyar.ac.ru).