

Recent Legislative Efforts Aimed at Countering Human Trafficking in Russia

Liudmila D. YEROKHINA¹
Pacific State University of Economics

Abstract

While over the last decade the Russian Federation have significantly broadened initiatives aimed to identify, investigate, and prosecute human trafficking and restore its victims to a life of hope, harmony, integrity, and productivity, these efforts rely strongly on leadership, political will, and law enforcement capacity at the federal level, and therefore results have been varied and tenuous. Furthermore, legislative and policy efforts have not kept pace with the dynamic development of human trafficking, which has expanded and morphed to ensure its continuity. This article will examine current legislation, policies, practices, and NGO efforts in Russia that satisfy elements of a comprehensive strategy, and will suggest future governmental, legislative, and civil society actions to close the gaps that continue to facilitate and permit modern-day slavery.

Keywords: human trafficking, organized crime, legislative, civil society, strategy of fighting against human trafficking.

Introduction

Human trafficking in and outside the Russian Federation is one of many problems resulting from the collapse of socialism and the post-Soviet transition from a centralized to a market economy. The International Organization of Migration (IOM) reports that the income of recruiters of illegal migrants (traffickers) ranges from five to seven million US dollars annually. Trafficking takes many forms, including the recruitment and transport of persons as well as illegal employment, and poses serious risks to the lives, health, and material wellbeing of migrants (Stalker 2000).

Unfortunately, the Russian Federation was not prepared for the wave of legal and especially illegal migration that accompanied the collapse of the national economy and the weakening of border controls, exacerbated by an outdated migration policy. As a result, Russia has become one of the most criminalized countries in the world and one in which human trafficking has grown at an unprecedented rate.

Many human trafficking experts believe that human trafficking is a multi-faceted, far-reaching, and well organized international network, covering all continents and attracting millions of perpetrators (recruiters, traffickers, middlemen, and their security

¹ Liudmila D. Yerokhina is a Professor of Philosophy at the Pacific State University of Economics and a Senior Research Fellow at the Center for the Study of Transnational Crime and Corruption, Far Eastern National University, Vladivostok. She is a member of the Russian Duma's working group which draft anti-trafficking legislation.

apparatus) and unwitting victims. In addition to criminal structures, official organizations and agencies are also involved in the trafficking network, including some visa and migration services staff, law enforcement agencies, state institutions, and many others.

Judging by the growth in the scale of trafficking, these networks are also growing and becoming stronger. Reports by the Global Survival Network and independent foreign experts tie the growth of Russian organized crime to numerous international criminal organizations specializing in many aspects of crime, including human trafficking (Stoecker 2001). According to American experts, approximately 9,000 organized criminal groups exist in Russia, and some of these groups are part of the human trafficking chain as a result of established links to large international criminal organizations, such as the Italian Comorro, Japanese Yakuza, and Sicilian Cosa Nostra, and others (O'Neill 2000).

The tighter the symbiosis among these crime groups, the better the possibility of transnational organized crime pursuing its activities with impunity. The income generated by the trafficking in persons is funneled into the shadow economy and then laundered in various legal institutions, such as banks.

Involvement in human trafficking poses fewer risks to criminals than contraband narcotics or cars. In Russia and Central European countries, laws about trafficking in drugs are harsher than they were a few years ago, and measures to combat and reduce the incidence of automobile theft have become more refined. Meanwhile, punishment for trafficking in persons in many countries is comparatively mild. Human trafficking crimes are very difficult to prove and victims seldom agree to serve as witnesses in court. Thus, a person who is a trafficker or who facilitates trafficking has nothing to fear, and as a result, more and more criminals become attracted to this illegal business.

The weak legislation in Russia addressing human trafficking has resulted in law enforcement viewing human trafficking only as it relates to other crimes, such as smuggling, murder, and illegal migration. Today it is clear that this approach is outdated. Statistics and the practices of criminal organizations show that human trafficking is a separate category of crime that deserves its own legislation and punishments commensurate with the severity of the crime.

From Grassroots Initiatives to Recognition at the Federal Level

For several years, there have been forces at work within Russia bringing attention to the human trafficking phenomenon in general, and to the victims of human trafficking in society at large. In the forefront of awareness and educational activities have been non-governmental organizations (NGOs) such as the Moscow Center, the *Syostry* (Sisters), the Center Against Violence and Human Trafficking in Perm, and crisis centers for assisting women and children in St. Petersburg, Barnaul, Irkutsk, and Vladivostok. Working at their own risk, they have taken numerous measures to inform the public about trafficking networks and provide psychological and physical assistance to victims of human trafficking and their relatives. These organizations have in turn motivated government structures to pay attention to the serious consequences of human trafficking.

Russian and American researchers have also been instrumental in publicizing the problem of human trafficking through their joint research projects. In 2002, the findings of a two-year research project sponsored by the Transnational Crime and Corruption Center at American University and the Department of State were published in a book, *Human Trafficking: A Socio-Criminological Analysis* (Tiuriukanova and Erokhina, eds,

2002). Financial support for the book came from the Bureau of Educational and Cultural Affairs within the US Department of State. The book focuses on various aspects of human trafficking, including socio-economic causes, methods of recruitment, movement and exploitation of persons, and deficiencies in Russian criminal and administration law. In the book, the authors attempted to formulate recommendations for governmental agencies in combating both the movement of persons across borders, and the organized crime groups that are facilitating this movement.

These efforts have not been in vain. The Russian government has now recognized the problem of human trafficking as a result of several compelling indicators: statistics of the scale of the problem presented by researchers and non-governmental organizations, complaints by victims, and anti-trafficking initiatives already undertaken by numerous local agencies. Moreover, in many countries bordering on Russia, laws against human trafficking have existed for some time. This not only has confirmed the existence of human trafficking, but also the ties of Russian organized crime groups with foreign “partners.” As with the criminal exploitation of persons in the sphere of labor, sale of human organs, forced prostitution, and illegal adoption, the scale of illegal movement of persons across the borders of Russia and contiguous countries has reached such horrific proportions that it is impossible to ignore these problems.

Parliamentary Working Group Formed

During a legislative meeting of the State Duma of the Russian Federation in October 2002, a working group, led by Duma Deputy Elena Mizulina, was formed to draft an anti-trafficking law for Russia. As they began drafting a new law, the members of the working group immediately encountered a serious problem: using a template or other existing law as a basis for creating Russia’s own legislation was extremely complicated. The anti-trafficking laws existing in other countries often either differed in their conception or in the definition of many basic concepts such as “human trafficking,” “trafficker,” “victim,” “recruiter,” and others. Moreover, the types of punishment for trading in people vary in their duration, depending on the criminal code and on the perceptions of the legislators as to the seriousness, scale, and consequences of human trafficking. In the light of these and similar difficulties in drafting a new law, a series of preliminary meetings with NGO representatives, State Duma deputies, and highly-placed workers in state and law enforcement institutes were conducted as a means of grappling with these conceptual problems and working out recommendations for legislators.

The first meeting, organized by the Perm Center against Violence and Human Trafficking, took place in August 2002 in Nizhny Novgorod. NGO representatives from Russia, Bulgaria, Poland, Moldova, and Ukraine exchanged their experiences in rendering psychological and legal aid to the victims of human trafficking. They also discussed the importance of cooperation with power and law enforcement structures in designing legislation and jointly recommended that the government and NGOs undertake the drafting of anti-trafficking legislation.

The second meeting of Russian NGOs and academic scholars, sponsored by the American Bar Association, took place in Moscow in October 2002. Participants presented their recommendations for the new law, including measures aimed at preventing human trafficking, prosecuting trafficking crimes, and protecting victims of human trafficking. In addition, measures for educating law enforcement agencies in dealing with human

trafficking were introduced.

The third meeting with NGO representatives, sponsored by the US Embassy in Moscow, included State Duma deputies, representatives of ministries concerned about human trafficking (Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Labor and others) and journalists in November 2002. The recommendations of the participants of the first two meetings were discussed and reports by members of state agencies on various aspects of human trafficking were heard. The decision to create a “working group” for drafting a new law was made at this meeting. From November 2002 to February 2003 the working group, led by Deputy Mizulina, designed a draft law on combating human trafficking. The draft was then discussed in the regional Duma of Yaroslavl in December 2002. The following month, the working group met with numerous experts, practitioners, and scholars in Vinogradovo (Moscow) and discussed the draft law more thoroughly.

The culminating discussion of the draft law took place in parliamentary hearings on 17 February 2003 in Moscow. In her report as chairperson of the working group, Deputy Mizulina underscored the innovations of the new law and in particular its comprehensiveness. The “comprehensive approach” in Russian law, most importantly, means that from the moment the law is introduced, human trafficking projects and criminal cases will become the domain of several institutions, including those that deal with regulating migration flows, supporting political and inter-governmental relations, creating jobs, and formulating public opinion. The responsibilities of each institution or organization are spelled out in the draft law.

Components of the Draft Anti-Trafficking Law

The draft law consists of ten chapters. Chapter 1 introduces new concepts that previously have not existed in Russian law. Among these are “recruitment”, “destination or receiving country”, “supply country”, “child”, “surrogate mother”, “blackmail” and others. There was considerable discussion in the course of the drafting regarding how to define “human trafficking”. Some members of the working group insisted that human trafficking is an action which aims to obtain material gains. However, in the end, the group agreed on a definition that corresponded with the UN Convention, in which human trafficking is tied to the exploitation of a person and not necessarily with the receipt of material gains. Human trafficking is defined now in Russian law as “manifested in the goal of exploitation, recruitment, transport, transfer, concealment or the receipt of persons by means of threat or application of force or other forms of coercion, kidnapping, extortion, deceit, misuse of power or vulnerability of position or by means of bribery in payment or profit, in order to obtain the consent or control [of] another person” (Law against Human Trafficking [Draft], Introduction). Although it is very difficult to accept that concepts such as *krepostnoye sostoianie*,² *podnevolnoe sostoianie*³ and slavery — terms associated with the past — still exist today, unfortunately, these phenomena do still exist and are even taking on new meanings. They characterize the life and work of migrants from the

² *krepostnoye sostoianie* – a condition whereby the person who is bound by a tradition or contract lives and works at the place pertaining to the other person, and executes for him or her assigned work without an opportunity to alter the conditions, or be released from the contract.

³ *podnevolnoe sostoianie* – execution of any work or rendering of services, for which a person did not give their consent, under threat of punishment.

former republics of the Soviet Union, now living in the central regions of Russia and seeking work. Many of them get work without official permission, without documents, and live, in essence, illegally. They receive paltry salaries and are in extremely weak and vulnerable positions. In some of the Caucasus regions, these people are kidnapped, held, and used to perform menial tasks, such as housework or labor in the fields.

The law defines other concepts, such as “victim” of human trafficking, establishing the status of someone suffering from human trafficking. The law lists organizations and obliges them to assist persons who are victims of human trafficking. In the same chapter, the goals and basic principles of countering human trafficking are defined. Among the most important principles are the assurance of punishment for traffickers, non-discrimination against the victims, the provision of secure, fair treatment of victims, and social partnership and cooperation with social organizations. The law provides, therefore, a mainly new strategy for combating human trafficking on the basis of the consolidation of governmental and non-governmental organizations.

Chapter 2 of the new law on International Cooperation defines the principles and norms of international organization cooperation with other countries on issues of countering human trafficking and their relevant agencies. This chapter also defines the jurisdiction of the Russian Federation as it relates to other international agreements.

Chapter 3 provides a list of institutions that are responsible for combating human trafficking. In particular, attention is focused on creating federal and regional inter-agency commissions to counter trafficking. Thus far, it is not clear in which agencies these commissions will be placed, but it is likely that the commissions will act within the office of the President of the Russian Federation. The very creation of such a commission at the presidential level emphasizes the importance of the problem and the complexity of addressing it.

Chapter 4 proposes punishments for organizing and carrying out human trafficking that will require amendments or supplements to the existing criminal codes.

Chapter 5 defines the criteria and forms of human trafficking. These include use of physical or psychological violence or threats, confiscation of a trafficked victim’s documents, enticement into trafficking, forced labor, limitation of one’s freedom of movement, deceit, or violation of trust. The most important point in this chapter is that the victim’s consent in the case of exploitation must not be taken into account in the course of the investigation or judicial process. This eliminates the possibility of shifting the responsibility for human trafficking from the trafficker to the victim.

This chapter also classifies forms of human trafficking, depending on the types of criminal exploitation, and defines the conditions under which human trafficking is carried out in ways that bring heightened danger to the community. These include enticement into or forced prostitution, maintenance of brothels, enticement of children into prostitution, trafficking in human organs, or action against incapacitated persons.

Chapter 6 focuses on preventative measures, such as informing the public about the dangers of human trafficking, creating initiatives to raise awareness among groups at risk, designing micro-crediting programs, and the practice of writing yearly reports about the situation to be disseminated to the public to raise their awareness. In this way, the law should promote openness and transparency.

Chapter 7 spells out the types and functions of municipal organizations that can support the victims of human trafficking and determine the financial sources of anti-trafficking organizations. The problem of financing is the weakest part of this chapter. It is

not clear who should establish shelters—the government, NGOs, individuals, or someone else. This part of the chapter needs serious elaboration.

Chapter 8 covers the documentation that is necessary in order to assist victims of trafficking and delineates the responsibilities of several organizations that should grant assistance to the victims of human trafficking.

Chapter 9 deals with the amendments to the criminal code that are needed to address the crime of human trafficking. Seven new amendments have been proposed, including ones on document fraud, related to passports, visas and others.

Finally, chapter 10 sets out the deadlines for placing the new law into action.

Conclusion

In spite of a few weaknesses, the draft anti-trafficking legislation is an important step on the path of countering transnational organized crime. Because Russia has lagged behind in creating a law, hundreds of thousands of foreign and Russian citizens have been caught in the web of traffickers. If Russia does not accelerate the legislative process and adopt the new law, it may turn out that traffickers will come to Russia where there is no legislation. Then it will become even more difficult to locate and arrest such traffickers. Unfortunately, the comprehensive Human Trafficking Bill developed by the Duma working group was not passed. At the same time, amendments to the Criminal Code criminalizing trafficking and the use of slave labor, and the increase of penalties for recruitment into prostitution and organizing prostitution, were passed in December 2003. Since 2004, human trafficking cases investigated and prosecuted in Russia under Articles 127.1 (Human Trafficking) and 127.2 (Use of Slave Labor) increased every year from 17 cases in 2004 to 447 in 2008. The main challenges still remain the defense of the victim, and trafficking prevention. It is hoped comprehensive laws will be pass by the Russian government in order to stop intrapersonal violence, the embedding of organized crime in the community, and serious health consequences for the global community that accompany human trafficking.

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