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TRAFFICKING DRUGS: AFGHANISTAN'S ROLE IN RUSSIA'S CURRENT DRUG EPIDEMIC

Marisa L. Maskas[†]

“The drug business is international. And so a constant exchange of experience and information, and coordinated actions with colleagues from other countries are capable of raising the effectiveness of the fight against the narco-threat many times over.”¹

-Russian Minister of Foreign Affairs Sergey Lavrov

I. INTRODUCTION

Today, one of the most heightened social troubles in the Russian Federation is drug trafficking.² Drug trafficking drastically increased during the early 1990s.³ Afghanistan plays a crucial role in this drug epidemic through the production and distribution of opiates, which are

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1. Sergey Lavrov, Russian Minister of Foreign Affairs, Remarks at Presentation of U.N. World Drug Report in Moscow (June 25, 2004), *available at* http://www.in.mid.ru/brp_4.nsf/0/4f0148fe9fc31dabc3256f3b004234f5 (quoting Russian President Vladimir Putin).

2. United Nations Office of Drugs & Crime, Country Profile: Russian Federation (2003), *at* http://www.unodc.org:80/pdf/russia/russia_country_profile_2003.pdf (on file with author) [hereinafter Country Profile: Russia].

3. *Id.*

carefully transported through Central Asia into Russia.⁴ This problem is due to the lack of an organized border patrol, and the enforcement of drug trafficking control laws targeting traffickers.⁵ The trafficking process into Russia is a three-fold situation. First, the process begins with Afghanistan's drug production, specifically opium.⁶ Second, traffickers pass through Central Asian countries,⁷ with the drugs destined for the Russian border. Finally, the drugs enter Russia and are distributed throughout the country primarily by Russian Organized Crime (ROC) groups, helping to contribute to the largest drug and HIV/AIDS epidemic in the world.⁸

Afghanistan plays a significant role in the drug trade because it is "the world's main source of opiates," with Central Asia being an important transit path for drug export.⁹ Traffickers benefit from the instability of Afghanistan's new government.¹⁰ They are attracted to Russia because it

4. *Id.*

5. *See generally id.*

6. The terms "heroin" and "opium" are used synonymously and interchangeably with the term "drugs" throughout this comment.

7. This comment considers "Central Asia" as Kazakhstan, Uzbekistan, Turkmenistan, Kyrgyzstan, & Tajikistan.



Alabama Maps, Central Asia Map, at http://alabamamaps.ua.edu/contemporarymaps/world/asia/c_asia4c.pdf (last visited Dec. 9, 2005) [hereinafter Map].

8. Kasia Malinowska-Sempruch et al., *Unintended Consequences: Drug Policies Fuel the HIV Epidemic in Russia and Ukraine*, in *WAR ON DRUGS, HIV/AIDS AND HUMAN RIGHTS* 194, 204 (Kasia Malinowska-Sempruch & Sarah Gallagher eds., 2004).

9. Pierre-Arnaud Chouvy, *Opiate Smuggling Routes from Afghanistan to Europe and Asia*, *JANE'S INTELLIGENCE REVIEW* (Mar. 1, 2003), available at <http://www.pachouvy.org/JIR3.htm> (last visited Sept. 4, 2005).

10. United Nations Office on Drugs & Crime, *Central Asia: Strategic Programme Framework*, 2004-2007 (2004), at

has a huge domestic market, and provides a gateway into other international markets.¹¹

Russia and Central Asian countries would benefit overall if they could communicate more effectively as a multi-state organization responsible for border patrol, seizing drugs, and arresting traffickers to control the drug trafficking from Afghanistan. This comment examines Russia's drug trafficking crisis. Part II will provide an overview of the trafficking problem and address the three-fold support system for trafficking drugs into Russia. It will discuss where and how the drugs are produced, how the drugs are smuggled into Russia, and who takes control of the drugs once inside the country. It will also discuss other issues occurring in Russia due to the trafficking crisis, such as drug abuse and the fast growing HIV/AIDS epidemic. Part III examines how Russia is combating drug trafficking through different agencies and Russian laws, and investigates the cooperation Russia receives from other countries under international conventions enacted to help control the drug flow. Part IV provides possible solutions and recommendations to Russia's drug crisis, including establishing tighter border patrol alliances with neighboring countries, reconstructing the already existing drug control law systems, controlling the growing population of drug users in Russia, and helping Afghanistan create new options for income in order to diminish or eliminate opium production.

II. OVERVIEW OF DRUG TRAFFICKING INTO THE RUSSIAN FEDERATION

A. *The Starting Point: Drug Production in Afghanistan*

Afghanistan's participation in the opium drug trade dates back to the 16th century.¹² The country is remarkably impoverished due to years of civil war.¹³ The decades of warfare in Afghanistan devastated the country, making opium production a popular source for revenue.¹⁴ With a

http://www.unodc.org/pdf/uzbekistan/uzbekistan_strategic_programme_framework.pdf [hereinafter Programme Framework] (on file with author).

11. Svetlana Ilina, *Situation Around Drugs in Russia*, at <http://www.ac-company.org/menu1.html> (last visited Dec. 9, 2005).

12. FRANK A. CLEMENTS, *CONFLICT IN AFGHANISTAN: A HISTORICAL ENCYCLOPEDIA* 76 (2003).

13. Christopher L. Gadoury, *Should the United States Officially Recognize the Taliban? The International Legal and Political Considerations*, 23 *HOUS. J. INT'L L.* 385, 386 (2001).

14. Drug Enforcement Admin., *Drug Intelligence Brief, Drugs & Terrorism: A New Perspective* (2002), available at <http://www.usdoj.gov/dea/pubs/intel/02039/02039.html> (last visited Sept. 4, 2005) [hereinafter *Drugs & Terrorism*].

population of approximately 17 million people, the education level is extremely low with almost 85 percent of the population relying on agricultural production for personal income.¹⁵ “The Afghan government believes that 30 percent of families are involved in some form of opium cultivation and production.”¹⁶

During the years of civil war in Afghanistan, many areas of fertile land were converted to opium fields in order to provide financial support for the local Afghan army.¹⁷ The country’s destruction left few practical alternative crops to produce and market.¹⁸ “During the 1990s, Afghanistan firmly established itself as the largest source of illicit opium and its derivative, heroin.”¹⁹ As of March 2005, the U.S. State Department reported that “[h]eroin production in Afghanistan represents ‘an enormous threat to world stability,’ and the country is ‘on the verge of becoming a narcotics state.’”²⁰

1. The History of Poppy Production

Afghanistan’s geography has had “a great impact on the cultural development of its people.”²¹ Almost 80 percent of the total population resides in rural areas, making it necessary for Afghan people to rely on their own crops for trade.²² The opium crop is adjusted to the harsh Afghan climate plagued with drought.²³ The income received from Afghan

15. THE RUSSIAN GENERAL STAFF, *THE SOVIET-AFGHAN WAR: HOW A SUPERPOWER FOUGHT AND LOST 5* (Lester W. Grau & Michael A. Gress eds., trans., 2002) [hereinafter *THE RUSSIAN GENERAL STAFF*].

16. *Committee on Int’l Relations: Hearing on Afghanistan Drugs and Terrorism and U.S. Security Policy*, 108th Cong. (2004) (statement by Henry J. Hyde), available at http://www.house.gov/international_relations/108/hyde021204.htm (last visited Dec. 9, 2005) [hereinafter *Hearing: Security Policy*].

17. See generally *THE RUSSIAN GENERAL STAFF*, *supra* note 15 (explaining that during wartime, the Afghan economy could not support their military through harvest export alone).

18. Office of National Drug Control Policy, *Source Countries and Drug Transit Zones: Afghanistan*, at <http://www.whitehousedrugpolicy.gov/international/afghanistan.html> (last visited Dec. 9, 2005) [hereinafter *Transit Zones*].

19. United Nations Office of Drugs & Crime, *World Drug Report: 2004*, U.N. Sales No. E.04.XI.16 (2004).

20. Arshad Mohammed, *U.S. Report Warns of Afghan Drug State*, WASH. POST, March 5, 2005, at A14. “Three-quarters of Afghani opium is shipped to Europe, usually through Russia and Ukraine.” Malinowska-Sempruch, *supra* note 8, at 203.

21. NEAMATOLLAH NOJUMI, *THE RISE OF THE TALIBAN IN AFGHANISTAN 1* (Palgrave 2002).

22. *Id.*

23. See CLEMENTS, *supra* note 12, at 79.

heroin trafficking amounts to large profits for “a country where the average wage does not exceed \$2 per day.”²⁴

The opium crop originates and is processed in secluded areas lacking government supervision.²⁵ Much of the processing of the opium crop, into white heroin and morphine, takes place within Afghan drug labs located in mountainous regions.²⁶ These labs have the capacity to manufacture refined heroin, thereby reducing the overall bulk of the packaging that will eventually be smuggled into Russia.²⁷

2. Who is in Control of Opium Production & Trade?

a. Taliban Control

The drug trade was a major source of income for the now-fallen Taliban regime,²⁸ which governed most of the country between 1996 and 2002.²⁹ Though opium production was already present when the Taliban gained power, there was a drastic increase soon after its initial control.³⁰ In July 2000, the Taliban regime imposed a ban on poppy cultivation, but not on trade.³¹ The ban took effect in 2001.³² The U.S. Drug Enforcement Administration believed this ban was “an attempt by the Taliban to raise the price of opium which had fallen significantly due to the abundant

24. United Nations Office of Drugs & Crime, *The Opium Economy in Afghanistan: An International Problem*, U.N. Sales No. E.03.XL.6 (2003) [hereinafter *Opium Economy*].

25. Melvyn Levitsky, *Transnational Criminal Networks and International Security*, 30 SYRACUSE J. INT'L L. & COM. 227, 228 (2003). “The Golden Crescent is the name given to Asia’s principal area of illicit opium production, located at the crossroads of Central, South, and Western Asia.” Pierre-Arnoud Chouvy, *Golden Crescent*, available at <http://www.pachouvy.org/drugtradeinasia.html#crescent> (last visited Dec. 9, 2005).

26. *Afghanistan: Law Enforcement Interdiction Efforts in Transshipment Countries to Stem the Flow of Heroin: Before the Subcomm. on Criminal Justice, Drug Policy, and Human Resources of the H. Comm. on Government Reform*, 180th Cong. (2004) (statement of Karen P. Tandy, Drug Enforcement Admin.) available at <http://www.usdoj.gov/dea/pubs/cngrtest/ct022604.htm> (last visited Sept. 3, 2005) [hereinafter *Flow of Heroin*].

27. *Transit Zones*, *supra* note 18.

28. See CLEMENTS, *supra* note 12, at 76.

29. *Id.* at 240.

30. PETER MARSDEN, *THE TALIBAN: WAR AND RELIGION IN AFGHANISTAN* 144 (2002). According to a DEA chart on the estimated annual potential opium production (metric tons), the amount increased from 1996 to 2000 reaching 3,656 metric tons; in 2001, the production drastically decreased, but rose again to 2,865 in 2003. *Flow of Heroin*, *supra* note 26.

31. Charlene Porter, *Drug Trade is Primary Income Source for Taliban*, Embassy of the United States, October 3, 2001, at http://www.usembassyjakarta.org/taliban_drug.html.

32. *Id.*

supply produced in years prior to 2001.”³³ As was suspected by the United States, the price of opium rose shortly thereafter.³⁴ Furthermore, the Taliban imposed a 10 percent tax on the opium crop.³⁵ The gross income from opium increased ten-fold after the ban; the 2002 total gross income rose to \$1.2 billion per year from \$150 million during the period before the ban, between 1994 and 2000.³⁶ The U.S. State Department stated that, “[n]either the Taliban nor the Northern Alliance has taken any significant action to seize stored opium, precursor chemicals or arrest and prosecute narcotics traffickers.”³⁷ Though the Taliban openly denounced the drug industry, practically all of Afghanistan’s cultivation and processing labs were located in Taliban controlled areas,³⁸ and opium stock piles were stored for future sales.³⁹ An increased need for income caused the Taliban to repeal the ban on production.⁴⁰ The ban ultimately failed and did not decrease overall poppy production, causing opium cultivation to return to its historically large amount.⁴¹

b. The Current Afghan Government

When the current Afghani government came into power after the U.S. coalition ousted the Taliban in late 2001, new President Hamid Karzai renewed the ban of opium growth,⁴² trafficking, and drug abuse.⁴³ Despite this renewal, Afghan opium growers resumed cultivation.⁴⁴ According to 2003 figures, “opium production quintupled to three-fourths of the total world production,” bringing more revenue into Afghanistan than all

33. *Flow of Heroin*, *supra* note 26.

34. Raphael F. Perl, *Taliban and the Drug Trade*, in *WAR ON DRUGS: ISSUES AND DEVELOPMENTS* 134 (Tanya P. Shohov & Frank Lamazi eds., 2004) [hereinafter Perl].

35. See NOJUMI, *supra* note 21, at 136.

36. *Opium Economy*, *supra* note 24.

37. Perl, *supra* note 34.

38. *Id.* at 136.

39. *Id.* at 134.

40. *Id.* at 135.

41. United States Policy Towards Narco-Terrorism in Afghanistan: Hearing before the Committee on International Relations (Feb. 12, 2004) (statement of Karen P. Tandy, Administrator, Drug Enforcement Agency), at <http://www.usdoj.gov/dea/pubs/cngrtest/ct021204.htm> (last visited Dec. 9, 2005).

42. *Opium Economy*, *supra* note 24.

43. Amanullah Zeweri, Senior Counsellor and Deputy Head of Mission, Statement at the Paris Pact Policy Consultative Meeting, Oct. 12, 2004, at <http://www.embassyofafghanistan.com/odc.doc> [hereinafter Paris Pact Meeting].

44. *Flow of Heroin*, *supra* note 26.

combined foreign support.⁴⁵ During the period of the ban in 2000-2001, 97 percent of the opium crop was abolished.⁴⁶ In 2002, cultivation resurfaced again due to the new and “weak Afghan political authority that succeeded the Taliban, suggesting that an effective central government presence in drug crop areas is critical to the success of eradication projects.”⁴⁷

The development of the poppy eradication program was developed by the Afghan Interim Authority (AIA) in January of 2002.⁴⁸ The AIA was compensated by the United Kingdom and successfully destroyed one-fourth of the 2002 spring crop.⁴⁹ “The United States supports eradication by providing producer countries with chemical herbicides, technical assistance and specialized equipment, and spray aircraft.”⁵⁰ Analysts argue low income countries cannot be expected to launch major crop reduction programs without some form of substitute income to sustain those whose income depends on drug production.⁵¹

President Karzai “has publicly stated that Afghan drug money is ‘feeding . . . terrorism.’”⁵² Trafficking creates a huge profit for

45. Robert B. Oakley and T.X. Hammes, *Securing Afghanistan: Entering a Make or Break Phase?* STRATEGIC FORUM, March 2004, available at <http://www.ndu.edu/inss/strforum/SF205/SF205.pdf>.

46. Raphael F. Perl, *Drug Control: International Policy and Approaches*, in *WAR ON DRUGS: ISSUES AND DEVELOPMENTS* 41 (Tanya P. Shohov & Frank Lamazi eds., 2004) [hereinafter *Drug Control*].

47. *Id.*

48. Fact Sheet, Bureau for Int’l Narcotics & Law Enforcement Affairs, U.S. Dep’t of State, Counternarcotics & Law Enforcement Country Program: Afghanistan (May 2, 2003), available at <http://www.state.gov/p/inl/rls/fs/20121.htm> [hereinafter *Country Program*]. The AIA is “made up of 30 members, headed by a chairman and five deputy chairmen” and was inaugurated on 12/22/01. *Afghanistan Information: Afghan Political Facts*, <http://www.phrasebase.com/countries/Afghanistan.html> (last visited Dec. 9, 2005).

49. *Country Program*, *supra* note 48.

50. *Drug Control*, *supra* note 45, at 36. Arguments against eradication are that the herbicides harm the environment and consumers simply switch to domestically made drug substitutes. *Id.* at 42.

51. *Id.* at 45.

52. *Hearing: Security Policy*, *supra* note 16. Though outside of the scope of this comment, the issue of terrorist group funding through the trafficking of drugs is an important issue. *Drugs & Terrorism*, *supra* note 14. “Prior to September 11, 2001, drug trafficking and terrorist activities were usually addressed . . . separate[ly] . . .” *Id.* Over 90 percent of Afghanistan’s poppy fields were controlled by the Taliban. Konstantin Parshin, *Anti-drug Trafficking Effort Could Help Fight Terrorism* (Sept. 20, 2001) at http://www.eurasianet.org/departments/insight/articles/eav092001a_pr.shtml. Terrorist groups involve themselves in all aspects of trafficking, beginning with cultivation all the way up to providing security for the traffickers out of the country. *Drugs & Terrorism*, *supra* note 14. At a January 24, 2005 meeting of the Central Asian Drug Protocol, Russian

Afghanistan, which helps fund terrorist group activities that are in need of income.⁵³ Terrorists are able to provide protection or escort services out of the country to drug traffickers in return for a percentage of drug sale profits.⁵⁴

While the new Afghan government is determined to fight the trafficking of drugs and rid its country of the opium trade,⁵⁵ the 2003-2004 United Nations Office of Drug Control's Farmers' Intention Survey indicates "illicit opium cultivation will continue and likely increase" in Afghanistan.⁵⁶ A March 2005 report from the Department of State suggests the drug war has worsened since the Taliban was ousted from power in Afghanistan, with poppy cultivation on the rise.⁵⁷ Therefore, there is no indication that Afghan drug cultivation and distribution will be diminished in the near future.⁵⁸

B. *The Next Step: The Drug Route Through Central Asia*

Central Asian countries are repeatedly used as a passageway to bring drugs into Russia from Afghanistan.⁵⁹ "Geography and history make Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan attractive areas for drug traffic" into Russia.⁶⁰ These countries provide a passageway from the world's largest opium producing country to the world's largest drug markets.⁶¹

Ambassador of Special Errands Anatoly Safonov stated that over the past six months alone, "Osama bin Laden received \$28 billion from Afghani drug dealers." *The Stream of Synthetic Drugs Smuggling from Western Europe to Russia and Other CIS States is on a Steady Rise*, Jan. 24, 2005, available at 2005 WLNR 957963 [hereinafter *Stream of Drugs*].

53. See *Drugs & Terrorism*, *supra* note 14.

54. *Drug Control*, *supra* note 46, at 43.

55. See generally Paris Pact Meeting, *supra* note 43.

56. See Programme Framework, *supra* note 10.

57. U.S. DEP'T OF STATE: BUREAU FOR INT'L NARCOTICS & LAW ENFORCEMENT AFFAIRS, INT'L NARCOTICS CONTROL STRATEGY REPORT – 2005 (Mar. 2005), available at <http://www.state.gov/documents/organization/42861.pdf> (last visited Dec. 9, 2005) [hereinafter INT'L NARCOTICS REPORT].

58. See *id.*

59. Letizia Paoli, *The Development of an Illegal Market: Drug Consumption and Trade in Post-Soviet Russia*, 42 BRIT. J. CRIMINOLOGY 21, 29 (2002).

60. MARTHA OLCOTT & NATALIA UDALOVA, DRUG TRAFFICKING ON THE GREAT SILK ROAD: THE SECURITY ENVIRONMENT IN CENTRAL ASIA 5 (Carnegie Endowment Working Papers, March 2000) [hereinafter OLCOTT]. For this comment, the term "Central Asia," will refer to the countries of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Afghanistan's northern border is split three ways between Turkmenistan, Uzbekistan and Tajikistan. See Map, *supra* note 7.

61. OLCOTT, *supra* note 60, at 5.

The lack of an adequate border patrol in Central Asia is a contributing factor to the popularity of Central Asian passageways by drug traffickers.⁶² One factor leading to the lack of border control stems from the fact that Central Asian countries had to adjust to their new independence very quickly.⁶³ The breakup of the Soviet Union allowed borders to open due to the instability of the new countries, whose border protection was not yet established.⁶⁴ Second, after the demise of Taliban command, interaction between Afghanistan and its neighbors increased even more.⁶⁵

“It has been estimated that 80 percent of heroin seized in Russia entered the country from Central Asian states.”⁶⁶ While there is no concrete evidence these countries cultivate illicit plant-based drugs, “large-scale trafficking of Afghanistan-origin opium and heroin gives rise to major crime and drug control problems in the region.”⁶⁷ Central Asian countries fear drug trafficking has threatened their national security by funding and supporting insurgents.⁶⁸

Currently, Tajikistan is the most popular country for transporting Afghan opiates through Central Asia into Russia.⁶⁹ Tajikistan is the Central Asian country with the best connections to the drug source, and the final destination for traffickers.⁷⁰ “Tajikistan shares a 1,200 km border with Afghanistan, including a lengthy one with the province of Badakhshan, now the third-largest opium-cultivating province” in Afghanistan.⁷¹ Russian officials estimate that 70 percent of drugs enter Tajikistan from Afghanistan through that section of the Afghan-Tajik border, known as “[t]he most vulnerable and politically sensitive border in

62. *See generally id.*

63. *Id.* at 23.

64. *Id.* at 10.

65. Press Release, United Nations Information Service, Central Asian States Increase Cooperation Against Illicit Drug Trafficking (Dec. 12, 2002), *available at* http://www.unodc.org/unodc/en/press_release_2002-12-12_1.html.

66. OLCOTT, *supra* note 58, at 26.

67. Programme Framework, *supra* note 10.

68. Perl, *supra* note 34, at 136.

69. *Country Factsheets, Eurasian Narcotics: Tajikistan 2004*, at <http://www.silkroadstudies.org/drugtrade.htm> (last visited Apr. 7, 2005) [hereinafter *Tajikistan 2004*]. Tajikistan is located just north of Afghanistan and connected to the southern borders of Uzbekistan and Kyrgyzstan, which are transit countries into Kazakhstan and ultimately Russia. *Id.*

70. *Id.*

71. *Id.*

the anti-drug" war.⁷² "Tajikistan seizes roughly 80 percent of all drugs captured in Central Asia and stands third worldwide in seizures of opiates"⁷³

One distinct drug trafficking route is the northern Afghan channel.⁷⁴ It has become a well known drug passage that extends from Afghanistan into Tajikistan, Kyrgyzstan, and Uzbekistan, then into Kazakhstan.⁷⁵ This route allows traffickers to transit into Russia's southern border cities.⁷⁶ Next to Russia, Kazakhstan has the largest territory of the former Soviet republics, and shares an immense border with Russia.⁷⁷ The 6,846-kilometer border is vulnerable to the exposure of danger,⁷⁸ so "drug smugglers are easily able to bypass official checkpoints and cross the border."⁷⁹ "Although 90 percent of Russia's heroin seizures occur near the Kazakh border, Russian officials believe that between 90 and 98 percent of the drugs still pass through."⁸⁰

Besides traveling by land, there are also other options for drug traffickers to get to their destination points. The Caspian Sea, located west of Central Asia, is another major port for drug smuggling into Russia.⁸¹

72. GORDON BENNETT, THE FEDERAL BORDER GUARD SERVICE 23 (Conflict Studies Research Center, Mar. 2002), available at <http://studies.agentura.ru/centres/csrc/pogran.pdf> (last visited Sept. 17, 2005).

73. *The World Factbook: Tajikistan*, CENTRAL INTELLIGENCE AGENCY (2004), at <http://www.cia.gov/cia/publications/factbook/geos/ti.html#Issues> (last modified Nov. 1, 2005).

74. *Heroin Trafficking In Russia's Troubled East*, DRUG ENFORCEMENT ADMIN. (2003), at <http://www.dea.gov/pubs/intel/03053/03053.pdf> (last visited Sept. 18, 2005) [hereinafter *Heroin Trafficking*] "The traffickers are particularly fond of the 'green border' between Tajikistan and Kyrgyzstan, so termed because of its transparency." OLCOTT, *supra* note 60, at 14.

75. *Heroin Trafficking*, *supra* note 74.

76. *Id.* These southern cities include Omsk, Novosibirsk, Chelyabinsk, Orenburg, Ufa, and Irkutsk. *Id.*

77. See generally *The World Factbook: Kazakhstan*, CENTRAL INTELLIGENCE AGENCY (2004), at <http://www.cia.gov/cia/publications/factbook/geos/kz.html> (last modified Nov. 1, 2005). "The Russian border with Kazakhstan is roughly twice the length of the U.S.-Mexican border" INT'L NARCOTICS REPORT, *supra* note 57.

78. *Heroin Trafficking*, *supra* note 74.

79. Paoli, *supra* note 59, at 29.

80. *Heroin Trafficking*, *supra* note 71. Total seizures made in countries surrounding Afghanistan in 2002 were "twice as high as in 2000 which implies increasing use of the Central Asian trafficking routes." Programme Framework, *supra* note 10.

81. Bureau For Int'l Narcotics & Law Enforcement Affairs, U.S. Dep't Of State, Int'l Narcotics Control Strategy Report 2003 (Mar. 2004), available at <http://www.state.gov/p/inl/rls/nrcrpt/2003/vol1/html/29838.htm> [hereinafter Report 2003].

Ferry service traveling across the Caspian Sea is a well-established and popular route.⁸² The usage of the ferry system helps drugs get into Russia from places like Turkmenistan.⁸³ Another method used to traffic drugs through Central Asia is by rail. Railways are well-liked by drug traffickers.⁸⁴ On one popular railway, the Dushanbe-Moscow route, it is believed that on each passenger train there are drugs being trafficked out of Central Asia and concealed anywhere the creative trafficker can imagine.⁸⁵ Each train traveling from Central Asia is searched, by Russian border guards as well as by security service agents, at every railway border it crosses before entering the country.⁸⁶ Although precautions are taken by searching the trains, drugs continue to enter Russia.

C. *Once Drugs Are Trafficked Into Russia . . . Then What?*

Russia is a massive country, occupying approximately two times the size of the United States.⁸⁷ With almost twice the area of the United States, Russia is the largest country in the world.⁸⁸ It is bordered by fourteen countries totaling 20,017 kilometers of land boundaries.⁸⁹ This enormous border remains relatively open since it would be impossible to guard every inch.⁹⁰

During communist control, the illicit drug industry was not nearly as evident as it was in the United States or Europe.⁹¹ “All data concerning drug trade and the number of drug addicts was classified and considered to be a state secret . . .”⁹² Therefore, guessing the pervasiveness of drug problems in the U.S.S.R. became impractical.⁹³ The “Iron Curtain” hemming on the borders of the U.S.S.R. helped to bar the trafficking of

The Caspian Sea borders the west coast of Turkmenistan and Kazakhstan. *See Map, supra* note 7.

82. Yury Yegorov, *Drug Trafficking: How Heroin Enters Russia* (Dec. 2004), at http://www.newtimes.ru/eng/detail.asp?art_id=642.

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. *Russia: Environmental Issues*, Energy Information Administration (May 2004), at <http://www.eia.doe.gov/emeu/cabs/russenv.html>.

88. *The World Factbook: Russia*, Central Intelligence Agency (2004), at <http://www.odci.gov/cia/publications/factbook/print/rs.html> (last modified Feb. 10, 2005).

89. *Id.*

90. *See generally Heroin Trafficking, supra* note 74.

91. OLCOTT, *supra* note 60, at 5.

92. *Id.*

93. *Id.*

drugs into the country.⁹⁴ Reports of criminal behavior seldom became public knowledge, though crime surely existed.⁹⁵

When the Communist Party fell from power in 1991, “the map of the world . . . changed forever.”⁹⁶ Unprotected borders opened Russia to the outside world for the first time.⁹⁷ Weak border control between Central Asian states allowed traffickers to develop new trafficking routes.⁹⁸ Unfortunately, a large drug market has emerged⁹⁹ due to new prospects for traffickers.¹⁰⁰

Since the increase of potential drug trafficking was not an initial concern of these newly created countries, international drug traffickers welcomed this offer.¹⁰¹ Traffickers chose Russia as a market and as a way to channel into other drug markets.¹⁰² “Increased cross-border communications meant increased opportunity for drug smugglers to establish contacts with interested parties in the region.”¹⁰³ The drug problem finally became so prevalent that the government could no longer dismiss its existence.¹⁰⁴ Leaders were forced to address the issue and create a plan to fight the drug crisis.¹⁰⁵

Today, the Russian drug market is saturated with opiates, the heroin business in particular.¹⁰⁶ Heroin generates a large and stable income for Russian dealers, and because users become dependent on heroin, unlike marijuana, the heroin business receives more repeat customers.¹⁰⁷ According to the United Nations’ Office of Drug Control and Crime

94. Ilina, *supra* note 11.

95. Levitsky, *supra* note 25, at 234.

96. OLCOTT, *supra* note 60, at 5.

97. *Id.*

98. *Heroin Trafficking*, *supra* note 74.

99. Paoli, *supra* note 59, at 21.

100. OLCOTT, *supra* note 60, at 5.

101. *Id.* at 23.

102. RUSSIA: A COUNTRY STUDY (Glenn E. Curtis, ed., Library of Congress Federal Research Division 1998), available at <http://hdl.loc.gov/loc.gdc/cntrystd.ru> (last visited Sept. 17, 2005) [hereinafter *LOC Russia*].

103. OLCOTT, *supra* note 60, at 10.

104. *Id.* at 23.

105. *Id.*

106. Lev Levinson, *Russian Drug Policy: Stating the Problem and Revealing the Actual Picture*, in *WAR ON DRUGS, HIV/AIDS AND HUMAN RIGHTS* 52, 54 (Kasia Malinowska-Sempruch & Sarah Gallagher eds., 2004).

107. *See id.*

Prevention (UNDCP), ever-increasing amounts of heroin are smuggled into Russia from Afghanistan each year.¹⁰⁸

1. Russian Organized Crime and their Power over the Drug Trade

The drug business is one of Russia's "most latent, well-organized forms of criminality."¹⁰⁹ Criminal groups play a huge role in the drug trafficking industry by using bribery and corruption against enforcement.¹¹⁰ Likewise, drug trafficking creates a steady source of revenue for ROC groups.¹¹¹

ROC groups became more visible after the Communist era, but "there is no doubt that ROC materialized long before [then]."¹¹² The Russian Ministry of the Interior has put the number of criminal organization members at over 100,000,¹¹³ with approximately twenty branches functioning overseas.¹¹⁴ ROC groups are established in approximately fifty countries.¹¹⁵ Today's ROC groups include former communist party members¹¹⁶ and "specialists from the security forces, military, and technological experts who were left unemployed after the collapse of the Soviet Union."¹¹⁷ These members are knowledgeable in their fields, giving ROC groups an advantage in technology and communication skills.¹¹⁸

ROC groups have found roles as transporters and controllers over Russia's "ports and [are] well positioned to operate international drug shipments."¹¹⁹ Trafficking into the country is often managed by specially

108. DRUG ENFORCEMENT ADMIN., DRUG INTELLIGENCE BRIEF, RUSSIAN ORGANIZED CRIME GROUPS (2002), available at <http://www.usdoj.gov/dea/pubs/intel/02004/indexp.html> [hereinafter RUSSIAN ORG. CRIME].

109. ORGANIZED CRIME: WORLD PERSPECTIVES 155 (Jay S. Albanese et al. eds., 2003) [hereinafter ORGANIZED CRIME].

110. Joseph E. Ritch, *They'll Make You an Offer You Can't Refuse: A Comparative Analysis of International Organized Crime*, 9 TULSA J. COMP. & INT'L L. 569, 574 (2002).

111. OLCOTT, *supra* note 60, at 24. "ROC is an umbrella term, which includes ethnic groups from the 15 members of the New Independent States . . ." RUSSIAN ORG. CRIME, *supra* note 108.

112. Leah Pettitt, *Weapons of Mass Destruction Stockpiled in Russia: Should the United States Continue to Implement Programs Designed to Reduce and Safeguard These Weapons?* 16 TRANSNAT'L LAW. 169, 187 (2002).

113. Ritch, *supra* note 110, at 578.

114. Levitsky, *supra* note 25, at 234.

115. Ritch, *supra* note 110, at 578.

116. *Id.*

117. *Id.* at 579.

118. *Id.*

119. *Heroin Trafficking*, *supra* note 74.

trained members of various ethnic criminal groups.¹²⁰ ROC groups traffic drugs worldwide.¹²¹ In addition to domestic distribution, they “allow other trafficking groups to sell their drugs in Russia for a percentage of the profit.”¹²² ROC groups managing criminal undertakings in different parts of Russia handle most of the domestic drug distribution.¹²³ These groups exploit old and new trade routes to transport illegal drugs.¹²⁴

“The entry of Russian criminal groups into the international crime arena in the past decade has also complicated the work of law enforcement immensely.”¹²⁵ ROC groups are considered “bigger and more important than the state.”¹²⁶ High level Russian officials fear that the security of the Russian society will soon be threatened by the criminal activities of the ROC.¹²⁷

The main obstacle to combating organized crime in Russia appears to be widespread corruption throughout the country.¹²⁸ The war with ROC groups is difficult due to wide-ranging corruption at all levels of law enforcement.¹²⁹ “The corruption among law enforcement authorities directly affects the capability of the society and government to combat organized crime.”¹³⁰ The influence of ROC groups account for about two-thirds of the Russian economy, including banks, private businesses, and remaining state-owned enterprises.¹³¹ “[C]rime groups in Russia have power over the domestic activities in that they control 40% of the turnover in goods and services.”¹³² ROC groups finance corrupt officials, bribing them with money¹³³ “in return for their cooperation in the underground economy.”¹³⁴ ROC groups have “more connections and stronger ties to the government than any other organized crime group.”¹³⁵

120. Report 2003, *supra* note 81.

121. RUSSIAN ORG. CRIME, *supra* note 108.

122. *Id.*

123. Report 2003, *supra* note 81.

124. CTR. FOR STRATEGIC & INT'L STUDIES, CSIS TASK FORCE REPORT, RUSSIAN ORGANIZED CRIME: GLOBAL ORGANIZED CRIME PROJECT 96 (1998).

125. Levitsky, *supra* note 25, at 234.

126. Ritch, *supra* note 110, at 580

127. RUSSIAN ORG. CRIME, *supra* note 108.

128. ORGANIZED CRIME, *supra* note 109, at 163.

129. *Id.* at 155.

130. *Id.* at 163.

131. Ritch, *supra* note 110, at 578-579.

132. *Id.* at 579.

133. *Id.* at 580.

134. Pettitt, *supra* note 112, at 188.

135. Ritch, *supra* note 110, at 579.

Though the laws in Russia have changed since 1991, by increasing sanctions for crimes committed by ROC groups, an overall weakness of law enforcement and governmental authority over Russian organized crime remains.¹³⁶ Russian “authorities have had little luck combating organized crime groups that control most drug trafficking in the region.”¹³⁷ While it is extremely difficult for Russian police to arrest leaders of ROC groups, they frequently encounter those members at the bottom of the organizations.¹³⁸ Low-level members, after being arrested by police or seized by Customs, disclose patterns used to traffick drugs through Russia.¹³⁹ Police often punish drug consumers and neglect their distributors.¹⁴⁰ The Russian Criminal Code “focuses on individual crimes, but lacks the capability to prosecute large and complicated organizations.”¹⁴¹ The Criminal Code, therefore, makes it hard for officials to overcome organized crime in general.¹⁴²

2. The Problems Russians Face Due to Afghan’s Opiates

After the Communist fall, increases in the availability of drugs lead to an increase in the number of drug addicts.¹⁴³ Increased opium production in Afghanistan and drug trafficking through Central Asia has encouraged the consumption of heroin along Russia’s drug trafficking routes, that extend throughout the country.¹⁴⁴ “The sharp increase in the supply of heroin has correlated with a sharp decrease in price, which in turn, stimulated demand to unprecedented levels.”¹⁴⁵

There are signs that heroin abuse is rising among Russian citizens.¹⁴⁶ In addition, approximately 70,000 Russians die each year from Afghani drugs.¹⁴⁷ Russia’s drug abuse is closely linked to its troubled economy.¹⁴⁸

136. JAMES O. FINCKENAUER & YURI A. VORONIN, *THE THREAT OF RUSSIAN ORGANIZED CRIME* 9 (2001).

137. Malinowska-Sempruch, *supra* note 8, at 202-03.

138. *ORGANIZED CRIME*, *supra* note 109, at 155.

139. *Id.*

140. *Id.* at 157.

141. Ritch, *supra* note 110, at 581.

142. *Id.*

143. *See generally Heroin Trafficking*, *supra* note 71.

144. Chouvy, *supra* note 9.

145. Profile Prepared by the Drug Law and Health Policy Resource Network, Drug Policy & Health in the Russian Federation at 15 (Jan. 22, 2002), available at <http://www.dpf.org/docUploads/RUSSIA.pdf> [hereinafter Drug Policy].

146. *See generally Opium Economy*, *supra* note 24.

147. *Stream of Drugs*, *supra* note 52.

The standard of living for many Russians dropped in 1998, causing many Russians to turn to illegal drugs for relief.¹⁴⁹ An increase in drug abuse in Russia can also be traced back to the Soviet-Afghanistan civil war in the 1980s, when Soviet soldiers became addicted to opiates while fighting in Afghanistan.¹⁵⁰ These troops “established business relations with the Afghan drug producers, some of whom continue to serve as a source of the present expanded drug trade.”¹⁵¹

While the estimated number of Russians reported to be addicted to drugs in 2004 was 390,000, the actual number was much higher.¹⁵² The number of unregistered drug users in Russia is predicted to be between 4 and 5 million people.¹⁵³ This is partly due to controversial Russian policies requiring official registration of drug addicts who seek public assistance, which exposes abusers to discrimination and harassment.¹⁵⁴ Approximately “half of the heroin transiting Russia is intended for European markets, while the remainder is targeted for domestic use in Russia.”¹⁵⁵

The decreased cost of heroin has not deterred users from committing crimes in order to sustain their drug habits.¹⁵⁶ Russians are not only becoming more addicted to drugs, they are also becoming a large part of the growing HIV/AIDS epidemic.¹⁵⁷ There are more people living with HIV in Russia than in the entire continent of North America.¹⁵⁸ “As of July 2003, the total number of Russians officially registered as having HIV stood at more than 240,000, nearly triple the number recorded in 2000.”¹⁵⁹

148. *Heroin Trafficking*, *supra* note 74. The transition to a capitalist society has been a tough road for Russia, “as living standards have fallen, social inequality has worsened, and public health and other social support systems have deteriorated.” See Malinowska-Sempruch, *supra* note 8, at 202.

149. Drug Policy, *supra* note 145.

150. OLCOTT, *supra* note 60, at 5.

151. *Id.*

152. INT’L NARCOTICS REPORT, *supra* note 57.

153. *Id.*

154. See Malinowska-Sempruch, *supra* note 8, at 202.

155. *Heroin Trafficking*, *supra* note 74.

156. Report 2003, *supra* note 81.

157. UNAIDS/WHO, *AIDS Epidemic Update*, U.N. Doc. UNAIDS/03.39E at 14 (Dec. 2003), available at http://www.unaids.org/html/pub/publications/irc-pub06/jc943-epiupdate2003_en_pdf.htm (last visited Aug. 31, 2005) [hereinafter *AIDS Epidemic Update*].

158. Daniel Wolfe, *Alchemies of Inequality: The United Nations, Illicit Drug Policy and the Global HIV Epidemic*, in *WAR ON DRUGS, HIV/AIDS AND HUMAN RIGHTS* 158, 160 (Kasia Malinowska-Sempruch & Sarah Gallagher eds., 2004).

159. Malinowska-Sempruch, *supra* note 8, at 204.

At least 1.5 million Russians are thought to be HIV infected.¹⁶⁰ An estimated 8 million HIV infections could plague Russia within the next several years, out of a population of 144 million.¹⁶¹

An increase in drug addicts is closely connected to the spread of HIV in Russia.¹⁶² Research shows that there is a direct correlation between the appearance of HIV cases in Russia and known drug trafficking routes.¹⁶³ Many HIV cases result from people using drugs intravenously,¹⁶⁴ surging both in Central Asia and Russia.¹⁶⁵ In 2003, the Human Rights Watch reported on HIV Prevention for Injection Drug Users, and found that injection drug use accounts for an estimated “80 percent of infections in Russia, whose infection rates have surpassed North America’s,” where injection drug use accounts for 36 percent of AIDS cases.¹⁶⁶

III. COMBATING DRUG TRAFFICKING: AGENCIES, LAWS, & INTERNATIONAL COOPERATION

A. *Agencies*

Three agencies were responsible for state security and intelligence during the communist era: the Defense Ministry, the Soviet State Security Committee (KGB), and the Interior Ministry.¹⁶⁷ These agencies split up and were replaced by many different agencies.¹⁶⁸ Responsibilities were handed to each new agency, creating uncertainty and lack of uniformity in protecting a newly freed Russia.¹⁶⁹ Today, the Russian Federal Border Guard Service is the primary enforcer of the Russian border.¹⁷⁰ The

160. *Id.*

161. *Id.* at 204-05.

162. See *AIDS Epidemic Update*, *supra* note 157.

163. *Id.* “[Injection drug users] are the majority of those infected in Tajikistan, Kazakhstan, [and] Uzbekistan, . . . all of which report rapidly growing epidemics.” Wolfe, *supra* note 158, at 161.

164. Ilina, *supra* note 11. Syringe and needle usage is the most common way to use heroin and addicts often share needles, thus spreading infection. *Id.*

165. See *AIDS Epidemic Update*, *supra* note 157, at 14.

166. Press Release, Ulysses de la Torre, Global Information Network, Health: Just Say No Called Deadly Advice by Drug Experts (Mar. 4, 2005), available at 3/4/05 Inter Press Serv [hereinafter de la Torre].

167. Nikolai Petrov, *Putin Reform: Round 3*, MOSCOW TIMES, Mar. 13, 2003, 2003 WLNR 4380690.

168. *Id.*

169. *Id.*

170. See generally BENNETT, *supra* note 72.

Federal Customs Service, the Interior Ministry, the Federal Security Service, and the Federal Anti-Drug Service primarily investigate the trafficking, and enforce drug trafficking laws.¹⁷¹

1. Enforcement of the Border: The Russian Federal Border Guard Service (FBGS)

The Soviet Union attached considerable importance of protecting its borders to its reputation.¹⁷² The powerful KGB's border troops were in charge of guarding the nation's border, and "preventing illegal crossings of the border or the transport of subversive or dangerous materials."¹⁷³ Approximately 230,000 personnel contributed to the border troop's power by the late 1980s.¹⁷⁴

After the construction of the new Commonwealth of Independent States (CIS), "Russia did not have the resources to establish a fully equipped border regime along its boundaries."¹⁷⁵ It "lacked the secure buffer zone of Soviet republics and subservient East European countries that had provided border security in the Soviet era."¹⁷⁶ The Committee for the Protection of State Borders succeeded the KGB's border troops in 1992, and in 1993, the Federal Border Service was established.¹⁷⁷ Russia's "top priority was to guard the outside borders of the CIS . . . rather than the borders that Russia now shared with CIS countries."¹⁷⁸ Russia promoted open borders with certain CIS states.¹⁷⁹ However, strict border regimes were established in unstable areas.¹⁸⁰ One of the reasons that the region caught the attention of traffickers was because the new borders remained unprotected.¹⁸¹ The deficiency in protecting new borders made it fairly simple for traffickers to bring drugs across the Russian border.¹⁸² It was essential for newly trained border guards to patrol the CIS's new borders effectively.¹⁸³

171. *Battlefield View of the War on Drugs*, MOSCOW TIMES, Mar. 5, 2005, 2005 WLNR 3384173 [hereinafter *Battlefield*].

172. See BENNETT, *supra* note 72, at 1.

173. *LOC Russia*, *supra* note 102.

174. *Id.*

175. *Id.*

176. *Id.*

177. *Id.*

178. *Id.*

179. See *LOC Russia*, *supra* note 102.

180. *Id.*

181. OLCOTT, *supra* note 60, at 10.

182. Paoli, *supra* note 59, at 29.

183. See generally OLCOTT, *supra* note 60, at 10.

Along with the overall responsibility of protecting Russia's borders, the FBGS conducts anti-smuggling operations targeting the seizure of illicit drugs.¹⁸⁴ "In 2001, the [agency] seized almost 5.5 tons of drugs, including 2.5 tons of heroin and 3 tons of opium, which are almost 10 times higher compared to the seizures made in 1999."¹⁸⁵

In 1993, Russia and Tajikistan entered an agreement that gave Russia the responsibility of protecting Tajikistan's mountainous border with Afghanistan.¹⁸⁶ Russia protected this borderline to help keep the CIS free from Afghan drug trafficking.¹⁸⁷ The FBGS conducted approximately 2,500 seizures of heroin on the Tajik/Afghan border in 2001 alone.¹⁸⁸ However, in 2004, Russian border guards returned a majority of the Afghan border back to Tajikistan.¹⁸⁹ Russia signed an agreement "for a phased withdrawal of Russian forces" from Tajikistan by 2006,¹⁹⁰ and is scheduled to hand over sectors of the border currently protected by Russian border guards to Tajik jurisdiction.¹⁹¹ Tajikistan will become accountable for the drugs trafficked through the Tajik-Afghan sector once Russian forces are fully removed.¹⁹² The "chief of the Main Tajik Governmental Border Protection Committee" estimated that approximately "\$100 million is required to strengthen the state border of Tajikistan."¹⁹³

2. Russian Drug Enforcement: Tracking Down Traffickers

The Federal Security Service (FSS) is "responsible for Russian security and counter-intelligence."¹⁹⁴ The agency includes a "Drug Smuggling and Trafficking Control Division and a network of anti-drug

184. Country Profile: Russia, *supra* note 2, at 29.

185. *Id.* at 14.

186. INT'L NARCOTICS REPORT, *supra* note 57; see also Vladislav Kulikov, *Secrets of the Pamirs: Russian Border Guards Are Passing Over the Control Over Their Responsibility Zones In the Pamirs to the Border Guard Committee of the Republic of Tajikistan*, Nov. 19, 2004, 2004 WLNR 10910668 (explaining that over 90 percent of Tajik citizens staff the Russian Border Guard).

187. Sergei Osipov, *Following the Path of Heroin: Russian Military Objects in Tajikistan: The History, Condition and Prospects*, Oct. 18, 2004, at 2004 WLNR 506847.

188. Country Profile: Russia, *supra* note 2, at 14.

189. *Strengthening the State Border of Tajikistan Requires Considerable Financing*, Jan. 24, 2005, at 2005 WLNR 957967 [hereinafter *Strengthening the State*].

190. INT'L NARCOTICS REPORT, *supra* note 57.

191. *Strengthening the State*, *supra* note 189.

192. INT'L NARCOTICS REPORT, *supra* note 57.

193. *Strengthening the State*, *supra* note 189.

194. Miranda Lathrop Barber, *Reforming Criminal Justice in Russia: Progress Report for the Twenty-First Century*, 13 TRANSNAT'L LAW 319, 341 (2000).

trafficking units within the Service's regional departments."¹⁹⁵ The FSS may arrest an individual suspected of drug smuggling.¹⁹⁶

The FSS is a successor organization to the KGB, which dismantled after 1991.¹⁹⁷ The Federal Counterintelligence Service, the original KGB successor, later reorganized into the FSS by the 1995 Federal Law, *On the Organs of the Federal Security Service in the Russian Federation*.¹⁹⁸ Chapter III, Article 12 lists the duties of the FSS: Section (f) states that the FSS is obliged "to formulate and implement in collaboration with other state organs measures to combat corruption, illegal arms and drugs trafficking, smuggling, and the activity of illegal armed formations, criminal groups, individuals, and public associations which aim to forcibly change the constitutional system of the Russian Federation."¹⁹⁹ Chapter II, Article 10, goes on to state that the FSS

in accordance with Russian Federation legislation, implement operational-investigative measures to detect, avert, suppress, and expose espionage, terrorist activity, organized crime, corruption, illegal arms and drugs trafficking, smuggling, and other crimes, whose investigation [doznaniye] and preliminary examination [sledstviye] are ascribed by law to their jurisdiction, and also to detect, avert, suppress, and expose the activity of illegal armed formations, criminal groups, individuals, and public associations which aim to forcibly change the Russian Federation constitutional system.²⁰⁰

Article 13 continues on, listing the rights of the FSS organs as,

a) to establish confidential relations of cooperation with people who consent to do so; b) to implement operational-investigative measures to detect, avert, suppress, and expose espionage, terrorist activity, organized crime, corruption, illegal arms and drug trafficking, smuggling, and other

195. Country Profile: Russia, *supra* note 2.

196. See generally *LOC Russia*, *supra* note 102.

197. *Id.*

198. *Id.* See also *On the Organs of the Federal Security Service in the Russian Federation*, Russian Federation Federal Law No. 40-FZ (1995), available at <http://www.fas.org/irp/world/russia/docs/index.html> [hereinafter *Organs of the FSS*].

199. *Id.*

200. *Id.*

crimes whose investigation and preliminary investigation are ascribed by Russian Federation legislation to the jurisdiction of [FSS] organs and also to detect, avert, suppress, and expose the activity of illegal armed formations, criminal groups, individuals, and public associations which aim to forcibly change the Russian Federation constitutional system[.]²⁰¹

In order to improve manageability within the organization, the FSS was reorganized into five departments in May 1997, replacing the existing 34 directorates.²⁰²

The Russian State Customs Committee consists of several anti-drug units, including Interregional Anti-Drug Operations, Intelligence, Operations Against Drug Smuggling, and Criminal Groups and Channels; these groups enforce national narcotics laws.²⁰³

“[T]he rapid expansion in heroin trafficking [from Central Asia into Russia is] indicated by the quantities of drugs intercepted by customs at the Russian border.”²⁰⁴ In 2001, Customs drug seizure figures proved that “96.5% of the heroin . . . [and] 60% of the opium . . . had come from and through the Central Asian States.”²⁰⁵

The Russian Ministry of the Interior (MOI) is a key component in providing security and crime control for the Russian Federation.²⁰⁶ Heroin’s growing popularity is clearly demonstrated by the amount of seizures carried out by the MOI, which mirrors the popularity growth evidenced at customs, as mentioned above.²⁰⁷ “[B]etween 1990 and 1999 the amount of drugs seized by the Russian [MOI] more than tripled.”²⁰⁸

In 2003, Russian President Vladimir Putin created a new drug agency initially named Russian State Committee for the Control of Narcotic and Psychotropic Substances (GKPN).²⁰⁹ It was renamed the

201. *Id.*

202. *FSB Organization*, at <http://www.globalsecurity.org/intell/world/russia/fsb-org.htm> (last modified Apr. 26, 2004).

203. See generally Country Profile: Russia, *supra* note 2.

204. Paoli, *supra* note 59, at 30.

205. Country Profile: Russia, *supra* note 2.

206. See generally Ministry of the Interior of Russia, *About the Ministry of the Interior of Russia*, at <http://eng.mvdrf.ru/?docid=3> (last visited Feb. 13, 2005).

207. See generally Paoli, *supra* note 59, at 25.

208. United Nations Office on Drugs & Crime, *Presentation of the Report on the Illegal Drug Trade in the Russian Federation*, available at http://www.unodc.org/russia/en/event_2001-04-05_1.html?print=yes (2001).

209. See generally INT’L NARCOTICS REPORT, *supra* note 57.

Federal Drug Control Service (FDCCS) a year later.²¹⁰ “This 40,000 member agency is tasked with coordinating all drug investigations and enforcing narcotics laws within Russia.”²¹¹ The FDCCS requires licensing for the “production, transportation, distribution, and import/export of controlled substances.”²¹²

The U.S. Drug Enforcement Agency (DEA) offices exist globally.²¹³ In 1996, the DEA office in Moscow opened to help aid Russian drug enforcement, including the Russian MOI’s Drug Control Department, the Customs, and the FSS.²¹⁴ The DEA in Moscow provided counter-narcotics training to over 200 trainees in 2004, funded by the U.S. State Department.²¹⁵ In 2005, the U.S. “DEA is scheduled to provide State Department-funded counternarcotics training to over 100 trainees, drawn from the FSKN, the MVD, and [Customs].”²¹⁶

3. The Problem with Corruption in Russian Agencies

“Drugs can also be a [destabilizing] force within existing governments because of their incredible power to corrupt,” while those not corrupted face dangerous consequences, including murder.²¹⁷ Corruption flooding Russian drug detection agencies contributes to Russian drug policy.²¹⁸ Efforts by officials to deter drug distribution turns out to be useless due to the extensive corruption present in different agencies.²¹⁹

In a Moscow Times article published in March 2005, an anonymous Russian police investigator gave a candid interview; he stated that the veteran policeman monthly salary totaled about \$290 U.S.D. per month.²²⁰

210. *Id.*

211. Report 2003, *supra* note 81.

212. INT’L NARCOTICS REPORT, *supra* note 57.

213. See generally *Testimony Before the Senate Judiciary Committee Subcommittee on Technology, Terrorism, and Government Information*, 107th Cong. (2002) (Testimony by Asa Hutchinson, DEA Administrator), available at <http://www.state.gov/p/inl/rls/rm/2002/9239.htm> (last visited Sept. 6, 2005) [hereinafter *Testimony*]. The DEA also reopened a Kabul, Afghanistan Country Office in February 2003, which has made “superb contributions” to destabilize the flow of drugs out of the country. *Flow of Heroin*, *supra* note 26.

214. See generally United States Embassy Moscow Russia, *DEA Moscow*, at http://moscow.usembassy.gov/bilateral/print.php?record_id=drug (last visited Sept. 6, 2005).

215. Report 2003, *supra* note 81.

216. See generally INT’L NARCOTICS REPORT, *supra* note 57.

217. Anne H. Geraghty, *Universal Jurisdiction and Drug Trafficking: A Tool for Fighting One of the World’s Most Pervasive Problems*, 16 FLA. J. INT’L L. 371, 375 (2004).

218. See generally Levinson, *supra* note 106, at 53.

219. *Id.* at 54.

220. See generally *Battlefield*, *supra* note 171.

He also alleged that “every policeman is corrupt;” some take bribes while others sell drugs on the side, since [n]o one can live on those wages alone.²²¹ He said that the ultimate question was not whether law enforcement officials were corrupt, but rather to what degree they were corrupt.²²² A judge of the Russian Supreme Court stated that it was “officials in charge of drug dealing detection (or the Militia) divisions that dominate the list of disclosed large drug dealers.”²²³ In 2003, several FDOS agents were arrested after allegedly “taking bribes to not launch a criminal case against a drug trafficker.”²²⁴ The ongoing conspiracy between ROC groups and law enforcement makes controlling crime complicated.²²⁵

Drug traffickers need superb negotiation tactics due to official checkpoints that routinely stop vehicles driven by Central Asians.²²⁶ “[L]ow-level officers can generally be bribed to allow suspect cargo to pass through”²²⁷ Also, Russian soldiers and officers stationed in Afghanistan easily smuggle narcotics back into Russia.²²⁸

B. The UN Conventions & International Cooperation to Fight the Drug War

Russia belongs to three UN protocols-known collectively as the UN Drug Conventions-which “guide the global, and in many cases, national regulation of illicit drugs.”²²⁹ They include the *1961 Single Convention on Narcotic Drugs*, which distinguished drug groups by Schedules;²³⁰ the *1971 UN Convention on Psychotropic Substances*, which expanded the 1961 treaty;²³¹ and the *1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance*, its purpose being to “promote co-operation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic

221. *Id.*

222. *Id.*

223. Levinson, *supra* note 106, at 54.

224. Report 2003, *supra* note 81.

225. *LOC Russia*, *supra* note 102.

226. *Heroin Trafficking*, *supra* note 74, at 10.

227. *Id.*

228. *LOC Russia*, *supra* note 102.

229. Wolfe, *supra* note 158, at 164.

230. See United Nations Single Convention on Narcotic Drugs of 1961, Mar. 30, 1961, 18 U.S.T. 1407, available at http://www.incb.org/pdf/e/conv/convention_1961_en.pdf.

231. See United Nations Convention on Psychotropic Substances of 1971, Feb. 21, 1971, 32 U.S.T. 534, available at http://www.incb.org/pdf/e/conv/convention_1971_en.pdf. See also Malinowska-Sempruch, *supra* note 8, at 196.

substances having an international dimension.”²³² The 1988 Convention is the strictest of all three treaties.²³³ It referred to the previous treaties and urged each signatory country to “adopt such measures as may be necessary to establish [the possession of illicit drugs] as criminal offences under its domestic law, when committed intentionally.”²³⁴ This language is vague and leads to different interpretations by different governments when drafting legislation.²³⁵

The 1988 Convention requires cooperation in dealing with drug trade between member states, requiring that any information about any of the above offenses be communicated.²³⁶

Article 9 of the 1988 Convention states that “The Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, with a view to enhancing the effectiveness of law enforcement action to suppress the commission of offences established in accordance with article 3, paragraph 1.”²³⁷ Article 3 states that

Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally . . . [t]he production, manufacture, extraction; preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug . . .²³⁸

Furthermore, Article 10 states that, “The Parties shall co-operate, directly or through competent international or regional organizations, to assist and support transit States and, in particular, developing countries in need of such assistance and support, to the extent possible, through programmes of technical co-operation on interdiction and other related

232. United Nations Convention Against Illicit Traffic in Narcotic Drugs & Psychotropic Substances, *opened for signature* Dec. 20, 1988, S. TREATY DOC. NO. 101-4, at Art. 2, part 1, available at http://www.incb.org/pdf/e/conv/convention_1988_en.pdf [hereinafter 1988 Convention]. “166 nations are parties to the 1988 Convention” requiring criminalization of drug offenses. Geraghty, *supra* note 217, at 389.

233. Malinowska-Sempruch, *supra* note 8, at 196.

234. *Id.*

235. *Id.* at 197.

236. 1988 Convention, *supra* note 232, at Art. 9.

237. *Id.* at § 1.

238. *Id.* at Art. 3.

activities.”²³⁹ Part two continues, “The Parties may undertake, directly or through competent international or regional organizations, to provide financial assistance to such transit States for the purpose of augmenting and strengthening the infrastructure needed for effective control and prevention of illicit traffic.”²⁴⁰

“The International Narcotics Control Board (INCB) is the independent and quasi-judicial monitoring body for the implementation of the United Nations international drug control conventions. It was established in 1968 in accordance with the Single Convention on Narcotic Drugs, 1961.”²⁴¹ Its primary responsibility is to ensure compliance with UN treaties.²⁴² The board deals with two aspects of drug control.²⁴³ First, “[a]s regards the licit manufacture of, trade in and use of drugs, INCB endeavours, in cooperation with Governments, to ensure that adequate supplies of drugs are available for medical and scientific uses and that the diversion of drugs from licit sources to illicit channels does not occur.”²⁴⁴ Second,

[a]s regards the illicit manufacture of, trafficking in and use of drugs, INCB identifies weaknesses in national and international control systems and contributes to correcting such situations. INCB is also responsible for assessing chemicals used in the illicit manufacture of drugs, in order to determine whether they should be placed under international control.²⁴⁵

The INCB also observes whether the treaties are effectively applied throughout the world and can then make recommendations.²⁴⁶

“Countries that have ratified and signed the conventions . . . are expected to incorporate their provisions into domestic law.”²⁴⁷ In 2001, the Russian Minister of Interior Affairs Boris Grysllov stated that “‘total prohibition’ of illicit drug use was ‘not the [government’s] own initiative . . . but rather a responsibility to implement the UN drug

239. *Id.* at Art. 10.

240. *Id.*

241. International Narcotics Control Board Official Website, *Mandate and Functions*, at <http://www.incb.org/incb/en/mandate.html> (last visited Sept. 6, 2005).

242. *See Id.*

243. *Id.*

244. *Id.*

245. *Id.*

246. *Id.*

247. Malinowska-Sempruch, *supra* note 8, at 196.

conventions”²⁴⁸ To comply with these treaties, the Russian government executed authoritarian anti-drug laws, and most of Russia’s resources were allocated to law enforcement institutions instead of harm reduction programs.²⁴⁹ Russians seeking to wean themselves off opiates through methadone treatment face difficulty due to the fact that methadone is classified as an illicit drug by Russia’s rigid domestic interpretation of the UN Conventions.²⁵⁰

C. *The Russian Laws Complying with the UN Convention*

To comply with the UN Conventions, Russia implemented several domestic laws pertinent to the trafficking and use of drugs. First, the 1998 Russian Law on Narcotics and Psychotropic Substances created stricter penalties for the sale and large scale trafficking of narcotics.²⁵¹ It also prohibits drug propaganda and advertising in relation to trade.²⁵² It should be noted that this law includes “State support for scientific research aimed at developing new drug-dependence therapeutic techniques.”²⁵³ Within the Russian Criminal Code, Article 188 defines smuggling as,

movement on a large scale across the customs boundary of the Russian Federation of goods or other articles . . . committed by the bypassing of or with the concealment from customs control or with the deceptive use of documents or means of customs identification . . . shall be punished by deprivation of freedom for a term of up to five years.²⁵⁴

248. *Id.* at 200.

249. *Id.* at 195.

250. *Id.* at 196.

251. See generally *Russian Law on Narcotics and Psychotropic Substances*, Decree of the Gov’t of the Russian Federation, No. 681. C3 P , no. 27, item 3198 (1998), available at http://www.unodc.org/unodc/en/legal_library/ru/legal_library_1998-09-21_1998-66.html (last visited Sept. 18, 2005) [hereinafter *1998 Russian Law*]. This law originated in 1993 and was finally implemented in April 1998. William Butler, *HIV/AIDS & Drug Misuse in Russia: Harm Reduction Programmes & the Russian Legal System*, available at http://www.ifh.org/uk/russia_publication.html (last visited Apr. 8, 2005) [hereinafter Butler].

252. See *1998 Russian Law*, *supra* note 251, at Art. 46.

253. *Id.* at Art. 4.2.

254. CRIMINAL CODE OF THE RUSSIAN FEDERATION § 188 (William E. Butler trans., 3rd ed. 1999).

Article 228 provides that “The illegal acquisition or keeping without the purpose of sale of narcotic means or psychotropic substances on a large scale – shall be punished by deprivation of freedom for a term of up to three years.”²⁵⁵ In December 2003, President Putin signed an amendment to the Russian Criminal Code stipulating that maximum jail terms for large-scale sales were to increase to 5 to 12 years.²⁵⁶ The Amendment also provided that the illegal manufacture, sale, or shipment of narcotic drugs, “a) by an organized group; b) by a person through this official position; c) in respect of a person known to be under 14 years old; d) on an especially large scale” will be subject to 8 to 20 years of detention.²⁵⁷ This reform gives fines rather than jail sentences to minor offenders, but stipulates harsher punishment for dealers.²⁵⁸ The new law, “allowing drug users to possess a greatly increased amount of an illegal substance without risk of being thrown in jail... added [an] obstacle in the war on drugs.”²⁵⁹ However, it is also seen as a start to help limit corruption.²⁶⁰

Russian procedure requires “drug-treatment clinics to officially register [intravenous drug users] who seek assistance,” and to register AIDS patients with the public health authorities.²⁶¹ Another criminal law holds HIV positive people liable if they “knowingly [place] another person in danger of being infected with AIDS.”²⁶² An “[i]ndividual charged with possession of illegal drugs may escape criminal responsibility if he voluntarily surrenders the drugs and ‘actively participates in the investigation of drug related offences.’”²⁶³ This is interpreted broadly by law enforcement authorities as a license to harass and arrest those suspected of using drugs.²⁶⁴

255. *Id.* at § 228.

256. *On Amending the Criminal Code of the Russian Federation*, Dec. 8, 2003, UK RF No. 162-FZ [hereinafter Law No. 162-FZ].

257. *Id.*

258. *See generally id.*

259. *Battlefield*, *supra* note 171.

260. *Id.*

261. Malinowska-Sempruch, *supra* note 8, at 202.

262. CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 254, at § 122.

263. Malinowska-Sempruch, *supra* note 8, at 200.

264. *Id.* at 202.

IV. RECOMMENDATIONS TO BETTER COMBAT RUSSIA'S DRUG CRISIS

A. *Reorganize the Russian Drug Trafficking Patrol & Improve Cooperation Between Neighboring Countries*

The effectiveness of the border traffic control is complicated due to the number of Russian organizations performing overlapping and unsynchronized tasks.²⁶⁵ The MOI, FSS, and FCS are all responsible for drug enforcement policies, and not only do they "duplicate each other's efforts but also [these Russian organizations] do not have a well-established system of sharing information."²⁶⁶ One of the primary reasons for the ineffectiveness of the Russian Federal Border Service and other agencies combating the wave of drug trafficking is the lack of funding.²⁶⁷ "[I]nadequate budgets, low salaries and a lack of technical resources and support hamper performance and encourage corruption."²⁶⁸

In June 1999, the UNDCP, Interpol, and the World Customs Organization (WCO) developed a "database on the extent of drug abuse worldwide, which includes information . . . on the number of drug abusers and the ways and means of drug abuse, as well as on consumption patterns."²⁶⁹ In order to further facilitate the creation of this database, the UNDCP created a program to assist countries bordering Afghanistan.²⁷⁰

Law enforcement cooperation between Central Asia and neighboring countries is still premature.²⁷¹ In 1995, the FBGS, Kyrgyzstan, and Tajikistan agreed "to reinforce trilateral counternarcotics cooperation on the borders with Afghanistan, Pakistan and Iran."²⁷² In 1996, five Central Asian countries signed a UNDCP non-binding agreement called a Memorandum of Understanding (MoU), allowing each government to cooperate and share intelligence information in order to improve cooperation between governments to combat the drug problem.²⁷³

265. BENNETT, *supra* note 72, at 6.

266. OLCOTT, *supra* note 60, at 25.

267. *LOC Russia*, *supra* note 102.

268. Drug Policy, *supra* note 145, at 18.

269. OLCOTT, *supra* note 60, at 25.

270. *Id.*

271. Programme Framework, *supra* note 10, at 1.

272. Bureau for Int'l Narcotics & Law Enforcement Affairs, U.S. Dep't of State, 1998 Int'l Narcotics Control Strategy Report (Feb. 26, 1999), *available at* <http://www.hri.org/docs/USSD-INCSR/1998/Europe/Russia.html>.

273. U.N. General Assembly 20th Special Session on World Drug Problem, United Nations International Drug Control Programme, (*Bringing Drug Criminals to Justice- The Need for Global Cooperation*)(June 8-10, 1998), *at* <http://www.un.org/ga/20special/feature/justice.htm>.

B. Establish Alternative Sources of Income for Afghan and Other Central Asian Citizens

Providing international technical support and aid in the form of introducing new agricultural practices to Afghan farmers is essential.²⁷⁴ “[T]he UN and the Taliban stressed that international aid for farmers was essential if farmers were to make the transition to legitimate crops.”²⁷⁵ The United States has a long term strategy “to develop alternatives to opium poppy as a source of livelihood for Afghan farmers combined with building up local judicial and law enforcement functions, creating and strengthening national drug control institutions, and coordinating with neighboring and regional counternarcotics programs.”²⁷⁶

Effective political control of Afghanistan is essential to a successful crop substitution program.²⁷⁷ Given that “[t]he opium crop is thirty-one times more profitable per hectare than wheat,” this transition will be an extremely difficult one.²⁷⁸ The United States is dedicated to helping Afghanistan stabilize its economy and establish “alternative livelihoods needed for poppy farmers to feed their families and prosper.”²⁷⁹

C. Establish Universal Jurisdiction Over Drug Trafficking Crimes

Many countries have difficulty prosecuting drug traffickers located outside their borders.²⁸⁰ While there is international concern regarding international drug trafficking, it is currently not a universal jurisdiction crime.²⁸¹ Without universal jurisdiction over drug trafficking crimes, traffickers are allowed to take advantage of those “countries that lack the capability or willingness to enforce laws against trafficking.”²⁸² On the other hand, countries that do want to prosecute these criminals struggle to establish personal jurisdiction over criminals located outside their

274. Seyed Mojtaba Arastou, *Drug Trafficking Along Silk Route*, Address at the Economic Corporation Organization’s Conference on Drug Routes from Central Asia to Europe in Paris, France (May 21-22, 2003), at <http://www.tehrantimes.com/ftt/20030609ecn.htm>.

275. See CLEMENTS, *supra* note 12, at 77-78.

276. Country Program, *supra* note 48, at 1.

277. *Hearing: Security Policy*, *supra* note 16.

278. See CLEMENTS, *supra* note 12, at 78.

279. The White House, *National Drug Control Strategy*, Feb. 2005, available at <http://www.whitehousedrugpolicy.gov/publications/policy/ndcs05//ndcs05.pdf>.

280. Geraghty, *supra* note 217, at 372.

281. *Id.*

282. *Id.* at 382.

borders.²⁸³ Therefore, universal jurisdiction over drug trafficking crimes could be an extremely useful and powerful tool to hold drug traffickers accountable.

“The Princeton Principles on Universal Jurisdiction (Principles) are a progressive restatement of international law on the subject of universal jurisdiction.”²⁸⁴ In 2001, scholars and jurists from around the world participated in this project, and created guidelines for clarifying this aspect of international law.²⁸⁵ Different provisions within the Principles set out standard legal systems that must meet to justifiably exercise universal jurisdiction.²⁸⁶ Principle 1(1) states: “[u]niversal jurisdiction is criminal jurisdiction based solely on the nature of the crime, without regard to where the crime was committed, the nationality of the alleged or convicted perpetrator, the nationality of the victim, or any other connection to the state exercising such jurisdiction.”²⁸⁷ Principle 1(2) further states, “universal jurisdiction may be exercised by a competent and ordinary judicial body of any state in order to try a person duly accused of committing serious crimes under international law as specified in Principle 2(1).”²⁸⁸ A state cannot assert universal jurisdiction over an offense just because that offense is universally condemn

Jurisdiction “applies when the proscription does not originate with the enforcing state and the conduct does not occur within the territory of that state.”²⁸⁹ No connection between the enforcing state, the conduct, or suspect is needed.²⁹⁰ Universal jurisdiction is “based solely on the nature of the crime.”²⁹¹ “[A] crime can become subject to universal jurisdiction through the development of customary international law, as evidenced by domestic legislation, international agreements, and the commentary of international scholars.”²⁹²

283. *Id.* at 372.

284. UNIVERSAL JURISDICTION: NATIONAL COURTS AND THE PROSECUTION OF SERIOUS CRIMES UNDER INTERNATIONAL LAW 26 (Stephen Macedo ed., Pennsylvania Press, 2004) [hereinafter UNIVERSAL JURISDICTION].

285. *Id.*

286. *Id.* at 29.

287. *Id.* at 21.

288. *Id.*

289. M. Cherif Bassiouni, *The History of Universal Jurisdiction and Its Place in International Law*, in UNIVERSAL JURISDICTION: NATIONAL COURTS AND THE PROSECUTION OF SERIOUS CRIMES UNDER INTERNATIONAL LAW 42 (Stephen Macedo ed., 2004).

290. *Id.* at 42-43.

291. *Id.* at 43.

292. Geraghty, *supra* note 217, at 380.

The Principles list the following as “serious crimes under international law” that are so egregious that they offend the world community: piracy, slavery, war crimes, crimes against peace, crimes against humanity, genocide, and torture.²⁹³ Drug crimes were considered but were not included.²⁹⁴ Drug trafficking has been increasingly more accepted as a matter of customary international law, but the “trend has not yet gained enough momentum so that a state could base an exercise of universal jurisdiction over a drug trafficker on customary international law today.”²⁹⁵

“Evidence of customary international law is found in[.]... international conventions[.]”²⁹⁶ Universal jurisdiction can be established over a treaty offense.²⁹⁷ “If a treaty is widely accepted and implemented in state practice, however, the universal jurisdiction requirement can become binding upon all states as a matter of customary international law, whether or not they are parties to the treaty.”²⁹⁸ The 1988 U.N. Convention, which exercises universal jurisdiction in certain cases but not others, has many holes in the enforcement of universal jurisdiction.²⁹⁹ This treaty makes it clear “that drug trafficking is regarded by the international community as a matter of serious concern.”³⁰⁰ For universal jurisdiction to cover illicit drug

293. UNIVERSAL JURISDICTION, *supra* note 284, at 30-31.

294. *Id.* at 31. Drug trafficking was also discussed during the drafting of the Rome Statute that established the International Criminal Court (ICC). Geraghty, *supra* note 217, at 388. The ICC was adopted in 1998 at a UN Conference. UNIVERSAL JURISDICTION, *supra* note 284, at 19. “The International Criminal Court is limited to four groups of crimes: genocide, crimes against humanity, war crimes, and aggression.” Tonya J. Boller, *The International Criminal Court: Better Than Nuremberg?* 14 IND. INT’L & COMP. L. REV. 279, 284-85 (2003). “When a State ratifies the Rome Statute, that State automatically submits itself and its citizens to the jurisdiction of the ICC. The ICC has jurisdiction if the State is a State Party and 1) the crime was committed on that State’s territory; or 2) the State is the State of ‘which the person accused of the crime is a national.’ Finally, a State can voluntarily accept the jurisdiction of the ICC if the State is not a State Party to the Rome Statute. Thus, the ICC will typically not have jurisdiction over crimes committed on the territory of non-State Parties, by non-State Party nationals, unless the State of the accused submits to ICC jurisdiction.” *Id.* at 285-86. “There were a number of reasons for excluding . . . drug trafficking . . . from the jurisdiction of the ICC under the Rome Treaty.” Madeline Morris, *Terrorism: The Politics of Prosecution*, 5 CHI. J. INT’L L. 405, 418-19 n. 38 (2005). “[T]he inclusion of terrorism and drug trafficking within ICC jurisdiction would overburden the limited investigative and prosecutorial resources of the ICC.” *Id.*

295. Geraghty, *supra* note 217, at 381.

296. *Id.* at 387.

297. *Id.* at 380.

298. *Id.* at 380-81.

299. *Id.* at 392.

300. *Id.* at 386.

trafficking, a more specific protocol must be included into this existing treaty.³⁰¹

Article 4.2(b) of the 1988 U.N. Convention says that, “[e]ach party . . . [may] also take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when the alleged offender is present in its territory and it does not extradite him to another [p]arty.”³⁰² This wording infers that there is a choice as to what measures a party can take.³⁰³ “If this additional protocol is accepted widely enough and enforced in state practice, customary international law will develop making drug trafficking a true universal jurisdiction crime.”³⁰⁴

To ensure that universal jurisdiction is applied only to severe drug violations involving traffickers, additional protocol to the 1988 U.N. Convention should require initial evidence of a drug trafficking violation³⁰⁵ and

- 1) “involvement in the offense of an organized criminal group to which the offender belongs;”
- 2) “involvement of the offender in other international organized criminal activities;”
- 3) “the involvement of the offender in other illegal activities facilitated by the commission of the offense;”
- 4) “the use of violence or arms by the offender;”
- or 5) “the fact that the offender holds a public office and that the offence is committed with the office in question.”³⁰⁶

These categories draw on the already existing list of “particularly serious” drug trafficking offenses found in article 3(5) of the 1988 Convention and will ensure that small time drug dealers are not subject to prosecution under a universal jurisdiction theory.³⁰⁷

Major crimes related to drug trafficking include “murder, firearms offenses, racketeering, conspiracy, [and] bribery,” as well as terrorism.³⁰⁸ Because trafficking is often accompanied by one or more of these additional offenses, it should be seen as a crime so egregious that it offends

301. Geraghty, *supra* note 217, at 372.

302. 1988 Convention, *supra* note 232 (emphasis added).

303. *Id.*

304. Geraghty, *supra* note 217, at 403.

305. *Id.* at 373.

306. *Id.*

307. *Id.*

308. *Id.* at 375-76.

the world community.³⁰⁹ While universal jurisdiction will not eliminate drug trafficking altogether, it is an approach that may help discourage traffickers and hold them liable for their actions.³¹⁰ “[P]roviding states with a tool to prosecute drug traffickers would send an important message to drug traffickers that there are no safe havens for their behavior,” and ultimately may deter some from engaging in large-scale drug trafficking at all.³¹¹

D. Harm Reduction Programs as an Effort to Decrease Heroin Use

While Russia nurses a deadly combination of drug use and spread of HIV, its anti-drug laws have been revised “as part of an effort to suppress drug use and make headway toward meeting the UN conventions’ drug-eradication goals.”³¹² Russia’s injection-driven HIV epidemic “emphasize[s] criminal enforcement and demand for abstinence over the best practices of public health.”³¹³ The government pushes for legislation that punishes drug users, while supporters of drug policy reform demand “softer punishment and medical treatment - - rather than incarceration - - for drug addicts.”³¹⁴ Eduard Babayan, Russia’s representative at INCB stated, “[t]hose suffering from drug and alcohol addictions, violate societal moral standards on purpose, voluntarily bringing themselves to the state of sickness. That’s why society’s actions towards these people can not be the same as actions on medical assistance to other categories of patients.”³¹⁵

Russia should reconsider how it construes international law and treaties, such as the Conventions.³¹⁶ Article 3(4)(b)(c) and (d) of the 1988 Convention make provision for treatment systems; the Commentary to the Convention provides that “treatment” will typically include,

[I]ndividual counselling, group counselling, or referral to a support group, which may involve out-patient day care, day support, in-patient care or therapeutic community support. A number of treatment facilities may prescribe pharmacological treatment such as methadone

309. *Id.* at 379.

310. Geraghty, *supra* note 217, at 373.

311. *Id.* at 383.

312. Malinowska-Sempruch, *supra* note 8, at 199.

313. Wolfe, *supra* note 158, at 162.

314. *Battlefield*, *supra* note 171.

315. Vitaly Djuma, Russian Harm Reduction Network, *Current State of Harm Reduction in Russia*, at http://cira.med.yale.edu/law_policy_ethics/Djuma.pdf (last visited Sept. 5, 2005).

316. Malinowska-Sempruch, *supra* note 8, at 207.

maintenance . . . Further treatment services may include drug education, training in behaviour modification, acupuncture, family therapy, relapse prevention training. . .³¹⁷

“[T]he 1988 convention does not specify what penalties must be attached, leading some to suggest that counseling, or issuing of citations that are not recorded in permanent police records, would fulfill the letter of the law”³¹⁸ Also, the 1998 Russian Law implicates that new methods of treatment for narcotics addiction can be administered, so it is possible to allow methadone treatment without breaking the law.³¹⁹

Studies continuously prove needle exchange programs minimize the chance of contracting HIV, and show no concurrent rise in drug use.³²⁰ The spread of AIDS is limited among users when clean needles are readily available.³²¹ “In Russia, as of 2004, 80 percent of all HIV cases involved drug injectors, and many of these infections occurred because addicts share contaminated needles.”³²²

“Methadone is the best available treatment in terms of reducing illicit heroin use,”³²³ but therapy is legally unattainable in Russia.³²⁴ Methadone treatment has a poor reputation with Russian officials who feel it influences drug use.³²⁵ The law tries to punish drug users and make them suffer even while receiving treatment. “President Putin offered to donate \$20 million the Global Fund to Fight AIDS, but his own government limps along with barely a quarter of that amount devoted each year to fight the

317. See *Commentary on the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*, UN document E/CN.7/590 (1998).

318. Wolfe, *supra* note 158, at 165.

319. See 1998 Russian Law, *supra* note 251.

320. De la Torre, *supra* note 166. “A study of 81 cities published in 1997 in the *Lancet*, a medical journal, found that in cities without needle-exchange programs, HIV infection rates among injection drug users rose by nearly 6 percent per year; by contrast, cities that had introduced free-needle programs witnessed a *decrease* in infection rates of about the same magnitude.” *Deadly Ignorance*, WASH. POST, Feb. 27, 2005, at B06, *available at* <http://www.washingtonpost.com/wp-dyn/articles/A56611-2005Feb26.html> [hereinafter *Deadly Ignorance*].

321. *Deadly Ignorance*, *supra* note 320.

322. *Id.*

323. Ethan A. Nadelmann, *Commonsense Drug Policy, in WAR ON DRUGS, HIV/AIDS AND HUMAN RIGHTS 29* (Kasia Malinowska-Sempruch & Sarah Gallagher eds., 2004).

324. Butler, *supra* note 251.

325. See AC Company, European Network for the Target Group of Mobile Drug Users, *available at* http://www.ac-company.org/menu_checklist.html (last visited Aug. 30, 2005).

disease at home[.]”³²⁶ Russia’s bans on methadone and needle exchange programs are “completely unjustifiable given the strong track record of substitution therapy in fighting both AIDS and heroin addiction.”³²⁷

V. CONCLUSION

The drug business is extremely profitable, and creates extreme motivation to continue. The more organized trafficking groups become, the greater the effects of the drug trade in Russia will become.³²⁸ A series of events must occur to produce a devastating end result for Russia. Afghanistan has become a major national narcotics producer, and current data provides information that opium cultivation is on the rise. Central Asian countries struggle to protect their own borders from Afghan drug traffickers seeking entrance into Russia but are weak and unstable due to changes in their political, social, and economic arena.³²⁹ In Central Asian countries, like Tajikistan, a huge percentage of its citizens have turned to trafficking drugs for employment due to the impoverished state of their country.³³⁰

Next, traffickers sneak into Russia unnoticed through unprotected sections of its border.³³¹ When newly independent Russia built customs checkpoints, “they were placed in nearby border cities, rather than on the actual border, as a convenience to customs employees.”³³² Different customs posts can be up to 300 kilometers apart from one another, allowing traffickers to slip through the gaps and easily avoid border agents.³³³

Once the drugs are safely inside Russia, ROC groups take control of distribution. Due to monetary incentives, many officials and law enforcement figures engage in corruption, and turn a blind eye to the ROC syndicates.³³⁴ While agencies are responsible for stopping trafficking and distribution of drugs, it is clear that there are major flaws in the enforcement due to the increasing drug abuse and HIV epidemic. This substantial three-fold situation, beginning with drug production in

326. *Russia’s Harsh Drug Policies are Fueling an AIDS Epidemic*, at http://www.news-medical.net/print_article.asp?id=1030 (last visited Sep. 7, 2005).

327. *Id.*

328. OLCOTT, *supra* note 60, at 24.

329. *See generally id.* at 27.

330. Yegorov, *supra* note 82.

331. INT’L NARCOTICS REPORT, *supra* note 57.

332. *Heroin Trafficking*, *supra* note 74, at 9.

333. *Id.* at 8.

334. *See generally* Ritch, *supra* note 110.

Afghanistan, and then trafficking through Central Asia, followed by distribution into Russia by ROC groups, contributes to a national epidemic and a world-wide problem. In Russia, drug addiction and AIDS/HIV are serious problems that are inflamed by Afghan opiates, mainly heroin. The addictive heroin can be injected into the blood stream by needle, many containing the HIV virus due to the reusing of it by other addicts.³³⁵

Several changes must be made to control the drug flow in Russia. First, Russian drug control agencies must be reorganized into a central information system, allowing a larger group of officials to access vital information collected. Next, international help should be required to help Afghanistan find alternate means for income instead of drug cultivation. Further, to help combat the drug problem, drug trafficking should be considered as a universal jurisdiction crime in order for countries to prosecute traffickers who they would otherwise have no jurisdictional ties. Though the trafficking of drugs was considered for inclusion into universal jurisdiction crimes, it was not included as a crime so egregious that it offends the world community.³³⁶ This does not seem to be true when viewed as causing a national heroin addiction and AIDS epidemic, ultimately leading to death. Traffickers have no mercy on who is hurt by the drugs they sell. Thus, since traffickers and distributors have a major influence over government officials, prosecuting them could be very dangerous and even lead to murder.

The Russian government should also concentrate more on the wave of drug trafficking, and worry less about punishing users and let them receive the help they need. Drug users, who may be detained for possessing small amounts of drugs, become an easy target for police when arrest quotas must be attained.³³⁷ These practices keep many drug users from seeking clean syringes since they fear detention, or being identified or registered with the state as drug users. Russia also bans the use of methadone for heroin-substitution therapy, which is a central part of HIV prevention for heroin users in many countries.³³⁸ If the Russian government cannot control the amount of drugs that are trafficked into the country, then they should allow help for addicts who cannot help themselves. While international programs and policies begin to attack Russia's drug epidemic, many improvements must be made or the outcome may be devastating.

335. See generally *AIDS Epidemic Update*, *supra* note 157.

336. See generally *UNIVERSAL JURISDICTION*, *supra* note 284, at 30.

337. See generally *Battlefield*, *supra* note 171.

338. Nadelmann, *supra* note 323.