

Russian Mail-Order Brides: Protection and Information Via Legislation

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August 2010

Introduction

Recent incidences of men murdering their “mail-order brides,” or fiancés in which a marriage was agreed upon online via international marriage brokersⁱ led to U.S. government legislating an act, called the International Marriage Brokers Regulation Act of 2005 (from here on referred to as IMBRA). Though perhaps not a perfect law, the IMBRA nevertheless is an indicator of how other countries receiving large numbers of mail-order brides could reduce the risk of a bride falling into an abusive or exploitative relationship. This type of legislation in a “receiving” country, coupled with legislation from the “sending” country (here, the Russian Federation) would greatly advance the goal to protect and inform Russian mail-order brides of their rights when they enter into a marriage agreement.

When a Russian woman agrees to marry a man from another country through a marriage broker, she is automatically placed in a vulnerable position. She is usually financially dependent on the male sponsor and there are often language barriers. Consequently, brides often do not have a sense of the social and legal realities of a highly bureaucratic state.ⁱⁱ

Also, many men who are seeking a mail-order bride have criminal records, or at least a past history of domestic abuse: “nearly 50% of immigrants reported physical abuse by an intimate partner during their lifetimes. And that number could be higher when you consider complaints never filed.”ⁱⁱⁱ

In short, countries on the receiving end of mail-order brides have generally made little effort to protect these women from spousal abuse, exploitation, and trafficking.

This paper will discuss the current legislation in countries that are primary “receiving states” of Russian mail-order brides: Australia, Canada, New Zealand, the United Kingdom, and the United States of America. Strengths and weaknesses will be assessed, and a closing recommendation as to how to most effectively protect Russian mail-order brides through legislative reform, in both the aforementioned countries as well as in the Russian Federation.

Australia

The Australian government has had a migration act in place since 1998, called the Migration Agents Regulation Act (MARA). Under MARA, the potential bride must undergo both health and criminal background checks (i.e. Russian police certificate).^{iv} On the other hand, the sponsors only have to show that they are financially capable of supporting their new spouse. Criminal checks can be performed on the sponsor, but is done so only at the government's discretion.^v It is not clear what will trigger a government inspection unless the sponsor voluntarily declares that he may be unfit to marry.

Even if a criminal background check reveals a spotty history, neither the Australian government nor the international marriage broker is under any obligation to inform a potential bride of this past. Thus, if Australia deems a sponsor fit, no information is given to the bride for her to make an informed decision as to whether it is safe to marry. Further, the bride may even be falsely reassured that her suitor is clear of any past wrongdoings by the Australian government's consent.

Though Australia does not have a long history of sponsors abusing or trafficking Russian mail-order brides as in the USA, it seems that currently legislation puts brides at risk. The women may not be informed of their sponsor's background check results, and there is no guarantee that any potential notification would be translated into Russian to ensure her full understanding. Legislation that would promise informed brides are necessary to keeping these Russian brides safe from possibly being trafficked or abused, whether by making the sponsor background checks mandatory for the marriage broker or the Australian government itself..

Canada

Canada passed the Immigration and Refugee Protection Act (IRPA) in 2002. Like Australia, the act requires that mail-order brides undergo criminal and health checks. Unlike Australia, however, Canada requires that the bride's sponsors undergo both criminal and financial background checks. If the man is found to have any history of a sexual offense, or any offense related to a partner or spouse within five years of the application for his bride to immigrate, the sponsor is not eligible.^{vi}

This provision certainly is more effective than the current Australian law, but has room for improvement. First, five years seems rather lenient. The Russian Federation may prefer to lobby for Canada to implement a 10 or even 15-year requirement. But time limits aside, the main issue with current Canadian legislation is the bride may not be informed as to why her sponsor's application was denied. If the sponsor is not honest as to why his application was denied, she may wait five years and then marry. Ultimately, the bride should have a right to know if her sponsor passed a background check, and if he is not able to do so, she should know why.

Canada gets high marks for having a Representation for Immigrants and Refugee Claimants Guide,^{vii} which tries to ensure that new residents in Canada are informed of their rights. It is not clear, however, how readily available this information is available in Russian. If the document is not available in the woman's native language, its efficacy is hindered.

The last notable part of the Canadian legislation is that the minimum age limit of the bride is 16. This is the lowest minimum age limit of all the countries surveyed, and this may be a cause for concern as a 16-year-old girl with no language skills would likely be at a high risk of abuse and extortion at the hands of her spouse.

New Zealand

New Zealand implemented a revised Immigration Act (IA) in 2009. The act is nearly identical to Canadian legislation, though with a slightly different age limit of the potential bride. (See table). The age limit is 18, but 16 if the bride's parents give consent.^{viii} In this sense, the New Zealand legislation is slightly better equipped to prevent 16-year-olds from falling into a risky living situation. However, unlike Canada, New Zealand does not seem to offer a comprehensive guide to immigrants regarding their rights. A guide offered in Russian would be an ideal way to inform potential mail-order brides of their rights.

The United Kingdom

The United Kingdom has followed the Borders, Citizenship and Immigration Act since 2009. For this report's purposes, the legislation is nearly identical to Australian legislation (see table and Australia discussion above).^{ix} The only difference is the minimum age limit of the potential bride. The United Kingdom requires an age of 21, though there can be exceptions (see table).^x The Russian Federation may want Russian women to have the right to emigrate at an age younger than 21, and thus may want to coordinate consistent age limits with the UK.

The United States of America

Of the countries analyzed in this paper, the United States of America is the only country that has implemented an act that specifically addresses how to inform the potential mail-order bride of her sponsor's criminal history, as well as requiring the bride to sign a consent form to have her information released.

The International Marriage Broker Regulation Act of 2005 (IMBRA) is a federal statute designed to curb abusive and exploitive practices by international marriage brokers. The law

defines an international marriage broker as a person or organization that charges fees for setting up matches between U.S. residents, usually men, and foreign nationals, usually women.

The IMBRA grew out of concerns that unscrupulous brokers were bringing mail-order brides to the United States to be little more than indentured servants or even sex slaves. These women frequently spoke little or no English and had no family or anyone else to contact when they were abused. IMBRA was included in the Violence Against Women Act of 2005, which reauthorized federal programs designed to combat domestic violence, sexual assault and stalking. President George W. Bush signed the legislation into law on January 5, 2006.

IMBRA has two main provisions that apply to brokers. The first prohibits brokers from providing their clients with any information about anyone under age 18. The second requires brokers to perform due diligence when setting up a match. That entails searching for the client's name in sex offender registries and interviewing the client about his marital and criminal history; providing that information to the foreign woman in her native language; providing the woman with a government pamphlet about services available to abuse victims; and obtaining her written consent to the release of her personal information to the client.

Provisions in the act also apply to any person who wants to marry a foreign national, regardless of whether he uses a broker. Those who want to bring a foreigner into the United States for marriage must obtain a "fiancée visa" for that person, referred to as a K-1 visa. To get one, the fiancé undergo a criminal background check, the results of which will be provided to the foreign fiancée. No one can bring more than two people into the country on K-1 visas during his lifetime, and the applications must come at least two years apart. The Department of Homeland Security can waive the limit, but a person convicted of a violent crime cannot acquire a waiver.

Marriage brokers who violate the provisions of IMBRA can be fined \$5,000 to \$25,000 per violation and imprisoned up to five years. Misusing information provided by a foreign national to a broker is punishable by up to a year in prison.

The law makes exceptions for certain matchmaking activities. Nonprofit religious- and cultural-based services are not considered brokers under IMBRA, nor are services that may set up international matches but do so on the same basis and for the same fees as any other matches. In other words, for those who meet on a dating website and fall in love, the website is not an international marriage broker as long as the site is open to people anywhere and does not specialize in international marriages.^{xi}

The Russian Federation's Role

The Foreign Policy Concept of The Russian Federation states:

In accordance with the uppermost priority of the national security policy, i.e. protection of interests of the individual, society and the state, main foreign policy efforts should focus on...provid[ing] comprehensive protection of rights and legitimate interests of Russian citizens and compatriots abroad.^{xii}

Russian mail-order brides would likely fall under the label “compatriots abroad.” To protect this particular type of compatriots, specific legislation is necessary, as women entering these agreements are at risk to domestic violence, as well as being trafficked into forced labor or forced sex situations.

Past Pitfalls in Similar Types of Legislation

The Russian Federation should be careful not overreact to the mail-order bride dilemma involving Russian citizens, despite the gravity of the situation. A careful, measured response is necessary so as not to exacerbate the occurrence of brides suffering abuse overseas. Failure to implement measured legislation could lead to a situation where the mail-order bride industry is driven underground and deprived of all regulation.

This overreaction occurred in the Philippines, which had similar problems with its citizens emigrating on marriage visas and suffering abuse. In June 1990, the government of the Philippines, alarmed at reports of widespread abuse of Philippine women in other countries, outlawed bride agencies. As a result, authorities destroyed all legitimate bride agencies in the country and drove the mail-order business underground, without significantly affecting the international trade.^{xiii}

To avoid a similar situation, the Russian Federation might look at a new piece of legislation not only as protection for Russian brides going abroad, but also as a mechanism to streamline a large online industry.

Recommendations

According to the U.S. State Department, a good anti-trafficking law should include, though not be limited to the following:

(1)A mechanism of care provided to all suspected victims of trafficking through which they have the opportunity to access basic services – including shelter, food, medical care, psycho-social counseling, legal aid, and work authorization.

(2)Explicit immigration relief for trafficking victims, regardless of their past legal status, and relief from any legal penalties for unlawful activities committed by victims as a direct result of their trafficking.

(3)Explicit provisions ensuring identified victims have access to legal redress to obtain financial compensation for the trafficking crimes committed against them. In order to be meaningful, such access must be accompanied by options to obtain immigration relief. Trafficking victims should not be excluded from legal services providers who can assist with these efforts, whether NGOs or government programs.^{xiv}

Following these general guidelines, the Russian Federation should enact legislation that provides unconditional aid to Russian mail-order brides returning to Russia, regardless of their visa status in the sponsor's country or illegal actions taken to escape a dangerous living situation. Aid would include the services and provisions listed above in (1), as well as efforts to help the woman re-assimilate into Russian culture. It is important that the brides do not feel unwelcome or rejected, lest they are prone to returning into a potentially volatile living situation overseas.

Furthermore, legal services should be provided to brides who are victims of domestic abuse or any form of trafficking, regardless of their immigration or visa status. Though skeptics may argue that this would greatly increase costs to the Russian legal system as a whole, the opposite is likely to be true because: (1) criminals and sex offenders seeking a mail-order bride will be deterred if they understand the bride has access to legal aid. Also, (2)helping a bride receive damages for her losses via a court decision will be a very effective way of helping her get a fresh start when she immigrates back to Russia, in turn alleviating the Russian federal government of having to financially support victims in the long-term.

For the sake of consistency, the Russian Federation should also specify the minimum age limit of a Russian mail-order bride. This would simplify matters and clarify age limits to receiving countries, instead of letting the latter decide how old a Russian woman should be to enter a marriage agreement through a marriage broker.

Conclusion

Enacting legislation that encompasses these principles should act as a check on countries that receive Russian mail-order brides, and ensure that women who emigrate will be informed of their rights. This information, as well as a criminal background check performed by the receiving country will likely reduce the occurrence of domestic

violence, forced domestic labor, and sexual abuse and forced sexual labor between a mail-order bride and her sponsor.

This general suggestion for a law coincides with the Foreign Policy Concept of the Russian Federation in that it protects the rights and legitimate interests of Russian citizens and compatriots abroad. Though the receiving countries mentioned above have an obligation to protect women who enter marriage agreements through a marriage broker, the Russian Federation would be well advised to confirm and enforce these countries' compliance via federal legislation.

ⁱ See <http://www.themoscowtimes.com/news/article/husband-tried-for-death-of-mail-order-bride/249123.html>, and <http://www1.american.edu/ted/bride.htm> for a discussion of some of these gruesome incidences.

ⁱⁱ Anderson, Michelle J. "A License To Abuse: The Impact of Conditional Status on Female Immigrants." *The Yale Law Journal*, Vol. 102, No. 6, Apr. 1993. Accessed at <http://www.nostatusquo.com/ACLU/anderson/brides/pg1.html>.

ⁱⁱⁱ See <http://www.onlinedatingmagazine.com/columns/industry/05-internationalmarriagebroker.html>

^{iv} Character Requirements Penal Clearance Certificates. Australian Government, Department of Immigration and Citizenship 2010. Accessed at <http://www.immi.gov.au/allforms/character-requirements/character-penal.pdf>.

^v Migration Agents Regulation Act of 1998. Accessed at http://www.austlii.edu.au/au/legis/cth/consol_reg/mar1998287/

^{vi} Immigration and Protection Act of 2001, Canada Department of Justice. Accessed at <http://laws.justice.gc.ca/eng/l-2.5/page-1.html>

^{vii} Representation for Immigrants and Refugee Claimants Guide. Accessed at http://www.justice.gc.ca/eng/pi/rs/rep-rap/2003/rr03_la16-rr03_aj16/a2a.html

^{viii} Immigration Act 2009, No. 51, Public Act, New Zealand. Accessed at <http://www.legislation.govt.nz/act/public/2009/0051/32.0/DLM1440303.html>

^{ix} Borders, Citizenship and Immigration Act, 2009, Chapter 11, Office of the Public Sector Information. Accessed at http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/2009/cukpga_20090011_en_1

^x *Ibid.*

^{xi} See for a brief description: http://www.ehow.co.uk/about_6589289_international-marriage-broker-regulation-act.html#ixzz0v5ATJL34

^{xii} The Foreign Policy Concept of the Russian Federation. Approved by Dmitry A. Medvedev, President of the Russian Federation on 12 July 2008. Accessed at <http://www.mid.ru/ns-osndoc.nsf/0e9272befa34209743256c630042d1aa/cef95560654d4ca5c32574960036cddb?OpenDocument>

^{xiii} Anderson, Michelle J. "A License To Abuse: The Impact of Conditional Status on Female Immigrants." *The Yale Law Journal*, Vol. 102, No. 6, Apr. 1993. Accessed at <http://www.nostatusquo.com/ACLU/anderson/brides/pg1.html>.

^{xiv} U.S. Department of State Trafficking in Persons Report 2010: Topics of Special Interest. Accessed at <http://www.state.gov/g/tip/rls/tiprpt/2010/142750.htm>.