

# THE MAIL-ORDER BRIDE INDUSTRY: THE PERPETUATION OF TRANSNATIONAL ECONOMIC INEQUALITIES AND STEREOTYPES

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## 1. INTRODUCTION

Newspaper and magazine advertisements in the United States<sup>1</sup> promise male readers potential brides who are “Gorgeous Pacific Women” and “Pearls of the Orient.”<sup>2</sup> The mail-order bride agencies that place these advertisements also offer catalogs filled with pictures of women from Asia, South America, and Eastern Europe, complete with information on each woman’s age, weight, height, and interests.<sup>3</sup> The advertisements and catalogs are part of an expanding multi-million dollar industry that markets women from developing countries as potential brides to men in Western industrialized nations.

The modern mail-order bride industry in some ways mirrors the arranged marriages of the past, where families sent “picture brides”<sup>4</sup> from their homelands to lonely men in foreign countries.

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<sup>1</sup> See Lisa Belkin, *The Mail-Order Marriage Business*, N.Y. TIMES, May 11, 1986, § 6 (Magazine), at 73 (noting that mail-order bride agencies advertise in publications ranging “from Penthouse to Rolling Stone”).

<sup>2</sup> Tim Klass, *Mail-Order Bride Business Booming Despite Seattle Courthouse Slayings*, L.A. TIMES, Sept. 10, 1995, at 3B.

<sup>3</sup> See, e.g., CHERRY BLOSSOMS, Nov.-Dec. 1995; cf., e.g., A Foreign Affair, *A Foreign Affair: The Premier Introduction Service* (visited Dec. 7, 1996) <<http://www.wwdatalink.com/foreign-affair/>>.

<sup>4</sup> The term “picture bride” originates from the practice of exchanging photographs of prospective spouses before the customary meeting of the spouses. This practice arose out of the arranged marriage custom prevalent in Japan at the turn of the twentieth century, and also became widespread when parties were separated by great distances. See Emma Gee, *Issei Women*, in ASIAN AND PACIFIC AMERICAN EXPERIENCES: WOMEN’S PERSPECTIVES 66,

The original picture bride system grew out of necessity based on specific historical and cultural conditions. The modern industry, in contrast, has developed into a lucrative and international matchmaking business with dynamics and consequences vastly different than the traditional system. The present picture bride structure relies on stereotypes and transnational economic inequalities to support a profit-making commercial market. The mail-order bride industry nurtures structures of subordination based on race, sex, and class within countries, among nations, and between individuals.

Although a few countries targeted by the bridal agencies oppose the bride trade, the United States and the international legal system support the industry's legality. The business "is largely unregulated, unmonitored and unstudied."<sup>5</sup> The United States has responded to the trafficking of mail-order brides only through immigration laws.<sup>6</sup> Ironically, these laws have often worked to the detriment of the foreign women by subjecting them to the control of potentially abusive consumer-husbands and denying the women legal options and remedies.

The U.S. Congress formally recognized the existence of the mail-order bride industry and its potentially negative effects in section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996,<sup>7</sup> which requires that mail-order bride agencies disclose information to the women they recruit.<sup>8</sup> Despite this measure, the U.S. legislature has failed to pass any law that directly halts the industry or regulates the consumer-husbands. Although the 1996 Act is a step in the right direction,

67-68 (Nobuya Tsuchida ed., 1982); Sucheta Mazumdar, *General Introduction: A Woman-Centered Perspective on Asian American History*, in *MAKING WAVES: AN ANTHOLOGY OF WRITINGS BY AND ABOUT ASIAN AMERICAN WOMEN* 1, 6-7 (Asian Women United of California ed., 1989) [hereinafter *MAKING WAVES*].

<sup>5</sup> Klass, *supra* note 2, at 3 (quoting Cecilia Julag-ay "who is studying [the mail-order bride industry] for her doctoral thesis in sociology at the University of California at Riverside"); see also *CBS Morning News* (CBS television broadcast, Apr. 6, 1995) ("It is an industry that has little regulation and no rules — big profits, but no protection for women who marry their way into America.").

<sup>6</sup> See *infra* Section 5.2.

<sup>7</sup> Illegal Immigration Reform and Immigrant Responsibility Act of 1996 § 652, Pub. L. No. 104-208, 110 Stat. 3009, \_\_\_\_ (1996).

<sup>8</sup> See *id.*; *infra* Section 5.2.5.

it is likely to have little effect on the mail-order bride industry and falls short of significant reform.

In addition to weak U.S. measures, the lack of international regulations has allowed the bridal industry to flourish. Since neither the U.S. legal system nor the international community has substantially responded to the mail-order bride industry, regulations enacted by the supplying countries remain largely ineffective. The absence of international legal regulations has emboldened the consumer countries, the bridal agencies, and the male customers against any laws proposed to monitor the industry.

This Comment examines the development of the contemporary mail-order bride industry, the structures of power upon which the business relies and fosters, and the steps that need to take place in order to control the industry. The Comment focuses on the mail-order bride transactions between one of the leading consumer countries, the United States, and the two nations that currently serve as the principal suppliers of mail-order brides, the Philippines and Russia. Section 2 of this Comment examines the evolution of the modern mail-order bride business and the mechanics of the industry. Section 3 explores the economic and social conditions that allow the industry to flourish in the Philippines, Russia, and the United States. Section 4 looks at the effects of the industry on the immigrant women. Section 5 examines the Philippines' and the United States' legal responses to the mail-order bride industry. Finally, Section 6 considers possible means of regulating the industry and eliminating the harms caused by the international bride trade.

## 2. THE DEVELOPMENT OF THE CONTEMPORARY MAIL-ORDER BRIDE INDUSTRY

### 2.1. *Historical Roots*

The picture bride phenomenon is not new. In fact, the practice played a large role in the settlement and development of North America.<sup>9</sup> The majority of immigrants who traveled to the western United States to mine gold and to work on the railroads were men. The dangers of traveling overseas and the

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<sup>9</sup> See Thea Singer, *From Russia With Love: Movies, TV, and Massive PR Efforts Have Given American Men an Image of Elegance, Ambition, and Success*, BOSTON HERALD, July 3, 1994, (Magazine) at 4.

uncertainties of frontier life prevented many women from traveling to the United States.<sup>10</sup> As a result, predominantly male immigrant communities developed throughout the United States.<sup>11</sup>

The numerical imbalance between the sexes created a demand for immigrant women:

Certainly in the Old West and in other frontier situations such as the labor camps at the sugar farms in Hawaii, the colonization of Australia, or even in the early Irish settlements of New York, there were always lonely men who would write to their homeland for a bride. These women would come on the next train or on the next boat to meet their husbands for the very first time.<sup>12</sup>

For some groups, cultural beliefs and customs helped promote the picture bride practice. For Japanese immigrants, relatives back home traditionally arranged marriages between the man and his prospective bride.<sup>13</sup> After the two families exchanged information about the potential union, they exchanged photographs and reached an agreement.<sup>14</sup> The marriage was legalized in Japan and the bride traveled to America.<sup>15</sup> For Chinese immigrant men, the demand for brides stemmed from both a desire for individual fulfillment and an urge to preserve the family unit, the core of the Chinese value system.<sup>16</sup> Sanctioned by traditional Asian social customs, picture brides became a necessity for the preservation of

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<sup>10</sup> See JUDY YUNG, *CHINESE WOMEN OF AMERICA: A PICTORIAL HISTORY* 11 (1986) ("Dutiful wives were left home to tend the family while their husbands went overseas in search of fortune.").

<sup>11</sup> See MARY R. COOLIDGE, *CHINESE IMMIGRATION* 498, 502 (1969) (documenting the arrival of Chinese immigrants to America and noting that by 1870, only 4,574 of the 63,199 Chinese immigrants living in the United States were women).

<sup>12</sup> Venny Villapando, *The Business of Selling Mail-Order Brides*, in *MAKING WAVES*, *supra* note 4, at 318, 318.

<sup>13</sup> See *id.*; see also Gee, *supra* note 4, at 67 (stating that picture brides became the wives of a majority of Japanese male laborers in America at the turn of the twentieth century).

<sup>14</sup> See Villapando, *supra* note 12, at 318.

<sup>15</sup> See *id.*

<sup>16</sup> See COOLIDGE, *supra* note 11, at 4; YUNG, *supra* note 10, at 10-11.

the Chinese family in America when immigration restrictions prevented immigrant men from travelling to China and selecting brides themselves.<sup>17</sup>

The traditional arranged marriages placed the newly married brides at a disadvantage. Many of the women sent overseas did not choose their grooms and did not have the opportunity to meet their prospective husbands before the marriage. Sent to a foreign country, the women lost the support of their families, their friends, and their familiar cultures.<sup>18</sup> Despite the difficulties that the brides faced, many of the marriages were successful.<sup>19</sup> The birth of several future generations evidenced the fruitful unions.<sup>20</sup>

## 2.2. *The Modern Mail-Order Bride Industry*

The traditional picture bride practice, in which families arranged marriages for their sons overseas, ended as the West became more heavily populated. The phenomenon, however, resurfaced in the 1970's when men discontented with the Women's Movement in the United States began looking overseas for wives with "old-fashioned" values.<sup>21</sup> Although the current mail-order bride structure is superficially similar to the traditional picture bride system, the modern industry is more complex and problematic. The new practice has a different structure, a different focus, and different consequences than the traditional picture bride system.

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<sup>17</sup> See Chinese Exclusion Act of May 6, 1882, ch. 126, 22 Stat. 58, *repealed by* Act of Dec. 17, 1943, Pub. L. No. 199, 57 Stat. 600; YUNG, *supra* note 10, at 25 (describing the immigration laws enacted specifically aimed at decreasing the number of Chinese in America).

<sup>18</sup> See Villapando, *supra* note 12, at 318 (stating that the distance the picture bride "traveled is measured not so much in nautical as in emotional miles").

<sup>19</sup> See Klass, *supra* note 2, at 3 ("When there were too many men and not enough women on the American frontier, matches were made by mail. Many of those marriages ripened into love . . .").

<sup>20</sup> See Villapando, *supra* note 12, at 318.

<sup>21</sup> See *Men Pursue Foreign Brides Via Brokers*, DES MOINES REGISTER, Nov. 26, 1992, at 6; see also Steve Wiegand, *Here Come The Brides Direct From Russia*, SACRAMENTO BEE, Jan. 28, 1993, at A1.

### 2.2.1. *The Structure and Operations of Mail-Order Bride Agencies*

Unlike the traditional picture bride system, where individual families arranged marriages to ensure the continuation of their lineage overseas, the current industry creates and maintains a profit-making commercial market.<sup>22</sup> Agencies throughout the United States realize tremendous financial gains by exploiting racial and economic factors to market women from developing countries.<sup>23</sup>

The modern mail-order business began with entrepreneurs like John Broussard, an importer of Oriental bowls and vases, who in 1974 decided to diversify his practice by marketing foreign women.<sup>24</sup> The transformation of people into commodities<sup>25</sup> for the purpose of catering to a consumer society has proved profitable for mail-order bride brokers.<sup>26</sup> The substantial

<sup>22</sup> See Melinda Henneberger, *Well, the Ukraine Girls Really Knock Them Out*, N.Y. TIMES, Nov. 15, 1992, § 4, at 6 [hereinafter Henneberger, *Ukraine Girls*] (stating that “brides have become big business”); Gary Libman, *Lonely American Males Looking to the Orient for Mail-Order Brides*, L.A. TIMES, Sept. 14, 1986, Part 6, at 1, 15 (noting that “[i]f caring relatives arranged picture-bride marriages of the past, critics contend it is profit-oriented businesses that are orchestrating modern-day mail-order unions”).

<sup>23</sup> See *infra* Section 3.

<sup>24</sup> See Henneberger, *Ukraine Girls*, *supra* note 22, at 6. The mail-order bride agency started by Broussard, Hawaii-based Cherry Blossoms, is one of the oldest and largest mail-order bride agencies operating in the United States. See *id.* Robert Burrows, who now manages Cherry Blossoms, explains that Broussard “was bringing things over from the Orient, ceramic things, and one of his friends said, ‘I’d like to meet a woman from there.’” *Id.*

<sup>25</sup> Many marriage brokers liken foreign women to commercial commodities. Lyudmilla Vorozhtskova, editor of *Amour*, a magazine in Russia that publishes photos of Western men looking for Russian wives, “views the ambitions of her readers as a healthy manifestation of the modern market economy. ‘Russian women are part of our natural wealth, like furs, gold and oil,’ she argues. ‘It’s perfectly natural that they should go to those who can afford them.’” *Russian Women Search Abroad for Husbands*, CALGARY HERALD, Dec. 12, 1992, at B7.

<sup>26</sup> See Wiegand, *supra* note 21, at A1 (quoting Larry Holmes, “a San Diego immigration attorney who has become nationally known for specializing in international matchmaking” as saying, “Business is very good. Business is fantastic. . . . The word is getting out through the media that [the bridal business] exists, that it’s available.”). As of 1995, the Cherry Blossoms mail-order bride agency grossed more than \$500,000 a year. See Ian Markham-Smith, *Post-Marked for Murder*, S. CHINA MORNING POST, Mar. 26, 1995, at 2.

increase in the number of companies marketing brides from foreign countries since the 1970's demonstrates the lucrative nature of the business. The estimated 100 agencies in the United States in 1986<sup>27</sup> increased to 200 agencies by 1992.<sup>28</sup> By 1995, roughly 500 mail-order bride businesses operated in the United States alone.<sup>29</sup>

Bridal agencies generally recruit potential brides from economically troubled countries through newspaper and magazine advertisements.<sup>30</sup> The agencies admit that they capitalize on the economic dynamics of the situation, targeting poorer countries for potential brides.<sup>31</sup> Mail-order bride agencies have traditionally solicited Asian women,<sup>32</sup> with women from the Philippines comprising a majority of the brides marketed.<sup>33</sup> The mail-order bride market, however, has shifted in recent years. Women from Russia and Eastern Europe now give women from the Philippines

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<sup>27</sup> See Belkin, *supra* note 1, at 28.

<sup>28</sup> See Henneberger, *Ukraine Girls*, *supra* note 22, at 6.

<sup>29</sup> See Tom Quinn, *Filipino Author Attacks World Sex Trade*, SALT LAKE TRIBUNE, Oct. 27, 1995, at B5. These estimates do not take into account the growing number of bridal agencies operating in various other consumer and supplier countries. No comprehensive study has collected this data.

<sup>30</sup> See Belkin, *supra* note 1, at 55 ("The agencies place ads for interested women in newspapers and magazines throughout the world . . .").

<sup>31</sup> See Libman, *supra* note 22, at 17 (quoting John Broussard as stating that the "really important point is economic . . . the poorer the country is, the more likely it is that [the women are] looking for a husband who is financially secure. The women tend to be middle class and well educated but are obviously being very poorly paid for the type of jobs they hold.").

<sup>32</sup> See Eddy Meng, Note, *Mail-Order Brides: Gilded Prostitution and the Legal Response*, 28 U. MICH. J.L. REF. 197, 202 (1994) ("Many of the modern mail-order brides come from developing countries, particularly from South and Southeast Asia: the Philippines, Thailand, Sri Lanka, India, Taiwan, Macao, South Korea, Hong Kong, and China.") (citations omitted); Belkin, *supra* note 1, at 55 (noting that the mail-order bride agencies focus their advertising for women especially in Asian countries).

<sup>33</sup> Cf. Kathleen Callo, *Philippine Mail Order Brides Are Booming Export*, REUTERS Sept. 28, 1987, available in LEXIS, World Library, Allwld File (quoting Alfredo Perdon, executive director of the Philippine government's Commission on Filipinos Overseas as saying, "[t]he Philippines has become a real shopping market for the foreigner in search of a wife"). An estimated 20,000 women leave the Philippines every year as mail-order brides. See Markham-Smith, *supra* note 26, at 2. The United States imports between 2,000 to 5,000 of these women. See Diane Tennant, *Writer Speaks Out Against Silencing of Women*, VA.-PILOT & LEDGER STAR, Oct. 5, 1995, at B1.

considerable competition.<sup>34</sup>

### 2.2.1.1. *Means of Appealing to Interested Consumers*

Once the mail-order bride agencies contact women through advertisements in their home countries,<sup>35</sup> the agencies compile photographs of the potential brides with a description of each woman in a catalog. The companies usually screen the women, listing only the most attractive, since the agencies' goals include "providing a fantasy for American men who have been unlucky in love."<sup>36</sup> In addition, some agencies ask the women to fill out questionnaires which the male clients later read.<sup>37</sup>

<sup>34</sup> See Melinda Henneberger, *From Warm Letters to Cold Warring, Romance Fades*, N.Y. TIMES, Oct. 28, 1992, at B1, B5 [hereinafter Henneberger, *Cold Warring*] ("Other bridal agencies that once dealt primarily with Asian women have shifted their focus to Russia."); Henneberger, *Ukraine Girls*, *supra* note 22, at 6; Klass, *supra* note 2, at 3 (describing the women listed in the *Cherry Blossoms* catalog: "[a]bout half the women are Filipinas. . . . but the biggest increase in recent years has been from Russia and Eastern Europe"). Various agencies throughout the United States, such as Scanna, based in New York, and Family International and the American-Russian Matchmaking Agency, both based in Los Angeles, specialize in Russian women alone. See Henneberger, *Cold Warring*, *supra*, at B5; Henneberger, *Ukraine Girls*, *supra* note 22, at 6; Michelle Locke, *Catalogue Dream Mates from Russia*, L.A. TIMES, Mar. 7, 1993, at B5.

<sup>35</sup> Various agencies state that women hear of their "service" not only through advertisements, but through girlfriends who have found mates through their brokerage firms. *Cherry Blossoms*, for example, explains in its catalog:

We advertise in various publications around the world looking for women who want to meet and marry men outside of their own country. However, the majority of the women you see in our magazine have contacted us through word of mouth. They know someone who has met a man through *Cherry Blossoms* and has been happily married as a result of participating in our service.

CHERRY BLOSSOMS, *supra* note 3, at 2.

<sup>36</sup> Dan Reed, *Mail-Order Matchmakers: From Russia With Love, for Money*, S.F. CHRON., Nov. 6, 1992, at A1; *cf. id.* (quoting Ron Schwartz, marriage broker and president of Russian Connection, as admitting that the mail-order bride industry "is a business. . . . And we are trading on attractive qualities."); Singer, *supra*, note 9, at 4 (quoting Nora Lazaroff, co-owner of Family International, as saying that the "women have to be very physically beautiful because we specialize in beauty. They cannot be mediocre. . . . And they have to be educated and they have to know English.").

<sup>37</sup> See Libman, *supra* note 22, at 16. For example, American Asian Worldwide Services, a California-based agency, requires the women to fill out an eight-page "personality evaluation." *Id.* The questionnaire asks:

whether she has physical defects or has flat, medium or full breasts.



Despite claims that the agencies “operate as a pen pal club, not a front for the slave trade . . . [and do not provide] a Sears catalog from which you buy a wife,”<sup>38</sup> the catalogs offered by the agencies do not differ much from a department store’s listing of merchandise. For example, the November/December 1995 issue of *Cherry Blossoms* has twenty-two pages displaying 500 full-body photographs and headshots of women along with statistics.<sup>39</sup> A typical entry reads:

Maria Claire (19) Philippines/ 5’3; 105; Hospital attendant (nursing aide grad). Catholic. “I’m kind, honest, and humble to everybody and most of all loving and caring. Never been touch and never been kiss except to the one I’m looking to. In shorts, single and still negotiable.”<sup>40</sup>

Each woman is assigned a number.<sup>41</sup> For a fee, men may buy the addresses of the women featured and correspond with them.<sup>42</sup> The businesses, however, usually do not charge the women who appear in the catalogs.<sup>43</sup>

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It also asks whether she would marry a black man, whether she believes in women’s liberation, whether she can accept premarital sex, and “What kind of a lover are you? Affectionate, shy and submissive, passionate, inhibited, uninhibited.”

*Id.*

<sup>38</sup> Villapando, *supra* note 12, at 320 (quoting John Broussard, founder of *Cherry Blossoms*, in a 1985 telephone interview).

<sup>39</sup> See *CHERRY BLOSSOMS*, *supra* note 3.

<sup>40</sup> *Id.* at 14.

<sup>41</sup> See *id.*

<sup>42</sup> See *id.* at 9, 24-25. *Cherry Blossoms* has different packages: men may buy individual addresses for \$10 each, 500 addresses for \$119, all of the odd or even-numbered women in one particular catalog for \$69, or a one-year subscription for \$395, which includes 3,000 names and addresses. See *id.* at 9, 25. In some cases, the consumer men pay a subscription fee for the catalogs ranging between \$5 and \$1,250. See Quinn, *supra* note 29, at B5; Singer, *supra* note 9, at 4 (stating that Family International charges \$5 for a monthly catalog which features about 80 women and that Angel International charges up to \$1,250 for unlimited access to its updated catalog). *Cherry Blossoms* charges \$10 for a catalog that includes 500 women ranging in age from 16 to 56. See *CHERRY BLOSSOMS*, *supra* note 3.

<sup>43</sup> See, e.g., *CHERRY BLOSSOMS*, *supra* note 3, at 2 (stating that “we do not charge the ladies anything to be listed”); A Foreign Affair, *Most Often Asked Questions* (visited Dec. 7, 1996) <<http://www.wwdatalink.com/foreign-af>

Various bridal agencies advertise tours as part of their regular services.<sup>44</sup> Cherry Blossoms conducts bridal tours through which a man can travel to the Philippines to meet a wife.<sup>45</sup> The advertisement for a tour scheduled for February 1996 reads:

My name is Wilma and thanks for your interest. I have many, many friends in Asia that would love to meet you and possibly marry, just like I have done with my American husband. My friends don't care how old you are or how much money you have. They ask only for sincerity and honesty. We promise to personally introduce you to twenty or more beautiful, traditional girls who are waiting to meet you. Our special tours accomplish what we promise and much more.<sup>46</sup>

The agency arranges airfare, hotel accommodations, social parties, and immigration help for the potential brides selected.<sup>47</sup> Due to high demand, the companies often schedule multiple tours to popular destinations such as Russia and the Philippines each year.<sup>48</sup>

Although brokers use catalogs as the main medium to market

fair/prg2b6.htm> ("The service is free of charge for the women. By not charging them to be on our service we are able to bring you a greater number and cross-section of people from which to choose.")

<sup>44</sup> See, e.g., Markham-Smith, *supra* note 26, at 2 (describing a small agency, International Connections, that organizes three-week tours to the Philippines for a flat fee of \$800 for the service. The customer must pay his own travel and living expenses, and the company charges extra fees for assistance in immigration petitions.).

<sup>45</sup> See CHERRY BLOSSOMS, *supra* note 3, at 7.

<sup>46</sup> *Id.*

<sup>47</sup> Cherry Blossoms charges \$3,995 for such a tour. See *id.*

<sup>48</sup> See, Yvette Walker, *Here Come the Brides from Russia, for Love and Money*, DET. NEWS, Feb. 14, 1992, at 1F (stating that American-Russian Matchmaking schedules up to five Moscow trips a year); see also *Men Pursue Foreign Brides Via Broker*, *supra* note 21, at 6 ("Some mail-order professionals offer trips to Russia, where men usually meet a dozen or so women at a time at parties arranged especially for them. At some such gatherings, one man can even meet as many as 100 women, and take his pick."). One agency, American-Russian Matchmaking, offered a 14 day tour to Moscow for \$3,975. See Walker, *supra*, at 1F. The package included a private apartment, a car and driver, a full-time interpreter, meals, and parties where women may outnumber the men ten to one. See *id.*

potential brides, some agencies have taken advantage of the latest advances in computer technology by advertising potential brides on the Internet.<sup>49</sup> This new medium has many advantages. In addition to allowing agencies to access more customers,<sup>50</sup> brokers can transmit images and sounds on the World Wide Web, making the process of finding and selecting a wife much easier. "Users can select a wife from on-screen listings of hundreds of young Philippine, Thai or Russian women at the click of a mouse . . . ."<sup>51</sup>

One such agency, A Foreign Affair,<sup>52</sup> uses the Internet to advertise its bridal services and explains that the advantages of being on-line include greater efficiency and lower costs for the customer:

Unlike other data bases, especially magazine formats, we are able to update our system on a daily basis. . . . Also, due to the fact that we have no *publishing* costs our overhead is less than that of our competitors, enabling us to pass the savings on to you.<sup>53</sup>

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<sup>49</sup> According to researcher Donna Hughes at the University of Bradford in England, mail-order bride services began flooding the Internet around November 1995. See Emily Rose, *Now on Internet: E-Mail-Order Brides Prostitution Guides, Sex Tours Also Available On-Line*, S.F. EXAMINER, Nov. 28, 1995, at A15. For examples of agencies on the Internet, see Florida Fedorova, *Florida Fedorova: Russian Introduction Agency* (visited Dec. 7, 1996) <<http://www.olvit.iasnet.ru/projects/florida2/index.htm>>; A Foreign Affair, *A Foreign Affair: The Premier Introduction Service*, *supra* note 3; *Welcome to the Pacific Century Club* (visited Dec. 7, 1996) <<http://www.pacificcentury.com>>.

<sup>50</sup> See Rose, *supra* note 49, at A15 (stating that extending the mail-order bride industry to the Internet will enormously expand access to those agencies).

<sup>51</sup> *Id.*

<sup>52</sup> A Foreign Affair claims not to be a mail-order bride company, stating that its service simply supplies customers with the names and address of women who expressed interest in meeting American men for a fee. See A Foreign Affair, *Most Often Asked Questions*, *supra* note 43. Despite its disclaimers, the company has all the attributes and services of the other bridal agencies, providing pictures and vital statistics of women from developing countries to men from the United States. The only difference between this service and other agencies is that being on-line allows the consumer-husbands easier access to a wider variety of women at a lower cost.

<sup>53</sup> A Foreign Affair, *A Little About A Foreign Affair* (visited Dec. 7, 1996) <<http://www.wwdatalink.com/foreign-affair/prg2b3.htm>>.

Users can access pictures and statistics of women from specific geographical regions by selecting the country of interest and pictures of the individual women on the computer screen.<sup>54</sup> New women are added daily.<sup>55</sup> The agency also provides various directories which give the user information about the agency, advice about corresponding with a potential bride, letter writing tips, visa information, and order forms for the various bride packages.<sup>56</sup> Like other bridal agencies, customers can choose the women with whom they wish to correspond, paying for addresses that the company then mails or e-mails to the customer.<sup>57</sup>

Although the on-line agencies have the advantages of reaching a wider sector of the population and supplying customers with pictures and addresses of women faster and more efficiently, their services operate basically in the same manner as other bridal firms. After the consumer obtains the addresses of the women from the agency, he mails letters to potential brides. Firms advise the men not to limit their options and to write to as many women as possible, even "the 'less attractive' girls."<sup>58</sup> After selecting a few women from the first mailing, the consumer-husband will typically travel to the home country of the potential bride, often on one of the tour packages offered by the mail-order bride agency.<sup>59</sup> If the consumer-husband and the potential bride agree

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<sup>54</sup> See A Foreign Affair, *A Foreign Affair: The Premier Introduction Service*, *supra* note 3.

<sup>55</sup> See A Foreign Affair, *A Little About A Foreign Affair*, *supra* note 53.

<sup>56</sup> See A Foreign Affair, *A Foreign Affair: The Premier Introduction Service*, *supra* note 3.

<sup>57</sup> See A Foreign Affair, *A Little About A Foreign Affair*, *supra* note 53.

<sup>58</sup> CHERRY BLOSSOMS, *supra* note 3, at 3. See also A Foreign Affair, *Most Often Asked Questions*, *supra* note 43 ("Write to as many women as possible. By writing many women you greatly increase your chances of success!!!"); Henneberger, *Ukraine Girls*, *supra* note 22, at 6 ("Most men buy in large quantities, and the purveyors of marital bliss suggest that volume is the key to finding a match. Most prospective bridegrooms . . . frequently use word processors, sending the same letter to dozens of women."). Some agencies even offer to write the letters for the customer, promising to make the letters personal. See Belkin, *supra* note 1, at 73 (describing a letter-writing service provided by the bridal agency Pacific Overtures).

<sup>59</sup> See Meng, *supra* note 32, at 209. Some men still keep corresponding to more than one potential bride throughout this period. As one customer explained after planning a trip to the Philippines to meet a potential bride, "I didn't tell the other [women in competition] . . . I didn't want to burn my

to marry, either the marriage occurs in the woman's home country or the husband-to-be applies for a fiancée visa which allows the prospective bride to travel to the United States.<sup>60</sup> The marriage must take place within 90 days, since the fiancée visa expires after that period.<sup>61</sup>

In total, men may spend anywhere from \$3,000 to \$10,000 to buy a wife.<sup>62</sup> Furthermore, the consumer-husbands often devote considerable time writing to and visiting their prospective brides, although Internet services are reducing the time and cost of finding brides.<sup>63</sup>

### 2.2.1.2. *The Clientele*

Unlike the traditional picture bride system, where families sent women overseas to men of the same racial and ethnic group, the contemporary mail-order bride business targets white men from industrialized countries such as the United States, Australia, and Canada.<sup>64</sup> According to the Japanese American Citizens League,

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bridges. Vilma in my mind was clearly No. 1, but if for some reason my ideas about her didn't turn out like I'd planned, if she had three ears, then I'd visit the other ladies, so it wouldn't be a totally lost trip." Belkin, *supra* note 1, at 76.

<sup>60</sup> Most agencies advise the clients to obtain a visa instead of marrying abroad. See, e.g., A Foreign Affair, *Visa Information* (visited Nov. 1, 1996) <<http://www.wwdatalink.com/foreign-affair/prg2b7.htm>>.

<sup>61</sup> See *id.*; Meng, *supra* note 32, at 209.

<sup>62</sup> See, e.g., Jack Kelly, *Russian Women Hope for Foreign Grooms*, USA TODAY, Feb. 17, 1992, at A5 (noting that one Canadian truck driver spent \$3,800 on his two-week search for a wife and ended up with three potential candidates); Markham-Smith, *supra* note 26, at 2 (quoting a client that paid "\$10,000 for a bride who proved to be a disaster"); Singer, *supra* note 9, at 4 (stating that one client "spent about \$6,000 on the courtship, including travel and accommodations, legal and Immigration and Naturalization Service fees, and the matchmaking agency's costs"); Wiegand, *supra* note 21, at A1 (stating that a client that travels to Russia to meet the women in person may pay anywhere from \$5,000 to \$8,000 for the price of the tour and legal services). These expenses may not include the fee for a successful match some agencies charge the client following a marriage. See, e.g., Singer, *supra* note 9, at 4 (stating that Angel International in California requires male clients to sign a contract saying that they will pay the agency \$3,000 following a marriage).

<sup>63</sup> Participants in the mail-order bride industry argue that the expenses paid are worth the services purchased. See, e.g., Walker, *supra* note 48, at 1F (quoting Ron Rollband, president of the American-Russian Matchmaking agency and a consumer-husband himself, stating that "[w]hen you look at what you spend on a year of dating, this is a bargain by comparison").

<sup>64</sup> See Villapando, *supra* note 12, at 318.

a national civil rights group, the consumer-husbands "tend to be white, much older than the bride they choose, politically conservative, frustrated by the [W]omen's [M]ovement, and socially alienated."<sup>65</sup> In addition, the typical client in search of a foreign bride has a median annual income of over \$20,000, is a college graduate, and has experienced a bitter divorce or break-up.<sup>66</sup>

American men find the mail-order business beneficial because it allows them access to women they would not be able to marry in the United States. The bridal industry gives the typical male client, usually middle-aged and divorced with little potential of attracting an American woman, the opportunity to meet and marry a young, beautiful, and intelligent woman from a foreign country.<sup>67</sup> The marriage brokers depend on this disparity between the desirability of the men and women who use the service to attract potential customers.

### 2.2.2. *The Justification for the Modern-Mail Order Bride Industry*

Advocates of the modern mail-order bride business assert that the current industry serves several beneficial purposes: it brings together lonely individuals, it provides women with an opportunity to escape harsh economic conditions, and it allows Western men to marry young, beautiful, and intelligent women from

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<sup>65</sup> *Id.* at 319. Dr. Davor Jedlicka, a sociologist from the University of Texas who surveyed 265 men who subscribed to mail-order bride catalogs, corroborated the findings of the Japanese American Citizens League. *See id.* at 319; *see also* Wiegand, *supra* note 21, at A1 ("Those in the industry say their male clients come from all age, educational and working backgrounds, although the most typical client is a post-40, relatively successful businessman or professional who has been married once or twice before.").

<sup>66</sup> *See* Villapando, *supra* note 12, at 319.

<sup>67</sup> *See* Reed, *supra* note 36, at A1. One 56-year old customer who selected a 23-year old Russian wife admits that "[t]he women are a good deal younger than what (the men) could get here. . . . They are better looking and better educated, too." *Id.* Another client, who is also the president of the Russian Connection agency, acknowledges the advantage that the international match-making industry gives American men, stating "[c]an you imagine, I'm some American guy who's well-to-do but not particularly handsome. . . . I go over to the Commonwealth of Independent States and there [are] these highly educated, beautiful women." Locke, *supra* note 34, at B5.

foreign countries.<sup>68</sup> The supporters of the industry view bridal agencies as international matchmakers that allow women to meet potential husbands and men to meet potential wives.<sup>69</sup> Marriage brokers argue that “there’s nothing wrong with [the mail-order bride industry]; the men are entitled to do it; it’s legal, it’s above-board, and it’s not trafficking.”<sup>70</sup> The “woman has the right to accept or decline” any of the men who propose marriage.<sup>71</sup>

The mail-order bride agencies argue that the industry should remain unregulated because any laws would infringe on personal freedoms<sup>72</sup> and privacy rights.<sup>73</sup> The supporters of the industry argue that such a cross-cultural dating service involves protected rights relating to marriage and family relationships. While federal

<sup>68</sup> As noted by Richard Kenney, a spokesman for the U.S. Immigration and Naturalization Service, “It’s a perfectly legitimate business — it’s a market . . . . There are women who would love to come here, and there are men in the United States who don’t seem to be able to find what they need in the local market.” Henneberger, *Ukraine Girls*, *supra* note 22, at 6.

<sup>69</sup> See, e.g., Gary Clark, *An Introduction to the “Penpal Bride” or So-Called “Mail Order Bride” Movement* (visited Dec. 7, 1996) <<http://www.vix.com/pub/men/romance/pen/intro.htm>> (stating that the business is an “international singles ad”); Eleanor Hamilton, *Modern Matchmakers* (visited Dec. 7, 1996)<<http://www.ptreyeslight.com/columns/hamilton/hamilton831.html>> (describing the bridal industry as the “modern version[] of match making”).

<sup>70</sup> *Larry King Live* (CNN television broadcast, Sept. 8, 1992) (quoting Ron Rollband, president of American-Russian Matchmaking).

<sup>71</sup> Belkin, *supra* note 1, at 51.

<sup>72</sup> See, e.g., Christopher Hanson, *Mail-Order Bride Business Booms in Backlash to Feminism*, REUTERS, Apr. 30, 1987, available in LEXIS, World Library, Allwld File (stating that John Broussard, owner of the mail-order bride agency Rainbow Ridge, rejects “suggestions the mail-order bride business be tightly regulated”); see also Callo, *supra* note 33.

<sup>73</sup> Although the U.S. Constitution does not explicitly mention a right of privacy, the Supreme Court in *Roe v. Wade* cited a line of cases that established various “fundamental” personal rights, including the right of privacy. See *Roe v. Wade*, 410 U.S. 113, 152 (1973) (citing *Eisenstadt v. Baird*, 405 U.S. 438, 453-54 (1972); *Stanley v. Georgia*, 394 U.S. 557, 564 (1969); *Terry v. Ohio*, 392 U.S. 1, 8-9 (1968); *Katz v. United States*, 389 U.S. 347, 350 (1967); *Loving v. Virginia*, 388 U.S. 1, 12 (1967); *Griswold v. Connecticut*, 381 U.S. 479, 484-85 (1965); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944); *Skinner v. Oklahoma*, 316 U.S. 535, 541-42 (1942); *Olmstead v. United States*, 277 U.S. 438, 478 (1928); *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923)). The decisions in these cases, “make clear that the [privacy] right has some extension to activities relating to marriage, procreation, contraception, family relationships, and child rearing and education.” *Roe*, 410 U.S. at 152-53 (referring to *Pierce*, 268 U.S. at 535; *Meyer*, 262 U.S. at 400). The *Roe* Court stated that the right of privacy is founded in the Due Process Clause of the Fourteenth Amendment. See *Roe*, 410 U.S. at 153.

and state law in the United States "has always operated primarily within the public domain; it is considered appropriate to regulate the work place, the economy and the distribution of political power. . . . [D]irect state intervention in the family and the home has long been regarded as inappropriate."<sup>74</sup>

These arguments in favor of the mail-order bride business mischaracterize the industry. Unlike typical dating services, the bridal agencies rely on economic disparities between individuals and countries, and perpetuate racial and gender stereotypes. The industry involves more than simply marital rights; it affects the economies of nations and the distribution of power among individuals.

### 3. CONDITIONS RELIED UPON AND FOSTERED BY THE BRIDAL INDUSTRY

#### 3.1. *The Economics of the Transaction*

The mail-order bride industry depends on economic inequalities between developing and industrialized countries to create a supply of women from lesser developed countries and a demand from consumer men. The economic disparity between the affected countries gives American men the power to buy women from poorer countries,<sup>75</sup> gives the women an incentive to leave for better lives in a richer country, and encourages developing countries to rely upon the export of their women to strengthen

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<sup>74</sup> Hilary Charlesworth et al., *Feminist Approaches to International Law*, 85 AM. J. INT'L L. 613, 627 (1991) (citing K. O'DONOVAN, *SEXUAL DIVISIONS IN LAW* (1986); Stang et al., *The Coercion of Privacy, in WOMEN, SEXUALITY, AND SOCIAL CONTROL* 8 (C. Smart & B. Smart eds. 1978)).

<sup>75</sup> Objectors to the mail-order bride industry recognize the economics of the situation. Marie-Jose Ragab from the National Organization for Women argues that the mail-order bride transaction must be viewed from an economic perspective:

It's very difficult not to look at [the economics of the mail-order bride transaction] — [t]he gentleman is paying a large amount of money, for instance . . . to go to Russia, for example, to speak with these women. Let's keep in mind that the average salary in Russia at the moment is \$28 per month . . . . [The consumer-husband] is paying, I'm sure, anywhere between \$4,000 and \$5,000. So it shows that already there is an enormous financial transaction which is taking place there.

See *Larry King Live*, *supra* note 70.



their economy through remittances.<sup>76</sup> The economic environment of the women's home countries plays a large part in the perpetuation of the bridal industry.

### 3.1.1. *The Economic Conditions in the Philippines*

The Philippines serves as one of the largest suppliers of mail-order brides.<sup>77</sup> Various factors contribute to the migration of women from the Philippines, including the Philippines' large foreign debt,<sup>78</sup> lack of employment opportunities within the country, and widespread poverty.<sup>79</sup> As a means of improving its economic condition, the Philippines has relied upon its citizens entering overseas labor markets.<sup>80</sup> The majority of those who

<sup>76</sup> See Ninotchka Rosca, *The Philippines' Shameful Export*, THE NATION, Apr. 17, 1995, at 522, 524.

<sup>77</sup> See *1 Out of 3 Filipino Emigrants Leaves through Marriage*, XINHUA GEN. OVERSEAS NEWS SERVICE, June 9, 1993 available in LEXIS, World Library, Allwld File ("Figures made available by the commission on overseas filipinos . . . showed that of the 64,172 filipino emigrants last year, 18,933 or a third did so on the strength of fiancée or spouse visas.")

<sup>78</sup> See Donna Strawson, *Philippine Debt Lies Heavily on the Women*, TORONTO STAR, Dec. 9, 1991, at A16 (stating that in 1991, the Philippines owed \$29 billion to foreigners).

<sup>79</sup> See *id.*; *Philippine Congress Urged to Outlaw Mail Order Bride Business*, XINHUA GEN. OVERSEAS NEWS SERVICE, Apr. 13, 1989, available in LEXIS, World Library, Allwld File. The economic troubles the Philippines face partially developed in the 1970s:

The public treasury had been virtually emptied by President Ferdinand Marcos's 1969 re-election bid, and . . . the peso had been devalued twice, losing two-thirds its value . . . [I]n came I.M.F. and World Bank loans to finance infrastructure development for tourism and the E.P.Z.s [Export Processing Zones]. Marcos imposed martial law and in the resulting governance-by-decree blew up the country's foreign debt from \$500 million to \$26 billion in two decades.

Rosca, *supra* note 76, at 524-26.

<sup>80</sup> See Seth Mydans, *Manila Frets Over Export of Its Women*, N.Y. TIMES, May 12, 1988, at A9 ("The export of labor is a conscious policy begun more than a decade ago to relieve local unemployment and boost foreign currency earnings."). Ninotchka Rosca, an activist and author, writes that:

The Philippines puts more women into the overseas labor market than any country in the world. Last year alone more than 300,000 Filipina workers emigrated, continuing a trend that began in the 1980s. Most migrant women are domestics: 75,000 in Singapore; 50,000 in Hong Kong; 40,000 in England; 80,000 in Italy; 60,000 in Spain; 20,000 in Greece; and 750,000 in the Middle East.

Rosca, *supra* note 76, at 522.

have worked overseas have been women. The remittances from the millions of Filipinos who work overseas equal around \$6 billion each year,<sup>81</sup> qualifying the overseas workers as "one of [the Philippines'] top 10 foreign-exchange earners, . . . [and] among the best exports that [the country has]."<sup>82</sup> Because even menial overseas jobs allow Filipinas to earn more than they could make in their own country, a large population of the country's women, including high school and college graduates, choose to leave.<sup>83</sup> Both former president Corazon Aquino and current president Fidel Ramos have referred to the women who travel overseas to work as "heroines of the Philippine economy."<sup>84</sup>

The reliance on the export of women to support the economy has facilitated the marketing of the Filipina as a commodity, making it easier for mail-order bride agencies to gain access to women from the Philippines. The women's identity as domestic workers creates a stereotype of Filipinas as servants who can be cheaply bought. This stereotype, the Philippine government's acceptance of the export of women,<sup>85</sup> and the women's desire to leave for wealthier countries, have made it easy for contract workers to "slide into the sex industry" or become mail-order brides.<sup>86</sup> Bridal agencies recognize and take advantage of these

<sup>81</sup> See Rosca, *supra* note 76, at 524.

<sup>82</sup> Mydans, *supra* note 80, at A9. According to Kaibigan, a Philippine migrant-worker organization, "the nation's nearly 400,000 overseas workers contribute more to the Philippine economy than do its traditional exports of sugar, minerals and wood products." *Id.*

<sup>83</sup> See *id.*; see also Strawson, *supra* note 78, at A16 (stating that the structural adjustments in the Philippines "force most women to take on a second or third job, to work longer hours for a smaller wage, and to forego their own basic needs in order to provide for their families").

<sup>84</sup> See Mydans, *supra* note 80, at A9; Rosca, *supra* note 76, at 522.

<sup>85</sup> Recognizing the potential exploitation Filipinas face in foreign countries due to their status as domestic workers, the harsh job conditions, and the ease with which the women may be physically and sexually abused, the Philippine government attempted to regulate the export of its women beginning in 1988 by slowing the flow of Filipino domestics overseas until individual nations guaranteed their protection from abuse. See Mydans, *supra* note 80, at A9. These regulations seemed to be superficial attempts to curb the trade of women, since the government relaxed the ban for many countries. See *id.* As a result, the ban did little to stop the export on which the government still depends, did not protect the women exported, or change the stereotypes of Filipinas. See *id.* In fact, the Philippines still encourages the "flesh trade," since exporting women generates a large profit for the country. See Quinn, *supra* note 29, at B5.

<sup>86</sup> Rosca, *supra* note 76, at 524; see Mydans, *supra* note 80, at A9.

conditions. A large portion of the agencies' business takes place in the Philippines "because most Filipino women speak English, are familiar with the United States, live in poverty and are aware that marriage is the fastest way to enter the United States legally."<sup>87</sup> The women willingly enter the mail-order bride market, believing that marriages to American men will enable them to send financial support to their families in the Philippines.<sup>88</sup>

### 3.1.2. *Russia and Eastern Europe as the Mail-Order Bride Industry's "New Market"*

Although women from the Philippines were the most popular commodities for the first two decades of the modern mail-order bride industry, Russian and Eastern European women began to appear on the market in force beginning in the late 1980s. The collapse of the Soviet Union and the Eastern Bloc opened those markets to Western entrepreneurs. Throughout the past decade, mail-order bride agencies have realized large profits by marketing women from Russia and Eastern Europe.<sup>89</sup>

With the economies of the former Soviet Union and Eastern European nations in disarray, living standards have declined and the future remains uncertain.<sup>90</sup> Women in those areas have been searching for opportunities to leave and seek better lives elsewhere.<sup>91</sup> Their chance to escape arose when the countries of the former Soviet Union and Eastern Europe lifted travel restrictions and liberalized immigration policies. At the same time, bridal

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<sup>87</sup> Belkin, *supra* note 1, at 55.

<sup>88</sup> See Meng, *supra* note 32, at 204. Donna Strawson, secretary to the Philippine Solidarity Group explains, "Filipino women are very vulnerable and become easy prey to mail-order-bride syndicates . . . which can only exist and thrive because of the present unjust global economic system." Strawson, *supra* note 78, at A16.

<sup>89</sup> See Reed, *supra* note 36, at A1 (stating that "British-based Moscow Connection[] is part of a burgeoning field of American matchmakers who are cashing in on the end of the Cold War").

<sup>90</sup> See Kelly, *supra* note 62, at 5A; Reed, *supra* note 36, at A1.

<sup>91</sup> See Kelly, *supra* note 62, at 5A (quoting one Russian woman as saying, "Every women knows now is the time to get out. . . . We all want a chance to live well before it's too late."); Locke, *supra* note 34, at 5 (quoting a 31-year-old bank secretary as saying "I'm not satisfied with the life I live here in Russia. You know that life in Russia is rather hard.").

agencies began to access those markets.<sup>92</sup> Old mail-order bride companies shifted their focus to women from these areas, and new businesses appeared.<sup>93</sup> According to the U.S. Immigration and Naturalization Service, emigration from the Commonwealth of Independent States, the former Soviet Union, to the United States rose from 2,950 in 1988 to 56,980 in 1991.<sup>94</sup> Many of those emigrating were women coming to the United States to join husbands that they had met through the mail.<sup>95</sup>

Deteriorating economic conditions, however, do not fully explain the vulnerability of Russian women to the mail-order bride industry. The economic exploitation of Russian and Eastern European women intersects with ethnicity, class, and gender to drive market forces. The mail-order bride practice is not "ethnicity neutral," but instead relies on biases and hierarchies within the foreign countries to foster the economic disparity that generates the supply of foreign women. Russian and Eastern European women comprise the bottom of the social hierarchy in Europe.<sup>96</sup> Their ethnicity contributes to their low economic status. These conditions allow bridal agencies and American consumers greater access to these women because economics and social position provide incentives for the women to leave their countries.

### 3.2. *An Industry Built on Racial Images and Stereotypes*

In addition to economic exploitation, the mail-order bride business relies on stereotypes of the "traditional" foreign woman and the charming American man to create both a demand for foreign brides and a supply of women looking for American

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<sup>92</sup> See Matthew Brzezinski, *Vows Turn Violent for Europe's Catalogue Brides*, THE GUARDIAN, June 1, 1995, at 12 ("When travel restrictions were lifted in the former communist bloc, a thriving industry emerged supplying women to Western men.").

<sup>93</sup> See *supra* Section 2.2.1.

<sup>94</sup> See Wiegand, *supra* note 21, at A1.

<sup>95</sup> See *id.* As noted by Olga Roussanow, senior counselor for immigration benefits at the Tolstoy Foundation in Manhattan, "[t]here are more and more [Russian women] coming in through the bridal agencies that have mushroomed." Henneberger, *Cold Warring*, *supra* note 34, at B1.

<sup>96</sup> See Meng, *supra* note 32, at 199 n.10.

mates.<sup>97</sup> Stereotypes prevail on both sides, influencing the decisions of consumer-husbands to purchase brides from particular countries, and attracting women to advertise themselves in bridal catalogs.<sup>98</sup>

### 3.2.1. *The Myth of "The American Man"*

Although foreign women are largely driven to become mail-order brides by economic factors, they also turn to the West for romance because they believe American men will make better husbands than the men from their own countries. Matchmakers claim that Russian women are dissatisfied with Russian men and therefore answer the agencies' ads.<sup>99</sup> Critics point out, however, that books and movies provide many Russian women with their knowledge of American men and that these media may not necessarily reflect reality.<sup>100</sup>

The myth of the American man that affects Russian women

<sup>97</sup> See Clark, *supra* note 69 (stating that men want "a woman who will be a more 'traditional' kind of wife, who is probably more oriented toward being a wife than being a career woman. . . . These women see American men as much better 'husband material' than the men at home.").

<sup>98</sup> Vladimir Pereverzev, director of Oasis, a Moscow firm that cooperates with several Western matchmaking clubs, admits that the relationships between the American men and foreign women "are based upon mutual illusions." *Russian Women Search Abroad for Husbands*, *supra* note 25, at B7.

<sup>99</sup> See *Wanted . . . Men in Cyberspace*, PRECISION MARKETING, Apr. 15, 1996, at 10 ("We have all heard of mail order brides but now the enterprising babushkas fed up with the unreliability of Russian men have gone one better by looking for love in cyberspace. Thousands of women . . . are flocking to join the Florida Fedorova Marriage Service, a Moscow-based Internet dating service. The site gets more than 6,000 visitors every month."). Tony Gelvasser, a marriage broker who runs Angel International, claims that Russian men are "lousy lovers, lack romance, and won't lift a finger in the house, even though their wives work full time." Singer, *supra* note 9, at 4. American men, on the other hand, are seen by some Russian women as "the greatest thing since sliced black bread: gentlemanly, elegant, self-supporting." *Id.*; see also Walker, *supra* note 48, at 1F (quoting Ron Rollband, president of American-Russian Matchmaking in Los Angeles as saying, "Russian women love to meet American men. . . . For one thing, we treat them better than Russian men."). Some Russian women agree, believing that "Russian men don't know how to treat women. They're not charming like Western men." Mike Trickey, *Nothing Blushing in Russia's Potential Mail-Order Brides*, VANCOUVER SUN, July 7, 1993, at A18 (quoting a 31 year-old Russian woman who uses the services of a bridal agency).

<sup>100</sup> See Singer, *supra* note 9, at 4 (stating that Russian women "read a lot of American and West European novels, they see a lot of movies. They know that they deserve better than [the] beastly habits [of Russian men].").

also influences women from the Philippines. Many Filipinas cite an attraction to Western men as one of the main reasons for applying to bridal agencies.<sup>101</sup> The belief that American men treat their wives better than Filipino men also drives many Filipinas to enlist the services of mail-order bride firms.

According to some commentators, the Filipina's attraction to foreign men is a side affect of colonialism.<sup>102</sup> They argue that colonialism has affected the "Philippine psyche" by making Filipinos more receptive to foreign inputs, especially American and Western influences.<sup>103</sup> This openness and regard for foreign models may be translated into an appreciation for foreign men.<sup>104</sup> Regardless of the reasons for the subscription to this myth, marriage brokers exploit the stereotype of the American man in order to stimulate the market and generate a supply of foreign women for the industry.<sup>105</sup>

### 3.2.2. *Attracting the Consumer-Husband by Promoting "Traditional Values"*

Even more essential to the success of the mail-order bride industry are the stereotypes of foreign and American women that serve as the cornerstones of the marriage market. Marriage brokers rely upon the consumer-husbands' dissatisfaction with American women and the Women's Movement. According to most of the men who seek mail-order brides, "American women are too aggressive, too demanding, [and] too devoted to their own careers."<sup>106</sup> Marriage brokers recognize that "[t]he mail order bride business has been stoked by a backlash against women's liberation" and the feelings of the "subscribers [that] American

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<sup>101</sup> As one bride stated, "American men are sincere and loving when it comes to marriage." Belkin, *supra* note 1, at 52.

<sup>102</sup> See Meng, *supra* note 32, at 204 n.44 (citing FADZILAH M. COOKE, AUSTRALIAN-FILIPINO MARRIAGES IN THE 1980S: THE MYTH AND THE REALITY 1 (Centre for the Study of Australian-Asian Relations, 1986)).

<sup>103</sup> See *id.* ("[T]he colonization of the Philippine psyche appears complete. Since independence, Filipinos have buoyed their country's hope for the future on the overgenerous offerings of the U.S. State Department and Hollywood.")

<sup>104</sup> See *id.*

<sup>105</sup> See Reed, *supra* note 36, at A1 ("The matchmakers also exploit Russian women's image of American men, who are purported to have an 'amazing gentlemanliness and casual elegance' compared with their Russian counterparts.")

<sup>106</sup> *Men Pursue Foreign Brides Via Brokers*, *supra* note 21, at 6.

women are aggressive and selfish.”<sup>107</sup> Discontent among American men allows bridal agencies to sell the fantasy of the foreign bride as a more accommodating wife. The marketing of both the Russian and Filipina brides relies on and promotes stereotypes of these foreign women to attract potential customers.

### 3.2.2.1. *The “Old-Fashioned” Russian Wife*

Mail-order bride agencies encourage the demand for Russian women by appealing to the consumers’ belief that Russian women are both traditional and “dynamic.”<sup>108</sup> The agencies sell a gender-role fantasy to men who blame their failed relationships on American women. The image of the Russian woman as traditional may be illusory; the stereotypes of Russian women as old-fashioned stem partly from the women’s “foreign” status.<sup>109</sup> Men who buy into this myth may be surprised.<sup>110</sup>

### 3.2.2.2. *The Subservient and Exotic Asian Woman*

Although marriage brokers market Filipino women as embodying traditional values similar to Russian women, the stereotype of Asian women differs from the Russian bride. Throughout Western history, Asian women have been portrayed

<sup>107</sup> Hanson, *supra* note 72 (quoting John Broussard, owner of a mail-order bride agency).

<sup>108</sup> See *Larry King Live*, *supra* note 70 (quoting Ron Rollband, president of American-Russian Matchmaking, as saying, “Russian women are definitely not subservient. They’re dynamic.”). Tony Gelvasser, operator of Angel International, explains the difference between American and Russian women:

[The clients] are sick and tired of the princess attitude of American women. . . . [A] Russian [woman] is the opposite. She enjoys being treated as a woman. Even so she can be a professional, and on the job she can be a leader and be assertive and independent. But when she comes home, she wants to leave that outside of their family nest and become totally dedicated to a husband and children.

Singer, *supra* note 9, at 4.

<sup>109</sup> See Susan Barbieri, *International Matchmakers Promote Disturbing Fantasy*, ORANGE COUNTY REG., Sept. 13, 1992, at F12 (“The singles rags that peddle women are selling the notion that foreign women are more docile than Americans and therefore more appealing to American men. Surely any woman might seem docile if she couldn’t speak English.”).

<sup>110</sup> See, e.g., Henneberger, *Cold Warring*, *supra* note 34, at B1 (describing a failed match between an American man and a Russian woman: “It was a complete disaster, not a minor but a major disaster”).

as erotic and exotic beings.<sup>111</sup> Bridal agencies promote this image, capitalizing on and perpetuating the stereotype of the Asian woman as the subservient "china doll;" a silent, dutiful, sexually accommodating object devoted to serving her man.<sup>112</sup>

The historical positioning of Asian women in America as exotic and erotic beings began in the 1800s when Chinese and Japanese women came to America either as picture brides or prostitutes to satisfy the demands of a predominantly male immigrant population.<sup>113</sup> Due to fears about immigrants and in accordance with the doctrine of "Orientalism,"<sup>114</sup> whites have historically emphasized racial, color, and ethnic differences between Asian women and white women, suggesting that the exotic is also more erotic.<sup>115</sup> Legislative efforts illustrated this belief by singling out Chinese prostitutes in the 1800s and early 1900s.<sup>116</sup> The focus on Chinese prostitutes helped to impress on

<sup>111</sup> See Megumi Dick Osumi, *Asians and California's Anti-Miscegenation Laws*, in *ASIAN AND PACIFIC EXPERIENCES: WOMEN'S PERSPECTIVES*, *supra* note 4, at 1, 13 (discussing the fear of Asians in the 1900s that was expressed in "the familiar stereotype, first applied to the Chinese and then the Japanese, of an immoral, sexually aggressive Asiatic").

<sup>112</sup> See Renee E. Tajima, *Lotus Blossoms Don't Bleed: Images of Asian Women*, in *MAKING WAVES*, *supra* note 4, at 309 ("Images of Asian women . . . have remained consistently simplistic and inaccurate . . . . There are two basic types: the Lotus Blossom Baby (a.k.a. China Doll, Geisha Girl, shy Polynesian beauty), and the Dragon Lady (Fu Manchu's various female relations, prostitutes, devious madames . . . .) This view of Asian women has spawned an entire marriage industry.").

<sup>113</sup> See *supra* Section 2.1.

<sup>114</sup> Looking at representations of the "Orient" in the social sciences and by various writers, Edward Said showed that "European culture gained in strength and identity by setting itself off against the Orient as a sort of surrogate and even underground self." EDWARD SAID, *ORIENTALISM* 3 (1978). His work and the work which has built upon it since maintains that the "Oriental" (i.e. non-white, Western, European, Christian, heterosexual) is "other," in opposition to a self that depends on that "otherness" for its own stability. See *id.* at 4-7. The construction of the Asian as Oriental takes the form of sexual domination in which the Orient is illustrated as the silent, feminine object of conquest. See *id.* In contrast to the mute, passive, irrational East, the West becomes defined as rational and intelligent. See *id.*

<sup>115</sup> See Mazumdar, *supra* note 4, at 2-3 (discussing the unwillingness to see "Chinese prostitution as a reflection of the same situation facing many other women" in the late 1800s and the development of the "myth of the erotic Oriental . . . born of the 1870s racist environment that continues to haunt portrayals of Asian women").

<sup>116</sup> See *id.* at 3 ("Singling out Chinese prostitution in an era of widespread general prostitution served to produce many clichés: the depravity of the



the “American” consciousness the stereotype of Asian women as overly sexual beings.

The development and subscription to this Asian “identity” not only affects relationships in the domestic sphere, but influences U.S. policy on the international level. American military sexual colonialism, for example, has relied on and contributed to the image of Asian women as erotic beings:

Beginning in post-World War II Japan, the Japanese government procured Japanese “comfort girls” for the United States Occupation Forces. As American soldiers replaced French in Indochina, Vietnamese prostitutes served American servicemen. By the mid-1960s, Thai and Laotian women also served American troops in Vietnam. During the same period, American troops had access to Filipina prostitutes when they took leave at Subic Naval Base in the Philippines.<sup>117</sup>

American servicemen developed, if not affirmed, their perception of Asian women as “prostitutes, bargirls, and geishas” during their stay abroad.<sup>118</sup> They returned to the United States with this misconception, perpetuating the stereotype in the American consciousness.<sup>119</sup>

The American media has contributed to the sexual image of Asian women by focusing solely on the prostitution surrounding military bases in developing countries, while practically ignoring the activities at bases in New Zealand, Europe, and North America.<sup>120</sup> This difference in publicity illustrates the racial politics involved:

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Oriental: the sexually subservient Asian female.”); Peggy Pascoe, *Gender Systems in Conflict: The Marriages of Mission-Educated Chinese American Women, 1874-1939*, in *UNEQUAL SISTERS* 123, 123 (Ellen Carol Dubois & Vicki L. Ruiz eds., 1990) (stating that accounts of Chinese prostitution “fed the white American taste for exoticism”).

<sup>117</sup> Meng, *supra* note 32, at 229 (citations omitted).

<sup>118</sup> See Villapando, *supra* note 12, at 324.

<sup>119</sup> See *id.*

<sup>120</sup> See CYNTHIA ENLOE, *BANANAS BEACHES & BASES: MAKING FEMINIST SENSE OF INTERNATIONAL POLITICS* 84 (1989).

It may be that prostitution really doesn't exist around [U.S.] bases in Britain or British bases in West Germany or Soviet bases in East Germany and Poland. Or it may be that prostitution — as distinct from white American servicemen having white British "girlfriends" — is politically visible only when most of the foreign soldiers and the local women they date are from different racial groups. It would be surprising if a military base in Massachusetts, Belfast, Ramstein or Berlin were any less sexually constructed than bases in Belize, Honduras or Guam. The crucial difference, therefore, may be in the way issues are politically constructed.<sup>121</sup>

The media attention given to prostitution in developing countries such as the Philippines and the focus on racial differences furthers the image of Asian women as more erotic than any other racial group.

Because media images and historical representations have already established the sexual nature of Asian women,<sup>122</sup> the United States can freely and publicly take advantage of Asian women abroad, and can use this image to classify Asian-American women living in the United States. These factors contribute to the treatment of Asian women as overly sensual and existing to serve white male desire. The stereotypes of Asian women as sexual servants promotes the selling, buying, and possession of the Asian body.<sup>123</sup> Marriage agencies can easily market Asian

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<sup>121</sup> *Id.*

<sup>122</sup> Popular culture, movies, music videos, and magazines, continually market stereotypes of Asian women as "China Dolls" and "Dragon Ladies" in order to make a profit. See Tajima, *supra* note 112, at 308-09.

<sup>123</sup> The belief that Asian women and other minority women are exotic bodies for white male pleasure illustrates a discourse of power where the minority female body becomes a site of possession:

To make one's self vulnerable to the seduction of difference, to seek an encounter with the Other, does not require that one relinquish forever one's mainstream positionality. When race and ethnicity become commodified as resources for pleasure, the culture of specific groups, as well as the bodies of individuals, can be seen as constituting an alternative playground where members of dominating races, genders, sexual practices affirm their power — over intimate relations

women based on these stereotypes, because the image of a subservient and compliant woman appeals to many divorced, middle-aged consumer-husbands tired of the Women's Movement.<sup>124</sup>

The men attracted to mail-order bride agencies tend to believe the illusion of the subservient Asian woman.<sup>125</sup> Mail-order bride businesses promote the stereotype of the accommodating Asian woman when advertising Filipinas as potential brides. These racial and gender stereotypes run rampant in the advertisements for the agencies' catalogs and Internet sites.<sup>126</sup> The marriage brokers themselves also attest to the submissive nature of the

with the Other.

BELL HOOKS, *BLACK LOOKS: RACE AND REPRESENTATION* 23 (1992).

<sup>124</sup> For example, one customer discussed his search for the perfect wife, finally settling on an Asian bride, stating:

My first wife wanted a car, then she wanted to go to work . . . She wouldn't cook or clean. When she started drinking, I sued for divorce and she took me for everything I had. Then I married again. This one had — whaddayacallit? — premenstrual syndrome. She went wacky and tried to kill me. I dumped her after that. But now I have a *woman*. She ties my shoes for me every morning. I really don't want her to, but she'd be offended if I didn't let her.

Michael Small, *For Men Who Want an Old-Fashioned Girl, The Latest Wedding March is Here Comes the Asian Mail-Order Bride*, PEOPLE, Sept. 16, 1985, at 127 (emphasis in original).

<sup>125</sup> For example, in Dr. Jedlicka's 1983 survey of 265 subscribers to mail-order bride catalogs, eighty percent of the respondents believed the stereotypes that Asian brides are docile, compliant, and submissive. See Villapando, *supra* note 12, at 318, 323.

<sup>126</sup> One business, American Asian Worldwide Service, states that: "Asian ladies are faithful and devoted to their husbands. When it comes to sex, they are not demonstrative, however, they are [not] inhibited. They love to do things to make their husbands happy." *Id.* at 324 (citing American Asian Worldwide Service brochure quoted in JACL., "Mail Order"). Another agency's catalog reads:

Congratulations! You have taken the first step towards discovery of an eternal treasure! This will happen when you find your number one Asian lady whose main objective in life is to please her husband. The enthusiasm shown and the pleasure they derive in accomplishing this goal is almost embarrassing! . . . We wouldn't be at all surprised if you entertained thoughts of polygamy!

Hanson, *supra* note 72 (quoting California-based Asian Experience's brochure); see also Florida Fedorova, *supra* note 49.

women they advertise.<sup>127</sup> Testimony from satisfied customers supports the claims of the marriage brokers and the agencies' catalogs.<sup>128</sup> The agencies' and consumers' reliance on and perpetuation of these stereotypes illustrates the racial politics of the mail-order bride transaction.

Although defined by stereotypes as submissive, pleasing women, Asian women in the mail-order bride system function not only as beings valued and desired for beauty and the "services" they can provide, but also as particular types racially and ethnically coded bodies. For white men, buying an Asian body may signify more than acquiring a subservient wife; it may include subscribing to the myth of eroticism associated with racial difference.<sup>129</sup>

Marketing the stereotypes of the Asian woman and the myths of racial differences to men dissatisfied with American women has greater consequences than just introducing couples and generating industry profits. The use of stereotypes reinforces various levels of inequality. The marketing techniques strengthen negative sexual and racial stereotypes of Asian women, which affect the treatment of Asian women abroad and in the United States. The reliance on racial and economic differences also affects the power dynamics between countries such as the United States and the Philippines, where the demand of the wealthier country for foreign women feeds the economy of the poorer country. Because

<sup>127</sup> Ron Rollband, president of American-Russian Matchmaking, says that Asian women do "have a tendency to be subservient." *Larry King Live*, *supra* note 70. John Broussard, founder of Cherry Blossoms mail-order bride agency, agrees with the popular misconception, stating that the Malaysian and Indonesian women who joined his list of registrants "are raised to be servants for men in many Oriental countries. . . . Like the Filipinas, they are raised to respect and defer to the male. . . . The young Oriental woman . . . derives her basic satisfaction from serving and pleasing her husband." Villapando, *supra* note 12, at 324 (citations omitted).

<sup>128</sup> For example, a retired aeronautic engineer stated that "Asian countries make fine superior products . . . . And I prefer a fine superior lady for my wife." Small, *supra* note 124, at 129. Another customer, a 58 year-old three-time divorced male, remarked "I do favor an Asian woman . . . [In Asia], women are truer, more loyal and have a mystical air or attitude or whatever the proper word is." Belkin, *supra* note 1, at 51.

<sup>129</sup> As author Bell Hooks describes, "[o]ne dares — acts — on the assumption that the exploration into the world of difference, into the body of the Other, will provide a greater, more intense pleasure than any that exists in the ordinary world of one's familiar racial group." HOOKS, *supra* note 123, at 24.

women serve as a lucrative means for crude capital accumulation, impoverished countries must rely on racial politics and the system of exploitation rooted in racial politics to support themselves.

#### 4. THE RAMIFICATIONS OF THE INTERNATIONAL MARRIAGE MARKET ON THE POTENTIAL BRIDES

While the mail-order bride industry provides incredible profits for the companies that market women from developing countries to consumer-husbands in the United States, the structure of the mail-order bride industry, the economic inequalities relied on by the business, and the gender and racial stereotypes perpetuated by the industry create a number of problems. The harms caused by the industry disproportionately affect the women who travel to the United States as potential brides.

##### 4.1. *The Displacement and Dependence Fostered by the New Mail-Order Bride Structure*

Although the traditional picture bride system created difficulties for the women who traveled overseas,<sup>130</sup> the modern international mail-order bride industry creates additional problems that picture brides of the past did not encounter. The modern market completely separates the foreign mail-order bride from cultural and familial support structures, encourages the bride's dependency on her American mate, and renders the bride vulnerable to abuse with very few legal protections. As a result, the contemporary mail-order bride business places the foreign women who travel to the United States at a severe disadvantage.

International marriage agencies exploit economic disparities and perpetuate inequalities by arranging the bridal transaction to cater to the consumer-husband, the party with the economic power. To satisfy the needs and fantasies of the client, the mail-order bride companies not only screen the women featured to assure that they deliver only the best "products," but allow the consumer-husbands access to all potentially relevant information about the brides.<sup>131</sup> The agencies also offer customers various

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<sup>130</sup> See *supra* Section 2.1.

<sup>131</sup> See *supra* Section 2.2.1.1. (discussing how agencies feature only attractive women and allow the clients to read questionnaires that the women have completed).

services in the women's countries to evaluate potential brides, including assistance from private investigators, doctors, and clinical psychologists.<sup>132</sup> To facilitate the procurement of a bride, the companies offer letter writing and flower delivery services.<sup>133</sup>

The agencies, however, do not provide the potential brides with the same privileges or protections. Male customers do not have to fill out questionnaires and companies do not screen the men who buy the catalogs or pay for the women's addresses.<sup>134</sup> The mail-order bride system assures the men that they can purchase a beautiful, intelligent, and young foreign wife, but allows the women to end up with "men who [are] basically . . . losers. [The men] cannot make it in this country so they go out and look for women who can be their total slaves."<sup>135</sup> The services offered to the customer-husbands and denied to the potential brides illustrate the power dynamics of the bridal transaction.

Not only does the bridal business rely upon economic disparities between countries and on gender and racial stereotypes to create a market, but marketing practices ensure that the inequality between the individual parties will continue. The American male consumer holds all of the power in the relationship. The services that ensure the "quality" of women clearly demonstrate the purchaser/merchandise characteristic of the transaction. Male clients are defined as the buyers with all the rights afforded that position; women are defined as commodities.

The commercial nature of the mail-order bride business also insures that the inequality between the individual parties continues past the initial contact. Once the mail-order brides reach the United States, they find themselves completely separated from their cultural network and family support. Unlike the traditional picture bride structure, where the foreign brides in America lived

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<sup>132</sup> See Belkin, *supra* note 1, at 73 (describing services offered by mail-order bride agencies).

<sup>133</sup> See *id.*

<sup>134</sup> See Small, *supra* note 124, at 129 (stating that men are primarily screened for their ability to pay their bills, which is a process imposed by law).

<sup>135</sup> Belkin, *supra* note 1, at 52 (quoting Grace Lyu-Volckhausen, a women's rights activist and a member of the New York City Commission on the Status of Women). One woman's top suitors "included a near-illiterate and an inmate at San Quentin." Small, *supra* note 124, at 129.

in a “substitute” immigrant culture with husbands of their own ethnic and racial background, the modern mail-order brides enter an almost completely “white” America. Separated from family and friends and immersed in a strange environment, many of the mail-order brides find themselves isolated and have trouble adjusting.<sup>136</sup>

Unfamiliar with the language and the customs of the United States, a foreign bride finds that the man to whom she married is her only connection to the new environment. As the sole support system for a mail-order bride who has lost all ties to her familiar lifestyle, the consumer-husband gains a great deal of leverage.<sup>137</sup> The cultural alienation experienced by the foreign bride compounds the power differential in the relationship, leaving the mail-order bride prone to abuse.

#### 4.2. *Disadvantages Due to Economic Status*

In addition to the inequality created by separating women from the support of a familiar culture and homeland, the contemporary mail-order bride industry furthers the subordination of the brides by relying on and creating economic disparity between the parties. The industry thrives because consumers have the economic power to import women to their countries and because the economic conditions of the developing countries encourage the women’s decision to leave.<sup>138</sup>

The economic disparity between the parties also ensures the

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<sup>136</sup> For example, one Korean woman described the problems of displacement created by the mail-order marriage, stating, “I can’t adapt to American culture. I was going to devote my life for him, but I can’t.” Villapando, *supra* note 12, at 326 (citation omitted). The experience of another bride from the Philippines who married a 49 year-old American at the age of 15 further illustrates the difficulty of the transition. “She had nightmares for nearly a year after she arrived at his home in Novato, Calif., and even now, she says apologetically, ‘I don’t have much friends here in America.’” Belkin, *supra* note 1, at 52.

<sup>137</sup> Marie-Jose Ragab from the National Organization for Women explains the disadvantaged position of the foreign bride and differentiates the international mail-order bride industry from the personal advertisements found in newspapers in the United States. As an American citizen searching for a mate, “you are protected. You have some rights. You have somewhere to go. You can go to the police. It’s your own language. It’s your own customs. You can have the person checked out. The matrimonial agencies of the United States are very well protected. It works both ways.” *Larry King Live, supra* note 70.

<sup>138</sup> See *supra* Section 3.1.

potential bride's reliance upon the consumer-husband to provide for her welfare once she is in the United States.<sup>139</sup> These women often lack the funds to obtain legal help, if needed, or to buy a plane ticket to return home.<sup>140</sup> They must count on the consumer-husbands for financial support. The financial dependence of the foreign women gives the consumer-husbands more power over their potential brides.

#### 4.3. *When Reality Does Not Match the Stereotype*

Many of the consumer-husbands who look to foreign countries for a more submissive wife may experience disappointment. Even marriage brokers realize that the images of the women they sell often do not fit reality, and state that the illusions will fade once the bride travels to America and the parties spend some time together.<sup>141</sup> In fact, the women who answer the ads are usually those who want to take control of their lives.<sup>142</sup> These women do not fit the stereotype of the docile wife, willing to submit to the control of an American husband.

For the foreign women who overcome the barriers of displacement and adjust to their new environment in the United States, acculturation widens the gap between the stereotype and reality.<sup>143</sup> The discovery that the stereotype of foreign women as subservient, traditional, and obedient is only a myth may lead to

<sup>139</sup> Marie-Jose Ragab, of the National Organization of Women, states that "[m]ost of [the foreign women] do not understand how the system works in the U.S., they don't have any money." Wiegand, *supra* note 21, at A1.

<sup>140</sup> See, e.g., Henneberger, *Cold Warring*, *supra* note 34, at B1 (stating that after one arranged marriage did not work out, the Russian bride moved into a homeless shelter with her daughter).

<sup>141</sup> According to Vladimir Pereverzev, director of the agency Oasis, the "man often thinks he's buying a new toy when he contracts with a Russian woman through a marriage agency. He imagines he'll get a wife who will be servile and docile, who will cater to his every whim. He soon discovers that Russian women aren't that simple." *Russian Women Search Abroad for Husbands*, *supra* note 25, at B7.

<sup>142</sup> See Belkin, *supra* note 1, at 55 (quoting Dr. Joe Yamamoto, a professor of psychiatry at the University of California at Los Angeles, who states that only the more aggressive and ambitious women will "take their destiny in their own hands" and place their name in a catalog).

<sup>143</sup> Psychiatry professor Joe Yamamoto discovered that "many Asian women acculturate rather quickly. These American men may get a surprise in a few years if their wives pick up liberated ways." Villapando, *supra* note 12, at 325 (citation omitted).



the dissolution of many marriages<sup>144</sup> or to the abuse of the women stranded in a foreign country.<sup>145</sup>

#### 4.4. *The Power to Abuse*

All of the factors mentioned above — the agencies' one way screening system, the financial power of the consumer-husbands, the desire of the potential brides to escape their impoverished countries, the propagation of racist and sexist stereotypes, the separation of the potential brides from their cultural support systems, and the brides' immigrant status — render the potential brides vulnerable to abuse. Many of the men who seek mail-order brides "are social misfits . . . [men who] drink too much; some beat their wives and treat them little better than slaves."<sup>146</sup> The propensity of these men to act violently may increase when their expectations of the traditional submissive woman are not met. The women, with no money to obtain help or to leave the country, cannot escape the abusive situations.

Stories of abused and murdered mail-order brides have increased in recent years.<sup>147</sup> These examples illustrate the serious ramifications of the mail-order bride system that fosters inequalities and racial stereotypes. Given the power dynamics which render the brides susceptible to mistreatment, regulations are needed to govern the industry and protect the women.

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<sup>144</sup> See Quinn, *supra* note 29, at B5 (stating that the divorce rate for mail-order marriages is 90%).

<sup>145</sup> See *infra* Section 4.4.

<sup>146</sup> Villapando, *supra* note 12, at 325 (quoting an Australian journalist) (citation omitted). Marie-Jose Ragab of the National Organization of Women agrees that many of the American men who find American women too liberalized and strong "are men who have a tendency to be violent, and don't like that women are more and more denouncing it." Wiegand, *supra* note 21, at A1.

<sup>147</sup> See, e.g., CBS *Morning News*, *supra* note 5 (describing the disappearance of a Filipina mail-order bride, Emilita Reeves, who was believed to have been murdered by her American husband); Catherine Enomoto, *Dismembering Victim, Husband Named in False-Ad Complaints*, HONOLULU STAR BULL., Apr. 8, 1986, at A3 (stating that Robert Krug, who ran a mail-order bride agency, dismembered the body of his Filipina wife); Hanson, *supra* note 72 (reporting the arrest of Gary Heidnik, who had kidnapped, tortured, and raped four female hostages and abused his Filipina mail-order bride); Klass, *supra* note 2, at 3 (stating that Timothy Blackwell shot his Filipina mail-order bride and two of her friends at a courthouse during divorce proceedings).

## 5. THE LEGAL RESPONSE OF TARGETED COUNTRIES AND THE UNITED STATES TO THE MAIL-ORDER BRIDE INDUSTRY

The American media has acknowledged the abusive conditions fostered by the mail-order bride industry<sup>148</sup> and various rights groups have denounced the trade of women.<sup>149</sup> Almost no laws, however, have been passed to regulate the business. Moreover, no international regulations monitor the buying and selling of mail-order brides.

Much of the hesitation to initiate a legal response to the bridal trade stems from the belief that the practice involves private, individual decisions.<sup>150</sup> Additionally, some U.S. government officials note that this type of transaction would be difficult to monitor.<sup>151</sup> Other countries have agreed that autonomy and administerability create barriers to regulation.<sup>152</sup> Treating the mail-order bride business as simply an international dating service, however, ignores the politics of subordination perpetuated by the industry: the economic inequality and racial and gender stereotypes relied upon to exploit developing countries and women for

<sup>148</sup> See *supra* note 147.

<sup>149</sup> See, e.g., Callo, *supra* note 33 (noting the formation of a private group called Stop the Trafficking of Filipinos); Quinn, *supra* note 29, at B5 (stating that a women's organization, Gabriela Network, urges the government to stop or at least regulate the trade in women); Linda Yeung, *Exported, Exploited*, S. CHINA MORNING POST, Sept. 4, 1995, at 23 (noting that the Global Alliance Against Trafficking in Women spoke at the Non-Governmental Organization International Forum on Women held in China about the need to stem this growth industry).

<sup>150</sup> See *supra* Section 2.2.2.

<sup>151</sup> Callo, *supra* note 33 (quoting one official who said that "[t]here are lonely people out there, sometimes desperate to meet someone. How can you stop that?").

<sup>152</sup> For example, in 1989, after a 9-month investigation into the mail-order bride industry, Sweden's Ombudsman Against Ethnic Discrimination declared that the trade in Asian mail-order brides to lonely Swedish men is legal. See *Swedish Study Says Mail-Order Brides are Legal*, REUTER LIBRARY REP., Feb. 14, 1989, available in LEXIS, World Library, Allwld File. According to spokesperson Gunilla Upmark,

Even if a woman who comes to Sweden is treated like a slave and the man uses, abuses and violates her rights, it is not easy to cast the blame on the marriage broker. . . . Some people simply prefer meeting their partner through an agency. . . . It would be too difficult to decide on where to draw the line in a free society.

*Id.*

a profit.

### 5.1. *The Legal Regulations Enacted by the Philippine Government*

Some of the developing countries affected by the mail-order bride trade, such as the Philippines, have viewed the situation differently than the nations to which the brides are imported, and have attempted to regulate the industry.<sup>153</sup> Their efforts, however, have had little success.

Although various groups and individuals in the Philippines have objected to the mail-order bride business and the trade of Filipina women for many years,<sup>154</sup> the Philippine government has only recently responded legally to the industry. On June 13, 1990, President Corazon Aquino signed a law banning the matching of Filipina brides for marriage to foreign men "on a mail-order bride basis."<sup>155</sup> The law prohibits any advertisement, publication, or printing or distribution of any brochure, flier or propaganda material that promotes the mail-order bride industry.<sup>156</sup> The bill also outlaws any solicitation of Filipino women by bridal agencies. Penalties for violations of the law include imprisonment of between six and eight years, and a fine of at least 8,000 pesos.<sup>157</sup> According to sponsors of the law, the bill

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<sup>153</sup> Russia and Eastern Europe have not denounced the bridal trade or attempted to stem the migration of its women to other countries. One possible reason for the lack of response may be that the phenomenon is fairly new to Russia and Eastern Europe. These regions have just recently been the target of mail-order bride agencies. Another reason may be that the governments in the area may not have the political strength to regulate the industry at this time.

<sup>154</sup> See *supra* note 149; see also *Church Seeks an End to Filipina Mail-Order Brides*, REUTER LIBRARY REP., May 11, 1988, available in LEXIS, World Library, Allwld File (stating that the Roman Catholic Church in the Philippines has asked Australians and other foreign consumers to stop taking Filipinas as mail-order brides); *Mail-Order Bride Trade Outlawed by Aquino*, WASH. TIMES, June 14, 1990, at A2 ("Feminists [in the Philippines] have long denounced the practice, saying . . . a lot of mail-order Filipino brides end up becoming household helpers of aged Europeans, Australians and other foreigners.").

<sup>155</sup> *Asian News; Aquino Signs Law Banning Mail-Order Bride Business*, JAPAN ECON. NEWSWIRE, June 13, 1990; see also *Philippines Bans Brides Via Mail*, CHI. TRIB., June 14, 1990, at D10; *Philippine Enacts Bill Prohibiting "Mail-Order" Brides*, XINHUA GEN. OVERSEAS NEWS SERVICE, June 13, 1990, available in LEXIS, World Library, Allwld File.

<sup>156</sup> See *Philippine Enacts Bill Prohibiting "Mail-Order Brides," supra* note 155.

<sup>157</sup> See *id.*

responds to the "alarming rate of battered Filipina wives married to foreign nationals through the mail-order bride business."<sup>158</sup>

Despite the attempt by the Philippine government to curb the international mail-order bride industry, the regulation has had little effect on the matchmaking business.<sup>159</sup> Agencies admit that the ban has not affected their business. Because the Philippines has been one of the main suppliers of mail-order brides since the 1970s, marriage brokers do not need advertisements to attract women. Women contact the agencies on their own.<sup>160</sup> The women's decisions to leave illustrate one of the main reasons why the ban has proven to be ineffective in stopping the trafficking of Filipino women: the economic conditions of the Philippines have not changed. The Filipinas still wish to leave to escape poverty, and the government still relies on exporting its women to bolster the economy.<sup>161</sup>

Recognizing the serious problems created by the mail-order bride industry, the government of the Philippines has attempted to deal with the situation by alternative means. In 1989, the government began requiring Filipina brides to undergo counseling sessions before joining their husbands overseas.<sup>162</sup> The Commission on Filipinos Overseas ("CFO") provides this service,

<sup>158</sup> *Asian News; Aquino Signs Law Banning Mail-Order Bride Business*, *supra* note 155.

<sup>159</sup> Gina Alunan, the director of the Kanlungan Centre for women in Quezon City, claims that the ban "simply forced the mail-order bride business underground in the Philippines. . . . 'What's happening now is it's an organized syndicate of traffickers and recruiters who have their own network in the Philippines and other parts of the world.'" Paul Watson, *Mail-Order Bride Firms Flourish in Canada*, *TORONTO STAR*, Nov. 9, 1991, at A1; see also Michelle J. Anderson, Note, *A License to Abuse: The Impact of Conditional Status on Female Immigrants*, 102 *YALE L.J.* 1401, 1408 (1993) ("In June 1990, the government of the Philippines, alarmed at reports of widespread abuse of Philippine women in other countries, outlawed bride agencies. That move simply drove the mail-order business underground without significantly affecting the international trade."). In addition, even if such a ban were successful, the ban could have little effect on curbing the industry as a whole since firms could shift to unregulated markets such as Eastern Europe.

<sup>160</sup> For example, Don Inch, operator of Calgary's Friendship Office, a bridal agency, maintains that although he has not placed an advertisement in the Philippines since 1985, Filipino women send him 30 to 40 letters a day asking him to put them in his catalog. See Watson, *supra* note 159, at A1.

<sup>161</sup> See *supra* Section 3.1.1.

<sup>162</sup> See Johanna Son, *Philippines — Women: Arming Migrant Brides with Contraceptives*, *GLOBAL INFO. NETWORK*, June 30, 1995.

informing the potential brides of the possible obstacles and abuses waiting abroad.<sup>163</sup> The CFO advises the women to “arm themselves with ‘weapons’ they might need after joining their husbands abroad: contraceptives and money for a plane ticket home.”<sup>164</sup> Such counseling may help prepare the women who leave for the United States, but it can neither stop the women from leaving nor prevent bridal agencies from soliciting more potential brides.

### 5.2. *The U.S. Response to the Mail-Order Bride Industry*

The U.S. policy towards international marriages is limited to immigration laws which neither prevent the activities of bridal agencies<sup>165</sup> nor deter the consumer-husbands from enlisting the agencies’ services. U.S. immigration law, however, does regulate the immigrant women’s ability to remain in the United States, affording the consumer-husbands greater control over the mail-order brides by rendering the women’s stay in the United States conditional.

Once an immigrant bride enters the United States on a fiancée visa, she must marry within ninety days or she will be deported.<sup>166</sup> Even after the woman marries, the Immigration and Nationality Act (“INA”)<sup>167</sup> imposes a two-year conditional status period on the bride.<sup>168</sup> This conditional status may only be changed after two years by petitioning for a grant of permanent status.<sup>169</sup> The consumer-husband’s power to control the bride’s immigration status, his ability to deny marriage during the ninety-day fiancée period,<sup>170</sup> and his capability to determine whether

<sup>163</sup> See *id.*

<sup>164</sup> *Id.*

<sup>165</sup> See Markham-Smith, *supra* note 26, at 2 (stating that “no [U.S.] government agency regulates” the mail-order bride businesses).

<sup>166</sup> See Meng, *supra* note 32, at 209.

<sup>167</sup> Immigration and Nationality Act, Pub. L. No. 82-412, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8 U.S.C.) [hereinafter INA].

<sup>168</sup> See INA § 201(b)(2)(A)(i), 8 U.S.C. § 1151(b)(2)(A)(i) (1988 & Supp. V 1993).

<sup>169</sup> See INA § 204(a)(1)(A)-(B), 8 U.S.C. § 1154(a)(1)(A)-(B).

<sup>170</sup> Men are able to pressure their potential brides into having sex with them during this 90-day period without having to follow through on their promises to marry. See Meng, *supra* note 32, at 209. Since the immigrant women must marry within the 90-day period to remain in the United States, many women feel obligated to submit to the demands of their consumer-husbands. See *id.* The 90-day period acts as a trial period during which the

permanent status will be granted to the immigrant bride, place the immigrant in an inferior position and render her vulnerable to abuse.

### 5.2.1. *The Importance of Marital Status Under the INA*

The U.S. Congress currently restricts the number of aliens permitted to emigrate to the United States,<sup>171</sup> granting visas according to a preference system with various categories of eligibility.<sup>172</sup> Prospective immigrants who do not fall within one of the preferenced categories are subject to numerical caps.<sup>173</sup> Concerned with preserving the "traditional family unit,"<sup>174</sup> the United States has exempted spouses and immediate relatives of U.S. citizens from direct numerical limitations<sup>175</sup> and has given preference to spouses of permanent residents.<sup>176</sup> The family-based immigration system functions as a sponsorship program where the citizen or permanent resident "sponsors" the undocumented immigrant, petitioning for a fiancée visa before marriage and petitioning for immigration status after marriage.<sup>177</sup>

Before 1986, an immigrant woman could qualify for permanent residence status after an initial petition and an interview with the Immigration and Naturalization Service ("INS").<sup>178</sup> If the woman married a U.S. citizen, the INS granted permanent residence status immediately upon a finding that the marriage was

husband can return a bride that does not meet his expectations by refusing to marry her and having her deported. *See id.*

<sup>171</sup> Those immigrating to the United States must fall under one of three categories: (1) family-sponsorship; (2) employment based immigration; or (3) "diversity" immigration. 8 U.S.C. § 1151(a).

<sup>172</sup> Those categories of immigrants preferenced include: those with "extraordinary" ability such as athletes or artists; outstanding academicians; executives and managers; and other skilled workers and professionals. *Id.* § 1153(b)(1)(B)-(C), (b)(3).

<sup>173</sup> *See id.* § 1151(a)(3), § 1152.

<sup>174</sup> Representative John Boehner, *Immigration in the National Interest Act H.R. 2202*, CONG. PRESS RELEASES, March 17, 1996 available in LEXIS, News Library, Curnws file (quoting President Clinton as stating that "legal immigration must be based upon principles that are pro-family").

<sup>175</sup> *See* INA § 201(b), 8 U.S.C. § 1151(b).

<sup>176</sup> *See* INA § 203(a), 8 U.S.C. § 1153(a).

<sup>177</sup> *See* INA § 204(a)(1)(A)-(B), 8 U.S.C. § 1154(a)(1)(A)-(B).

<sup>178</sup> *See* Margaret M.R. O'Herron, *Ending the Abuse of the Marriage Fraud Act*, 7 GEO. IMMIGR. L.J. 549, 552 (1993).

entered into "in good faith."<sup>179</sup> If the woman married a permanent resident, the INS granted permanent status only if the numerical limit for that year had not been reached.<sup>180</sup> The estimated average wait for permanent status for an immigrant married to a permanent resident was two years and three months.<sup>181</sup> Therefore, immigrants in that situation had to wait more than two years for approval of their initial petition.<sup>182</sup>

### 5.2.2. *The Immigration Marriage Fraud Amendments of 1986*

In 1986, the U.S. Congress enacted the Immigration Marriage Fraud Amendments ("IMFA").<sup>183</sup> Congress believed that the policy of giving spouses of citizens and permanent residents preference under immigration laws created an opportunity for aliens to abuse the system by engaging in sham marriages.<sup>184</sup> The IMFA makes it more difficult for immigrants to gain permanent status by imposing a two-year conditional residence period after the approval of the initial residency petition.<sup>185</sup> The INS grants conditional residency to the immigrant only if the couple maintains a valid marriage.<sup>186</sup> This conditional status also can be terminated if the Attorney General finds that the citizen or permanent resident received a fee for the marriage.<sup>187</sup> If the marriage survives the conditional period, the conditional permanent resident must petition for permanent status.<sup>188</sup>

Various amendments to the IMFA have complicated the

<sup>179</sup> *Id.*

<sup>180</sup> See INA § 201(a)(1), 8 U.S.C. § 1151(a)(1).

<sup>181</sup> See O'Herron, *supra* note 178, at 552.

<sup>182</sup> See *id.*

<sup>183</sup> Pub. L. No. 99-639, 100 Stat. 3537 (1986) (codified as amended at INA § 216, 8 U.S.C. § 1186a and scattered sections of 8 U.S.C. (1988 & Supp. V 1993)) [hereinafter IMFA].

<sup>184</sup> See, e.g., 132 CONG. REC. S3782-04 (daily ed. Apr. 8, 1986) (Statement of Sen. Simon) ("Our Nation's policy of giving spouses first preference has been widely and shamelessly abused. Immigration marriage fraud has become a lucrative industry which allows an unscrupulous alien to remain in the United States with a green card.")

<sup>185</sup> See INA § 216(a)(1).

<sup>186</sup> See *id.* § 216(b)(1)(A).

<sup>187</sup> See *id.* § 216(b)(1)(B).

<sup>188</sup> See *id.* § 216(c)(1)(A).

petitioning process. Under these amendments, the immigrant's marital status determines whether a conditional permanent resident must jointly petition with her spouse, apply for a waiver of the joint-petition requirement, or self-petition for a removal of the conditional status. If at the time of petition the conditional permanent resident is still married to her spouse, the couple must jointly petition within the ninety days preceding the second anniversary of the approval of the couple's initial petition.<sup>189</sup> Failure to comply with any of these requirements results in automatic termination of residence for the immigrant, making the immigrant deportable.<sup>190</sup> An exception will be made for a "good cause" showing of why the petition could not be timely filed.<sup>191</sup> After petitioning, both parties must participate in an interview with the INS to determine the validity of the marriage.<sup>192</sup> Within ninety days of the interview, the Attorney General will decide whether the petition for permanent residency should be granted, thereby giving permanent status to the immigrant.<sup>193</sup>

The initial language of the IMFA provided an exception for immigrants who could not meet all of the above procedural requirements.<sup>194</sup> Under a discretionary hardship waiver, immigrant women who had divorced their husbands after an initial petition had been filed but before the petition to remove the woman's conditional status has been filed, could prevent deportation by proving: that deportation would cause extreme hardship; that the woman had entered the marriage in good faith; that she terminated the marriage for good cause; and that she had not been at fault for failing to meet the requirements of the petition to remove the conditional status.<sup>195</sup> Commentators have noted that this exception was both demanding in its requirements and flawed.<sup>196</sup>

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<sup>189</sup> See *id.* § 216(d)(2)(A).

<sup>190</sup> See *id.* § 216(c)(2).

<sup>191</sup> *Id.* § 216(d)(2)(B).

<sup>192</sup> See *id.* § 216(c)(1)(B).

<sup>193</sup> See *id.* § 216(c)(3).

<sup>194</sup> See *id.* § 216(c)(4).

<sup>195</sup> See *id.*

<sup>196</sup> See, e.g., O'Herron, *supra* note 178, at 554 (commenting on the problems inherent in showing a marriage had been terminated for "good cause"); Anderson, *supra* note 159, at 1413 (discussing the problems of demonstrating "good cause" in no-fault divorce states).



The main problem with the discretionary hardship waiver was the requirement that the immigrant woman initiate the divorce proceedings to qualify for the waiver. Not only did this create “a race to the courthouse” because an immigrant woman could qualify for the waiver only if she filed for a divorce, but it also created evidentiary problems:

[I]t was not always possible for a woman to show that she had terminated the marriage for good cause. For example in states with no-fault divorce laws, an immigrant woman was not able to allege specific facts when filing for the divorce and, therefore, might not be able to create a record showing that she had initiated the divorce for good cause.<sup>197</sup>

The requirement also created an obstacle for many immigrant women from “cultures in which divorce is not accepted.”<sup>198</sup>

The introduction of the two-year conditional status period and the difficulties of the hardship waiver added to immigrant brides’ already unequal position of power. Because the provisions of the IMFA required married immigrant women to obtain the authorization and support of the citizen or permanent resident sponsor for residency status,<sup>199</sup> the women found themselves at the mercy of husbands who could threaten them with deportation.<sup>200</sup> The narrow hardship waiver provision offered little chance for the immigrant woman to gain permanent residency. This situation rendered immigrant women more susceptible to mistreatment at the hands of their spouses and provided no escape from abusive relationships.

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<sup>197</sup> O’Herron, *supra* note 178, at 554.

<sup>198</sup> *Id.*

<sup>199</sup> See INA § 216(c)(1).

<sup>200</sup> See Jorge Banales, *Abuse Among Immigrants*, WASH. POST, Oct. 16, 1990, at E5 (“The 1986 Immigration Reform Act and the Immigration Marriage Fraud Amendment have combined to give the spouse applying for permanent residence a powerful tool to control his partner.”).

### 5.2.3. *The Immigration Act of 1990 and INS Regulations*

Recognizing the abusive environment fostered by the IMFA,<sup>201</sup> Congress passed the Immigration Act of 1990<sup>202</sup> which gave immigrant spouses greater options. Under the Immigration Act of 1990, an immigrant woman must still show that she entered into the marriage in good faith and is not at fault for failing to meet the requirements of the petition to remove the conditional status. The 1990 amendments, however, liberalize the qualifications for waiving the joint petition requirement. The new legislation allows immigrant spouses to obtain permanent status if they can prove that battery or extreme cruelty occurred during the two-year conditional period.<sup>203</sup> The legislation also eliminates the good cause requirement and provides a waiver based on the termination of a marriage regardless of who initiated the divorce.<sup>204</sup>

To further the implementation of the new legislation, on May 16, 1991 the INS published "interim" rules<sup>205</sup> amending the conditional residence regulations. The rules provide the standards by which immigration officers process claims for battered-spouse waivers. To qualify for a waiver, immigrant women must submit evidence proving either physical battery or extreme mental cruelty.<sup>206</sup> Only certain types of evidence can be admitted. To prove physical battery, the women may submit "expert testimony in the form of reports and affidavits from police, judges, medical personnel, school officials and social service agency person-

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<sup>201</sup> See O'Herron, *supra* note 178, at 555 ("In 1990, Congress finally acknowledged the problems created by the MFA."); Anderson, *supra* note 159, at 1414 (noting that Representative Louise M. Slaughter, at a hearing on domestic violence in 1989, described the abuse conditional residents face and their lack of legal options).

<sup>202</sup> Pub. L. No. 101-649, § 701(a), 104 Stat. 4978 (1990) (codified as amended at INA § 216, 8 U.S.C. 1186a).

<sup>203</sup> See INA § 216(c)(4).

<sup>204</sup> See *id.*

<sup>205</sup> See Conditional Basis of Lawful Permanent Residence for Certain Alien Spouses and Sons and Daughters; Battered and Abused Conditional Residents, 56 Fed. Reg. 22,635 (1991) (codified at 8 C.F.R. § 216.5 (1992)).

<sup>206</sup> See 8 C.F.R. § 216.5(e)(3) (1994).

nel.”<sup>207</sup> The INS demands a stricter showing of evidence to prove mental cruelty. Immigrant women must submit testimony by a licensed or trained individual, a “professional recognized by the Service as an expert in the field.”<sup>208</sup> Professionals who qualify as experts for this purpose are “[l]icensed clinical social workers, psychologists, and psychiatrists.”<sup>209</sup>

Although they were enacted to remedy the problems of abuse, the Immigration Act of 1990 and the INS interim rules provide little relief for immigrant women because those women must still overcome great obstacles before qualifying for a hardship waiver. Critics of the legislation mainly object to the evidentiary requirements imposed on the immigrant women.<sup>210</sup> These requirements impose a high burden of proof on the immigrant women and ignore the community barriers that those women face.

#### 5.2.3.1. *Unreasonable Evidentiary Requirements*

The primary complaints against the Immigration Act of 1990 and the interim rules concern the mental cruelty requirement. The prerequisite that the evidence submitted to prove mental cruelty must come from a professional, combined with the refusal of the INS to take credible affidavits creates an extremely high burden of proof for immigrant women.

Immigrant women often face a combination of barriers which make obtaining the testimony of psychiatrists or psychologists practically impossible. Immigrant women “usually do not turn to the mental health professionals or to the counselors needed to

<sup>207</sup> *Id.* § 216.5(e)(3)(iii).

<sup>208</sup> *Id.* § 216.5(e)(3)(iv).

<sup>209</sup> *Id.* § 216.5(e)(3)(vii).

<sup>210</sup> During the month-long public comment period, the INS received 180 written responses to the interim rules. See Anderson, *supra* note 159, at 1416. Most of those responses came from organizations helping battered women and immigrants. See *id.*

Every written response to the regulations opposed the evidentiary requirements for proving mental cruelty, and nearly half of them objected to the evidentiary requirements for proving physical assault. Not one of the 180 responses supported the rules as they were written. These letters primarily criticized the way in which the INS rules curtailed the intended benefits of the battered-spouse waiver to the IMFA requirements.

*Id.* (citations omitted).

prove mental cruelty. Indications are that many cannot."<sup>211</sup> Few women who travel to the United States as potential brides have the money to enlist the services of qualified professionals.<sup>212</sup> To compound the problem, few professionals have the ability to serve immigrant women:

A survey of the psychiatrists, psychologists, and clinical social workers in the entire Los Angeles area, which has one of the largest concentrations of immigrants in the United States, revealed that there were "very few" bilingual professionals available. Of those available, most were private and would not evaluate clients without charge.<sup>213</sup>

Even if an immigrant woman had the resources and opportunity to visit a psychiatrist, she still may fail to meet the required burden of proof. Because the mental cruelty provisions of the rules focus on the mental state of the victim and not the acts of the abuser, hard proof of cruelty may be difficult to ascertain and document.<sup>214</sup>

#### 5.2.3.2. *Community Barriers*

In addition to an inability to meet the evidentiary requirements imposed by law, many abused immigrant women may hesitate to reveal their mistreatment and apply for a waiver. These women may fear that their abuse will increase if the abusers discover they have spoken about it, or the women may be reluctant to end their marriages in spite of the abuse due to the stigma attached to divorce.<sup>215</sup> Additionally, the fear of deportation weighs heavily on immigrants and prevents many women

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<sup>211</sup> *Id.* at 1418.

<sup>212</sup> *See supra* Section 4.2.

<sup>213</sup> Anderson, *supra* note 159, at 1418.

<sup>214</sup> *See id.* at 1418-19. "A resilient woman who does not clinically evince the debilitating effects of psychological cruelty may not be able to obtain a waiver, even if she deserves one based on the level of abuse she sustains." *Id.* at 1419.

<sup>215</sup> *See id.* at 1420-21 ("As in many nonimmigrant communities, strong mores concerning religion, marriage, divorce, family, and gender roles hinder women from stopping domestic violence and ending abusive relationships.").

from revealing their mistreatment. One study<sup>216</sup> of undocumented immigrants found that many immigrant residents avoid authorities, particularly the INS, terrified that they will be forced to leave the country.<sup>217</sup> Many of the immigrant mail-order brides would rather face abuse than risk deportation.

5.2.3.3. *Additional Barriers Created by the Immigration Laws Not Addressed by the Immigration Act of 1990 or INS Rules*

Despite attempts by the INS to give immigrant women more protection, the Immigration Act of 1990 has proven to be inadequate. The law has failed to address some of the major problems created by the IMFA that make U.S. immigration policy so detrimental to mail-order brides. No present legislation protects immigrant women from deportation if their husbands do not file the initial petition for their wives. The hardship waiver, for example, only excuses joint filing of the petition. Under the IMFA, the consumer-husband has the power to grant his spouse permanent residence or to deport his bride. This feature allows a husband to pressure his wife, who fears returning to an economically depressed country, to submit to his will. Even if a wife does all that her husband asks or suffers abuse to stay in the United States, the husband still retains the ability to deport his bride for any reason during the ninety-day fiancée visa period or during the conditional residency period.

In addition, the Immigration Act of 1990 does not address the "good faith" requirement. An immigrant's ability to achieve permanent status under the waiver depends on the showing that the couple entered into the marriage in good faith — a difficult burden. The good faith requirement may prove problematic when parties are no longer on good terms or are unwilling to cooperate. In this situation, even if a marriage was originally entered into in good faith, an angry husband can easily contradict his spouse's "good faith" testimony, preventing her from qualifying for the waiver.<sup>218</sup>

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<sup>216</sup> See *id.* (referring to CHRIS HOGELAND & KAREN ROSEN, DREAMS LOST, DREAMS FOUND: UNDOCUMENTED WOMEN IN THE LAND OF OPPORTUNITY 17 (1991)).

<sup>217</sup> See Banales, *supra* note 200, at E5.

<sup>218</sup> See O'Herron, *supra* note 178, at 556.

#### 5.2.4. *The Violent Crime Control and Law Enforcement Act of 1994*

Congress recognized that the Immigration Act of 1990's amendments to the IMFA rendered immigrant wives vulnerable to abuse because it did not address the problems associated with joint-petitioning and gave consumer-husbands control over immigrant wives conditional status. To remedy the situation, Congress again amended the IMFA through provisions contained in the Violent Crime Control and Law Enforcement Act of 1994.<sup>219</sup> Under these amendments to the IMFA, married conditional permanent residents can self-petition for removal of their conditional status under certain circumstances.<sup>220</sup> The provisions require the immigrant woman to be married and demonstrate that: (1) she is a "person of good moral character;" (2) she entered into the marriage "in good faith;" (3) her spouse battered her or her child or subjected them to extreme cruelty; and (4) deportation would result in "extreme hardship" to her or her child.<sup>221</sup>

The 1994 amendments to the IMFA have many flaws. The amendments force conditional permanent residents to choose between remaining in abusive marriages where they can self-petition if they meet the four requirements under the Violent Crime Control and Law Enforcement Act of 1994, or leaving their abusive husbands and applying for removal of conditional status based on the different set of standards applicable to non-married women.<sup>222</sup> Additionally, the self-petitioning option currently provides immigrant women with little protection, since the INS has neither promulgated rules relating to the self-petitioning process, nor has defined terms such as "battery," "extreme cruelty," "good faith," and "extreme hardship." Finally, the 1994 amendments to the IMFA may not overcome many of the problems plaguing the 1990 amendments, namely, proving battery,

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<sup>219</sup> Pub. L. No. 103-322, 108 Stat. 1796 (to be codified at 8 U.S.C. § 1154(a)(i)(H)). Title IV, subtitle G contains the relevant provisions: "Protections for Battered Immigrant Women and Children." *Id.* §§ 40701-40703, 108 Stat. 1953-55.

<sup>220</sup> See Pub. L. No. 103-322, § 40701, 108 Stat. 1953 (to be codified at 8 U.S.C. § 1154(a)(1)(A)(iii)).

<sup>221</sup> *Id.* The domestic violence provisions mirror the requirements of the 1990 amendments.

<sup>222</sup> See 8 C.F.R. §§ 216.4(a)(1), 216.5(a) (1994).

extreme hardship, and good faith, as well as the community barriers which affect immigrant women.

Despite laws designed to limit the abuse of immigrant women, U.S. immigration policy continues to give the majority of power to the consumer-husbands and provides the immigrant brides with very few protections and rights. The immigration amendments do little to address this inequality between the parties. By upholding a "sponsorship" system which gives all of the advantages to the sponsor, and by subjecting the immigrant women to a difficult procedure for establishing residency in order to prevent fraudulent marriages, the INS furthers the subordination of the immigrant women. The U.S. immigration policy provides the consumer-husband with another device for controlling his potential bride.

5.2.5. *Section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996*

Until 1996, no immigration law specifically addressed the issue of the mail-order bride industry. Congress only recently recognized the existence of bridal agencies and their potentially damaging effects. On April 10, 1996, a bill that states various findings concerning the mail-order bride business was introduced in the Senate.<sup>223</sup> The bill was written to amend the INA,<sup>224</sup> and became law on September 30, 1996.<sup>225</sup> In section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Congress recognized that: (1) there is a substantial mail-order bride business in the United States; (2) the agencies engaged in the business earn substantial profits; (3) evidence suggests that the mail-order brides face abuse; and (4) the brides often do not know U.S. immigration law.<sup>226</sup>

The law responds to the findings of Congress in two ways. First, the law requires bridal agencies to disseminate information to the women whom they recruit.<sup>227</sup> The law gives the INS the discretion to determine the scope of disclosure required by mail-

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<sup>223</sup> See S. 1665, 104th Cong., 2d Sess. (1996).

<sup>224</sup> See 8 U.S.C. § 1255.

<sup>225</sup> See Illegal Immigration Reform and Immigrant Responsibility Act of 1996 § 652, Pub. L. No. 104-208, 110 Stat. 3009, \_\_\_\_\_ (1996).

<sup>226</sup> See *id.* § 652(a)(1)-(4).

<sup>227</sup> See *id.* § 652(b).

order bride agencies, potentially including facts regarding permanent resident status, marriage fraud penalties, and the unregulated nature of the business.<sup>228</sup> If the agencies fail to comply with the dissemination requirement, they will face fines of up to \$20,000 for each violation after notice and a hearing.<sup>229</sup> Second, the Act authorizes the Attorney General in consultation with the Commissioner of Immigration and Naturalization and the Director of the Violence Against Women Initiative of the Department of Justice to conduct a study of mail-order marriages.<sup>230</sup>

Although Congress' recognition of the problem is a step in the right direction, section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is in effect a weak measure that will have little impact on the operations of the bridal agencies. The Act's one "regulation" is a disclosure requirement. This provision affords the mail-order brides little if any protection. In fact, by requiring agencies to disclose the unregulated nature of the industry, Congress legitimizes the current industry structure. This scheme disregards the will and regulations of developing countries, like the Philippines, whose laws can have no force when not backed by the consumer countries. In addition, the law does not address the serious problems mail-order brides face under the current immigration system. The law does not change the conditional status of immigrant brides or shift the power from the consumer-husbands to the brides.

## 6. THE STEPS THAT NEED TO BE TAKEN TO HELP PREVENT THE ABUSE OF IMMIGRANT WOMEN AND ELIMINATE THE EXISTING POWER DISPARITIES

### 6.1. *Recognizing the Offense*

The mail-order bride industry thrives upon and perpetuates inequalities that are detrimental to the foreign women involved, exploits developing countries, and furthers racial and gender stereotypes. In order to deconstruct these forms of subordination, the structures of power must first be identified.

The bridal business relies on a complex system of subordina-

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<sup>228</sup> See *id.*

<sup>229</sup> See *id.* § 652(b)(2)(A)-(B).

<sup>230</sup> See *id.* § 652(c).



tion based on race, class, sex, and ethnicity. The issue is not just one of economic, racial, and sexual exploitation of individuals, or the relationship between “rich man - poor woman, white man - colored woman,”<sup>231</sup> but it involves the racial and economic politics of different nations. The inequalities overlap and intersect. The bridal agencies sell stereotypes, allowing American men to consume and abuse foreign women. The United States exploits developing countries by sanctioning the trading of these countries’ women who are valued for their race and ethnicity.

Only by changing the power dynamic between groups, equalizing economic disparities, and ending the racial and gender stereotyping can the mail-order bride industry be curbed. One important step in stopping the expansion of the mail-order bride industry and changing the power dynamics involved is the implementation of specific regulations which would monitor the trafficking of women and help prevent the exploitation of third-world countries. The drafting and execution of international rules and U.S. laws would both proclaim the seriousness of the problem and regulate the industry, helping to eliminate the transnational inequalities.

## 6.2. *Legal Measures*

The international and U.S. legal approaches to the mail-order bride industry need to be re-evaluated and re-structured. The harm to the mail-order brides, the exploitation of the developing countries that provide the brides, and the profit gained by third parties that sell racial stereotypes and sexism need to be stopped or, at least, monitored. The legal efforts of individual countries, such as the Philippines, to end the trafficking of their women have proven to be ineffective, partly because the bridal companies can find potential brides in unregulated markets, and partly because the industrialized countries which demand the brides have not helped curb the business.

Various measures must be taken to stop the bridal market and to end the abuses fostered by the industry. The first step should be the elimination of the inequalities that the bridal market relies upon and perpetuates. A restructuring of the U.S. immigration laws that presently disadvantage immigrant women would move

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<sup>231</sup> Watson, *supra* note 159, at A1 (quoting Gina Alunan, director of the Kanlungan Centre for women in Quezon City, Philippines).

towards this goal. Although lawmakers argue in favor of marriage fraud amendments to prevent potential abuse of the "very generous immigration laws" of the United States,<sup>232</sup> evidence suggests that marriage fraud by mail-order brides occurs infrequently.<sup>233</sup>

Some critics of U.S. immigration policy suggest eliminating the IMFA altogether.<sup>234</sup> The statistical evidence that Congress relied upon in establishing the need for the regulation of fraudulent marriages has been criticized as inaccurate.<sup>235</sup> Furthermore, at least one expert believes that no "more than one or two percent of the 'green cards' issued annually on the basis of marriage involved fraud."<sup>236</sup> Taking these facts into account, the fear of sham marriages seems unwarranted and therefore the IMFA seems unnecessary. At a minimum, the conditional status of immigrant women should be eliminated or the conditional period shortened, in order to alleviate the power and control that the consumer-husbands have over their brides, thus preventing some of the abuse.

Another option for controlling the international marriage market may be to reconceptualize the industry, likening it to the sex trade and prostitution rather than "matchmaking."<sup>237</sup> Various activists and human rights groups compare the selling of brides to the selling of sexual services.<sup>238</sup> Linking the mail-order industry to prostitution opens up new options for regulation. By slightly enlarging the scope of some existing laws<sup>239</sup> potential

<sup>232</sup> 132 Cong. Rec. S3782-04 (daily ed. Apr. 8, 1986) (statement of Sen. Simon).

<sup>233</sup> See Meng, *supra* note 32, at 212 n.95 (estimating an 8% marriage fraud rate according to 1993 INS data).

<sup>234</sup> See, e.g., Meng, *supra* note 32, at 240; O'Herron, *supra* note 178, at 565.

<sup>235</sup> See, e.g., O'Herron, *supra* note 178, at 565-67 (examining the evidence Congress relied on in enacting the IMFA and stating that inadequate statistical justifications existed).

<sup>236</sup> *Id.* at 566 (quoting Jules Coven, President of the American Immigration Lawyer's Association).

<sup>237</sup> See Meng, *supra* note 32, at 243-44.

<sup>238</sup> See, e.g., Sue Fleming, *U.N. Urged to Combat International Sex Industry*, REUTER LIBRARY REP., March 6, 1993, available in LEXIS, World Library, Allwld File; Quinn, *supra* note 29, at B5. See generally Meng, *supra* note 32 (arguing that the mail-order bride business is like sexual exploitation).

<sup>239</sup> See Yeung, *supra* note 149, at 23 (discussing the international legislation, the 1949 Convention of Traffic in Persons and the Exploitation of Prostitution of Others, stating that "[u]nder the agreement, the definition of trafficking is

mail-order brides may receive some legal protection. For example, the Racketeer Influenced and Corrupt Organizations Act ("RICO")<sup>240</sup> gives a private right of action<sup>241</sup> to "anyone injured by the investment in, acquisition or operation of an 'enterprise'<sup>242</sup> that affects interstate or foreign commerce through a 'pattern of racketeering activity'<sup>243</sup> occurring within a ten year period."<sup>244</sup> The advantages of a private right of action under RICO include: the threat of treble damages, which may deter mail-order bride agencies from continuing to operate, and the ability of immigrant women to confront the problem themselves instead of relying on governments that have a history of ignoring the issue.<sup>245</sup> Various commentators agree that RICO can be used in the mail-order bride context, arguing that an immigrant woman can claim an injury to her person or body by a bridal agency that transports women.<sup>246</sup> All of the requirements under RICO would be satisfied if the injury to the woman's person were treated as a "business or property" injury.

Another method of curtailing the inequalities may be to target the structure of the mail-order bride industry, forcing the businesses to grant the women the same treatment and rights given to the consumers. Several countries, including Australia and the Philippines, have considered a required screening of the male clients as well as the disclosure of all relevant information to the potential brides.<sup>247</sup> Section 652 of the U.S. Illegal Immigration

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limited to the sex trade, but the group [the Global Alliance Against Trafficking in Women] says its scope needs to be widened").

<sup>240</sup> 18 U.S.C. §§ 1961-1968 (1988 & Supp. V 1993).

<sup>241</sup> The private cause of action created under RICO is codified at 18 U.S.C. § 1964(c).

<sup>242</sup> Under RICO an enterprise includes any individual, group of individuals, or legal entity. See 18 U.S.C. § 1961(4).

<sup>243</sup> "Racketeering activity" includes federal crimes listed in 18 U.S.C. § 1961(1), including prostitution. See Meng, *supra* note 32, at 241-42.

<sup>244</sup> Lan Cao, *Illegal Traffic in Women: A Civil RICO Proposal*, 96 YALE L.J. 1297, 1306-07 (1987) (citations omitted).

<sup>245</sup> See *id.* at 1308; Meng, *supra* note 32, at 241-42.

<sup>246</sup> See, e.g., Cao, *supra* note 244; Meng, *supra* note 32, at 242-43.

<sup>247</sup> See Kalinga Seneviratne, *Australia: Filipino Mail Order Brides End up Being Murdered*, INTER PRESS SERVICE, July 20, 1991 ("Anne Smit, head of the women's unit at the immigration department, has hinted at possible changes in the rules to require Australian men seeking Asian brides to explain their personal histories and to stop multiple sponsorships."); Son, *supra* note 162 ("To lessen the risks that Filipino brides face, CFO wants a law passed to require

Reform and Immigrant Responsibility Act of 1996 has the potential to provide this protection, but only if it requires consumer-husbands to provide a minimum amount of information, such as police records, to the bride. Additionally, immigrant women should not only be informed about U.S. immigration law, but should also have access to legal services and counseling.

While the abuses that the mail-order brides face can be curbed under the current laws that minimally regulate international marriages, new laws need to be enacted to monitor both the mail-order bride agencies and the customers that take advantage of the inequality that the industry fosters. Since the mail-order bride industry involves transactions between countries, it is an international concern. Therefore, international laws should be passed to control the industry. Various international instruments such as the Convention Concerning the Abolition of Forced Labor,<sup>248</sup> the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,<sup>249</sup> the International Convention for the Suppression of the Traffic in Women of Full Age,<sup>250</sup> and the International Convention for the Suppression of the Traffic in Women and Children<sup>251</sup> may be relevant in controlling the bridal industry.<sup>252</sup>

Legal solutions are needed for the multitude of problems created by the mail-order bride industry. Several legal provisions that may help in this regard are already in place. For these provisions to be effective, however, the governments of the countries affected by the mail-order bride agencies and the international community as a whole must apply these laws and agreements to the industry. In addition, new laws and agreements should be drafted to deal directly with the problems created by

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foreigners marrying Filipinos in the country to first present proof of income, health and police clearance.”)

<sup>248</sup> June 25, 1957, 320 U.N.T.S. 292, *reprinted in* HUMAN RIGHTS — A COMPILATION OF INTERNATIONAL INSTRUMENTS 112 (United Nations Publication, 1988).

<sup>249</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Mar. 21, 1950, 575 U.N.T.S. 288.

<sup>250</sup> International Convention for the Suppression of the Traffic in Women of Full Age, Oct. 11, 1933, 150 L.N.T.S. 431.

<sup>251</sup> International Convention for the Suppression of the Traffic in Women and Children, *opened for signature* Sept. 30, 1921, 9 L.N.T.S. 416.

<sup>252</sup> See Meng, *supra* note 32, at 246 & n.294.

the industry. Only when such changes are implemented can progress be made toward dealing with the abuses and inequalities presented by the mail-order bride industry.

## 7. CONCLUSION

Despite the claims of supporters and agents of the mail-order bride industry, the business is not simply an international personal ad service, regulation of which would infringe on individual rights. The mail-order bride industry relies on stereotypes and transnational economic inequalities as a basis for profit. The hundreds of mail-order bride agencies in the United States rely on gender, class, and ethnic subordination to maintain the supply and demand of brides to consumer-husbands in industrialized countries. The industry that generates profit by furnishing foreign women to meet a demand affects developing countries, the United States, and the women involved both economically and socially. The belief that the industry benefits all of those involved ignores the fact that the trade in mail-order brides exploits economic disparities and racial stereotypes and encourages racism and sexism. Most importantly, the industry causes direct and immediate harm to the women involved. Their status as immigrants, their unfamiliarity with the language and customs of the United States, and their separation from friends and relatives place them at a disadvantage in American society and make them vulnerable to abuse.

The offense of the mail-order bride business — the nurturing of structures of subordination based on race, sex, and class within countries, among nations, and among individuals — needs to be recognized, and a legal structure that will combat this subjugation needs to be implemented. The continuing growth of the industry indicates that, without some sort of change, consumer demand and product supply of the brides will not soon cease.

The key to ending the bride trade is twofold: recognizing that the mail-order bride business thrives on and furthers inequalities, and then remedying the existing and resultant power disparities. Effective legal responses include altering U.S. immigration laws to provide foreign women with more protection, respecting the regulations and policies of developing nations regarding the trade of women, and implementing an international legal structure that will address the mail-order bride business. In addition, the United States should enact legislation which will provide the prospective

brides with equal access to information on the consumer-husbands, the mail-order bride agencies, and immigration laws. Section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is a step in the right direction, but it does not solve the problems faced by mail-order brides. Immigrant brides should not be denied access to essential legal and counseling services in the consumer-husbands' country. U.S. immigration laws should move towards a position where the immigrant wives' status will not depend on the will of their consumer-husbands.

More importantly, the implementation of an international legal structure to support the regulations already enacted by the targeted countries, like the Philippines, would increase the ability of countries to protect their citizens harmed by the trade. Since the mail-order bride business depends upon transactions between countries, international law is needed to control the industry. Measures by independent states are not enough to stem the trade of women. As a transnational industry that perpetuates sexism, racism, and economic subordination, the mail-order bride business does not only affect discrete groups. The problem is one of international concern that impacts nations and affects international relations.

Widespread measures, therefore, need to be taken by the consumer countries, the supplier countries, and the international community. Since the international marriage market is almost completely unregulated, the potential for progress is great and the legal options are numerous.