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THE SEARCH FOR JUNE CLEAVER: INTERNATIONAL MARRIAGE BROKERAGES AND MAIL-ORDER BRIDES

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SELECTEDWORKS™

THE SEARCH FOR JUNE CLEAVER: INTERNATIONAL MARRIAGE BROKERAGES AND MAIL-ORDER BRIDES
A JOURNEY THROUGH THE PROCESS OF PURCHASING THE PERFECT WIFE

Itta C. Englander

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Introduction

Whatever happened to June Cleaver?

Whatever happened to the pretty, blushing wife who would meet you at the door after your hard day at work with a cold drink in hand and a peck on the cheek that promised later intimacy when the kids had gone to bed?

Whatever happened to stay-at-home, sweep-the-house-till-it-shines, perky-peppy, always-stand-by-your-man, old-fashioned American girls?

Some would claim they never existed, that Harriet Nelson and Donna Reed were figments of popular American culture, as ephemeral as the dots of light that constituted their images on television.

But those who want to believe that June Cleaver, that perfect American wife, is still out there, simply have to travel to find her.

She's living in the Philippines.

And the former Soviet Union.

In the Ukraine, Uzbekistan, China, Latin America, Malaysia, Indonesia, and Thailand.

In today's technical age, June Cleaver is just a mouse-click away, and her e-mail address can be yours for just a nominal fee through any of hundreds of mail-order bride websites that abound on the internet.

Mail-order brides have become part of the American psyche. A Google search of the term "mail-order bride" will produce 2,060,000 results in 0.17 seconds. Among the results produced are the mail order brides at www.MailOrderBrides.globaladies.com who want you to watch their videos now for free, www.hotrussianbrides.com, advertising over 16,000 beautiful Russian women, and www.Anastasia-International.com, which gives you the option of marrying a Russian beauty queen.[1] Any one of the links will take you to innumerable web pages populated by suggestively posed women, each one smiling, and seemingly devoted to a quest for her soul mate.

However, as mail-order brides and the international marriage brokerage industry become increasingly popular among Western men, a different picture of these women emerges. They are poor women, desperate to escape their own countries and find better socio-economic opportunities. They are desperate women, willing to marry men that they do not know. They are dependent women, requiring American husbands to petition for their immigration to their new homes. Most significantly, they are utterly alone, away from families and social support networks, and they are acutely susceptible to domestic violence, sex trafficking, and forced slavery.[2]

This paper chronicles a journey through the modern mail-order bride industry. It examines the mail-order bride industry from its early roots in the Western Hemisphere to its current permutations. It discusses the risks that mail-order brides face and explores possible solutions offered through domestic and international instrumentalities.

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[1] http://www.google.com/search?hl=en&q=Mail+order+brides. Last checked April 6, 2008.

[2] Robert J. Scholes, PhD, with the assistance of Anchalee Phataralaoha, MA, *The "Mail-Order Bride" Industry and its Impact on U.S. Immigration*, INS study (1999), available at http://www.uscis.gov/files/article/MobRept_AppendixA.pdf.

Finding June Cleaver: A History of the Mail-Order Bride Industry

The greatest journey, they say, begins with a single step. I, of course, am a child of the technical age. Even a single step seems excessive. I log onto the internet instead.

I decide to begin my search at Cherryblossoms.com, which advertises itself as "the first picture personals for dating, love, romance, and marriage since 1974."[3] *I figure I can start with the classics and work my way to newer things.*

Cherry Blossoms does not disappoint me. The first image I see is a smiling, young Asian woman in blue standing cheek-to-cheek with a jowly, graying older man. The "About Us" link informs me that:

> *Cherry Blossoms, Inc., the world's first international picture personals business, was started in Hawaii over 30 years ago. As our reputation spread, our business grew. In 1995 our magazine gave way to a terrific website where single men and women from all over the world can easily publish their personal ads and contact like-minded people seeking love and marriage.*
>
> *We now have over 75,000 active members worldwide. Since 1974 over 100,000 couples have become married or engaged through Cherry Blossoms.*
>
> *If you are willing to invest the time and energy to search, email and chat you can find your true love. Men and women from Australia, China, Europe, Indonesia, Hong Kong, Malaysia, Russia, South America, Thailand, and many other countries are searching for a loving mate.*
>
> *We have an instant messenger, chat rooms, and member email to help you find "The One". Our capable immigration department is ready to assist US & Canadian citizens in filing a petition to bring their true love back to their country.*
>
> *The only thing standing between you and finding your true love is taking action!*[4]

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[3] http://www.blossoms.com, last checked April 6, 2008.
[4] http://www.blossoms.com/aboutUs.php, last checked April 6, 2008.

I feel galvanized. I am ready to find true love.

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Although the internet has given the industry a new life and broader scope than ever before, the concept of a mail-order bride is hardly a new one. The practice of mail-order brides, certainly in the United States, dates back to well before the 20th Century and was instrumental in the populating of North America. Many of the people who initially traveled to the American West in the great migrations of the 19th Century were men. Among this population were many immigrants from Asian countries. They came to the American West to build railroads or pan for gold. The difficulty and dangers of traveling and the uncertainty of life on the frontier resulted in early communities where women were scarce. Imbalances between the number of available women and the number of men desiring partners created a strong demand for immigrant women.[5] As a result of this imbalance, a new system of "picture brides" developed in these predominantly male settlements. As immigrants moved abroad, relatives from home (usually their country of origin) would arrange marriages with local women:[6]

> Certainly in the Old West and other frontier situations such as the labor camps at the sugar farms in Hawaii, the colonization of Australia, or even 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. [7]

In order to familiarize themselves with prospective spouses (and possibly know who to look for at the train depot), the "picture" component of picture brides, or the exchange of photographs between the parties prior to their first meeting, became a common practice.[8]

For instance, in the case of Japanese picture brides, photographs would be exchanged after both families back home in Japan had come to an agreement regarding

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[5] Christine S.Y. Chun, *The Mail-Order Bride Industry: The Perpetuation of Transnational Economic Inequalities and Stereotypes*, 17 U. Pa. J. Int'l Econ. L. 1155, 1157 (1996).
[6] Lana Mobydeen, *Something Old, Something New, Something Borrowed, Something Mail-Ordered?: The Mail-Order Bride Industry and Immigration Law*, 49 Wayne L. Rev. 939, 942 (2004).
[7] C.S.Y. Chun, *supra* note 5, quoting Venny Villapando, *The Business of Selling Mail Order Brides,* in *Making Waves: An Anthology of Writings By and About Asian American Women* at 318.
[8] Beverly Encarguez Perez, *Woman Warrior Meets Mail-Order Bride: Finding an Asian American Voice in the Women's Movement*, 18 Berkeley Women's L.J. 211, 216 (2003).

the marriage of their children. The marriage itself would be legalized in Japan, and then the bride would travel by herself to the West Coast of the United States. She left her family and her support network to go to a country whose people she did not know, and whose language she did not speak, in order to live with a man whose face she had only ever seen in a black and white daguerreotype. [9]

As the American West became more populated, the practice of picture brides gradually died out. It found a new and surprising reincarnation, however, in the 1970s.[10]

John Broussard is credited with founding the modern mail-order bride industry. An importer of Oriental vases and bowls, he decided to diversify in 1974 when one of his friends said, "I'd like to meet a woman from there". Broussard found a willing market among American men who considered themselves casualties of the women's movement and wanted to find more "traditional" wives. [11]

Initially, mail-order bride companies, or international marriage brokers, as they are now called, worked through catalogues. Interested prospective husbands could purchase catalogues containing photographs and biographies of foreign women. The catalogues generally ran anywhere between five and fifty-nine dollars. Individual addresses would usually run for about ten dollars each. Once he had an address, the interested consumer husband could write away to the pretty girl in the catalogue, start a pen-pal relationship, and perhaps eventually visit her in the Orient.[12]

The practice became inordinately popular, and entrepreneurs realized that there was money to be made. It is estimated that there were approximately 100 mail-order bride companies in the United States in 1986. The number increased to 200 in 1992 and then to 500 in 1995.[13] By 1999, conservative estimates put the number of women annually advertised as available for marriage between 100,000 and 150,000. With the

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[9] C.S.Y. Chun, *supra* note 9, at 1158-59.
[10] *Id.*
[11] Melinda Henneberger, Ideas & Trends; *Well Ukraine Girls Really Knock them Out*, N.Y. TIMES, November 15, 1992, available at http://query.nytimes.com/gst/fullpage.html?res=9E0CE1DB1F3BF936A25752C1A964958260&n=Top/Reference/Times%20Topics/People/H/Henneberger,%20Melinda.
[12] *Id.*
[13] C.S.Y. Chun, *supra* note 5, at 1161.

popularization of the internet, international marriage brokers were able to provide a higher volume of profiles without the need for catalogues.[14]

Companies have also been able to branch out in terms of the services that they offer. Several international marriage brokers offer trips to the countries that supply their mail order brides.[15] "A Foreign Affair", an international marriage brokerage specializing in Russian and Latin American women, offers tours to in Russia, the Ukraine, Latin America, and Asia. The tours vary in price, anywhere from $1200 to $5000.[16]

Window Shopping for the Perfect Wife: Commodity Brides and Consumer Grooms

I've read the link that tells me why I should join. Cherry Blossoms apparently has a good success rate. They claim responsibility for 200,000 matches since 1974.[17] They do not say how many of those matches have succeeded. I have also read testimonials from a number of happy men and women who no longer require Cherry Blossom's services. Some of them have pictures. Most of the women are very young. Most of the men are not.

I am trying to get into the mindset of a person who would use a mail-order bride service. I am trying to think of the women advertised as consumer products.
I want to start looking at the goods available. Unfortunately, it seems that Cherry Blossoms won't let me look unless I register with their service. It's free unless I decide to contact one of the women, so registering is not a problem. I doubt, however, that they will allow me to register as a twenty-seven-year-old female law student. I will have to be a bit more creative.

I have created a profile for myself. My name is Ingmar. I am a 54 year-old male, 5'7", 265-269 pounds. I am Caucasian, with brown hair and brown eyes, and a Masters degree in something that places me in the legal field. I am divorced, have no children, and smoke and drink heavily. I have decided to keep my text quite simple. It states, "I've

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[14] Scholes, *supra* note 2.
[15] M. Henneberger, *supra* note 11.
[16] www.blossomes.com, *supra* note 3, last checked April 6, 2008.
[17] C.S.Y. Chun, *supra* note 5 at 318.

been lonely for a long time now. I'm looking for that special woman who will fill my life with meaning and joy. Are you the one?"

My profile goes up instantaneously without a background check of any sort.

Within moments, I am given access to the full range of the profiles that Cherry Blossoms has to offer.

Ingmar, I decide, is something of a dirty old man. He'd like to try his luck at some women who'd be out of his league in America. The younger the better. Today, he has decided to search women between the ages of eighteen and twenty-four. Race doesn't matter all that much, so long as she's the traditional type. Size is important. Ingmar likes his women thin. I search women from 90-94 pounds to 115-119 pounds. Ingmar doesn't really want to take the trouble of learning Russian, so I decide to limit my search to the Philippines.

The parameters of my search bring up the profiles of 3879 women. I check out the profile of an eighteen-year-old with a vocational degree whose employment is listed as "other" and who is willing to date any man, regardless of age. A twenty-one-year-old named Macy is working as a café attendant and is looking for a man between fifty and ninety.

I am a child in a candy store.

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In 1999, the INS commissioned a study on the growing mail-order bride industry. The study, focusing primarily on Cherry Blossoms, found that the majority of women involved in the mail-order bride industry are from Asia, chiefly the Philippines. The second largest group of women that are advertised by international marriage brokerages come from the former Soviet Union. The rest come from Latin and South America. Of the Asian women advertised, 20% were between the ages of 16 and 20; 41% were between the ages of 21 and 25; 24% were between 26 and 30; 11% were between 31 and 35; and less than 4% were over 35.[18]

Economic conditions may explain why the Philippines is such a heavy exporter of mail-order brides. Since the 1970s, the Philippines has lagged behind the rest of Asia, including Singapore, Malaysia, Thailand, and China, with a 2% growth rate. The

[18] Scholes, *supra* note 2.

situation was exacerbated by the rampantly corrupt rule of Ferdinand Marcos from 1965 to 1986.[19] Marcos virtually pillaged the national treasury, established a system of cronyism, and helped the country accumulate an enormous national debt, from which it has had difficulty recovering.[20] A rapidly growing population and poor economic growth has forced some 8 million Filipinos (roughly the equivalent of 10% of the population) to work outside of the country. [21] The economy of the Philippines relies heavily on this exported labor force (most of whom work as domestic labor), and the money that they send back to their families. Much of this exported labor force is comprised of women. All of these factors contribute towards the high percentage of Filipina women among mail-order brides.[22]

These statistics are confirmed in the Scholes study, which suggests that the vast majority of women participating in the mail-order bride industry are looking for better socio-economic opportunities. Generally speaking, they come from places where employment is low and there are few opportunities for women.[23]

Additionally, the Scholes study found that the perception of American men among foreign women contributes to the willingness of potential mail-order-brides to participate in the industry. American men are rumored to look like movie stars. They supposedly make good husbands and are more faithful to their wives. Much like the 19th Century myth purporting that the streets of America were paved with gold, these perceptions, erroneous or otherwise, seem to be inducing foreign women to marry American men. At the time of the Scholes study, between 100,000 to 150,000 women

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[19] *The Jeepney Economy Revs Up*, THE ECONOMIST, August 16, 2007.
[20] B. Perez, *supra* note 8 at 220.
[21] Jeepey Economy, *supra* note 19.
[22] B. Perez, *supra* note 8 at 220. Perez Quotes Christine Chun who suggests a possible reason for why Filipinas in particular are attracted to the prospect of being mail-order brides:

> 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, 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….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." C.S.Y. Chun, *supra* note 5 at 1172.

[23] Scholes, *supra* note 2.

were seeking American husbands through international marriage brokerage services, resulting in 4,000 to 6,000 marriages annually.[24]

In contrast to his young, primarily Asian female counterpart, the consumer groom seems to be of an entirely different species. The median age of the average consumer groom is 37. He is conservative and twenty to fifty years older than his mail-order bride. Of the men who utilize the services of international marriage brokerages, 94% are white, 50% have completed at least two years of college, 42% hold professional or managerial positions, 57% have been married before, 35% have fathered at least one child, and 75% want more children. [25]

The Scholes study indicates that the average consumer groom is an older man looking for someone he can mold, leading Scholes to conclude that, "those who have used the mail-order bride route to find a mate have control in mind more than a loving, enduring relationship."[26] He wants a woman with 'traditional values'. As such, he has not had much luck with American women. He perceives them as women who are not content to be wives and mothers and who seek personal satisfaction through their own careers and interests.[27] They are too aggressive, too demanding, and refuse to put their husbands' needs before their own.[28] In contrast, the consumer groom's perception of foreign women is far more favorable. Foreign women are happy to be homemakers. They ask for nothing more than a husband, home and family.[29]

All industries seek to tap into the vanities and weaknesses of their consumer base, and the mail-order bride industry is no exception. Leslye Orloff, director of NOW Legal Defense Fund Immigrant Women's Project, comments, "they market to the women the image of wealthy American men and a better life. They market to the American men the image of docile women they can control." [30]

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[24] *Id.*

[25] Kirsten M. Lindee, *Love, Honor, or Control: Domestic Violence, Trafficking, and the Question of How to Regulate the Mail-Order Bride Industry*, 16 Colum. J. Gender & L. 551, 559-560 (2007).
[26] Scholes, *supra* note 2.
[27] *Id.*
[28] M. Henneberger, *supra* note 11.
[29] Scholes, supra note 2.
[30] Kerry Abrams, *Immigration Law and the Regulation of Marriage*, 91 Minn. L. Rev, 1625, 1653 (2007).

For example, Filipina.com, a mail-order bride site specializing in Filipina women, states on their website that, "Western women do not appreciate men. They do not value traditional family life…the goals of modern women is not sufficiently met by marriage."[31] In contrast, "most [Filipinas] are [dedicated to marriage]. There are notable exceptions, but not many. The point is, there are a lot who are dedicated to marriage, and you can easily find one of those who wants to marry YOU." [32]

In addition to the usual stereotype of foreign women as somehow more traditional than their American counterparts, there is the additional power of Asian stereotypes in particular that pervades the mail-order bride industry:

> The men attracted to mail-order bride agencies tend to believe the illusion of the subservient Asian woman. Mail-order bride businesses promote the stereotype of the accommodating Asian woman when advertising Filipinas as potential brides.[33]

Shipping the Mail-Order Bride: Fiancee and Spousal Visas and the Immigration Process

I have found the one. Her name is Vivian (Member ID #C00978657). She is twenty-three years old and looking for a man whose age does not matter to her. The picture on her profile shows her standing beside a stone wall. She is holding the hand of a very young boy. There is a metal brace on her left leg. Her profile is written in broken English:

> *Hi Everyone!!! I hope everyone is well and enjoying this site!!! My name is Vivian and with one loving son…i loved him so much!!! He is the blessed from above! To describe myself, i am understanding, caring and loving! I don't want you to surprised, to tell you i was disgrace last 2003 with car accident and now I have a stainless in my right leg but in God's help…i can still walk alone! Here i am surviving! I was hoping and*

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[31] B. Perez, *supra* note 8 at footnote 78.

[32] *Id* at 221-22.

[33] *Id* at 221. Consider the following assertion on lifemate.com:

> The Filipinas make excellent wives, are exceptionally loyal, and are true Orientals from South East Asia. They are generally more attractive than other Orientals and often used in commercials and movies to play the role of Japanese and Chinese…They have that demure feminine mystique of all Orientals, and are family oriented instead of duty oriented. The Filipinas like [the] traditional role of being wives, and they like being women! They're not career oriented, but are hard workers. They keep themselves and [their] homes immaculately clean. They're exceptionally feminine, charming, slim and enjoy being so. They don't have reservations about marrying out of the race as the other Orientals do." Quoted in Katheryn A. Lloyd, *Wives for Sale: The Modern International Mail-Order Bride Industry*, 20 Nw.J.Int'l L. & Bus.. 341, 341 (2000).

> *praying to find my someone special to love and care. He will be respect, love and i'll do the same!!! Good luck!!! Vivian* [34]

She seems so terribly earnest. Exactly the sort of person that Ingmar, my alter-ego, can mold and control.

If I really were Ingmar, it would be a matter of making contact. A membership fee will cover all the e-mail addresses that I want. Unfortunately, Ingmar is a mere figment of my imagination and does not have the required credit card. I toy with the idea of getting a single male friend to set up an account, but decide against it. It is one thing to search aimlessly. It is another thing entirely to engage a specific person in conversation under false pretenses.

Let us pretend that I (Ingmar) have succeeded in making contact with Vivian. We e-mail a few times, and I am smitten. Vivian is exactly the sort of person I need to get the bad taste of my last marriage out of my mouth. My next step is getting Vivian to the United States.

Fortunately, Cherry Blossoms is here for me. They inform me that the K-1 fiancée visa petition is the most popular means for their members to bring their brides to the United States. In fact, they're running a special right now. A combination fiancée (K-1) visa support and Adjustment of Status package is now available for only $695. It is $100 dollars less than purchasing them separately. In the alternative, I can marry Vivian in the Philippines and apply for a Spousal (K-3) Visa Support for only $1295. [35]

It's like a blue-light special at K-Mart.

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Fiancée Visas are visas obtained for a potential spouse before a marriage actually occurs. The Fiancée Visa (or K-1) visa, applies to an alien who is the fiancée of a U.S. citizen and who is seeking to enter the U.S. for the purpose of marriage. The visa can also include a minor child who is accompanying the alien fiancée or will be following her to the United States. [36]

There are several pre-requisites for acquiring a K-1 fiancée visa. The petition must be filed in the U.S. by the fiancé of the applying alien. It must be received by the

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[34] www.blossoms.com, last checked April 6, 2008.
[35] *Id.*
[36] 8 U.S.C.A. § 1184(K)(2006).

consular officer and approved by the Secretary of Homeland Security. The petition must contain information regarding criminal convictions of the petitioner for certain specified crimes. [37]

The petition will only be approved with satisfactory evidence tending to show that the parties have met in person within the last two years, that they have a bona fide intention to marry and that they are legally capable of marrying (i.e. neither of them is already married). A K-1 visa is good only for 90 days. If the marriage does not occur within that three month window, the alien fiancée and any accompanying children have to leave the United States or risk being deported.[38]

A problem that frequently occurs, specifically with mail-order brides, is that K-1 visas are often sought after relatively few meetings. Since the visas only require the couple to have met once in the last two years, it is often the case that the couple has, indeed, only met once before applying for the K-1 visa. Having come to the United States after this limited interaction, the mail-order bride has ninety days to decide whether she wants to form a lifelong relationship with this man whom she has personally interacted with so infrequently. The upshot is that the ninety days limitations of the K-1 visa put an inordinate amount of pressure on couples to marry, often with very little in terms of proper information upon which to make that choice.[39]

Despite this risk of a hasty decision based on too little time and too little information, the utilization of fiancée visas is on the rise. In 1995, the United States approved 7,793 K-1 fiancée visas and 768 visas for accompanying children. As of 2004, the Department of Homeland Security approved 28,546 annually with an additional 4,515 for accompanying children. Experts suggest that this increase may be due to the growing popularity of internet dating.[40]

The Alien Spouse Visa is for the consumer-husband who has already married his mail-order bride in her country of origin (such as the Philippines or the Ukraine). After the marriage has been performed, the U.S. citizen must file an I-130 petition to get the

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[37] 8 U.S.C.A. § 1101(2006).
[38] *Id.*
[39] K. Abrams, *supra* note 30 at 1651.
[40] *Id.* at 1650-1651.

wheels of the immigration process rolling.[41] As the U.S. born spouse is submitting the I-130 application, the mail-order bride must submit her own application for an adjustment of status.[42]

If the mail-order bride arrives in the United States unmarried, her status is temporary until she marries. Even if she has entered the United States already married to her U.S. born husband, however, her status is still tenuous. The mail-order bride, whenever she comes into her marriage, remains essentially in a temporary state of limbo. She is not a citizen, but she is not an illegal alien. Her status can only become permanent after her marriage has reached the two year mark.[43]

After two years, the status of the mail-order bride can be adjusted to permanent residency status. In order to do this, both spouses must jointly apply and must prove that the marriage is bona fide.[44] A marriage is deemed bona fide as long as it is apparent that the parties did not enter into the marriage without intent to establish a life together.[45] The evidence that would help the couple meet this standard includes documentation showing joint ownership of property, a lease showing joint tenancy of a common residence, documentation of the commingling of finances, birth certificates of children born to the marriage, affidavits of third parties having knowledge of the bona fides of the relationship, and any other documentation establishing that the marriage was not entered into for the purpose of circumventing immigration laws.[46]

This requirement upon couples to "self police their marriages"[47] puts the mail-order bride in a compromised position, compounding the K-1 visa pressures discussed earlier. Essentially, the situation which is likely created is that of a mail-order bride who has come to the United States and married her husband within a ninety day period, having met him very few times and having gained very little information about him. That mail-

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[41] Scholes, *supra* note 2. The following must be attached to the I-130 petition: a biographical form for both the husband and the wife, including photographs; proof of U.S. spouse's citizenship, which may be in the form of a U.S. Passport; a certified copy of the marriage certificate; and a certified copy of any documents terminating any previous marriages of both the husband and the wife, which may include a final divorce decree or a certificate of annulment or death.
[42] *Id.* This application must include the following attachments: the mail-order bride's completed fingerprint chart, her Green Card photographs, and any other forms that may be required.
[43] *Id*.
[44] *Id*.
[45] K. Abrams, *supra* note 30, quoting *Bark v. INS* at 1684-85.
[46] *Id* at 1685.
[47] *Id* at 1691.

order bride is now faced with the daunting necessity of building a trail of proof that her marriage is real. If she does not speak English, the prospect of her getting a job and co-mingling finances or contributing to jointly owned property is limited. The next best option is to produce birth certificates of any children born to the marriage. Combine this with the Scholes study finding indicating that 75% of consumer husbands want to have more children.[48] The mail-order bride, having very little knowledge of the man she has married, now finds herself under enormous pressure, both from her husband and from the necessity of protecting her own immigration status, to have children and to do so quickly.

These factors may put the mail-order bride in a position of having children, perhaps sooner than she would otherwise have wished. Beyond that, however, is a far more sinister possibility. As the next section of this paper will discuss, the presence of children may further trap a mail-order bride in a marriage that is already statistically more prone to domestic violence.

Desperation and Disadvantage: The Mail-Order Bride and the Risk of Domestic Violence

I checked my Cherry Blossoms account today. My alter-ego Ingmar has been contacted by five women who want to talk to him. Ahyen from the Philippines and Ya from China are older (thirty-eight and forty-two respectively). I'm really not interested in anyone that old, so I pass on to the next three.

Marina (Member ID # C00974256) from Russia is twenty nine and poses provocatively for her photo. She has a vocational degree and is working in accounting/finance. She is looking for a man between thirty-four and sixty.

Chic (Member ID # C00479081) from the Philippines is twenty-three and has a degree in finance. She is looking for someone between thirty and fifty-five. I just sneak under the wire.

Liza (Member ID # C00958665) is *twenty, but looks much younger. Based on her photograph alone, I would have put her age at about fifteen. She doesn't care how old I am, so long as I can make her laugh. Her profile promises that, if I can fulfill this simple*

[48] Scholes, *supra* note 2.

requirement, "I will do my best to make you laugh and happy all the time too with God's blessings."

It's like a primetime commercial break. All of these products are calling out to me, begging me, a fifty-five-year-old, overweight, smoking, drinking man with a failed marriage behind him, to please consider them. I wonder at how desperate their lives must look for them to be considering me as an option.

I know I'm waiting for Vivian, but it really doesn't hurt to play the field. If Vivian doesn't work out, I can always return the purchase and send away for Marina, Chic, or Liza and try them out.

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> A man who murdered his mail-order-bride has been sentenced to almost 29 years in prison.
> Gifford King Jr. strangled his wife – a woman half his age from the former Soviet republic of Kyrgyzstan – to avoid an expensive second divorce. Anastasia's body was found in a shallow grave on the Tulalip Indian Reservation in Washington State in 2000.[49]

In fact, Anastasia Solovieva King was eighteen years old, while her American husband, Indle Gifford King, Jr., was forty. They met through an international marriage brokerage. Anastasia's diary revealed that King beat her and threatened to kill her if she ever left him.[50] He eventually carried out these threats, sitting on Anastasia's chest as his accomplice strangled her with a necktie.[51] Evidence presented at Kings trial showed that Anastasia had not been his first mail-order bride nor had he intended her to be his last. King had been married to a previous mail-order bride who had divorced him and filed a domestic violence protective order against him. At the time of Anastasia's death, King was in the process of procuring a third mail-order bride through an international marriage brokerage.[52]

Timothy Blackwell found Susanna Ramerata through an international marriage brokerage called "Asian Encounters". They corresponded for awhile. He met her, and

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[49] *Wife Killer Gets 29 Years*, BBC NEWS AMERICA, March 29, 2002.
[50] Holli B. Newsome, *Mail Dominance: A Critical Look at the International Marriage Broker Regulation Act and its Sufficiency in Curtailing Mail-Order Bride Domestic Abuse*, 29 Campbell L. Rev. 291, 291 (2007).
[51] *Wife Killer Gets 29 Years*, *supra* note 48.
[52] H.B. Newsome, *supra* note 50 at 291.

they married three days later on March 6, 1993.[53] Blackwell began to abuse Susanna almost immediately (Susanna testified that the tried to choke her one day after their wedding). Susanna left him and instituted divorce proceedings.[54] The marriage had lasted barely two weeks. Over a year later, Mr. Blackwell attended a divorce proceeding in the Seattle courthouse armed with a gun. He shot Susanna and two friends to death at point blank range in the courthouse lobby. [55]

Stories like those of Anastasia King and Susanna Blackwell have been a rallying cry for regulation of the mail-order bride industry. There have been others, such as that of Alla Barney (a Ukrainian mail-order bride whose husband stabbed her to death in front of their son's daycare center shortly after the court had granted her custody)[56] and Isabel Moncado-Gole (a mail-order bride whose husband was convicted of strangling her, hacking up her corpse, and dumping the pieces along the road, all in front of her two children).[57]

What is truly horrific about these stories is not the violence in which these women died, but the violence in which they lived. Despite the shocking brutality of such stories, there is a woeful lack of statistics regarding domestic violence among mail-order brides.[58] Several reasons have been cited for this paucity of numerical data. The first is a gap in tracking. The Justice Department does not distinguish between American born people and foreigners in its crime statistics,[59] nor do immigration statistics distinguish between marriages procured traditionally and marriages arranged by international marriage brokerages.[60] Additionally, international marriage brokerages rarely follow up on their listings, so there is very little in terms of industry data.[61]

The second gap comes from a problem that is common among battered women; many of these women, though victims of domestic violence, do not complain. Although this silence is all too common among those suffering from family violence, the shame is

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[53] Timothy Egan, Mail-*Order Marriage, Immigrant Dreams and Death*, N.Y. TIMES, May 26, 1996.
[54] H.B. Newsome, *supra* note 50 at 291.
[55] T. Egan, *supra* note 53.
[56] Kristoffer A. Garin, *A Foreign Affair: On the Great Ukrainian Bride Hunt*, HARPERS MAGAZINE, June 2006.
[57] *Convict L.I. Man in Grisly Wife Slay*, N.Y. DAILY NEWS, May 29, 2004.
[58] H.B. Newsome, *supra* note 50, at 298.
[59] K. Lindee, *supra* note 25 at 557.
[60] H.B. Newsome, *supra* note 50 at 298.
[61] Scholes, *supra* note 2.

compounded by other issues in the case of a mail-order bride. Many of them fail to report abuse because they are not aware of their rights, they fear deportation, or they are isolated, either by their husbands, language barriers, or distance from home and family networks.[62]

Despite the lack of numerical evidence, there is every reason to believe that domestic violence among mail-order brides exists. Women's rights activists have reported receiving phone calls late at night from mail-order brides who have been battered by their husbands but are too afraid of being deported to seek help.[63] Additionally, there is the nature of the marriages themselves that lends credence to the supposition that domestic violence is likely occurring at a higher rate with mail-order brides than in other areas of the population.

Statistics have consistently shown that disparities in age often correlate with higher domestic violence rates.[64] The Scholes Study finding that the average consumer husband is twenty to fifty years older than his mail-order bride would indicate a strong likelihood of domestic violence in the mail-order bride population based on that factor alone.[65] There are, however, other realities within the lives of mail-order brides that further influence the likelihood for violence.

In a normal courtship, one that takes place over a protracted period of time with repeated personal interactions, a woman is more likely to be able to discern troubling characteristics in her partner, including possessiveness, violence, jealousy, and other qualities that can often lead to spousal battery. Due to the ephemeral nature of the online relationship and the rushed decisions necessitated by K-1 visas (as discussed earlier), the mail-order bride rarely has the benefit of a normal courtship.[66] Additionally, situations where one spouse is dependent upon the other for daily matters create a far higher likelihood that a woman will tolerate violence from a partner.[67] A mail-order bride, far from her relatives, isolated from those around her by language barriers and a lack of a familiarity, has no support system other than her husband.

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[62] H.B. Newsome, *supra* note 50 at 298.
[63] *Id* at 298.
[64] Suzanne H. Jackson, Marriages of *Convenience: International Marriage Brokers, "Mail-Order Brides", and Domestic Servitude*, 38 U. Tol. Rev. 895, 900 (2007).
[65] Scholes, *supra* note 2.
[66] H.B. Newsome, *supra* note 50 at 298. See infra page 12.
[67] S.H. Jackson, *supra* note 64 at 900.

Once the abuse begins, as it seems likely that it will, mail-order brides are often too frightened to report the abuse. The most readily apparent reasons for this fear are control tactics frequently used by abusive spouses. These include using the mail-order bride's tenuous immigration status as leverage to make her remain in the marriage.[68] Indeed, this is hardly a benign threat. With exceptions for battered spouses (which the mail-order bride may or may not be aware of), the immigration process is very much in the hands of the consumer husband. He can terminate the mail-order bride's legal status and her right to work, further isolating her and drawing her into his sphere of control. He can withdraw a petition for permanent residency status without giving her notice. Once he has withdrawn that petition and the two year "test" period has expired, the mail-order bride falls out of status. Then the abusive spouse holds the perpetual threat of reporting his mail-order bride as undocumented.[69] Additionally, the fact that children are likely to be born early on in the marriage due to the consumer husband's desire for more children and the mail-order bride's desire to secure the bona fides of her marriage, would also be used as leverage. The mail-order bride, with a limited command of English and very little knowledge of American law, can easily be threatened with the risk of deportation and never seeing her children again if she reports her husband's abuse.[70]

Far from being ignorant of these probabilities, international brokerages themselves seem to be quite aware of the possibility of domestic violence. This fact comes through very clearly in their marketing. Consider the following statement made in industry advertising materials:

> A Russian woman will rarely leave a bad (really bad) husband because of the fear that she won't find another one…The state and men have been oppressing them [for many years], and they don't think much about themselves.[71]

More disturbing still are the results of an undercover research project conducted in 1999 by Equality Now. As part of their study, Equality Now sent out e-mails to a number of international marriage brokerages, supposedly from a man seeking a mail

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[68] Sarah Rebecca Sullivan, Amy L. Cosentino, *Immigration, Domestic Violence, and What the Family Practitioner Should Know*, 81-DEC Fla. B.J. 47, 47.
[69] S.H. Jackson, *supra* note 64 at 901.
[70] *See* discussion at note 47.
[71] S.H. Jackson, *supra* note 64 at 901.

order bride. In those e-mails, the ersatz customer mentions that he has pled guilty to disorderly conduct in criminal assault charges brought by two ex-wives. Of the sixty-six responses that Equality Now received from the contacted international marriage brokerages, fifty-nine stated that they would be willing to accept the plant as a customer, four requested more information, and only three refused to accept him. Several responses advised the customer not to disclose his background information to any potential mail-order brides that he contacted. Several others advised that he reveal it voluntarily. Not a single one of the agencies that accepted his application warned him that they would reveal his background to the potential mail-order brides he contacted.[72] Far from merely ignoring the domestic violence potential, one brokerage firm actually responded as follows:

> As far as sponsoring your alien fiancée, the government couldn't care less if you're Jack the Ripper, so long as you're out of jail and free to marry. As far as bitches go, I think I understand. They assert that "no" means "no" except when they're nagging, in which case "no" means "keep nagging and try to get beaten." I think the language barrier actually helps here; it's hard to squawk through a language barrier.[73]

The Scholes Report perhaps best sums up the potential for violence in a mail-order bride relationship:

> While no national figures exist on abuse of alien wives, there is every reason to believe that the incidence is higher in this population than for the nation as a whole. Authorities agree that abuse in these marriages can be expected based on the men's desire for a submissive wife and the women's desire for a better life. At some point, after the alien bride has had time to adjust to the new environment, to make new friends, and to become comfortable with the language, her new independence and his domination are bound to conflict. The problem…is largely due to the men's unrealistic expectations. While many state a desire for submissive wives, they find that such dependence becomes a burden. To provide some relief, the husband seeks ways (friends, activities) that will get the wife "out of the house" on occasion. The resulting independence then angers the husband who manifests anger on the wife, who may have only been guilty of trying to please her husband.[74]

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[72] K. Lindee, *supra* note 25 at 641.
[73] *Id.* at 561.
[74] Scholes, *supra* note 2.

The Marketing of the Former-Soviet Sex Siren: The Mail-Order Bride and the Risk of Human Trafficking

I (Ingmar) have been getting curious lately. I'm still waiting on Vivian, but I think there might be other options out there. After all, I've been doing so well on Cherry Blossoms. Who's to say I wouldn't do just as well elsewhere? I decide to have a look at A Foreign Affair. Yes, it's mostly Russian women, but who says I need to be able to talk to my wife? The first woman I see is Galina (Member ID # 93259) from Nikolaev. She's wearing a sheer red baby nightie. Nitaliya (Member ID # 92926), also from Nikolaev, has her dress pulled up and is showing off her underwear.[75] *This looks like soft-core porn. I wonder how I'm going to explain this to the children that I am statistically likely to want at some point in the near future. When they asked how mommy and daddy met, I will have to tell them, "Well kids, daddy looked on the internet and found a picture where mommy was half naked, and then daddy paid money on the internet and bought mommy so that she could live with him forever."*

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In its "Purposes and Findings" section, the Trafficking Victims Protection Act of 2000 finds that:

> At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year. Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services.[76]

The Act goes on to define sex trafficking as, "the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act."[77] Commercial sex acts are designated as, "any sex act on account of which anything of value is given to or received by any person."[78] Finally, the Act defines "Severe Forms

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[75] www.loveme.com, last checked April 12, 2008.
[76] Public Law 106-386, Trafficking Victims Protection Act of 2000, 114 STAT. 1646, Sec. 102 (b)(1)-(2) (Hereafter referred to as TVPA).
[77] *Id.* at Sec. 103(9).
[78] *Id.* at Sec. 103(3).

of Trafficking in Persons" in part as, "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion."[79]

The thought of sex trafficking brings to mind images of women in chains, shipped in the dead of night in trucks or boats over international borders, poorly fed, beaten, forced to service multiple customers in brothels. In reality, the trafficked woman may potentially be the smiling girl whose profile appears on Cherry Blossoms, the demure Filipina housewife next door.

Scholars have equated the mail-order bride industry with other forms of trafficking in women, including prostitution and sex tourism.[80] In addition, many argue that the international marriage brokerage industry is, in-and-of-itself, a form of trafficking per se.[81]

As early as 1999, there were warnings in official reports of the mail-order bride industry's involvement in trafficking. The Scholes report cited several frauds potentially perpetrated by the mail-order bride industry and states that, "There are reports of a different kind of fraud --- namely ones in which women are recruited into prostitution through international matchmaking services."[82] U.N. Special Rapporteur Sigma Huda also noted that international marriage brokerages presented a high risk for trafficking, citing instances of marriages being used to conceal human trafficking in Israel, Mexico, Iraq, Moldova, Germany, Serbia, Norway, and the U.S.[83]

These hints of the more sinister underpinnings of the international marriage brokerage industry have manifested themselves around the world. In Germany, there have been documented instances of husbands pimping their mail-order brides to friends. In the United Kingdom, criminal organizations involved in trafficking and sex tours have been found to advertise women online for sale to brothels and as mail-order brides.[84] A Global Survival Network study found that several agencies that advertised Russian women as mail-order brides were, in fact, sex trafficking rings.[85] Several U.S. embassies

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[79] *Id.* at Sec. 103 (8).
[80] Eddy Meng, *Mail Order Brides: Guilded Prostitution and the Legal Response*, 28 U. Mich. J.L. Ref. 197, 223 (1994).
[81] K. Lindee, *supra* note 25 at 566.
[82] Scholes, *supra* note 2.
[83] K. Lindee, *supra* note 25 at 568.
[84] *Id.* at 564.
[85] S.H. Jackson, *supra* note 64 at 897.

have reported international marriage brokerages acting as fronts for organized prostitution rings that choose recent mail-order brides as victims.[86] In what may be a corollary to the existence of these predatory prostitution rings, it is interesting to note that the annual number of "missing fiancées", or women who fall out of status after immigrating through K-1 visas, has doubled over the past decade. Immigration studies have further indicated that traffickers have a particular interest in sending women to the United States because fiancée visas are so easily obtained.[87]

In addition to the very real threat of international marriage brokerages being connected to trafficking organizations, there is a strong basis by which to characterize the industry itself as trafficking, independent of the criminal organizations which it may front.

Professor Kathleen Barry defines trafficking per se as a, "situation where women or girls cannot change the immediate conditions of their existence, where regardless of how they got into those conditions, they cannot get out; and where they are subject to sexual violence or exploitation."[88]

The mail-order bride industry seems to conform to Dr. Barry's definition in every regard. It is highly likely that the mail-order bride will fall into a situation of violence.[89] Additionally, due to the constraints placed upon her by the immigration process, it is nearly impossible for her to change her situation without the risk of deportation. Evidence strongly links sexual exploitation and the mail-order bride industry.[90] As an Australian consumer husband said when asked about his choice to marry a mail-order bride, "it was cheaper to get an Asian wife than to get an Australian prostitute."[91]

Without the necessity of physical force or non-consent, the mail-order bride perfectly fits the above description of a trafficked person. She is a person being transported from one country to another with the expectation that she will be having sex

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[86] K. Lindee, *supra* note 25 at 563.
[87] S.H. Jackson, *supra* note 64 at 906.
[88] K. Lindee, *supra* note 22 at 566. Note that this definition does not require that the violence or exploitation be without consent or require physical force or threat thereof.
[89] *See infra* at notes 68 to 70 discussing the likelihood that a mail-order bride will fall into an abusive relationship.
[90] *See infra* at notes 82 to 84 citing international incidents of sexual exploitation of women through the mail-order bride industry.
[91] K. Lindee, *supra* note 25 at 567.

with the male who is transporting her. Moreover, the K-1 visa 'product trial period' makes it likely that she will be having sex before he has even promised marriage to her. Even if she does marry her sponsor, for the next two years, she will remain in a state akin to sexual slavery due to the conditional status of her residency and her dependence on her husband jointly petitioning on her behalf.[92]

Even if lack of consent were a required element in the definition of an act of trafficking, it is doubtful whether consent is possible for a mail-order bride. Before 2006, international marriage brokerages were not required to give information about consumer husbands to potential mail-order brides, and what information the brokerages did know was often actively concealed.[93] Any consent obtained under such circumstances would likely have been under false pretences at best and therefore invalid.[94] Even at present, there is still a lack of reliable information enabling consent. An informational packet authorized by the Department of Homeland Security that is distributed to potential mail-order brides explicitly states that information regarding the criminal background of a consumer husband, "may not be complete or accurate because the United States client may not have a criminal record or may not have truthfully reported their marital or criminal record."[95]

Far from refuting this image of legal trafficking, the mail-order bride industry's advertising material seems to confirm the perception, consistently presenting the women they advertise as products to be bought and sold. Consider the following online advertisement: "Total cost for services: $10,500.00 U.S. A beautiful woman to sleep with at night, kiss in the morning, and love all day long, for so little – less than an economy car."[96] Mail-order brides are marketed along the same lines as call girls. The advertising runs the gamut: "docile, exotic, and available as bed partners and domestic help at the same time", "passionate lovemaking guaranteed", "two million submissive doll-like women for sale".[97] It is hardly surprising that major marketing venues for international marriage brokerages include pornographic magazine such as Penthouse and

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[92] *Id.* at 566-568.
[93] *See* the 1999 undercover study by Equality Now discussed *infra* at notes 72 to 73.
[94] K. Lindee, *supra* note 25 at 566.
[95] 8 U.S.C.A. § 1375a(2)(h) (2006).
[96] From www.armcandy.com quoted in K. Lindee, *supra* note 25 at 551.
[97] *Id.* at 567.

adult websites.[98] In addition, the romance tours that bring in the bulk of the money made by international marriage brokerages eerily resemble sex tours, promising "ongoing one-on-one personal introductions to thousands of featured women who are profiled on the internet and in color catalogues." [99] Indeed, a romance tour seems far superior to a sex tour. Unlike a participant in its highly illegal counterpart, the international marriage brokerage client has the option of bringing his 'companion' home with him.[100] Overall, the only distinction between the mail-order bride industry and sex trafficking is that the former supposedly occurs under the auspices of marriage.[101]

Trouble in Paradise I: The Regulation of International Marriage Brokerages Through Domestic Devices

Ingmar is not happy today. While checking out the beautiful Russian women eager to meet my overweight, middle-aged, vice-prone alter ego on A Foreign Affair, I noticed a link informing me that A Foreign Affair is an IMBRA compliant dating service. Curious, I click on the link. I am informed that the United States has recently passed legislation, "that will soon make it somewhat more cumbersome for you to make initial contact with foreign women."[102] I am, of course, somewhat upset by this news. I immediately click on the Q & A link provided. They tell me that:

> *IMBR (International Marriage Broker Regulation) is legislation that, theoretically, is supposed to give foreign women more information about US men. It was attached (it failed to pass when it was initially introduced on its own) to the larger Violence Against Women and Department of Justice Reauthorization Act.[103]*

I am informed that, as a U.S. citizen, I will be required to provide a short criminal background history or my K-1 fiancée visa request will likely not be approved.

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[98] *Id.* at 565.
[99] *Id.*
[100] *Id.* at 565-566.
[101] *Id.* at 568.
[102] www.loveme.com, last checked April 29, 2008.
[103] *Id.*

Obviously, I am extremely upset. A Foreign Affair seems equally displeased with this turn of events but is stalwartly moving forward nonetheless:

> *[W]e are advising all of our clients to obtain any as many addresses as they can now, before the law goes into effect. We have increased the limit on addresses for our Platinum members to 300, so you can now download up to 300 addresses as a Platinum member before March 6th. If you are not currently a Platinum member click here to join.*[104]

Alas, legislation went into effect as of March 6, 2006. Even as a platinum member, it is too late for Ingmar. Heartbroken and anxious that the legislation may effect his chances of bringing Vivian to the United States, Ingmar has three martinis and goes to bed with a headache.

International Marriage Broker Regulation Act (IMBRA)

The international marriage brokerage industry presents an interesting conundrum in terms of regulation. As a rule, there is very little explicit legal regulation of family. American law has a general doctrine of family privacy which makes intervention into family affairs rare. Usually, the state will only intervene into a marriage upon entry into the marriage (marriage licenses, etc.) and exit from the marriage (divorces, property allocation, etc.).[105]

Foreign marriage is one of those rare instances where the largely unregulated arena of the family comes head to head with the heavily regulated arena of immigration. U.S. immigration law favors marriage as a means of obtaining U.S. visas. There are four categories under which a foreign national may apply for U.S. resident status: as a family member of a U.S. citizen or resident, as an employee of a U.S. company, as a refugee or asylee, or through a diversity lottery (a random lottery for a limited number of immigrant slots granted to countries that are underrepresented in the U.S. population). Of these four modes of applying for U.S. resident status, doing so as a family member is by far the most popular and the most likely to result in an immigrant visa. Spousal immigration in

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[104] *Id.*

[105] K. Abrams, *supra* note 29 at 1633-34. In explaining the general hesitancy of U.S. law to interfere in family affairs, Abrams quotes Carl Schneider (University of Michigan School of Law) to the effect that, "The law not only suspects that intervention will do harm; it doubts that intervention will do good: in family law as in few other areas of law, the enforcement problems are ubiquitous and severe." Carl E. Schneider, *Moral Discourse and the Transformation of American Family Law*, 83 Mich. L. Rev. 1803, 1837 (1985).

particular is a popular means of obtaining residence, accounting for ¼ of all immigration in the United States.[106]

Spouses of U.S. citizens occupy a particular category of privilege in immigration law. Marriage to a U.S. citizen can qualify a person who has been classified as ineligible for a visa or is facing deportation for a discretionary waiver of ineligibility.[107] Non-citizen spouses can achieve green card status as "immediate relatives", exempting them from immigration quotas and allowing them to join their citizen spouses as soon as their paperwork is processed.[108]

Immigration preferences for the spouses of U.S. citizens gave rise to fears that non-citizens seeking an expedited immigration process would enter sham marriages with U.S. citizens. In response, Congress passed the Immigration Marriage Frauds Amendment (IMFA) in 1986. The act made it far more difficult for an immigrant spouse to gain residency. Under IMFA, a U.S. citizen could apply for a fiancée visa good for ninety days only. If the marriage successfully occurred within those ninety days, the non-citizen spouse existed in a conditional state until the second anniversary of the marriage. At that time, the immigrant spouse could be granted permanent status if the citizen spouse petitioned for the removal of the conditional status within ninety days of the second anniversary of the marriage. If the citizen spouse did not apply for the change of status, the immigrant spouse fell out of status and was at risk for deportation.[109]

A growing recognition that resting complete power over an immigrant wife's status in the hands of a citizen husband created a veritable breeding ground for domestic violence and coercion necessitated a 1990 waiver to IMFA. The waiver put aside the necessary cooperation of the citizen spouse if the immigrant spouse could prove

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[106] *Id.* at 1634-35. Illustrating the popularity of the family member category of immigration application, Abrams cites recent immigration statistics. In 2005, 1,122,373 immigrants were admitted to the U.S. on immigrant visas. Over half of these applied as family members, with 292,741 applying as spouses of U.S. citizens or residents and 186,304 applying as children of U.S. citizens or residents.

[107] *Id.* at 1635. For example, the spouse of a U.S. citizen who has lied on immigration papers may be granted a waiver if the resident spouse will experience "extreme hardship" as a result of the non-resident spouse being deported.

[108] *Id* at 1636. Compare these privileges to those afforded to the spouse of a mere U.S. resident (Green Card holder). Those claiming immigration as the spouses of U.S. residence are subject to quotas and are often required to submit to long waits before joining their U.S. resident spouses. The current wait period is approximately five years.

[109] K. Lindee, *supra* note 25 at 569.

battery.[110] The waiver was supplemented in 1994 by the Violent Crimes Control and Enforcement Act which allowed for the suspension of deportation proceedings in instances where an immigrant spouse had been abused. It also gave the abused spouse the right to self-petition for immigration status.[111]

Until 1996, mail-order brides were lumped in under general spousal immigration legislation. The Mail Order Bride Act of 1996 (MOBA) recognized mail-order brides as a distinct category. The Act required international marriage brokerages to provide information to mail-order brides about conditional permanent status, permanent resident status, waivers available for battered spouses, marriage fraud penalties, and the lack of regulation in the international marriage brokerage industry.[112]

On January 5, 2006, the current permutation of mail order bride-regulation went into effect. The International Marriage Broker Regulation Act (IMBRA) was passed under the Violence Against Women Act (8 USCA § 1375a).[113] The enactment of IMBRA repealed the Mail Order Bride Act of 1996.[114]

In its essence, IMBRA is basically an attempt to address the informational imbalances that existed in the mail order bride industry. Prior to IMBRA, the disparity of information available was such that the consumer husband, "[held] all the cards".[115] The male client had the benefit of a complete background check that would be administered as part of the immigration process. In addition, the international marriage brokerages themselves often subjected the women to detailed and often extremely personal questions, the answers to which were available to potential consumer husbands.[116] In contrast, the only information given to the potential mail-order bride was whatever the consumer husband chose to tell her during their correspondence.[117]

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[110] *Id.* at 570.
[111] *Id.*
[112] *Id.*
[113] *Id.* at 555. The Act was sponsored by a bipartisan coalition including Senator Sam Brownback (R-Kansas) and Senator Maria Cantwell (D-Washington). It is hardly coincidental that Senator Cantwell is from the same state where both Anastasia King and Susana Blackwell were murdered by their American consumer husbands. *See* K. Abrams, *supra* note 29 at 1653.
[114] *Id.* at 570.
[115] Scholes, *supra* note 2.
[116] K. Lindee, *supra* note 25 at 558. Examples of questions posed to women by international marriage brokerages include the following: "Is it easy to offend you?", "Are you jealous?", "What toothpaste do you use?", "Are you ready to discuss sex matters openly?", "Are you ready for experiments in sex?".
[117] *Id.*

The first provision of IMBRA was for the creation of a pamphlet to be authored by the Department of Homeland Security in conjunction with the Attorney General and Secretary of State and in consultation with various nongovernmental organizations specializing in the legal rights of immigrant victims of battery, extreme cruelty, sexual assault, and related crimes. The pamphlet would contain information regarding the visa application process and marriage-based immigration process.[118]

Much of the information to be included in the pamphlet is similar to the information mandated under MOBA, such as information about domestic violence.[119] An innovation of IMBRA is that it seeks to make information not only available but accessible to the people most likely to need it. The Act stipulates that the pamphlet be translated into a number of languages, including Spanish, Russian, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Arabic, Portuguese, Hindi, Tagalog, and any other languages that the Secretary of State may specify at his or her discretion.[120] Additionally, IMBRA contains provision for the pamphlet to be translated into fourteen new languages every two years based on the spoken languages of the individuals who are predominantly applying for K-1 visas at that time.[121] In terms of availability, IMBRA requires that the pamphlet to be mailed to each applicant for a K-1 visa along with a copy of the petition and the petitioner's criminal background information. Beyond the mailing, pamphlets are to be available at consular posts and on the websites for the Department of State and the Department of Homeland Security in addition to being made available to international marriage brokerages, government agencies, and non-government advocacy

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[118] 8 USCA § 1375a(1)-(2)(A) (2006).

[119] 8 USCA § 1375a(2)(B)-(H) (2006). Specifically, the pamphlet would include information about the illegality of domestic violence, sexual assault, and child abuse; the dynamics of domestic violence; resources for victims of domestic violence and sexual assault, including the National Domestic Violence Hotline and the National Sexual Assault Hotline; the legal rights of immigrant victims of abuse including immigration, criminal justice, family law, and protection order access; the obligation of parents under U.S. law to support their children; marriage fraud and its penalties; a warning that K-1 visas may be potentially used by consumer husbands with histories of domestic violence, sexual assault, and child abuse, but that these acts will not necessarily have resulted in a criminal record; and that international marriage brokerages are obligated to disseminate certain information to mail-order brides.

[120] 8 USCA § 1375a(4)(A) (2006). Tagalog is the most widely spoken dialect in the Philippines.

[121] 8 USCA § 1375a(4)(B) (2006).

organizations.[122] They are also to be provided to K-1 visa applicants at their consular interviews.[123]

IMBRA is unique in that it represents the first time that the international marriage brokerage industry has been subject to regulation that requires them not only to disclose, but to actually take action. While MOBA required international marriage brokerages to merely provide information to mail-order brides regarding the legal right to self-petition and domestic violence waivers, IMBRA requires international marriage brokerages to gather and disseminate personal information about clients. Specifically, international marriage brokerages are required to gather background information on American citizen clients from local and Federal sex offender registries. They are also required to gather information regarding marital history and criminal history that is provided and certified by American client.[124]

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[122] 8 USCA § 1375a(5)(A)-(D) (2006). Although the pamphlet and information therein was supposed to be made available not later than 120 days after January 5, 2006, there is no sign of it on the Department of Homeland Security website, despite several searches. *See* http://www.dhs.gov/index/shtm (last checked May 8, 2008). The pamphlet information is available on the State Department website through an indistinct link in the upper right hand corner that leads to a subject index. Once in the subject index, the term "marriage" will bring up the pamphlet information. *See* http:///www.state.gov/ (last checked May 8, 2008)

[123] 8 USCA § 1375b(1)(b) (2006). Interviewers of K-1 visa applicants are also required to ask the applicant if the relationship has been facilitated by an international brokerage firm. If an international marriage brokerage was involved, the interviewer must confirm that the brokerage has provided the K-1 applicant with all of the information and materials mandated by IMBRA. It is interesting that the Act specifically requires that this interview information be provided, "in the primary language of the applicant", leading one to wonder how many informational interviews had been conducted prior to the Act where the K-1 applicant either did not understand what was being said or was receiving information through translators. This language gap serves to illustrate, once again, how vulnerable these mail-order brides really are.

[124] 8 USCA § 1375d(2)(B) (2006). The marital history disclosure must include whether the client is currently married, whether he was previously married (and if so, how many times), how those prior marriages ended (on what grounds), and whether the client has previously sponsored a foreign fiancé or wife. This last marital history disclosure requirement corresponds to the circumstances of the Anastasia King murder. Her husband, Indle King, had sponsored a previous mail order bride who had obtained a protective order against him. At the time of Anastasia's murder, King was already in the process of procuring a third mail-order bride. *See* infra page 16.

The criminal history must include any temporary or permanent civil protection orders issued against the client. It must also include any arrests or convictions for homicide, murder, manslaughter, assault, battery, domestic violence, rapes, sexual assault, abusive sexual contact, sexual exploitation, incest, child abuse or neglect, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, stalking, engaging in prostitution, pimping, receiving proceeds from prostitution and offenses related to controlled substances or alcohol.

IMBRA regulation requires that the citizen client provide a disclosure of arrests as well as convictions for the above mentioned crimes. In *European Connections & Tours Inc. v. Gonzales*, 480 F.Supp.2d 1355 (2007), European Connections, an international marriage brokerage, challenged this IMBRA proviso, claiming that it was overbroad in that an arrest did not necessarily equal guilt. The opinion quotes an expert for the Tahirih Justice Center (the Defendant-Intervenor in the case) stating that

The international marriage brokerages must gather this information and provide it to the potential mail-order bride (along with the Department of Homeland Security pamphlet mentioned infra) and have received a signed written consent from her before they can even give her contact information to the specified consumer husband.[125] A Violation of IMBRA carries a stiff penalty. Fines range anywhere from $5,000 to $25,000 for each violation. There are also additional Federal criminal penalties for international marriage brokerages that fall within the special maritime or territorial jurisdiction of the United States in circumstances affecting interstate or foreign commerce. Individuals violating IMBRA under these circumstances may be subject to imprisonment for no more than five years.[126]

Although IMBRA goes farther than any previous domestic instrumentality to address the potential risks that face mail-order brides, in many ways, it is insufficient. It fails to address a number of issues particular to international marriage brokerage. By treating only the most prominent and obvious dangers in a deeply flawed industry, the Act is the functional equivalent of a band-aid placed on the elbow of an individual in the throes of cardiac arrest.

The first problem is one of classification. IMBRA approaches the issue as one of a lack of knowledge and treats the solution as one of correcting an information imbalance. This, however, is an over-simplified view that ignores the systematic power imbalances of the mail-order bride industry. Mail-order brides, by and large, come from poor countries where they have few social welfare options and are often subordinated in a male-dominated society. They often see the international marriage industry as their only way out. Under such desperate circumstances, the mail-order bride is often willing to take considerable risks, such as being willing to go to a foreign country to marry a man with a known history of violence. In stark contrast, the consumer husband has nothing to

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domestic violence often will not result in prosecution because of the victim's fear and frequent unwillingness to cooperate with law enforcement:

> [D]omestic violence situations very rarely result in a report, and very rarely result in arrest. Sometimes, once upon arrest, can't go forward to conviction because either she won't cooperate with the prosecutor or the way that the domestic violence statutes are written…where we don't always have in our society, sadly, the information to identify a potential batter because of the way his history may be coming up, a violence history is a fair proxy for it. *See European Connections v. Gonzales* 1373.

[125] 8 USCA § 1375d(3)(A)(ii)-(iv) (2006).
[126] 8 USCA § 1375d(5)(A)-(B) (2006).

lose and everything to gain. These disparate risk factors create an unbalanced power dynamic that information cannot equalize.[127] Weighting the scales further is the sense of entitlement that immigration sponsorship often instills in a consumer husband. This is yet another factor that tends to throw the power balance off kilter and for which no amount of knowledge can compensate.[128] Beyond the power imbalances inherent in the relationship itself, IMBRA fails to address other disparities which will invariably impact upon who holds the cards, including race, economy, gender, sociology, age, and education. Most significantly, it fails to address the economic disparities between United States and exporting countries such as the Philippines and the former Soviet Union.[129]

Even if the information provided were sufficient to correct these inherent imbalances, it would only be sufficient if correct. However, the bulk of the necessary information (including criminal and marital history) is provided by the consumer husband himself. Unless he has committed a sex offense, there is no way to verify whether the information he has provided is indeed accurate. Even IMBRA itself acknowledges this gap, mandating that the mail-order bride be informed that the background information provided to her might be incomplete.[130]

It is this acknowledged information gap that is the source of another flaw in IMBRA. IMBRA, in its very essence, deems the mail-order bride capable of informed consent.[131] Indeed, IMBRA's mode of regulating the international marriage brokerage industry through mandating informational exchange implicitly preserves that freedom of the mail-order bride to contract within the context of the industry, treating the issue as one of mere contractual fraud. If, however, the information required may very well be incorrect and can never be even remotely guaranteed as accurate in good faith, then there can be no informed consent.[132]

Even if IMBRA could guarantee the veracity of the background information with some level of certainty, the fact of the matter is that, for a number of the women that travel to the U.S. on K-1 visas, the consent being given is not for a marriage at all. By

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[127] K. Lindee, *supra* note 25 at 580-581.
[128] *Id.* at 900.
[129] *Id.* at 583.
[130] *Id.* at 580.
[131] *Id.* at 571.
[132] *Id.* at 583.

framing the problem exclusively in the context of domestic violence, IMBRA overlooks the connection between the international marriage broker industry and trafficking.[133] Indeed, IMBRA itself might help to facilitate this modern slavery, mostly carried out by organized trafficking rings, by focusing regulation exclusively on individual petitioners, thereby allowing organized crime syndicates to circumvent regulation.[134] Trafficking risks are so far out of the scope of IMBRA that the two year mandatory report commissioned in the Act does not even address them.[135]

Finally, IMBRA only regulates the marital bargaining process, giving the marriage itself a wide berth. In its current form, IMBRA cannot protect the mail-order bride once she has made the transition from fiancée to wife.[136] Simply put, many of the numerous restrictions imposed by IMBRA may be circumvented easily by conducting the marriage abroad and then applying for a spousal visa rather than a fiancée visa.[137]

Trafficking Victims Protection Act (TVPA)

The Trafficking Victims Protection Act was passed in 2000 and reauthorized in 2005 to combat what it terms a "contemporary manifestation of slavery" in the 21st century.[138] The Act extensively defines trafficking, affirms that trafficking is a transnational crime with national repercussions, and resolves to punish traffickers rather than victims and to promote cooperation with other countries that are part of international trafficking routes.[139]

In many ways, TVPA goes beyond IMBRA, addressing issues as multi-national rather than limited to acts upon U.S. soil. A large part of TVPA addresses the elimination of trafficking abroad. The Act seeks to do this through the regulation of foreign aid monies distributed by the U.S. TVPA supplements the Foreign Assistance Act of 1961 by adding informational requirements to mandated reports.[140] The same

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[133] *Id.* at 555.
[134] *Id*. at 573. Knowing that criminal and marital histories are under scrutiny, a trafficking ring need only hire men without histories to contact the women and file the initial K-1 visa petitions.
[135] *Id.* at 577.
[136] *Id.* at 582.
[137] *Id.* at 574.
[138] TVPA, *supra* note 76 at Sec. 102(a).
[139] *Id.* at Sec. 102(b)(24).
[140] 22 U.S.C. 215(f). Reports must include a description of the nature and extent of trafficking as it exists in each foreign country receiving foreign aid. For countries that predominantly export victims of trafficking,

amendment is made to the Foreign Assistance Act of 1961 in regard to its report requirement.[141]

While IMBRA is limited in its government reach, enlisting the aid of the Department of Homeland Security in conjunction with the Attorney General and Secretary of State only, TVPA allows for a wider swath of departmental interaction. To facilitate data collection, TVPA authorizes the creation of an Interagency Task Force to Monitor and Combat Trafficking.[142] The job of the Task Force is to monitor the progress of both the United States and other countries in the area of trafficking enforcement and the protection of trafficking victims. To do this, the Task Force is authorized to expand interagency procedures in terms of data collection and organization. TVPA also designates a research function involving the examination the role of the international sex trafficking industry and its effects on women and children. Beyond data collections, the Task Force is expected to act as a type of facilitator, working to create cooperation between countries that are part of international trafficking routes, including countries of origin, countries of transit, and countries of destination.[143] This cooperation is meant to target area efforts to prevent trafficking, prosecute traffickers, and assist victims. Towards this end, the Task Force is authorized to consult and engage in advocacy with governmental and non-governmental organizations.[144]

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the report must include information about the governmental efforts of those countries to combat trafficking. Specifically, the report must address the following: is trafficking participated in or condoned by government authorities; which authorities are acting to combat trafficking; steps the government has taken to address official participation in trafficking; steps the government has taken to address the participation of non-officials in trafficking (including investigation, prosecution, and penalties); steps the government has taken to protect trafficking victims from further victimization; the cooperation that exists between the government and the governments of other countries in terms of willingness to extradite traffickers; whether the country is participating in international efforts to address trafficking; whether the government refrains from prosecuting the victims of trafficking; and whether the country recognizes the rights of such victims and allows them access to justice. *See* TVPA, *supra* note 76 at Sec. 104(A)-(B).

[141] 22 U.S.C. 2304 (2002).

[142] TVPA, *supra* note 76 at Sec. 105. The task force is specifically instructed to evaluate the role of public corruption in the facilitation of trafficking.

[143] *Id.* at Sec. 105(d). Countries of origin are countries from which trafficking victims are taken. Countries of transit are countries through which trafficking victims pass on their way to their final destinations. Destination countries are the countries in which trafficking victims finally find themselves. The United States is frequently implicated as a part of the two former categories. TVPA estimates that 50,000 women and children are trafficked into the United States each year. Additionally, the relative simplicity of obtaining fiancée visas makes the U.S. a likely country of transit, with women and children passing through U.S. borders on their way to Canada and Western Europe. *See infra* at note 87.

[144] *Id.* It is interesting to note the reliance of government on NGOs reflected in these bills. IMBRA also relies heavily on consultation with NGO's. While it is an important step for government angencies to

While IMBRA deals mostly in information, TVPA authorizes direct action, largely in the area of assistance for victims of trafficking. Appropriate government officials are authorized under TVPA to establish and carry out programs to aid victims of trafficking both foreign and domestic. In particular, victims of severe forms of trafficking in the U.S. are entitled to a variety of services. They are eligible for any existing benefits under Federal or State programs. Additionally, the Act mandates the expansion of benefits for this particular group as well as protections.[145] The Attorney General and Secretary of State are directed to promulgate regulations for law enforcement personnel and immigration and State Department officials.[146] Victims of severe forms of trafficking may be protected from deportation if their deportation would cause severe hardship and they cooperate with reasonable requests in regard to trafficking prosecution efforts.[147]

Where IMBRA offers a limited range of enforcement options, including fines and a maximum of five year in prison, TVPA approves much wider range of deterrents. These include preventing U.S. admission to aliens who are under substantial suspicion of having committed acts of severe forms of trafficking.[148] It also increases the severity of punishment, lengthening sentences and imposing terms of years, life, or both in instances where death results or the crime of trafficking includes actual or attempted kidnapping, actual or attempted aggravated sexual abuse, or attempted murder.[149] Those found guilty of trafficking are subject to mandatory restitution. Defendants are required to pay victims for the full amount of their losses as determined by the courts.[150] Penalties for acting as

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realize that they are not necessarily in possession of all the requisite knowledge, one might imagine that this sort of reliance puts a heavy strain on already limited NGO resources, especially without any concurrent funding increase.

[145] *Id.* at Sec. 107 (a)-(b)(1)(B). TVPA defines the severe forms of trafficking as, "(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery." *See* TVPA Sec. 103(8).

[146] *Id.* at Sec. 107(c). Regulations are to include protection for the victims of trafficking while in custody, including facilities appropriate to the victim of a crime, access to medical care, and protection from the risk of being recaptured by traffickers including protecting family members from reprisal threats and ensuring that names and identities of trafficked persons are not made public. Also to be included are regulations giving trafficking victims access to information about their rights and appropriate translating services.

[147] *Id.* at Sec. 107(e).

[148] *Id.* at Sec. 107(e)(2)(B).

[149] *Id.* at Sec. 112.

[150] *Id.*

an accessory to trafficking are also increased. A fine and maximum five year sentence are ascribed to individuals who knowingly destroy, conceal, remove, confiscate, or possess immigration documents of another person.[151]

Unlike IMBRA, TVPA attempts to address not only the fallout but the origin of the problem. For instance, under the Act, the president is empowered to undertake international initiatives to advance economic opportunities for potential trafficking victims. Suggested initiatives include lending programs and job training, programs to promote women's participation in the market, promotion of education for girls and victims of trafficking, development of curriculums to educate women on the dangers of trafficking, and grants to NGOs to accelerate awareness of women's issues.[152] In this manner, TVPA goes where IMBRA does not, empowering government to address the very source of the issue; the poverty in which the trafficking victims lives, her subordinate position in society, and her lack of education.[153]

Unfortunately, there can be very limited crossover between TVPA regulations and the mail-order bride industry. By allowing for consent once perceived power imbalances have been corrected, IMBRA implicitly preserves freedom to contract in the international marriage brokerage industry.[154] In subtly endorsing its legality, IMBRA precludes the mail-order bride industry from being legally designated as trafficking per se.[155] Thus, TVPA can only be applied to the international marriage brokerage industry in instances where IMBs are acting as fronts for prostitution rings. If an international marriage brokerage is aware that a consumer husband intends to bring a woman to the U.S. for purposes of prostitution and accepts the fee and assists the client regardless, that particular IMB is guilty of sex trafficking and will be subject to TVPA penalties.[156] With the increasing participation of organized crime in the mail-order bride industry, however,

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[151] *Id.* This provision is particularly important considering that the removal of a trafficking victim's passport prevents her from leaving the country and puts her in the complete control of her captors.
[152] *Id.* at Sec. 106.
[153] K. Lindee, *supra* note 25 at 580-581.
[154] *Id.* at 571.
[155] *Id.* at 555.
[156] S.H. Jackson, supra note 64 at 907.

it is unlikely that the use of IMBs for trafficking purposes will be obvious or that fault will prove to be traceable.[157]

Trouble in Paradise II: The Regulation of International Marriage Brokerages Through Foreign and International Devices

I get into a conversation with two Filipinas named Therese and Bam on the train. I tell them about Ingmar and his girls. Neither of them has heard of Cherry Blossoms.

I have a computer printout of some of the profiles in my bag (the functional equivalent of my alter-ego, who presumably keeps pictures of his multiple beloveds in his wallet). Therese and Bam have a look. They inform me that Shanley (age 18, Member ID #C00978142) is from Lapu-Lapu City, a remote village far from Manila. Macy (age 21, Member ID #C00978664) is from Cagayan De Oro City, also a very small village and rather remote. Even Vivian is from the middle of nowhere. According to Therese and Bam, it's hard to find work in the remote villages. Many of the women are poor and uneducated.

Therese is not happy, especially when she hears that three women from the Philippines have contacted Ingmar already.

"That's not right," she says. "There should be a law."

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Individual Criminalization and Regulation

In the Philippines, the official policy of encouraging overseas employment, initially foreseen as a temporary solution to the country's economic woes, has blossomed into a permanent part of the economy. The mail-order bride industry flourished as a result of overseas programs originally promoted by the government.[158]

Concerned by the, "alarming rate of battered Filipina wives married to foreign nationals through the mail-order bride business", the Philippines met the mail-order bride industry head on by outlawing the industry completely. Legislation passed in 1990 made it illegal to establish or run an international marriage brokerage firm in the Philippines.

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[157] K. Lindee, *supra* note 25 at 563. It is important to note that many organized trafficking rings are not themselves IMBs. They simply use IMBs to import women for trafficking purpose. See *infra* at note 87.
[158] Karen M. Morgan, *Here Comes the Mail-Order Bride: Three Methods of Regulation in the United States, the Philippines, and Russia.* 39 Geo. Wash. Int'l L. Rev. 423, 434 (2007).

The law imposes fines and prison sentences for up to eight years for locals who run brokerages or solicit or advertise for them. Foreigners in violation may be fined, jailed, deported and barred from returning to the Philippines. The law was updated in response to the United Nations Protocol on Human Trafficking, increasing fines and specifically stating that a victim's (a.k.a. mail-order bride's) consent is irrelevant to prosecution.[159]

The legislation has had little effect on the mail-order bride industry or the number of Filipinas who participate in it. International Marriage brokerages have relocated from the Philippines. Since most of their business is conducted online, an actual presence in the Philippines is unnecessary. Since the mail-order bride industry has been a part of the economic life of the Philippines for the past thirty years, it is not even necessary for international marriage brokerages to advertise. Many Filipina women will register voluntarily.[160]

Taiwan has made efforts to control international marriage brokerage through bride limitations. Unfettered by the national origins prohibitions that regulate American immigration law, Taiwan is free to create quotas based on country of origin.[161] The irony is that, as the Taiwanese government regulates the number of mail-order brides that may enter their borders, many Taiwanese women leave Taiwan to marry Western men. They are unwilling to cater to Taiwanese men, whom they perceive as wanting to marry hard working, obedient drudges.[162]

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW) was adopted by the U.N. General Assembly on December 18, 1979. The purpose of CEDAW was to reaffirm the essential dignity and worth of all

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[159] *Id.* at 434-435. A Filipino senator, urging the passage of the legislation, stated unequivocally that, "by making Filipin[a] brides a marketable commodity and flaunting them as such like cattle in tawdry and revolting advertisements, this business has gravely insulted all that we, as a nation, hold sacred." *See* K. Lindee, *supra* note 25 at 597.
[160] *Id.* at 435-436.
[161] K. Abrams, *supra* note 29 at 1637. Taiwanese law limits foreign brides in the following annual proportions: 360 brides may enter annually from Indonesia; 420 may enter annually from Burma; and 1080 may enter annually from China.
[162] Scholes, *supra* note 2.

people in the form of equal rights for men and women.[163] Several of the provisions of CEDAW may be applicable to the mail-order bride industry or may be instrumental in eliminating the factors that allow the industry to operate successfully.

CEDAW requires State Parties to take measures to:

> [M]odify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.[164]

The Scholes study cites a driving factor in the current international marriage brokerage industry as the desire among consumer husband for wives with "traditional values", including the desire to put her husband's needs before her own and satisfaction with home, husband and family. The consumer husband relegates women to the role of homemakers. When he cannot find a woman who fits that role in his own country, he turns abroad.[165]

This stereotypical perception of women's positions is of exactly the type meant to be addressed by CEDAW. If State Parties can work to eliminate this stereotypical view of women in countries such as the Philippines and Russia, international marriage brokerages will find it increasingly difficult to pander to the desires of the consumer husband. Simply put, as the stereotypes of women in the mail-order bride's country of origin gradually change, the same perception will likely change abroad.

CEDAW also directs State Parties to:

> [T]ake all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:
>
> (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training…
>
> (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particulary

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[163] Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW), Introduction.
[164] *Id.* Part 1, Art. 5.
[165] Scholes, *supra* note 2. *See infra* at notes 27 to 29.

> those aimed at reducing, at the earliest possible time, any gap in education existing between men and women.[166]

Ensuring proper education, especially in more rural areas, would quite possibly address the poverty issues that fuel the mail-order bride industry. According to the Scholes study, mail-order brides, "come from places in which jobs and educational opportunities for women are scarce and wages are low."[167] This most certainly impacts upon the mail-order bride's choice to allow herself to be marketed to men from wealthier countries. Mitigating the economic factors that motivate the mail-order bride's decision by offering her more educational opportunities and subsequent prospects for better employment would slow the international marriage brokerage industry considerably. This would be supplemented by CEDAW's requirement that State Parties take measures to eliminate employment discrimination against women, including the right to the same employment opportunities, job, security, benefits, equal pay, social security, and job safety.[168]

The particular problems of rural women are addressed by CEDAW as well. Indeed, CEDAW demands that State Parties particularly apply the provisions therein to rural women. This includes affording rural women the right to participate in planning and development, giving them access to training and education, and giving them access to agricultural credit and loans as well as appropriate technology and adequate living conditions.[169]

State Parties adhering to these provisions will likely see a prospering of more remote rural areas with far more women participating in decision making. As remote areas become more economically viable and less oppressive in terms of the opportunities that they offer to women, it is likely that fewer women will feel the need to escape to wealthier countries, stemming the supply of available mail-order brides at its source.

Thus far, the provisions of CEDAW discussed address the underlying problems that allow the international marriage brokerage industry to flourish. Articles 15 and 16 may address the industry itself more directly.

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[166] CEDAW, *supra* note 161 at Part 3, Art. 10.
[167] Scholes, *supra* note 2.
[168] CEDAW, *supra* note 161 at Part 3, Art. 11.
[169] *Id.* at Part 3, Art. 14.

Article 15 of CEDAW requires that State Parties accord women and men equality in the eyes of the law, in particular, with regard to contracts. More specifically, "State parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void."[170]

Taking as a given the fact that marriage is a contract, it may be reasonably argued that contractual marriage for a mail-order bride as it currently exist would violate CEDAW. This is certainly the case in marriages to U.S. citizen, where immigration law stipulates that the entry of a mail-order bride into a contractual marriage with an American citizen renders her a person of no legal status in the United States for a minimum of two years.[171] While it might be argued that the two year wait period applies to men and women equally, the particular power imbalance between the mail-order bride and her consumer husband, combined with the coercive powers that U.S. immigration laws grant to the consumer husband, serves to create a marriage contract that significantly limits the mail-order bride's legal rights, possibly indefinitely.[172] Certainly, this would impact upon her ability to travel, activating the CEDAW provision that, "States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile."[173] Although the United States has yet to become a State Party to CEDAW, State Parties with significantly similar immigration laws may be subject to sanctions under CEDAW in regard to the rights of mail-order brides. In addition, countries of origin for mail-order brides that are State Parties to CEDAW may be sanctioned for allowing marriages to be contracted on their soil which will invariably lead to the proscription of the mail-order bride's right to legal recognition.

The contractual nature of marriage and the particular limitations of the mail-order bride in the marriage partnership activates Article 16 of CEDAW, which states that:

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[170] *Id.* at Part 4, Art. 15.
[171] Scholes, *supra* note 2.
[172] See *infra* at note 69. With the exception of abused spouse waivers, the legal status of the mail-order bride is at the constant mercy of her American husband, who may choose to withhold his petition for legal resident status or terminate it at any time, thereby allowing his mail-order bride to fall out of status and retain no legal rights whatsoever.
[173] CEDAW, *supra* note 161 at Part 4, Art. 15, Sec. 4.

> States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
> (a) The same right to enter into marriage;
> (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
> (c) The same rights and responsibilities during marriage and at its dissolution[174]

Imbalances of information and an inability to obtain accurate information in an internationally brokered marriage impacts upon a mail-order brides ability to enter a marriage with free and full consent, since consent is often predicated on information that is either false or cannot be verified as true.[175] Without guarantees as to the good faith accuracy of the information, a mail-order bride is not being given an equal ability to enter the marriage with actual consent. The inequity of information is especially pronounced considering the fact that the consumer husband receives information about his mail-order bride through the mandatory immigration background check, which is administered by immigration officials and is likely to be more accurate (if not more objective) than a self-disclosure.[176]

Additionally, by the very nature of American immigration law, a mail-order bride cannot have the same rights and responsibilities as a husband upon the dissolution of her marriage. In the event that the union is dissolved within the initial two year period, the consumer husband retains the right to citizenship and his share of all acquired marital property. In contrast, the mail-order bride runs the risk of deportation and therefore retains none of the rights that might be her entitlement under state law including use of family use personal property.[177] Simply put, it is difficult to make a reasonable argument for use and possession of a family home in Idaho if one is in the process of being deported to the Philippines.

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[174] *Id.*
[175] K. Lindee, *supra* note 25 at 580-581. As noted *infra* at note 130, criminal background information and marital history requirements under IMBRA are provided by the consumer husband, and even IMBRA itself acknowledges that the accuracy of the required disclosures is tenuous at best.
[176] *Id.* at 558.
[177] Scholes, *supra* note 2.

And They Lived Happily Ever After….or Did They?: A Conclusion to the Journey

Clearly the mail-order bride and the issues that face her are complex and exist on many levels. In the short term, she can be helped through the broadening of legislation such as IMBRA and the multi-national enforcement of individual criminalization laws such as those in the Philippines. In the long run however, the mail-order bride cannot be protected until the problems of poverty and sexism are addressed on an international level. Until the attitudes about women change, both in those countries that supply mail-order brides and countries that purchase them, women will continue to make what they consider the best of several poor choices. Without economic opportunities, access to education, and equal recognition in the eyes of the law, women will continue to feel desperate enough to marry strangers.

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I have decided to retire Ingmar. He has served his purpose, and I have come to dislike his existence. I write an e-mail to Cherry Blossoms informing them that I have found the girl of my dreams. We met in the Philippines and are now engaged. I don't say how. Perhaps I found her on one of 149,000 other international marriage brokerages out there. Perhaps she was sitting at the bar of a hotel in Lapu-Lapu City where I stayed while I was on vacation and I bought her a drink. I haven't decided yet. All I know is that she is young (nineteen), she is from a poor family, her English is not particularly good, and I love her because she is going to be the perfect wife and mother to my children. My very own June Cleaver.