

Wives for Sale: The Modern International Mail-Order Bride Industry

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The Filipinos make excellent wives, are exceptionally loyal and are true orientals [sic] from South East Asia. They are generally more attractive than other orientals [sic] and often used in commercials and movies to play the role of Japanese and Chinese.... They are much more culturally compatible with Americans and adapt here easily. They speak English and are not Budd[h]ists. They have that demure feminine mystic of all orientals, and are family oriented instead of duty oriented. The Filipinos 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] home[s] immaculately clean. They're exceptionally feminine, charming, slim and enjoy being so. They don't have reservations about marrying outside their race as the other orientals [sic] do.¹

The label "mail-order bride" often brings to mind historical images from times long gone. However, this form of trafficking women internationally thrives in the modern global economic system. Operating virtually without regulation,² the modern mail-order bride industry prospers by exploiting the power disparities between men and women, the rich and the poor, those from developed economies and those from developing economies. Young women from poor families in economically struggling nations are transported from their homes, like products, to male citizens of economically advantaged nations under the supervision of for-profit companies known as "mail-order bride agencies." Throughout the world, the industry

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¹ *Life-Mates* (visited Nov. 9, 1998) <<http://www.life-mates.com>>.

² Bob Burrows, the publisher of *Cherry Blossoms of Hawaii*, one of the largest mail-order bride companies, states that "No agency regulates this business, Nobody." Diedra Henderson and Alex Tizon, *Mail-Order Matchmaking Not Regulated*, SEATTLE TIMES, March. 12, 1995, at A19.

is responsible only to its male consumers and its own budget. The United States, a destination (or "import") nation for this industry, and the Philippines, one of the most prominent origin, or "export*" nations, exemplify the modern state players in the mail-order bride industry.

This comment will examine the current state of the mail-order bride industry in the United States and the Philippines, criticism of the industry, current legal regulation of the industry, and potential alternatives to current regulation schemes.

The mail-order bride industry has been criticized by social and legal commentators for its exploitation of women, creation of immigration problems, perpetuation of stereotypes, and tendency to create situations in which domestic violence thrives.³ A few laws have been enacted in the United States and the Philippines which attempt to regulate these problems. However, the legislation that does exist has proven largely ineffective to curb the problems associated with this practice of trafficking women. While the number of mail-order bride companies is on the rise and the industry thrives, the harms to the women trafficked have not begun to subside. Future attempts to regulate the industry should include international cooperation and concerted multinational efforts to control the supply and demand forces in the industry on a global level, rather than attempt to exert control from the national level.

This comment begins by discussing the mail-order bride industry in the context of international human trafficking, focusing on traffic between the United States and the Philippines, and includes an overview of the current regulations that exist regarding this industry. It then gives an overview of the major criticisms of the mail-order bride industry, the international problems created by the practice of trafficking women as brides, and the failure of current regulations in the United States and the Philippines (or the lack thereof) to address these problems. Finally, this comment calls for international regulation that would begin to address these problems, and suggests possible content for these regulations.

³ See generally Christina 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 (1996) (discussing the racial and gender stereotypes inherent and reinforced by the mail-order bride industry in the United States and Asia); Amy L. Elson, *The Mail Order Bride Industry and Immigration: Combatting Immigration Fraud*, 5 IND. J. GLOBAL LEGAL STUD. 367 (discussing the harmful impact of conditional immigration status on women who immigrate into the United States through the mail-order bride industry). Eddy Meng, *Note: Mail-Order Brides: Gilded Prostitution and the Legal Response*, 28 U. MICH. J.L. REFORM 197, 216-233, (1994) (discussing the mail-order bride industry in the United States and Asia and the United States laws which affect the industry).

I. INTERNATIONAL TRAFFICKING IN WOMEN AND THE MAIL-ORDER BRIDE INDUSTRY

While the recent decline of the Asian economy has wrought havoc on many industries, the Indonesian brokering house, Lippo Securities' ^{1c} "non-fundamentalist advisor" (*i.e.* a psychic) has forecasted in 1998 that "bride futures could be one of the commodities able to hold its value" even where gold, real property, and timber were deemed likely to fail that year.⁴ The implication, of course, is that while other market products are sensitive to fluctuations in national economies, the demand for women will remain strong through economic downturns in various nations. While astute investors act on the economic predictions of psychics only with extreme caution, this prediction indicates the breadth of the modern mail-order bride industry.

A. International Trafficking in Women

Whatever one's opinion of psychic economists may be, using women as commodities has proven to be a profitable business strategy in the modern world.⁵ The international traffic in women includes any "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 and exploitation."⁶ According to Michael Platzer, head of operations in Vienna, Austria for the U.N.'s Center for International Crime Prevention:

Two hundred million people are victims of contemporary forms of slavery... During four centuries, 12 million people were believed to be involved in the slave trade between Africa and the New World. The 200 million, and many of course are women who are trafficked for sex, is a current figure. It's happening now. Today.⁷

This is a very real problem in the modern world.

Early recognition of modern international human trafficking by the international community focused on the "white slave trade," which was understood to be the trafficking of white women as prostitutes.⁸ Later, the

⁴*Crisis Slams Door on Billionaires' Club*, S. CHINA MORNING POST, Jan. 9, 1998, at 12.

⁵See Steve Wiegand, *Here Come the Brides Direct From Russia*, SACRAMENTO BEE, Jan. 28, 1993, at A1; Ian Markham-Smith, *Post-Marked for Murder*, S. CHINA MORNING POST, Mar. 26, 1995, at 2.

⁶KATHLEEN BARRY, FEMALE SEXUAL SLAVERY 40 (1979).

⁷Michael Specter, *Slave Traders Lure Slavic Women; Dreams of Riches End in Brothels*, NEW ORLEANS TIMES-PICAYUNE (N.Y. Times News Service), Jan. 11, 1998, at A1.

⁸International Convention of the Suppression of White Slave Traffic, May 4, 1910, III L.N.T.S. 278. [hereinafter International Convention]. See also Stephanie Farrior, *The International Law of Trafficking in Women and Children for Prostitution: Making it Live Up to its Potential*, 10 HARV. HUM. RTS. J. 213, 216-223 (Spring 1997), for a discussion of the progression of international law regarding human trafficking.

international community acknowledged that sex trafficking affects not only white adult females, but all of people regardless of race, gender, ethnicity, or age. In 1950, the United Nations officially condemned international trafficking of women for sexual services with the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.⁹ Women, particularly those living in poverty in economically disadvantaged nations, are forced into prostitution or pornography, bought and sold as sex slaves, and lured into the "sex-tourism" industry.¹⁰ Rape and prostitution have become official tools of ethnic war and genocide.¹¹ Though much of these social phenomena seem to occur only on distant continents far removed from developed nations, women are currently trafficked into powerful, developed nations including the United States, Australia, England, and Japan on a regular basis as sex commodities.¹² Despite the fact that international trafficking of women related to sex has been recognized as criminal throughout this century, as the twenty-first century approaches there is no evidence that this traffic has slowed.

The mail-order bride industry is one of the most open forms of trafficking women into developed nations. The London-based watchdog group, World Association of Introduction Agencies, currently recognizes 2,700 international introduction agencies world-wide.¹⁴ Introduction agencies, more commonly referred to as mail-order bride agencies, are generally recognized as one form of trafficking women.¹⁵ In spite of this reality, many of the laws which regulate human trafficking have not been interpreted to apply to the mail-order bride industry, largely because of the presence of some level of consent to the transaction from the bride or her

⁹ Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others, 96 U.N.T.S. 272 (1950).

¹⁰ See Susan Jeanne Toepfer & Bryan Stuart Wells, *The Worldwide Market for Sex: A Review of International and Regional Legal Prohibitions Regarding Trafficking in Women*, 2 MICH. J. GENDER & LAW 83, 86 (1994) [hereinafter Toepfer & Wells] (evaluating whether available international treaty law is a useful weapon in the battle against the global sex trade).

¹¹ Gutman, *New Serb Horror Story: Rapes by the Thousands*, NEWSDAY, Aug. 9, 1992, at 4.

¹² See, e.g., Laurie Hauber, *The Trafficking of Women for Prostitution: A Growing Problem within the European Union*, 21 B.C. INT'L & COMP. L. REV. 183, 193 (1998).

¹³ See, e.g., United Nations Resolution A/RES/52/98, *Traffic in Women and Girls*, 6 Feb. 1998 (recognizing the "increasing number of women and girl children from developing countries and from some countries with economies in transition who are being victimized by traffickers"); Farrior, *supra* note 8, at 213 (noting that while there is a wealth of word on paper prohibiting trafficking, enforcement is lacking).

¹⁴ Caroline Davies, *Buying a Wife 'Cheaper than a Ford Fiesta' The Business of finding spouses for men who want someone exotic is booming reports Caroline Davies*, DAILY TELEGRAPH (London), Oct. 3, 1997, at 3.

¹⁵ See, e.g., Toepfer & Wells, *supra* note 10.

family, and because the transactions contain the legitimizing social and religious force of marriage.

B. The Mail-Order Bride Industry in the Philippines and the United States

Modern technology, the Internet in particular, makes it easier than ever before for men to shop for wives from exotic foreign locations. While it may seem gender biased to refer to international introduction agencies as "mail-order bride industries," in reality few, if any, agencies market men as husbands and salable commodities for women to purchase.

Though there are no official tallies, an estimated minimum of 4,000 men find brides through the mail-order bride industry each year.¹⁶ It is estimated that mail-order bride companies make as much as \$6,000 to \$10,000 per client, with some agencies claiming to serve as many as 15,000 clients per year.¹⁷ Brides entering the United States currently come from Russia, Eastern Europe, Asia, and Central America.¹⁸ The largest supplier of brides is the Philippines, which exports an estimated 20,000 women to foreign husbands annually.¹⁹ In the last thirty years over 131,000 Filipinos have left their country to follow their partners, with nearly half of that number going to the United States.²⁰

In 1997 alone, the United States issued 1,782 visas to individuals from the Philippines intending to marry U.S. citizens.²¹ No statistics tell how many of these couples met via the mail-order bride industry. However, companies that specialize in bringing men together with Filipinas are part of an "exploding multi-million-dollar industry that markets women from developing countries as potential brides to men in Western nations."²² While estimates on the numbers of companies that engage in the mail-order bride industry vary, one source claims that in 1995 up to 500 mail-order bride companies may have been operating in the United States.²³ Many companies, like Life Mates and Asian Flower, are operated in the United States by sole proprietors out of their homes, sometimes with the assistance of their

¹⁶Trixia Carungcog, *Such Women May be Easy Prey For Abusive Men*, STRAIGHTS TIMES (Singapore), June 28, 1998.

¹⁷Olivia H. Tripon, *Weekender: Network Reviews Efforts Against Trafficking in Women*, BUSINESS WORLD, Sept. 12, 1997.

¹⁸Lena H. Sun, *The Search For Miss Right Takes a Turn Toward Russia; 'Mail-Order Brides' of the '90s Are Met Via Internet and on 'Romance Tours.'* WASHINGTON POST, March 8, 1998, at A01.

¹⁹Carungcog, *supra* note 16.

²⁰*Filipinos looking for foreign spouses prefer U.S., Japanese*, AGENCE FRANCE-PRESSE, Dec. 16, 1997.

²¹Sun, *supra* note 18.

²²*Id.*

²³Lisa Belkin, *The Mail-Order Bride Business Booming*, NEW YORK TIMES, May 11, 1996 § 6 (Magazine), at 73.

"mail-ordered" wives.²⁴ The laws of supply and demand, as well as the efficiency of the Internet, have prompted many newcomers to enter the industry each year.²⁵

The industry is international. Many companies target women and men in nations spanning the globe, though some focus on exporting women only from particular nations. A person who wants to start a mail-order bride company needs only a few contacts with foreign women, a computer, knowledge of the Internet, and, possibly, the money to advertise in a publication that American men are likely to read.

Mail-order bride agencies claim that they are not in the business of trafficking women across national boundaries. However, catalogue descriptions of the women the companies market do not differ much from a department store's listing of merchandise.²⁶

Poverty and gender roles in the Philippines are the typical forces that turn Filipinas to the mail-order bride industry. Unemployment rates, particularly for women, have soared in recent years.²⁷ Social programs to aid the population to obtain jobs are generally considered insufficient to meet the needs of Filipinas,²⁸ who face tremendous gender discrimination in the job market²⁹ Despite their inferior economic position, gender roles place the burden of family maintenance and support on women.³⁰ The culmination of these effects is that "women must seek their own survival outside the formal wage economy."³¹ For many women, this means the choice between work as a migrant laborer or as a prostitute.³² The mail-order bride industry has provided them with an additional option.

The presence of the American military and media have served to glamorize life in the United States, and with the white male dominance over

²⁴For personal narratives of the history of specific mail-order bride companies, see, e.g., *Life Mates*, *supra* note 1; *Cherry Blossoms* (visited Nov. 9, 1998) <<http://www.cherry-blossoms.com>>.

²⁵Sun, *supra* note 18; Mark Larson, *SRF seeks SAM; pulse preferable*, BUSINESS JOURNAL, SACRAMENTO, March 6, 1998, v. 14, n. 51, p.3.

²⁶Meng, *supra* note 3, at 206.

²⁷Donna Strawson, *Letter: Philippine Debt Lies Heavily on the Women*, TORONTO STAR, Dec. 9, 1991, at A16 (Donna Strawson was the Secretary of the Philippine Solidarity Group).

²⁸*Id.*

²⁹ELIZABETH EVIOTA, *THE POLITICAL ECONOMY OF GENDER AND THE SEXUAL DIVISION OF LABOR IN THE PHILIPPINES* 27 (1997), (also noting that the magnitude of prostitution in the Philippines is strongly indicative of the lack of employment options Filipinas have). DELIA D. AGUILAR, *THE FEMINIST CHALLENGE: INITIAL WORKING PRINCIPLES TOWARD RECONCEPTUALIZING THE FEMINIST MOVEMENT IN THE PHILIPPINES* 4-8 (1988);

³⁰Strawson, *supra* note 27.

³¹EVIOTA, *supra* note 29, at 27.

³²Strawson, *supra* note 27.

Asian women.³³ All of these factors create an environment which encourages Filipinas to marry U.S. citizens in search of economic support and a better life.³⁴

C. The Mail-Order Bride Transaction

Once a Filipina decides to seek marriage to a foreigner, she must provide agencies with photos, physical measurements, personal information and a description of what she seeks in a mate. The companies then publish catalogues and web pages rilled with information on hundreds, or even thousands, of women. American men seeking foreign brides need only flip or scroll through the pages to select those whom they would most like to meet or correspond with.

Web pages advertising women from the Philippines focus heavily on the stereotypical images of Asian women, as illustrated by the "Life Mates" company material excerpted at the beginning of this comment. They target men who are seeking a "solution to the modern day lack of moral and family values" that the women's movement has created in the United States.³⁵ They market Filipinas as women with traditional values who seek to please men and who do not believe in divorce. The consumers are typically significantly older than the brides they seek, though some companies advise men to target women not more than twenty years their junior.³⁶ One typical customer explained that he chose to find a mail-order bride because he was unhappy with American women, whom he described as "extremely independent, not appreciative, and too competitive."³⁷

Some companies sell their catalogues of potential brides for subscription fees.³⁸ Others, particularly those based on the Internet, charge customers based on the number of women they wish to contact, often offering bulk rate discounts for customers who select numerous women.³⁹ Average prices range from five to ten dollars per woman for an address.⁴⁰ The customers are free to correspond with the women whose addresses they have purchased as they choose. Some agencies offer sample letters and letter writ-

³³ See Sumi K. Cho, *Converging Stereotypes in Racialized Sexual Harassment: Where the Model Minority Meets Suzy Wong*, 1 *GENDER, RACE & JUSTICE* 177, 193-94 (1997) (discussing the creation of modern stereotypes of Asian women).

³⁴ For further discussion of socio-economic pressures influencing the decision to be a mail-order bride, see Meng, *supra* note 3, at 204; EVIOTA, *supra* note 29, at 27; AGUILAR, *supra* note 29, at 408.

³⁵ *Life-Mates*, *supra* note 1.

³⁶ Larson, *supra* note 25.

³⁷ *Id.* See also Cho, *supra* note 33, at 192.

³⁸ See Gary Libman, *Lonely American Males Looking to the Orient for Mail-Order Brides*, *LOS ANGELES TIMES*, Sept. 14, 1986, pt. VI, at 1.

³⁹ See, e.g., *Life-Mates*, *supra* note 1.

⁴⁰ *Id.*

ing tips to help their consumers win the hearts of the women they have chosen.⁴¹ One bridal agency, Cover Girl Brides, offers a guarantee that all the women they advertise are "FRESH," that is, if a customer purchases an address of a woman who has been "taken off the market," the company will provide the customer with two new, "FRESH**" addresses free of charge.⁴²

Throughout lesser developed countries of the world are numerous people hoping to find better lives for themselves abroad. Men, in countries attractive to immigrants such as the United States, find that they have a strategic advantage in courting women in such situations. However, communication and information flow between individuals in different nations who have yet to meet presents those seeking an international relationship with a problem. This is where the mail-order bride companies enter the picture. These companies step in to provide parties with information so that they can find a person to marry. Thus, men in the United States can meet (either in person if he travels abroad or by mail) women in the Philippines.

The male consumer provides all the financial input into the transaction. He pays for information about the women he wishes to meet and for the opportunities to contact them. The female, akin to a product, is marketed based on her personal information, and scrutinized based on the information demanded by consumers.

The fact that the male typically has resources far in excess of the female and that typically the female's goals are centered around leaving her current situation, gives male participants tremendous power in the transaction. The male, as the paying customer, can demand from the mail-order bride companies any kind of information he wishes. In order to compete for business, companies must provide the information consumers demand. The female participants, on the other hand, have little if any power. They are among numerous women struggling to get out of poverty through marriage. To compete for potential husbands, she must provide the information the companies (and potential husbands) request. The companies, in response to consumer demands, verify the information the women provide through interviews, photography sessions, measurement taking, etc. They do not, however, verify information the consumers provide to their potential brides. Because the potential brides lack resources, there is little opportunity for them to verify anything their suitors tell them before emigrating to the United States.

The sale of potential bride's contact information is the frontline of the industry, but the big money makers for companies are "bridal tours"* to the Philippines. Companies that do not have the capability to offer these tours often have a relationship with a travel agency that will bring the men to the

⁴¹ See, e.g., *Cover Girl Brides*, (visited Nov. 9, 1998) <<http://www.covergirlbrides.com>>.

⁴² *Id.*

Philippines.⁴³ The men can meet the women with whom they have developed pen-pal relationships, as well as be introduced to hundreds of other women.⁴⁴ This is an important feature of the operation of trafficking Filipinas to the United States, due to recent trends in Filipino emigration requirements as well as U.S. immigration law.

Increasing concern in the Philippines for the trafficking of Filipinas has led to increased restrictions on emigration.⁴⁵ Filipina brides can now be denied permission to leave the country for not knowing details about their fiances.⁴⁶ Couples also may be required to attend counseling sessions and to obtain police clearance for emigration.⁴⁷ Filipino officials note that the regulations have not decreased the trafficking of brides, but rather it has pushed the industry underground.⁴⁸

Mail-order bride companies typically offer their customers immigration assistance for additional fees. Ordinarily, the grooms obtain 90 day Fiancee Visas that permit their brides to enter the U.S. on a temporary basis so the couple can decide whether they in fact want to be married.

D. Current Regulation of the Mail-Order Bride Industry in the United States and the Philippines

The mail-order bride industry is virtually unregulated throughout most of the world. The international law-making community has paid little attention to the open trafficking of women in this form, instead concentrating on forced prostitution and trafficking of children.⁵⁰ Acting individually, several countries have attempted to regulate particular elements of the industry. However, these efforts have had virtually no effect on the trafficking of brides.

Import nations such as the United States have tended to focus on the immigration consequences of the mail-order bride traffic. Instead of protecting the safety of women entering their new nation, regulations seek to prevent or uncover fraudulent marriages and threaten brides with deportation.⁵¹ In the United States, the Illegal Immigration Reform and Immigrant

⁴³ *Cover Girl Brides*, *supra* note 42.

⁴⁴ *Life-Mates*, *supra* note 1.

⁴⁵ 1996 Philippine Passport Act; *see also* Tripon, *supra* note 17.

⁴⁶ Tripon, *supra* note 17 (quoting Lucille Ronda, a migrant education and integration officer for the Commission for Filipinos Overseas).

⁴⁷ *Id.*

⁴⁸ *Philippine Congress urged to outlaw mail order bride business*, THE XINHUA GENERAL OVERSEAS NEWS SERVICE, Apr. 13, 1989 (quoting Senator Maceda).

⁴⁹ *See, e.g., Life-Mates*, *supra* note 1, for pricing information.

⁵⁰ *See* Chun, *supra* note 3, at 1203-06 (discussing international trafficking in women and proposed regulations).

⁵¹ Fraudulent marriages are generally considered those designed strictly to bypass immigration requirements. *See* Michelle J. Anderson, *A License to Abuse: The Impact of Condi-*

Responsibility Act of 1996 recognizes the existence of the industry and its potential problems, and thus, requires mail-order bride companies to disclose U.S. immigration information to the brides.⁵² The implementation and enforcement of this law is questionable.⁵³ Other immigration regulations place foreign spouses in a conditional status, which requires the continued sponsorship of the bride by the citizen spouse over a period of years.⁵⁴ There is no other regulation of the industry in the United States.

This has left export nations such as the Philippines virtually alone in trying to curb the international trafficking of their female citizens. Enacted so far are the 1989 Ban on Advertising for "recruits,"⁵⁵ and the 1996 Anti-Mail-Order Bride Law RA 6955,⁵⁶ which also restricts agencies' recruitment methods. Despite the governmental attempt to control the supply of FiHpinas as mail-order brides, economic realities have allowed the industry to prevail. Informal recruiting practices have replaced formal advertising.⁵⁷

The minimal regulations of the industry, which do exist in individual import and export countries, continue to operate in a vacuum. The laws of import countries do not compliment or support the laws of export countries. For example, despite the ban on advertising for mail-order brides in the Philippines, the United States does not regulate the activities of U.S.-based mail-order bride companies that advertise FiHpinas, does not scrutinize the actions of mail-order bride companies relating to foreign nations, and does not regulate how companies treat the women they commodity. Further, United States laws which are relevant to the lives of women in the mail-order bride industry target them as perpetrators of immigration fraud, and seek to criminalize their attempts to improve their lives through immigration.⁵⁸

E. Justifications for Allowing the Industry to Flourish "Virtually Unregulated"

Industry consumers and companies argue that the mail-order bride industry must remain unregulated to avoid impinging on personal freedoms

tional Stats on Female Immigrants, 102 YALE L.J. 1401, 1411-13. See also Meng, *supra* note 3, at 218-19.

⁵² 8 U.S.C.A. §1186 (a) (West 1999).

⁵³ Chun, *supra* note 3, at 1202.

⁵⁴ Unfortunately, these regulations are often seen as causing more harm than good. Laws restricting the immigration status of women makes women even more dependent on their husbands. This continues despite recent changes in immigration law. See Michelle J. Anderson, *supra* note 52, at 1415; Deanna Hodgin, 'Mail-Order' Brides Marry Pain to Get Green Cards, WASHINGTON TIMES, Apr. 16, 1991, at E1.

⁵⁵ Chun, *supra* note 3, at 1189.

⁵⁶ 1996 Anti-Mail Order Bride Law R.A. 6955 (Corazon Aquino executive order).

⁵⁷ Tripon, *supra* note 17.

⁵⁸ See Anderson, *supra* note 52, at 1411-13.

and privacy rights,⁵⁹ especially in the protected area of marriage and family relationships. Proponents argue that because both parties enter the marital contract voluntarily, there is no justification for state intervention. They argue that the government has no right to regulate how American citizens meet or how they select their spouses, nor how the power in the marital relationship is balanced. These industry supporters deny that any significant differences exist between an international introduction and national dating services or personals columns.

In the favor of industry supporters, no study has ever shown that spousal abuse, domestic violence, or other harm is any greater in marriages between couples who have met through mail-order bride agencies than other couples. Additionally, for every mail-order bride who is known to be abused, industry supporters may be able to point to several happily married couples who met in the same way. Some women have, through their decisions to participate in the mail-order bride industry, found better lives for themselves, perhaps even earning the ability to help support their family members who remain in the Philippines. Just as in all marriages, those arranged through the mail-order bride industry sometimes fail, sometimes involve domestic abuse, and sometimes involve a balance of power favoring the husband. But, the women chose to marry and chose which men to marry. The industry, supporters would argue, should not take responsibility for problems inherent in all marriages.

Further, industry proponents argue that they do not sell women as chattel, but rather sell information and facilitate meetings between people separated by thousands of miles. Women are not forced to marry, or even to enter the bridal process. They freely choose to meet foreign men and are free to make the choice to accept or reject any proposals they receive.

n. CRITICISMS OF THE MAIL-ORDER BRIDE INDUSTRY

Others would argue that characterizing the mail-order bride industry as just a typical dating service "ignores the politics of subordination perpetuated by the industry: the economic inequality and racial and gender stereotypes relied upon to exploit developing countries and women for a profit."⁶¹ Critics of the mail-order bride industry say that the companies not only demean women, but as unregulated international enterprises, they are fraught with potential problems, including marriage fraud and domestic violence... "This is not to say that some aren't bona fide marriages .. [but] given the

⁵⁹ *Chun, supra note 3, at 1169; see also Christopher Hanson, Mail-Order Bride business Booms in Backlash to Feminism, Reuters, Apr. 30, 1987, available in LEXIS, World Library, Allwld File.*

⁶⁰ *See Roe v. Wade, 410 U.S. 112, 152 (1973)* (it is "clear that the [privacy] right has some extension to activities relation to marriage, procreation, contraception, family relationships...").

⁶¹ *Chun, supra note 3, at 1188-89.*

chances for abuse and exploitation, should we be handing out visas that are not subject to quotas, where the industry is totally unregulated?"⁶²

While the United States has recognized the problems associated with the industry, the current regulation treats brides as potential criminals and perpetrators of immigration fraud.⁶³ By giving their citizen-husbands power over the bride's immigration status, the mail-order bride transaction places the bride at the mercy of her spouse. The only mail-order bride specific statute in the United States, 8 U.S.C.A. § 1186 (c)(4)(c) affords the mail-order brides little if any protection. In fact, by requiring agencies to disclose the unregulated nature of the industry, Congress legitimizes the current industry structure. This scheme disregards the will and regulations of developing countries, like the Philippines, whose laws can have no force when not backed by the consumer countries. In addition, the law does not address the serious problems mail-order brides face under the current immigration system. The law does not change the conditional status of mail order brides or shift the power from the consumer-husbands to the brides.⁶⁴

The basic arguments against the mail-order bride industry centers around the exploitation of women in developing nations, the reliance on gender and ethnic stereotypes, and the abuse of the economic and power dynamic between the consumer and the product. Additionally, there have been reports of horrific instances of domestic abuse, which has included murder of foreign brides by their American consumer husbands. One Philippine senator, while urging the Philippine Congress to outlaw the mail-order bride industry, argued that "by making Filipinja] 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."⁶⁵

While there is legitimacy to arguments for free-will and privacy in marital relationships, governments do have significant involvement in all marriages, and particularly those that involve immigration. However, regulation does not have to seek to limit the ability of individuals to meet each other and marry, but instead can focus on the activities of for-profit organizations which facilitate these meetings.

⁶² Sun, *supra* note 18, at A01 (quoting T. Alexander Aleinikoff, a former INS official).

⁶³ Anderson, *supra* note 52, at 1419-20.

⁶⁴ Chun, *supra* note 3, at 1202.

⁶⁵ Markham-Smith, *supra* note 5, at 2; Mike Frassinelli, *Mail-Order Brides Rape Case Begins, Monroe County Lawyer Allegedly Attacked and Imprisoned Two Women*, ALLENTOWN MORNING CALL, Nov. 5, 1998, at B01 (reporting allegations that a man repeatedly met women through mail-order bride agencies, lured several of them to America, imprisoned them by holding their return plane tickets, and raped them); Alex Tizon, *Mail-Order Marriage Leads to Slaying of 3 Women*, THE BUFFALO NEWS, May 5, 1996, at 12A.

⁶⁶ *Philippine Congress urged to outlaw mail order bride business*, THE XINHUA GENERAL OVERSEAS NEWS SERVICE, Apr. 13, 1989 (quoting Senator Maceda).

A. Feeding on Poverty

As discussed previously, the mail-order bride industry exploits the needs of impoverished women with limited economic options in developing nations for commercial profit. The male consumers of mail-order brides are the driving force behind the industry. Because the women have less economic power, they do not have equal power to demand information from the industry about their potential spouses. Because the male consumers pour money into the industry, the industry strives to meet their needs and demands, while ignoring the needs of the potential brides.

While mail-order bride companies must by law provide immigration information to the brides they market to America, there is no requirement for the companies to verify that its paying customers are in fact who they say they are, or do any criminal or other background check. Essentially, the market is such that the potential husbands can formulate any story they wish to tell their prospective brides. In addition, prospective brides often have little accurate information about what American life is like, and thus often do not consent to the marriage with full awareness of what they are undertaking. Violence can be used to recruit or coerce women into the industry, and to keep them living up to the consumer's expectations of mail-order brides. Because of the brides' economic weaknesses, they are relegated to the role of products, incapable of commanding any safeguards of their needs in the market. The mail-order bride companies offer no assistance or guidance to the brides once they get to the United States. "Male clients are defined as the buyers with all the rights afforded that position, women are basically defined as commodities." The women, in part because of their economic disadvantage, are treated like chattel. Women are scrutinized and screened for their viability as a wife while nothing is done to ensure the male-consumer's suitability as a husband.

Realistically, the problems found in mail-order bride marriages are not unique, and could be found in almost any marriage no matter how the couple first met. However, the mail-order bride industry targets poor women, and then facilitates their move into a new nation with a different culture, language, and entirely different legal system. Because the brides are economically dependent on their husbands when they emigrate to the United States, the women have little recourse to take action once they are in the United States and learn that the situation they are in is not what they were promised or had anticipated.

Additionally, there is significant concern that these relationships can turn into debt bondage. Because the consumer typically pays the full cost of locating and meeting his bride, and then transporting her to the United States, he can try to force his new bride to "pay [him] back" through do-

⁵⁷ *Chun, supra* note 3, at 1184.

mestic or sexual services, or monetarily.⁶⁸ While there is no formal contract aside from the marriage, that makes this form of debt-bondage legally enforceable, the power disparities that exist between the husband and wife make this possibility a significant reality. Because the bride relies on her husband for her immigration status, is typically uninformed about United States law, and has limited resources to survive without the support of her husband, he can often control much about her life without fear that she will try to leave or take advantage of available legal protections. Most immigrant brides, however, do not have adequate resources to ensure they can return home, and even if they did, familial shame over a failed marriage may make such a choice socially impossible.⁶⁹ Because the men are economically in control of these relationships, they can wield this power over the women they have paid to meet and marry. Stories abound of men withholding the return plane tickets and other costly items from foreign women in the United States on fiancée visas when the potential brides refused to perform as expected.⁷⁰ "Women take this risk because they do not understand fully the dangers involved."⁷¹ The agencies who market them and profit from them currently have no obligation to advise the women of the risks inherent in a mail-order marriage, or to provide any guidance or assistance to them should any problems arise.

Thus, once enticed to leave their nation to begin a new life with a husband in the United States, women involved in the mail-order bride industry often are powerless to change their situation, and have few resources available to empower them. Because no one, not even the mail-order bride companies, track the progress of these women once they reach the United States, "[t]hese women are invisible unless some lunatic walks into a courthouse and shoots his mail-order wife."⁷²

⁶⁸ Tripou, *supra* note 17.

⁶⁹ Chun, *supra* note 3.

⁷⁰ Mike Frassinelli, *Mail-Order Brides Rape Case Begins * Monroe County Lawyer Allegedly Attacked and Imprisoned Two Women*, ALLENTOWN MORNING CALL, Nov. 5, 1998, B01, (reporting that an industry consumer allegedly told his mail-order bride that "I paid a lot of money for you; you will do what I say," when she refused sex. This man is accused of raping and imprisoning two women he met through the mail-order bride industry, with the supporting testimony of a third woman he also met the same way. The third woman apparently found a way to pay for her own plane ticket back to Russia, and did not give in to his demands that she marry him.) See also Timothy Egan, *Mail-Order Marriage, Immigrant Dreams and Death*, THE NEW YORK TIMES, May 26, 1996, Sec. 1, P. 10, Col. 1 (reporting the murder of mail-order bride Susan Remata by her husband, while she sat in a courthouse waiting for her divorce proceeding, along with two friends, also killed, who were to testify of the husband's abusive behavior during the short-lived marriage). While these extreme cases make it to court and thus receive legal attention, it is unclear what happens to women who face less public forms of abuse and violence. See *infra* note 74 and accompanying text.

⁷¹ Carungog, *supra* note 16.

⁷² Sun, *supra* note 18 (quoting Gillian Caldwell, co-director of the D.C.-based human rights group Global Survival Network).

B. Feeding on Stereotypes

The web pages and advertising material mail-order bride companies use play on the stereotypes of Asian women as subservient and docile, their unawareness of the feminist movement, and their unfamiliarity with the modern use of divorce to market Filipina women.⁷³ The stereotypes of Asian women as exotic sexual toys for white-male consumption pervades company catalogues.⁷⁴ In reality, these women, those who are actively seeking to make a better life for themselves, may be the ones who are least likely to fit into the traditional stereotypes.⁷⁵ Once the women get to the United States, they may adapt quickly to American culture. Thus, the mail-order bride "p^{unc} nas^ci" by an American consumer can be quite different from the subservient sex toy advertised by mail-order bride agencies. When the mail-order bride consumer's image of what he spent his money for does not coincide with reality, violence can ensue.⁷⁶ This is an example of "[m]ale control of female sexuality embodied in the notions of purity, domesticity, and familialism [which] continue[s] to dominate women's sexual behavior."⁷⁷

According to some who study this industry, "[w]omen never fare well under these contracts. It's exploitative of a vulnerable population when we promise prosperity in America, often they're expected to be subservient to their partners instead of entering into an equal relationship."⁷⁸

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 [implicit] 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. Bridal agencies recognize and take advantage of these conditions.⁷⁹

Finally, the entire industry is characterized as harmful to women as a whole. "The position of women in political economy is structured by a double set of relations, arising from their relations to men on one hand, and deriving from their position in the economic organization of society on the

⁷³ See, e.g., *Life-Mates*, *supra* note 1.

⁷⁴ *Id.*

⁷⁵ Meng, *supra* note 3, at 209.

⁷⁶ Markham-Smith, *supra* note 5.

⁷⁷ BVIOTA, *supra* note 29.

⁷⁸ Larson, *supra* note 25 (quoting Helen Grieco, the president of the California chapter of the National Organization for Women). See also Sherry Vasquez, *Mail Order Brides: Many Filipino Women Still Risk their Safety for a Chance at a Better Life*, ROCKY MOUNTAIN NEWS, Apr. 4, 1995, at 3D (discussing interviews with women who chose to participate in the mail-order bride industry who claimed that the risks of danger were worth taking to try to escape poverty).

⁷⁹ Chun, *supra* note 3, at 1172-73.

other."⁸⁰ The structure of this industry reinforces notions that men have the economic and political power, and that women's position in the economy is as sexual commodities to be monetarily valued, bought, and sold by men in developed nations.

C. Creation of Women's Extreme Dependence on Consumer-Husbands

Fiancee and Spousal immigration statuses depend on the citizen spouse's sponsorship. Immigration status directly relates to the bride's ability to work in the United States to support herself, as well as her ability to remain in the country. This means that the citizen-husband has power to cause the immigrant wife's deportation by refusing to continue to support her petition for citizenship.⁸¹ The consumer-husbands, after paying the costs necessary to obtain a mail-order bride, can threaten to send back the product, should he become dissatisfied. The mail-order bride agency, after taking care of the needs of the paying husband, provides no support to help the bride adjust to her new life. The new immigrant, immersed in a new language, new laws, and people she knows little or nothing about, is left to fend for herself. This makes her quite likely to be completely dependent upon her new spouse, the man who wants to get his "money's worth" out of the transaction, and who has the ability to deport her. This gives the husband tremendous power over the bride. He can, and often does, demand she perform domestic services and sexual services.⁸² He can force her to serve him as a prostitute and force her to accept domestic abuse.⁸³ Though such harms go largely undocumented, examples of extreme cases have received media attention.

While domestic laws permit mail-order bride companies to operate virtually without regulation, the newly immigrated mail-order brides are required to fend for themselves should they find themselves unable to rely on their new spouses. Though there may be greater economic opportunities for women, the reality for some once they begin their married life is at best being treated like a maid and a sexual servant, and at worst is intense domestic abuse.⁸⁵ Though immigration reform allows immigrant brides to stay

⁸⁰ EVIOTA, *supra* note 29, at 9.

⁸¹ Chun, *supra* note 3, at 1195.

⁸² Meng, *supra* note 3, at 223-24.

⁸³ *Id.*

⁸⁴ See, e.g., Trixia Carungcog, *Love may not be such a bride idea*, *Straits Times* (Singapore), June 28, 1998, at 1; Trixia Carungcog, *supra* note 16, at 2 (quoting Ms. Aurora de Dios, executive director of the Coalition Against Trafficking in Women in the Asia-Pacific, as noting that many mail-order bride transactions have disastrous results, with the women experiencing violence, forced prostitution, or even death at the hands of their consumer-husbands); Gayle Kirshenbaum, *A Potential Landmark for Female Human Rights*, Ms., Sept./Oct. 1991, at 13.

⁸⁵ See Chun, *supra* note 3, at 1187.

in the United States if they can prove they were battered, fear of deportation and ignorance about the protection afforded by the laws of their new nations often keep women from leaving abusive situations.⁸⁶ When they do leave, their consumer-husbands feel robbed of valuable property, something for which they have spent hard-earned money to bring home with them on their trip to Asia.⁸⁷ This can lead to even greater violence, including death. A practice of marrying women as a ruse of recruitment for and to disguise illegal sex trade practices has also been reported.⁸⁸ It is impossible to know how many mail-order brides face abusive situations because there are no official tallies or records of mail-order brides. However, the mail-order bride industry, in its current unregulated state, sets up conditions in which violence can flourish and its victims have few, if any recourses to stop it. In spite of this, mail-order bride organizations continue to prosper from the fees paid by men who want submissive, exotic, and foreign wives.

D. The Commodification of Women

Because women give up much of their personal autonomy over their lives and sexuality in exchange for economic security, the mail-order bride industry can be viewed as turning women into commodities. Women's rights advocates disagree strongly as to whether women can effectively exercise their autonomy to choose to commodify their bodies or whether commodification is inherently exploitative.⁹⁰ Those who believe that commodification of women and their bodies is inherently exploitative argue for legal bans on practices such as pornography, surrogate motherhood and prostitution. Current legal regimes around the world and in the United States tend to follow mis theory in most contexts, while ignoring the mail-order bride industry. The justifications for outlawing such practices as prostitution also apply to the mail-order bride industry. In fact, there may

⁸⁶ See Chuang, *supra* note 91, at 69.

⁸⁷ Vicky Sifter and Donna Leaven, *The Vulnerability of Immigrant Women*, THE SEATTLE TIMES, p. B5, Mar. 16, 1995; Alex Tizon, *Mail-Order Marriage Leads to Slaying of 3 Women*, BUFFALO NEWS, March 15, 1996, at 12A.

⁸⁸ Janie Chuang, *Redirecting The Debate Over Trafficking in Women: Definitions, Paradigms, and Contexts*, 11 HARV. HUM. RTS. J. 65, 70 (Spring 1998) (discussing modern manifestations of trafficking involving the coerced recruitment and transportation of women for practices including commercial marriages).

⁸⁹ Mail-order bride agencies target men who are frustrated with the lack of "traditional family values" in American women and who have trouble creating or maintaining relationships with American women. They offer women that have "the demure feminine mystic [sic] of all Orientals." *Life-Mates*, *supra* note 1. See also, Chinn, *supra* note 3, at 1176-77.

⁹⁰ For further information on this debate, see Janie Chuang, *supra* note 89; Carol H. Hague, *Prostitution of Women and International Human Rights Law: Transforming Exploitation into Equality*, 8 N.Y. INT'L L. REV. 23, 29 (Summer 1995); Jean M. Sera, *Surrogacy and Prostitution: A Comparative Analysis*, 5 AM. U.J. GENDER & L. 315, 322 (Spring 1997); Martha C. Nussbaum, "Whether from Reason or Prejudice": Taking Money For Bodily Services, 27 J. LEGAL STUD. 693 (June 1998).

be an even stronger argument for the regulation of the mail-order bride industry than for regulation of prostitution. While women in prostitution are commodified for short periods of time, mail-order brides are legally bound to their male consumers through the marriage contract and immigration regulations. Thus, the mail-order bride industry fosters a long-term commodification situation, which is significantly more difficult for the women to leave.

m. WHY CURRENT REGULATION OF THE INDUSTRY FAILS TO ADDRESS
THE PROBLEMS INHERENT IN THE MAIL-ORDER BRIDE INDUSTRY

The current national actions that attempt to deal with the problems created by the mail-order bride industry have largely been ineffective. One quick net-search on the internet will reveal hundreds of companies offering thousands of Filipina women to men in the United States, even though it is illegal in the Philippines for these companies to recruit women as bridal candidates.

The demand for foreign brides by men in developed nations remains strong, while the economic and social conditions for women in developing nations ensures a supply of women eager to pursue fantasy marriages. The women are either unaware of or willing to risk the harms and dangers that await many women who participate in this industry.⁹¹ The laws of any single nation do not address the factors of supply and demand, which operate in separate countries. The demand in the United States is unaffected by a Filipino law which attempts to limit the supply of Filipinas available to the mail-order bride industry. As evidenced by the large numbers of Filipinas in mail-order bride catalogues, these laws have likewise been ineffective to curb the supply of women for the industry. The basic rules of economics dictate that as long as little action is taken to curb these forces, the industry will continue to flourish, and businesses will continue to earn substantial profits to meet the demand by facilitating the trafficking of women across international boundaries. There is no evidence that the practice of ordering mail-order brides in the United States, nor in other consumer nations, is slowing down. American businesses are free to ignore the will of the Filipino government and continue to exploit poor women for profit and treat women as fungible qualities, available to those who are willing to pay the right price. There is currently no recourse that victims of this industry can take against mail-order bride companies in the Philippines or in the United States.

⁹¹ See Vasquez, *supra* note 80.

IV. A CALL FOR INTERNATIONAL REGULATION OF THE MAIL-ORDER
BRIDE INDUSTRY

The evidence from the Philippines is strong and compelling that leaving individual export nations to regulate the industry alone is ineffective, and has done little to curb the trafficking of women as mail-order brides. Due to the volatile nature of world economic systems, it is likely that even if the Philippines could effectively regulate the industry, the industry would merely redirect its energy to exploiting new "resource centers" for poor women. The recent upsurge of the industry's presence in the countries of Eastern Europe and Russia provides proof that the industry as a whole will not be greatly impacted by the actions of one market nation.⁹²

While mail-order bride businesses and consumers argue that the practice should be left to the private sphere of marriage and family, it must be recognized that "the state does not merely reflect...gender relations; it also actively constructs gender divisions and monitors, enforces, regulates, and sanctions relations between women and men."⁹³ This is likewise true of the international community, which plays an expanding role in protecting human rights and coordinating multi-national activity as the economies of nations become increasingly intertwined. By closing their eyes to the realities of the mail-order bride industry, consumer nations such as the United States and the international community sanction the commodification of women for industry profit, while ignoring the needs of women.

The international community has enacted treaties designed to stop the trafficking of women.⁹⁴ More recently, efforts have been undertaken to safeguard women's rights more generally through international law.⁹⁵ However, the United States has yet to ratify this treaty. There is substantial reason to doubt whether, even if the United States were to ratify all such treaties, they would be effective to combat the problems of the mail-order bride industry given current trends in international enforcement.⁹⁶ Thus, other methods of regulation are necessary to stop the harms to women created by the mail-order bride industry.

⁹²For information on the demand for brides from Russia, see Larson, *supra* note 25.

⁹³EVIOTA, *supra* note 29, at 27.

⁹⁴See *International Convention*, *supra* note 8.

⁹⁵See *Convention on the Elimination of All Forms of Discrimination Against Women*, Dec. 18, 1979, G.A. res. 34/180, U.N. GAOR Supp. No. 46, at 143, 1249 U.N.T.S. 14 (entered into force 3 Sept. 1981) [hereinafter CEDAW].

⁹⁶For discussions of the effectiveness of international treaties to protect women's rights, see Chuang, *supra* note 91; Toepfer and Wells, *supra* note 10; Farrior, *supra* note 8; Jo Lynn Southard, *Protection of Women's Human Rights Under the Convention on the Elimination of All Forms of Discrimination Against Women*, 8 *PACE INT'L L. REV.* 1, 22 (1996) (discussing substantive reservations taken to CEDAW); Hauber *supra* note 12, (noting serious enforcement problems due to the U.N. committees' abilities, exacerbated by the vague language of CEDAW).

A. Dealing with the Economics of International Mail-Order Bride
Transactions

International regulation is necessary because the forces of supply and demand exist beyond any one country's national borders. Because market forces are transnational, they are more difficult to control than domestic market forces (for example, if brides and consumer husbands lived in the same country, as with traditional matchmaking companies), as enforcement mechanisms that help regulate negative externalities are either lacking or ineffective across national borders. In this instance, the international bride industry and the negative externalities associated with it can be likened to industries such as the drug trade and child pornography, all which have harmful transnational effects. Because the negative externalities of these industries are spread among many nations, and isolated to a disempowered, voiceless group of victims, no single country has the incentive or ability to effectively combat them. "If the tolerance [for negative externalities] of the supplying country is matched by the indifference of the buying country to the behavior of it's nationals overseas, then there are no market restrictions and a free market [for the commodity] will exist."⁹⁷

This accurately describes the mail-order bride traffic between the United States and the Philippines. Essentially, neither nation has expressed willingness to effectively assume the responsibility for protecting these women from harm. The women thus become nationless and caught in the web of the market for them. While the Philippines has outlawed activities related to the mail-order bride industry in an attempt to protect its female citizens, the practice is largely tolerated. In part, this may result from the difficulty of distinguishing between foreign nationals who have formed legitimate relationships with Filipina women from those who have purchased contacts and courtship rights in the absence of greater regulation of agency activities. In addition, because the companies can rely on informal or underground ties to recruit women to become mail-order brides, it is especially difficult for the Philippine government to regulate the activity of these companies.

Although the United States has indicated a large amount of indifference to this practice of trafficking foreign women, awareness of the problem does seem to be growing beyond the extent of immigration fraud.⁹⁸ Instead of making efforts to empower women who participate in the industry and to prevent them from becoming completely dependant on their citizen husbands, United States law focuses on limiting immigration and facilitating free enterprise. Thus, the market forces of supply and demand have controlled the industry and have left virtually unfettered the negative

⁹⁷ Alex Y. Seita, *The Role of Market Forces in Transnational Violence*, 60 ALB. L. REV. 635, 640 (1997).

⁹⁸ See Anderson, *supra* note 52, at 1428-30.

effects and violence associated with the mail-order bride industry. The market allocates Filipina brides to those who can back up their demands for them with money, and creates situations which perpetuate discrimination and violence against women. International forces must combine to place the costs associated with this industry back on the companies that profit from them.

International cooperation is thus needed to put an end to the negative effects associated with the mail-order bride industry. Though in times past capitalist governments rarely intervened between buyers and sellers, modern times have "become more humane," and governments now readily regulate a variety of consumer activities."

B. Private Attorney General Laws

One suggestion to regulate the mail-order bride industry, and other similar industries, would be to allow "appropriate non-governmental organizations ("NGOs") to act as private attorneys general in policing violence [or negative externality] commodities."¹⁰⁰ Specifically for the mail-order bride industry, this would mean that victim advocacy groups could bring civil suits against companies, and potentially consumers, for the harm caused to women by the mail-order bride industry. This would help to ensure that the full range of costs of the industry, including the social costs which occur after the mail-order bride transaction is complete, are borne by the industry itself. Specifically, the NGOs could be authorized to bring suit for violating prohibitions on recruitment (such as those in place in the Philippines) and discrimination. If the international community could act to place responsibility on the industry for verifying the backgrounds of the consumers of mail-order brides, NGO's could also bring suit against companies for failing to adequately complete these checks. This could help protect women from those consumers with histories of crimes such as domestic violence and help ensure that both participants in the transaction, both brides and consumer-husbands, are accurately informed about the person whom they are communicating with across the world. This would increase the woman's power within the transaction, and make her less of a commodity and more of an industry participant

Additionally, although industry consumers face potential sanctions for their abusive behavior,¹⁰¹ this threat is only for those whose violence and abusive behavior becomes public or the bride finds a way to voice the violence to the community. Because immigrant women in this type of situation usually have little legal economic power and little knowledge of their new communities, they become marginalized and lack a forum in which to

⁹⁹ *See* *id.*, *supra* note 98, at 646-47.

¹⁰⁰ *Id.* at 649.

¹⁰¹ *See supra* note 66 and accompanying text.

express the harms visited upon them. Punishment after abuse is discovered seems insufficient to give adequate protection to this population.

C. Criminalization of the Industry and Comparison to the Regulation of the Drug Trade

There is evidence that national criminalization of drug trafficking does little or nothing to eliminate illicit trade and the harmful effects associated with it.¹⁰² That the current trafficking of women as mail-order brides can sustain itself through underground and informal channels, as does the drug trade, is supported by the evidence on other forms of human trafficking. This is evidence that mere criminalization of mail-order bride catalogues likely would not be an effective or appropriate solution to stop the international trafficking of women as mail-order brides.

Like the impact the "seemingly insatiable demand for drugs in the United States," has on the proliferation of the drug trade. Similarly, the demand for mail-order brides would impact the continuation of the mail-order bride industry despite regulations attempting to prohibit it.¹⁰⁴ Additionally, just as political and economic conditions abroad make drug production a rational, though perhaps risky, alternative for survival, as long as women in developing nations like the Philippines face alternatives no better than migrant farming or prostitution, turning to the mail-order bride industry will remain an economically rational and desirable solution.¹⁰⁵ Thus, the unending supply of mail-order brides will continue to respond to demand forces as long as the other alternatives for their development at home remain limited. Pursuing policies of economic development and ending discrimination against women may in fact be the only true long term solution to eradicate the negative commodification and international trafficking of women.

The need for multinational cooperation to combat the drug trade has also been recognized. Because the internal economics of developing economies often conflict sharply with unilateral or bilateral attempts to control drug trafficking, multinational initiatives to help support developing economies as they break away from reliance on narcotics for income have been created.¹⁰⁶ Such development efforts, specifically aimed at improving

¹⁰² See Richard A. Posner, *ECONOMIC ANALYSIS OF LAW* 244-45 (4th ed. 1992).

¹⁰³ See generally Toepfer & Wells, *supra* note 10, at 86; Hauber, *supra* note 12.

¹⁰⁴ See K.I. Douglas, *War and the Global Opium Supply*, 21 *FLETCHER F. WORLD AFF.* 121, 129 (Summer 1997) (discussing how the economic situations in war torn countries affects the drug supply).

¹⁰⁵ See *id.* at 122-24 (discussing rationality of poor farmers in resorting to opium production given supply and demand forces and the lack of available alternatives for income).

¹⁰⁶ Melanie Hallums, *Bolivia and Coca: Law, Policy, and Drug Control*, 30 *VAND. J. TRANSNAT'L L.* 817, 861-62 (1997).

the economic opportunities of women would restrict the supply of women in trafficking schemes such as the mail-order bride industry.

D. GATT Regulation

Another opportunity for individual nations to enact trade regulations of the mail-order bride industry relates to the General Agreement on Tariffs and Trade (GATT) Article XXI(a) exception to its rules prohibiting trade restrictions for measures "necessary to protect public morals."¹⁰⁷ Although the exact meaning of this exception is not entirely clear, its potential should not be ignored. The United States currently bans the import of many products for a variety of moral and humanitarian purposes: including narcotics, human organs, and products made by child labor.¹⁰⁸ Thus, under GATT, the United States may have the power to regulate the activities of mail-order bride agencies. Because of the violence, discrimination, and exploitation associated with the industry and its relation to trafficking in women, the United States could adopt regulations requiring the mail-order bride companies to conduct criminal background checks and to verify that the parties to mail-order bride transactions are provided with accurate information about the parties with whom they are engaged. Such regulations should (1) be inwardly directed at activities taking place within the United States,⁰⁹ (2) not be a means of arbitrary or unjustifiable discrimination on international trade,¹¹⁰ and (3) a "necessary trade measure."¹¹¹ Thus, regulations should be aimed at companies of all nationalities and aimed toward activities related to United States consumers and United States immigration issues.

Though there is some question about the future interpretation of GATT XXI(a), the rule is believed to permit countries to regulate morality within their own borders.¹¹² While this makes questionable any individual country's attempt to regulate a portion of the supply or demand chain outside of that country's borders, it does leave open the option of regulating activities within national boundaries. Thus, the regulations should be tailored to regulating the activities of mail-order bride companies within the United States and that impact U.S. citizens directly, including screening consumers and providing immigration assistance to prospective brides.

¹⁰⁷ General Agreement on Tariffs and Trade, Oct. 30, 1947, art. XXI(a), 55 U.N.T.S. 188, 262. See also Steve Charnovitz, *The Moral Exception in Trade Policy*, 38 VA. J. INT'L L. 689, 690 (Summer 1998).

¹⁰⁸ See Charnovitz, *supra* note 108, at 696.

¹⁰⁹ *Id.* at 719.

¹¹⁰ *Id.* at 733.

¹¹¹ *Id.* at 733.

¹¹² *Id.* at 722-24.

The problem that arises with enacting such legislation would be whether "domestic production" is similarly regulated.¹¹³ Proponents of the mail-order bride industry argue that their practices are no different than domestic dating services.¹¹⁴ However, because the "bridal tours," travel services, and particularly the immigration assistance offered by many mail-order bride agencies are unique to this international industry, it is likely that the United States could enact legislation directly relating to these companies, while leaving domestic dating services untouched. Because of the immigration element inherent in the mail-order bride industry, which differentiates it from domestic dating services, the United States should be able to regulate the industry in ways that will offer protection to foreign brides. Further, given the differences in informational availability between domestic and international dating transactions, extra protection for international participants could be justified.

Forward-looking action to support the choices of individuals prior to consummation of the transaction (when the bride has left her home and is living in the United States with her husband or husband-to-be) is necessary to help equalize the power dynamic between the consumer and the "product" of the mail-order bride industry. Much could be done to educate the brides on the potential problems they could face once they enter a mail-order bride relationship, and the resources that would be available to them once they are in the relationship, should these problems materialize. Again, the mail-order bride companies must be required to provide all participants with access to reliable information.

E. International Cooperation

International cooperation is possible. It is becoming well recognized around the world that the mail-order bride industry, as it is currently operating, is harmful to women, and produces many negative effects (or violence, as termed by Alex Y. Seita in 60 Alb. L. Rev. 635). Some countries, acting alone, have attempted to minimize these negative effects. Coordination of these efforts would be a logical next step forward.

The United Nations treaties could be a helpful forum under which governments could unite to eliminate the negative effects of the mail-order bride industry and to regulate the private conduct of the parties involved. These treaties include the Convention for the Suppression of Traffic in persons and of Exploitation of Prostitution of Others, and the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW).

¹¹³ *Id.*

¹¹⁴ *See Life-Mates, supra* note 1.

¹¹⁵ *Convention for Suppression of Traffic in Persons and of Exploitation of Prostitution of Others, December 2, 1949, 96 U.N.T.S. 272 (entered into force July 25, 1951).*

¹¹⁶ Unfortunately, the United States is not a party to some of the treaties, such as CEDAW, which could be the most effective tools for beginning to unite nations behind this cause.¹¹⁷ However, the framework of these treaties could initiate the collective action of product and consumer nations of the mail-order bride industry.

V. THE POTENTIAL CONTENT OF REGULATIONS

Unlike the sale of other sexual and reproductive services, the mail-order bride industry creates a legal bond between the individual women who choose to participate in the industry and individual male consumers. This legal bond reduces the women's future autonomy. Mail-order bride companies currently take no responsibility for who these men are, nor do they take responsibility for what happens to the women after they reach the destination countries. The legal bond is created through reliance on stereotypes and economic inequities. Mail-order bride agencies deliberately and openly exploit these factors. Agencies market not only the differences between men and women, but degrading and dehumanizing racial and gender stereotypes which were deliberately created to serve white men in the American armed forces.¹¹⁸ The resulting legally binding relationships are based on heavily skewed balances of power, due to the factors exploited by the agencies. To further support the inequities, the agencies encourage isolation of the women, doing nothing to help them fully integrate into their new society, and thereby reinforcing their dependence on the man to whom they are legally bound.

Those in favor of the legalization of prostitution argue that criminalization has the effect of increasing the violence and health risks associated with this profession.¹¹⁹ A similar argument can be made here. It is clear that the mail-order bride industry involves substantial violence against (as well as opportunities for violence against) women even in the absence of regulation due to the structure and focus the free market has allowed the industry to develop. Regulations of the mail-order bride industry could prohibit this type of harm to the women from whom it reaps profits in two possible ways.

First, the operations of the mail-order bride industry could be strictly outlawed, making it a criminal offense to traffic women in this manner. However, given the strong demand for international brides and the difficulty immigration officials would have in detecting how spouses and fiancées met each other, this would likely be ineffective, serving only to drive the industry underground. If this were to happen, as is the current situation

¹¹⁶ CEDAW, *supra* note 90.

¹¹⁷ See Topfer & Wells, *supra* note 10, at 106.

¹¹⁸ See Cho, *supra* note 33, at 193.

¹¹⁹ See e.g., Nussbaum, *supra* note 93, at 709-10.

with prostitution, those who have power over the women would have even greater ability to threaten women into silence. Additionally, this solution leaves the women in precarious economic situations with inadequate opportunities for them to support themselves. If this approach were taken, it would be important to focus the punishment for violating the law on the parties with power, the companies and consumers, rather than the women, in order to avoid increasing the power men have over the brides.

Another possibility, however, would be to require mail-order bride agencies to offer support services to the women they assist in bringing into the country, or in other words, to take responsibility for the women they help to traffic into the United States (and from whom they generate their profits). This would incorporate and expand upon the current requirement that mail-order bride companies, under the direction of the INS, provide potential immigrant brides with basic immigration information.¹²⁰ Agencies could be required to offer brides community information, resources for assistance should they become victims of domestic violence, and ways of meeting other similarly situated (i.e. newly immigrated) women. Agencies could be required to offer counseling services to both their consumers and the brides they market. The focus of this should be preventing women from becoming completely isolated and dependent upon one person who has substantial power over her. This would allow women to retain the autonomy to choose to participate in this industry without forcing them to risk being trapped in an abusive situation. Additionally, as mentioned previously, companies could be required to verify the basic personal information of both parties.

Regulations of the mail-order bride companies must focus on restricting the exploitative activities of the mail-order bride industry. By forcing the industry players to consider the interests not only of the male-consumers, but of the women that drive their profits, the status of women in the industry can be elevated from mere consumer product to industry participant. The ability of men and women to meet and marry across international borders would not be reduced, but the industry would be forced to internalize the costs of the harms that do happen to women and to provide mechanisms to alleviate these harms, and reduce their potential to happen.

It could be argued that in our patriarchal society, the majority of marriages involve male dominance of women, the potential for abuse directed at females, traditional imbalance of power, and male economic superiority. Therefore, to specifically regulate mail-order bride marriages takes a paternalistic attitude toward foreign brides, as if they are less capable of making marital decisions than their American counterparts. This argument, however, ignores the role that racially based gender stereotypes play in setting up these marriages. In a commercialized context, the primary beneficiary is

¹²⁰8 U.S.C.A. §1186(c)(4)(C) (West 1998).

not the woman, but a company who gains financially from exploiting her. The agencies portray foreign women as uniformly fitting stereotypical characteristics in a way that dehumanizes them and treats them as mere chattel. Further, the agencies facilitate removing these women from surroundings with which they are familiar and into situations in which they have very little power and are potentially completely dependent upon one man (who is virtually unknown to both the agency and the woman). The agencies would, by following regulations requiring them to be responsible to the women who are the driving force behind their profits, be counteracting the harms caused by their actions.

VI. CONCLUSION

This comment has examined the business of marketing women internationally as brides to men in economically developed nations. It has reviewed some of the attempts to regulate this practice, and explored why they have failed to effectively curb the trade of women. After reviewing the criticisms of the industry and arguments in favor of its current deregulated state, this comment concludes that regulation of the mail-order bride industry is necessary. After reviewing some potential means for regulation, this comment concludes that multinational cooperation is necessary and suggests that mail-order bride agencies should be required to engage in practices that would help balance the power disparities between market participants.