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A Comparison of Laws in the Phillipines, the U.S.A., Taiwan, and Belarus to Regulate the Mail-Order Bride Industry

Roxanne Sims

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**A COMPARISON OF LAWS IN THE PHILLIPINES, THE
U.S.A., TAIWAN, AND BELARUS TO REGULATE THE
MAIL-ORDER BRIDE INDUSTRY**

Roxanne Sims

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I. INTRODUCTION

The mail-order bride industry has existed since the early twentieth century, although the idea of women advertising themselves for marriage may seem unusual and extraordinary to some people.¹ Mail-order brides

1. Beverly Encarguez Perez, Comment, *Woman Warrior Meets Mail-Order Bride: Finding An Asian American Voice in the Women's Movement*, 18 BERKELEY WOMEN'S L.J. 211, 215-16 (2003).

became increasingly popular as male immigrant workers who settled in the United States sought wives from their home countries.² People referred to these women as “picture brides,” and relatives frequently participated in arranging the marriages.³ However, the mail-order bride industry has changed significantly over the past century, with international marriage brokers (IMBs) currently operating all over the world.⁴ IMBs recruit prospective mail-order brides from their home countries via advertisements in newspapers, magazines, and direct mail solicitations.⁵ Sometimes, IMBs solicit women in person.⁶ IMBs advertise modern day mail-order brides on internet websites and participate in arranging the marriages.⁷ Typically, the clients in the mail-order bride industry are middle-aged, Caucasian men from wealthy Western nations, such as the United States, Canada, Australia, and other nations in Western Europe.⁸ The women who advertise themselves for marriage are usually from poor, developing, and economically depressed nations.⁹ Many of these women seek to escape the conditions in their home countries by marrying a citizen from a developed nation.¹⁰ In 2002, the countries with the highest number of mail-order brides who immigrated to the United States were: Russia, Ukraine, China, the Philippines, Vietnam, Brazil, and Columbia.¹¹

The mail-order bride industry is often criticized as promoting sexual trafficking and exploitation of women from economically

2. Lana Mobydeen, Comment, *Something Old, Something New, Something Borrowed, Something Mail-Ordered? The Mail-Order Bride Industry and Immigration Law*, 49 WAYNE L. REV. 939, 942 (2004).

3. *Id.*

4. *Id.* Cherry Blossoms is one of the oldest and most profitable modern day international marriage agencies. ROBERT J. SHOLES, APPENDIX A: THE “MAIL-ORDER BRIDE” INDUSTRY AND ITS IMPACT ON U.S. IMMIGRATION 2 (Feb. 1999), available at http://www.uscis.gov/files/article/MobRept_AppendixA.pdf. Cherry Blossoms began operating in 1976 and lists at least 6,000 women at any given time. *Id.* The INS contracted with Scholes to produce a comprehensive report on the mail-order bride industry in the United States. U.S. CITIZENSHIP AND IMMIGRATION SERVS., INTERNATIONAL MATCHMAKING ORGANIZATIONS: A REPORT TO CONGRESS 11 (Feb. 1999), available at http://www.uscis.gov/files/article/Mobrept_full.pdf (hereinafter USCIS Report).

5. Donna R. Lee, Note and Comment, *Mail Fantasy: Global Sexual Exploitation in the Mail-Order Bride Industry and Proposed Legal Solutions*, 5 ASIAN L.J. 139, 144 (1998).

6. *Id.*

7. Perez, *supra* note 1, at 222.

8. Mobydeen, *supra* note 2, at 948.

9. *Id.* at 947; *Human Trafficking: Mail Order Bride Abuses Hearing On S. 1455 Before the Subcomm. on East Asian and Pacific Affairs and the S. Comm. on Foreign Relations*, 108th Cong. 8 (2004) (statement of Hon. John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Dep’t of State) [hereinafter *Hearing*].

10. *Hearing*, *supra* note 9, at 13.

11. *Id.* at 18.

depressed countries.¹² Moreover, critics argue that IMBs foster negative and damaging stereotypes about women from developing nations by portraying them as submissive, docile, and eager to please.¹³ IMBs tend to stereotype and generalize women from particular ethnicities, such as by marketing all Asian women as having particular characteristics or stating that all Eastern European women have certain qualities.¹⁴ Additionally, male consumers are also stereotyped by IMBs.¹⁵ Mail-order brides are often convinced that men from Western nations will treat them better than men from their own countries.¹⁶

Critics also contend that IMBs are primarily concerned with protecting the rights of the male clients rather than protecting the women they advertise.¹⁷ The mail-order brides are treated as merchandise and commodities, while the men are safeguarded by the agencies as valued paying customers.¹⁸ Few, if any, security measures are taken by IMBs to protect women from predatory clients during the matchmaking process.¹⁹ Furthermore, the unequal bargaining power that exists between mail-order brides and their husbands is a source of great concern.²⁰

12. See NICOLE CONSTABLE, *ROMANCE ON A GLOBAL STAGE: PEN PALS, VIRTUAL ETHNOGRAPHY, AND "MAIL-ORDER" MARRIAGES* 64 (Univ. of Calif. Press 2003). The mail-order bride trade parallels traditional human trafficking patterns between developing nations and wealthy nations. *Hearing, supra* note 9, at 15 (statement of Michelle A. Clark, Co-Director, Protection Project of the Foreign Policy Inst. Johns Hopkins Univ.).

13. Erin Elizabeth Chafin, Comment, *Regulation or Proscription?: Comparing American and Philippine Proposals to Solve Problems Related to the International Marriage Broker Industry*, 23 PENN ST. INT'L L. REV. 701, 706 (2005). Many men who participate in mail-order bride services are looking for women who are more politically conservative and hold more traditional values than the average Western woman. *Id.* See also *USCIS Report, supra* note 4. Foreign women from developing nations are thought to be better homemakers and less influenced by feminism and the modern day women's movement. Mobydeen, *supra* note 2, at 948-49.

14. *Hearing, supra* note 9, at 40 (statement of Suzanne H. Jackson, Assoc. Prof. of Clinical Law at George Washington Law Sch.).

15. Suzanne H. Jackson, *To Honor and Obey: Trafficking in Mail-Order Brides*, 70 GEO. WASH. L. REV. 475, 499 (2002). Some women from developing nations envision men from industrialized countries as "more liberal and less traditional with respect to women's roles and rights." *Id.*

16. *Id.* The advertising used by IMBs reinforces the idealized stereotypes that some mail-order brides hold of Western men. *Id.* Often, these stereotypes mislead and deceive women rather than inform them. *Id.*

17. Lee, *supra* note 5, at 152-53. Male customers generally pay a fee to view a woman's picture and address or they may purchase a monthly subscription. Men may also pay to go on a "romance tour" to visit the woman in her home country. Mobydeen, *supra* note 2, at 944-45.

18. *Hearing, supra* note 9, at 20 (statement from Clark).

19. *See id.*

20. Chafin, *supra* note 13, at 707. Compounding the problem of unequal bargaining power is the fact that many mail-order brides are significantly younger than their husbands. *See* Constable, *supra* note 12, at 77 (discussing a mail-order bride study that claims older men marry younger mail-

Generally, the husbands hold an enormous amount of power and control over their immigrant wives.²¹ The contractual relationship that exists between “empowered men from wealthy nations and women from impoverished societies” is inherently unequal.²² This imbalance in power leaves mail-order brides particularly vulnerable to domestic violence and abuse.²³ Mail-order brides are usually dependent on their husbands when entering a foreign country and are ignorant of laws that may proscribe domestic abuse or marriage fraud.²⁴

IMBs also received increased public scrutiny and media attention after the high-profile murders of two mail-order brides by their American husbands in the State of Washington.²⁵ In 1995, Filipina mail-order bride Susana Blackwell was murdered by her husband in a Seattle courthouse because he was afraid that she was filing for a divorce.²⁶ In 2002, Indle G. King Jr. was found guilty of helping to brutally murder his wife Anastasia King in Seattle, Washington.²⁷ Anastasia was from Kyrgyzstan, a former republic of the Soviet Union.²⁸ She had met King through a mail-order bride service.²⁹ The Blackwell and King cases

order brides in order to have more control. However, a wide age disparity between mail-order brides and their husbands does not necessarily preclude a loving and committed relationship.).

21. *USCIS Report, supra* note 4, at 4. Congress requested the INS conduct a study on international marriage agencies under Section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). *Id.* at 1. The goal of the study was to collect information about mail-order marriages in order to determine the prevalence of fraud and domestic abuse. *Id.* at 2. The study also aimed to find whether additional legislative measures were needed to reduce fraudulent and abusive marriages initiated by international marriage brokers. *Id.* at 17-18. Professor Scholes’s most recent study in 1998 estimated that mail-order bride companies arrange between 4,000 and 6,000 marriages per year. *Id.* at 12; *see also id.* at Appendix A. The study could not determine the exact number of marriages in the United States arranged through marriage brokers, in part because the U.S. Government does not track this data. *Id.* at 11-12.

22. Leela Jacinto, *Bill Aims to Alter Mail-Order Path to Altar*, ABC NEWS, July 10, 2003, available at <http://www.abcnews.com/international/story?id=79421>.

23. *USCIS Report, supra* note 4, at 3. A key difference between marriage agencies and dating services or personals ads is that in a mail-order bride transaction, the male consumer “holds all the cards.” *Id.* at 4. The male customer has access to personal information and private details about the women he is choosing from, while the women may know very little about the male customer. *Id.*

24. *Id.* at 18.

25. *See* Associated Press, *Mail-Order Bride Bill in Works*, CBS NEWS, July 5, 2003, <http://www.cbsnews.com/stories/2003/07/05/politics/main561828.shtml>.

26. Perez, *supra* note 1, at 226. Blackwell was pregnant at the time, and two of her friends were also shot to death. Pamela Sitt, *Mother of Murder Victim Hails Mail-Order Bride Bill*, SEATTLE TIMES, July 27, 2003, at B3. Blackwell left the Philippines at age 25 to marry her husband. *Id.*

27. David Fisher, *Indle King Found Guilty of Killing Mail-Order Bride*, SEATTLE POST-INTELLIGENCER, Feb. 22, 2002, available at http://seattlepi.nwsource.com/local/59387_king22.shtml.

28. *Id.*

29. *Id.*

prompted Washington state legislators Senator Maria Cantwell and Representative Rick Larsen to introduce the International Marriage Broker Regulation Act of 2005.³⁰ The concern over abuse and sexual trafficking in women connected with IMBs has also caught the attention of some foreign countries.³¹ In addition to the United States, Canada, Australia, and other countries in Western Europe have acknowledged the link between IMBs and domestic abuse.³²

Although IMBs remain largely unregulated,³³ a select number of countries have begun to enact legislation to police the mail-order bride industry and to protect the safety of mail-order brides. However, the industry has proven difficult to regulate because it is largely an internet based business.³⁴ IMBs became increasingly popular and profitable with the widespread use of the internet in the 1990s.³⁵ The internet allowed for IMBs to reach a broader clientele and to provide services cheaper and with better efficiency.³⁶ Anyone with a computer and an internet connection could start a commercial matchmaking service.³⁷ Furthermore, the internet has significantly decreased the personal involvement in matchmaking services.³⁸ IMBs have also been successful in using the internet to avoid legal restrictions when

30. International Marriage Broker Regulation Act of 2005, S.1618, 109th Cong. (2005).

31. *USCIS Report*, *supra* note 4, at 1-2.

32. *Id.* at 3. Not all these countries believe, however, that IMBs are necessarily a cause for concern. *Id.* at 3-4. For example, the Swedish government conducted a nine month investigation into the mail-order bride industry and concluded that the industry was not unlawful or unethical. *Id.* The Ombudsman's report stated that "[e]ven if a woman who comes to Sweden is treated like a slave and the man uses, abuses and violates her rights, it is not easy to cast the blame on the marriage broker Some people simply prefer meeting their partners through an agency." *Id.*

33. 8 U.S.C. § 1375(a) (repealed 2005). Congress concluded in 1996 that there was a "substantial" mail-order bride industry within the United States, with an estimated 2,000 to 3,500 American men using international marriage agencies to find wives. *Id.* Many mail-order brides who come to the United States are ignorant of their rights under American law and fear being deported if they leave an abusive marriage. *Id.* Thus, Congress required that international matchmaking organizations apprise potential mail-order brides of their rights and provide them with information about "the unregulated nature" of the industry. *Id.*

34. Janet Calvo, *A Decade of Spouse-Based Immigration Laws: Coverture's Diminishment, but not its Demise*, 24 N. ILL. U. L. REV. 153, 197 (2004). Internet businesses can easily operate offshore avoiding laws and regulations of marriage agencies in a particular country. *Id.* For example, internet-based marriage agencies have frustrated the efforts of the Philippine government to ban all mail-order bride businesses. Rufi Vigilante, *Filipina Brides for Sale via Internet*, CNN, Jan. 15, 2002, <http://archives.cnn.com/2002/WORLD/asiapcf/southeast/01/14/phil.mailbride>. In one example, two internet-based companies in Florida continued to market Filipino women despite the ban. *Id.*

35. Chafin, *supra* note 13, at 703-04.

36. *Id.*

37. *Hearing*, *supra* note 9, at 18 (statement from Clark).

38. *Id.*

marketing mail-order brides.³⁹ Consequently, IMBs have been able to circumvent foreign laws used to protect women from violence and abuse.⁴⁰

The mail-order bride industry is also difficult to regulate because of concern with interfering with an individual's private relationship and freedom to marry.⁴¹ Many people are of the opinion that "mail order brides are adults who can only hope for the best and guard against the worst" in relationships and do not need special laws to protect them.⁴² In some cases, mail-order brides deceive and manipulate male customers to gain citizenship in a wealthier and more developed nation.⁴³ Many mail-order brides are also motivated by the need to provide financially for relatives and friends in their home country.⁴⁴ Thus, IMBs are adamant that their industry involves consenting adults who should be free to bargain in order to fulfill their mutual needs.⁴⁵

This Comment will provide an analysis of four selected countries' response to the exploitation of women in the mail order bride industry: the United States,⁴⁶ the Philippines,⁴⁷ Belarus,⁴⁸ and Taiwan.⁴⁹ Each of these countries has enacted legislation in an attempt to regulate IMBs with varying degrees of success. This Comment will advocate for countries that are most affected by the mail-order bride industry to adopt

39. Mobydeen, *supra* note 2, at 943-44.

40. Calvo, *supra* note 34, at 197.

41. *Id.* The freedom to marry is recognized as a constitutional right of "fundamental importance" in the United States. *Zablocki v. Redhail*, 434 U.S. 374, 383 (1978). The right to marry a partner of one's choice is "one of the vital personal rights essential to the orderly pursuit of happiness by free men." *Loving v. Virginia*, 388 U.S. 1, 12 (1967). The right of an individual to marry has been further recognized by two significant international treaties: International Covenant on Civil and Political Rights art. 23, Dec. 16, 1966, 999 U.N.T.S. 171, available at <http://www2.ohchr.org/english/law/ccpr.pdf> (treaty recognizing an individual's right to marry); Convention for the Protection of Human Rights and Fundamental Freedoms art. 8, Sept. 21, 1970, 213 U.N.T.S. 221, available at <http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf> (treaty respecting the privacy of family life).

42. Nadya Labi, *Mrs. America: The Business of Mail-Order Marriage*, LEGAL AFFAIRS, Jan-Feb. 2004, at 64.

43. *USCIS Report*, *supra* note 4, at 6.

44. Mobydeen, *supra* note 2, at 946-47.

45. Chafin, *supra* note 13, at 702.

46. 8 U.S.C. § 1375 (a) (2006).

47. An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on a Mail Order Basis and Other Similar Practices Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers, and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefore, Rep. Act No. 6955 (Jun. 13, 1990) (Phil.).

48. Act on External Labour Migration No. 169-Z (1999) (Belr.).

49. Regulations for Advertising Goods, Labor, and General Services of the Mainland Area in the Taiwan Area, Art. 6 (2003) (Taiwan).

stronger laws to curb abuses in the industry and consistently to enforce existing regulations. Nations should adopt legislation to regulate the mail-order bride industry that is similar to laws in the United States and Belarus. Nations should also promote informational campaigns that focus on protecting and educating mail-order brides. Furthermore, it is essential for countries that import and export high numbers of mail-order brides to collaborate by entering into treaties that will effectively regulate IMBs.

II. BACKGROUND

A. *How International Marriage Agencies Operate*

IMBs actively recruit thousands of women each year from economically depressed regions of the world to marry foreign men.⁵⁰ After the women are selected, they are screened by the IMBs for advertisement on an internet website.⁵¹ For example, IMBs collect personal information about the women to enter into a database on the website such as: name, home address, e-mail address, phone number, biographical information, and most importantly, a photograph.⁵² Prospective male customers search the database to find mail-order brides that match particular characteristics.⁵³ Searches may be customized by nationality, hair color, weight, age, marital history, number of children, etc.⁵⁴ Once a man finds a mail-order bride that interests him, he must pay a fee in order to obtain the woman's contact information.⁵⁵ Many IMBs also offer the men an opportunity to visit the mail-order brides in

50. Daren Briscoe, *Mail-Order Misery*, NEWSWEEK, Feb. 7, 2006, available at <http://www.newsweek.com/id/48657>.

51. 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, 293-94 (2007).

52. *Id.* at 294. Some agencies also require women to disclose more intimate details such as breast size and underwear preferences. *Id.* Some websites provide a brief profile of the women with a full body picture. Lee, *supra* note 5, at 144-45. Typically, the women will list hobbies and activities that they believe conservative-minded Western men are looking for in a woman, such as cooking and cleaning. *Id.* More sophisticated websites may offer downloadable video and/or audio clips from the mail-order brides. USCIS Report, *supra* note 4, at 4.

53. Newsome, *supra* note 51, at 293-94.

54. Labi, *supra* note 42, at 62.

55. Newsome, *supra* note 51, at 294. Most IMBs offer men the choice of either paying separately for each woman's information or paying a flat fee to obtain all the contact information on the website. *Id.*

their home countries on a packaged tour.⁵⁶ Lastly, IMBs offer services to complete the transaction by assisting the male customer in marrying his selected bride and procuring a visa for her entry into the man's home country.⁵⁷

B. The Major Exporting Countries

1. The Former Soviet Republics

The fall of the Soviet Union in 1992 led to economic and social hardships for many women in the region.⁵⁸ Asian and Caucasian women from the former Soviet Republics are popular recruits for IMBs because of their European appearance.⁵⁹ According to a quantitative study on marriage agencies in the former Soviet Union conducted by Dr. Donna M. Hughes, approximately 500 marriage agency websites advertise women from former Soviet Republics.⁶⁰ IMBs recruited the largest numbers of women from the Russian Federation with 62,000, Ukraine with 32,000, and Belarus with 13,000.⁶¹ Dr. Hughes' study revealed that mail-order brides were not uniformly recruited across or within republics of the former Soviet Union.⁶² However, IMBs were probably more likely to target women from urban and tourist areas where women had more contact with Western culture.⁶³

56. *USCIS Report*, *supra* note 4, at 5. Mail-order bride tours are very profitable for IMBs. 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, 426 (2007). The tours are touted as social events that give men the opportunity to meet in person with their potential future wives. *Id.* However, these events have also been described as "sex tours" and a front for prostitution. *Hearing*, *supra* note 9, at 27-28 (statement of Donna M. Hughes, Ph.D., Prof. and Carlson Endowed Chair Women's Studies Program Univ. of Rhode Island). Up to 2,000 mail-order brides may attend a social event to meet only a dozen men. *USCIS Report*, *supra* note 4, at 5.

57. Newsome, *supra* note 51, at 294.

58. *See* Morgan, *supra* note 56, at 437.

59. Constable, *supra* note 12, at 97, 224. European mail-order brides tend to blend in easier, based on physical appearance, with their Caucasian husbands, thus making their status as a mail-order bride less detectable to outsiders. *See id.* at 224. Stories in the Western media tend to focus on European mail-order brides and cultural references to mail-order brides tend to refer to Russian women. Newsome, *supra* note 51, at 294.

60. *Hearing*, *supra* note 9, at 29.

61. *Id.* Mail-order brides were also recruited from the former Soviet Republics of Kazakhstan, Kyrgyzstan, Latvia, Uzbekistan, Azerbaijan, Estonia, Lithuania, Moldova, Armenia, Georgia, Tajikistan, and Turkmenistan. *Id.*

62. *Id.*

63. *Id.*

2. The Philippines

The Philippines is the largest exporter of mail-order brides in Asia.⁶⁴ Masses of Filipino women went abroad to work as domestic workers in order to escape dismal economic conditions and to send money back home to their families.⁶⁵ The Philippines has suffered from “high unemployment, poverty, and occasional political instability” causing many Filipino women to seek better lives in developed nations.⁶⁶ As a result, many Filipino women advertise on mail-order bride web sites in hopes of meeting a foreign suitor.⁶⁷ Currently, between 300,000 and 500,000 Filipino women leave the Philippines each year as mail-order brides.⁶⁸

3. China—Cross-Border Marriages

An increasing number of Chinese women enter Taiwan each year as mail-order brides.⁶⁹ Chinese women constitute sixty-two percent of the overall number of foreign brides in Taiwan.⁷⁰ Intermediary marriage brokers facilitate the majority of cross-border marriages between

64. Perez, *supra* note 1, at 219-20.

65. *Id.* One in five Filipino families were supported partly by relatives who worked abroad during the 1990s. Constable, *supra* note 12, at 121. Also in the 1990s, an average of 17,000 Filipinos went abroad as spouses or fiancées to foreigners. *Id.* Women constituted 92 percent of the fiancées and spouses, with 40 percent married or engaged to U.S. nationals. *Id.*

66. Lee, *supra* note 5, at 143.

67. *Id.* Filipino women are more accepting of marriage to foreign men due to years of colonial rule by the United States and the common belief that “white foreigners are more desirable husbands.” *Id.* Many IMBs also stereotype Filipino women as docile, subservient, and more faithful to their husbands than American women. Perez, *supra* note 1, at 220-21. Furthermore, Filipina mail-order brides are often depicted as “poor, innocent young women who deserve to be rescued from menial labor and shabby clothes by way of marriage to a western hero prince.” Constable, *supra* note 12, at 96.

68. Barbara Mae Dacanay, *Senate Chief Calls for Probe into Mail-Order Bride Racket*, GULFNEWS, Sept. 4, 2007, available at <http://archive.gulfnews.com/articles/07/09/04/10151272.html>.

69. ASIA PACIFIC MISSION FOR MIGRANTS, FOREIGN BRIDES RESEARCH: PSYCHOLOGICAL PROFILE AND PERSPECTIVES OF FOREIGN BRIDES 21 (2007).

70. *Id.* at 13, 21. The number of Chinese women marrying foreign residents significantly increased as a result of political and economic changes during the “post-Mao” period. *Id.* at 21. In addition to Taiwan, Chinese women also sought to marry men from Hong Kong. *Id.* More Vietnamese women are also entering Taiwan as mail-order brides. Ralph Jennings, *Taiwan Men Seek Mail-Order Brides from Vietnam*, REUTERS, May 5, 2007, available at <http://www.reuters.com/article/worldNews/idU5T5166420070505>. Taiwanese men can choose Vietnamese mail-order brides from television show advertisements. *Id.* Similar to mail-order brides from other countries, Vietnamese women often seek to marry Taiwanese men in order to improve their socioeconomic conditions. *Id.*

Chinese women and Taiwanese men.⁷¹ Marriage brokers in Taiwan range from institutional brokering companies to individual entrepreneur brokers or matchmakers.⁷² Marriage brokers assist in arranging for the couples to meet, planning the wedding, and registering the marriage.⁷³ International marriage brokering has become an increasingly profitable business in Taiwan, with organized tour groups regularly taking men from Taiwan to meet mail-order brides in mainland China and other parts of Southeast Asia.⁷⁴

III. LAWS REGULATING MARRIAGE AGENCIES IN SELECTED COUNTRIES

A. *The Philippines*

1. The Law

In 1990, the Philippines outlawed the mail-order bride industry by enacting Republic Act Number 6955.⁷⁵ The law made it illegal for an individual or organization to profit by matching Filipino women with foreign nationals for marriage.⁷⁶ The law also made it illegal to advertise mail-order bride services or to personally solicit Filipino women to become mail-order brides.⁷⁷ The penalties for violating Republic Act No. 6955 are formidable. Any person found guilty of disobeying the law is subject to six to eight years' imprisonment, and a fine between eight to twenty thousand pesos.⁷⁸ After paying the fine and

71. Melody Chia-Wen Lu, *Commercially Arranged Marriage Migration: Case Studies of Cross-Border Marriages in Taiwan*, 12 INDIAN J. OF GENDER STUD. 277, 282 (2005).

72. *Id.*

73. *Id.*

74. Laurence Eyton, *Trouble and Strife: Taiwan's Imported Brides*, ASIA TIMES ONLINE, Oct.2, 2003, available at <http://www.atimes.com/atimes/China/EJ02Ad03.html>. Unlike IMBs in Western countries, marriage brokers in Taiwan typically do not have a standard fee and do not operate under a time limit. Lu, *supra* note 71, at 284.

75. An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on a Mail Order Basis and Other Similar Practices Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers, and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefore, Rep. Act No. 6955 (Jun. 13, 1990) (Phil.).

76. *Id.* at § 2(a)(1).

77. *Id.* at § 2(a)(2)(3). Further, it is a crime under the law for the manager of a newspaper, magazine, television station, or any other media to knowingly allow mail-order bride advertisements. *Id.* at § 2(b). The law expressly declares that it will not be interpreted as a restriction on the freedoms of speech and association guaranteed by the Philippines Constitution. *Id.* at § 5; see CONST. (1987), Art. III, (Phil.).

78. *Id.* at § 4.

-serving the prison sentence, a foreigner who violates the law will be immediately deported and permanently barred from returning to the Philippines.⁷⁹

2. Purpose for Enacting the Law

The Philippines legislature intended for Republic Act No. 6955 to protect Filipino women from being sexually and economically exploited by international marriage brokers.⁸⁰ Former Philippines President Corazon Aquino stated the bill was designed to prevent the “pernicious trade” in mail-order brides.⁸¹ Moreover, according to Aquino, the mail-order bride industry “insulted national pride and broke the hearts of young women and their families.”⁸² The chief congressional sponsor of the bill, Senator Ernesto Maceda, stated the legislation was enacted in response to the growing number of battered Filipino women married to foreign nationals via the mail-order bride industry.⁸³ Additionally, the law sought to prevent Filipino children from being trafficked abroad as sex slaves.⁸⁴

3. Effectiveness of the Law

Republic Act Number 6955 has been largely unsuccessful in preventing IMBs from operating in the Philippines.⁸⁵ The law has proven ineffective against IMBs operating over the internet, and the Philippines government has failed to designate a specific agency to monitor and enforce the law.⁸⁶ Further, the Philippines lacks jurisdiction to prosecute IMBs that recruit and advertise Filipino women from

79. An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on a Mail Order Basis and Other Similar Practices Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers, and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefore, Rep. Act No. 6955, § 4 (Jun. 13, 1990) (Phil.).

80. *Id.* at § 1. The law states that it is the overall goal of the Philippines to guarantee its citizens a decent standard of living. *Id.* Thus, the law is designed to “take measures to protect Filipino women from being exploited in utter disregard of human dignity in their pursuit of economic upliftment.” *Id.*

81. Associated Press, *Filipinos Ban Trade In Mail-Order Brides*, ST. LOUIS DISPATCH, Jun. 14, 1990, at 7B.

82. *Id.*

83. *Id.*

84. *See Philippine Court Jails German Mail-Order Bride Operator*, AGENCE FRANCE PRESSE, Jan. 16, 1997.

85. *See Vigilar, supra* note 34.

86. *Id.*

overseas.⁸⁷ Filipinos have also been unwilling to report IMBs operating in their communities to local authorities.⁸⁸

Nonetheless, the Philippines has attempted to prosecute individuals and organizations for violating Republic Act No. 6955. In 1997, a local Philippine court in Bacolod found German citizen Bernhard Lauks guilty of violating the law.⁸⁹ Lauks was arrested for recruiting women as mail-order brides to German men from impoverished areas in the islands of Negros and Cebu.⁹⁰ Also in 1997, the Philippine government filed charges against a South Korean Moonies group for violating Republic Act No. 6955.⁹¹ The group was accused of organizing mass weddings between Filipino women and South Korean men as a guise to recruit women for low paying jobs abroad.⁹² In 2002, the Philippine government banned two Americans, Delaney Davis and Larry Pendarivs, from entering the country for advertising mail-order bride websites that featured Filipino women.⁹³

The sporadic enforcement and general ineffectiveness of Republic Act No. 6955 has prompted legislators in the Philippines to propose additional laws to combat IMBs.⁹⁴ Philippines Senator Manny Villar complained that approximately ten million Filipino women have become mail-order brides over the past twenty years, despite the Philippine law

87. *Id.*

88. Perez, *supra* note 1, at 232-33. Some Filipinos were reluctant to assist in enforcing the law because they received economic benefits from IMBs operating in their communities. *Id.* Also, some Filipino families feared being ashamed and stigmatized for reporting that a relative had become a mail-order bride. *Id.*

89. *Philippine Court Jails German*, *supra* note 84. The government investigation into Lauks' activities was prompted by the migrant workers' group Kanlungan Foundation, Inc. *Id.*

90. *Id.* The judge who sentenced Lauks is reported to have stated: "Perhaps the point has been reached when Filipino women have to exchange morality for a bowl of rice. This is evident from the frequent 'sex tours' and the influx of paedophiles [sic] in our country." *Id.*

91. *Philippine Government Files Charges Against South Korean "Moonies,"* AGENCE FRANCE PRESSE, May 6, 1997. The Moonies, named after founder Sun Myung Moon, are also known as the Unification Church, and are unpopular in many foreign countries. *Id.* Critics accuse the Moonies of kidnapping and brainwashing their followers. *Id.*

92. *Unification Church Warns Philippines of International Embarrassment*, AGENCE FRANCE PRESSE, June 27, 1997.

93. *Brown Bag*, FILIPINAS MAGAZINE, Apr. 30, 2002, at 9. The websites were entitled *filipina.com* and *filipinalady.com*. *Id.*

94. See Vigilar, *supra* note 34; Resolution Urging the Senate Committee on Youth, Women, and Family Relations to Conduct an Inquiry, in Aid of Legislation, on the Growing Number of Filipino Mail Order Brides, on the Non-Implementation of Relevant Laws for the Purpose Resulting in the Violation and Continuous Desecration of our Women, with the End-In-View of Charting Remedial Measures to Protect Further the Dignity of the Filipinas, Phil. S. Res. No. 101 (Aug. 29, 2007) (introduced by Sen. Manny Villar).

forbidding the practice.⁹⁵ As a result, Senator Villar proposed Senate Resolution 101 to the Philippines government.⁹⁶ In the resolution, Senator Villar directs the Senate Committee On Youth, Women, and Family Relations to conduct an inquiry into the increasing number of Filipino mail-order brides and why Republic Act No. 6955 has been ineffective in curbing the practice.⁹⁷ In 2003, the Philippines legislature passed The Anti-Trafficking In Persons Act.⁹⁸ This law was designed to end human trafficking in the Philippines by providing for tougher enforcement and more severe penalties against human traffickers, while providing assistance for victims of human trafficking.⁹⁹ The law reaffirms Republic Act 6955 by describing the business of Filipino women to foreign nationals for marriage as an illegal act of trafficking.¹⁰⁰

95. Christine F. Herrera, *Web of Crimes Against Women Exposed*, MANILA STANDARD, Aug. 31, 2007, available at http://trafficking.org.ph/v5/index.php?option=com_content&task=view&id=1559&Itemid=56.

96. Phil. S. Res. No. 101, *supra* note 94. The heading of the resolution urges “the Senate Committee On Youth, Women, and Family Relations to conduct an inquiry, in aid of legislation, on the growing number of Filipino mail order brides, on the non-implementation of relevant laws for the purpose resulting in the violation and continuous desecration of our women, with the end-in-view of charting remedial measures to protect further the dignity of the Filipinas.” *Id.*

97. *Id.* Senator Villar acknowledges in the resolution that the internet is partially to blame for the continued marketing of Filipino women as mail-order brides. *Id.* He also lists three web sites, www.afilipina.com, www.2bwed.com, and www.1mailorderbrides.com, which continue to blatantly market Filipino women as commodities. *Id.* For example, the mail-order bride site www.2bwed.com states on the opening page that its mission “for a tenth of a century, has been to introduce girls from the Philippines who would like to correspond [sic], meet and marry Western men” World Class Service, <http://www.2bwed.com> (last visited Nov. 25, 2007). The site charges a five dollar processing fee for the women’s contact information. *Id.*

98. An Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the Protection and Support of Trafficked Persons, Providing Penalties for its Violations and for other, Rep. Act No. 9208 (May 26, 2003) (Phil.), available at http://www.congress.gov.ph/download/ra_12/RA09208.pdf.

99. *Id.*

100. *Id.* at § 4(b). The United States State Department lauded the Philippines’ effort to prevent human trafficking by implementing Republic Act Number 9208. UNITED STATES DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT, 168-69 (2007), available at <http://www.state.gov/documents/organization/82902.pdf> [hereinafter *Trafficking in Persons Report*]. However, the United States also criticized the Philippines for not adequately enforcing the law. *Id.* at 169.

B. United States

1. The Law

In 2006, the United States legislature enacted the International Marriage Broker Regulation Act (“IMBRA”)¹⁰¹ as part of the reauthorization of the Violence Against Women Act.¹⁰² IMBRA mandates a procedure that IMBs must adhere to before giving a mail-order bride’s information to a prospective client.¹⁰³ IMBRA requires IMBs to perform a comprehensive background check of their clients.¹⁰⁴ IMBs must conduct a search of their clients under a national or state sex offender public registry.¹⁰⁵ Additionally, IMBs must obtain a certification with accompanying documentation regarding whether the client has ever been convicted or arrested for specified crimes ranging from homicide to stalking.¹⁰⁶ Further, IMBs must require their clients to provide comprehensive information regarding their marital history, the number of children the client has under the age of eighteen, and all states and countries the client has lived in since the age of eighteen.¹⁰⁷

IMBs are required to provide the results and information from the background check to the mail-order bride in her primary language.¹⁰⁸ Lastly, the IMB must receive signed and written consent from the mail-

101. 8 U.S.C. § 1375 (a) (2006).

102. Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, 119 Stat. 2960 (2006).

103. See 8 U.S.C. § 1375a.

104. 8 U.S.C. § 1375a(d)(2).

105. 8 U.S.C. § 1375a(d)(2)(A)(i).

106. 8 U.S.C. § 1375a(d)(2)(B). The other listed crimes or offenses include: manslaughter, assault, battery, domestic violence, rape, 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, and false imprisonment. 8 U.S.C. § 1375a(d)(2)(B)(ii). Additionally, clients must disclose if they have ever been involved in acts of prostitution or been arrested or convicted of offenses relating to controlled substances or alcohol. 8 U.S.C. § 1375a(d)(2)(B)(iii); 8 U.S.C. § 1375a(d)(2)(B)(iv).

107. 8 U.S.C. § 1375a(d)(2)(B)(iv-vii). The client must also disclose if he has previously sponsored an alien to whom the client was later engaged or married. 8 U.S.C. § 1375a(d)(2)(B)(v).

108. 8 U.S.C. § 1375a(d)(3)(A). IMBs are permitted to disclose *the relationship* between the United States client and any individuals who were issued a protection or restraining order against the client. 8 U.S.C. § 1375a(d)(3)(B) (emphasis added). IMBs must also provide the mail-order bride with an informational pamphlet in her primary language about legal rights for immigrant victims of domestic violence and abuse. 8 U.S.C. § 1375a(a)(1). The pamphlet also includes general information about marriage fraud and the notification requirements for marriage brokers. 8 U.S.C. § 1375a(a)(2). The Secretary of Homeland Security, the Attorney General, and the Secretary of State are responsible for producing the pamphlet. 8 U.S.C. § 1375a(a)(1).

order bride to give her contact information to the American client.¹⁰⁹ The civil penalty for violating IMBRA is a fine between \$5,000 and \$25,000 for each violation.¹¹⁰ The criminal penalty is imprisonment for not more than five years.¹¹¹

2. Purpose for Enacting the Law

United States Senator Maria Cantwell introduced IMBRA in response to the “growing epidemic of domestic abuse among couples who meet via international marriage brokers.”¹¹² The overall goal of IMBRA is to provide mail-order brides with information about the men they are seeking to marry, and to inform them of their legal rights as immigrants.¹¹³ Prior to IMBRA, the male client had the advantage of knowing intimate details about his prospective wife before she knew any information about him.¹¹⁴ Thus, the legislation seeks to put foreign brides “on more equal footing with their American grooms.”¹¹⁵

3. Effectiveness of the Law

It is difficult to measure the effectiveness of IMBRA for a couple of reasons. First, many marriages that may result in abuse were entered into before the United States enacted IMBRA.¹¹⁶ Second, it is not possible to measure the number of potential mail-order brides that have declined marriage proposals based on the disclosure requirements under IMBRA.¹¹⁷ However, the enforceability and constitutionality of laws regulating IMBs have been explored in two federal court cases.¹¹⁸

109. 8 U.S.C. § 1375a(d)(3)(A)(iv).

110. 8 U.S.C. § 1375a(d)(5)(A)(i).

111. 8 U.S.C. § 1375a(d)(5)(B). In order for the criminal penalty to apply, the circumstances must involve interstate or foreign commerce and be within the special maritime and territorial jurisdiction of the United States. *Id.*

112. *Hearing, supra* note 9, at 5. Two serious cases of domestic violence involving mail-order brides occurred in Senator Cantwell’s home state of Washington. *Id.*

113. *Id.* at 6.

114. *Id.* at 7.

115. *Id.*

116. Arin Greenwood. *For Mail-Order Brides, Happily Ever After*, ABA JOURNAL, Feb. 2008, available at http://abajournal.com/magazine/for_mail_order_brides_happily_ever_after.

117. *Id.*

118. *Fox v. Encounters Int’l*, 318 F. Supp. 2d 279 (D. Md. 2002); *European Connection & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355 (D. Ga. 2007). The *Fox* case involved a previous version of the Mail-Order Bride Act that required IMBs to make similar disclosures to those required by IMBRA. *See* 318 F. Supp. 2d at 279; 8 U.S.C. § 1375 (repealed 2005). The Mail-Order Bride Act was the first attempt by Congress to regulate the IMB industry. *See* 8 U.S.C. § 1375 (repealed 2005).

In *Fox v. Encounters International*, a former mail-order bride sued an IMB for not making the required disclosures under the law and for making other general false statements after she was abused by her husband.¹¹⁹ Nataliya Fox (Fox), a mail-order bride from Russia, met her husband James M. Fox through the IMB Encounters International (EI) operated by Natasha Spivack (Spivack).¹²⁰ EI specialized in arranging marriages between Russian and Ukrainian women and American men.¹²¹ Fox alleged that her husband physically and mentally abused her throughout their marriage.¹²² According to Fox, Spivack encouraged her to remain in the abusive relationship and told her that she would “face deportation and financial ruin” if she left her husband.¹²³ Fox further alleged that Spivack did not warn her about the vulnerability of foreign women to abuse or that Fox could leave her husband and remain legally in the United States.¹²⁴ The Court held that Fox stated a valid claim for actual fraud in alleging that Spivack failed to make disclosures required by federal law under the Mail Order Bride Act.¹²⁵ The Court reasoned that Fox could prove Spivack was obligated under federal law to truthfully disclose information regarding deportation of a battered immigrant spouse.¹²⁶ The Court held, however, that statements Spivack

119. *Fox*, 318 F. Supp. 2d at 279-84. Fox alleged several causes of action against Spivack personally, and Encounters International including fraud, violation of the Virginia Consumer Protection Act, misappropriation of likeness, and negligence. *Id.* at 282-84. Spivack moved to dismiss the case for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Id.*

120. *Id.* at 283. Fox first came to the United States after becoming engaged to another man via the mail-order bride service “Wind of Wander.” *Id.* However, Fox’s engagement terminated and she remained in the United States. *Id.* James M. Fox had also been previously engaged to another mail-order bride he met through EI before meeting Fox. *Fox v. Encounters Int’l*, 318 F. Supp. 2d 279, 283 (D. Md. 2002).

121. *Id.* at 282.

122. *Id.*

123. *Id.* Spivack allegedly wanted to keep Fox in the marriage so that her company would not have to find a replacement mail-order bride, as guaranteed by the company. *Id.*

124. *Fox v. Encounters Int’l*, 318 F. Supp. 2d 279, 279 (D. Md. 2002). Fox learned the full scope of her legal rights after getting advice at a battered women’s shelter. *Id.* Fox was able to successfully petition the INS as a battered immigrant spouse under the Violence Against Women Act, and gained employment authorization and protection from deportation. *Id.*

125. *Id.* at 287.

126. *Id.* The Court also concluded that Fox alleged sufficient facts to prove that she and Spivack had a fiduciary relationship. *Id.* at 289. The court reasoned that Fox could prove Spivack was acting on her behalf during the mail-order bride transaction and subsequent relationship. *Fox v. Encounters Int’l*, 318 F. Supp. 2d 279, 289 (D. Md. 2002). The court held that Fox could not prove as a matter of law that Spivack had a statutory duty under the Mail Order Bride Act. *Id.* at 287. The reason for this was that EI was not the mail-order bride service that was instrumental in bringing Fox as a mail-order bride recruit to the United States. *Id.* at 289. “Under the statute, the duty to make the mandated disclosures only arises when the agency is recruiting nonresident non citizens.”

made about James M. Fox's suitability for marriage and her statements encouraging Fox to stay in an abusive marriage were "mere opinions" and not actionable as fraud.¹²⁷

*European Connections v. Gonzales*¹²⁸ challenged the constitutionality of IMBRA under the First and Fifth Amendments of the United States Constitution.¹²⁹ IMB European Connections¹³⁰ claimed that the required disclosure of background information violated their right to free speech¹³¹ and that the definition of an IMB¹³² under IMBRA violated the Equal Protection Clause.¹³³ European Connections sought relief in the form of a permanent injunction to prevent the enforcement of IMBRA.¹³⁴ The Court held that IMBRA did not violate European

Id. at 288. The Court dismissed Fox's other claims for Violation of the Virginia Consumer Protection Act and misappropriation of likeness. *Id.* at 285, 292.

127. *Id.* at 284-85.

128. *European Connection & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355 (D. Ga. 2007).

129. *Id.* at 1358. European Connections filed suit separately against defendants Attorney General Alberto Gonzales in his official capacity and the United States as a sovereign government. *Id.* at 1360. The Tahirih Justice Center ("TJC") intervened as a defendant in the action. *Id.* TJC is a non-governmental organization that provides legal assistance to women and girls that are victims of gender-based violence. *Id.* TJC represented ten mail-order brides who were abused by their husbands after coming to the United States. *Id.* at 1360-61. TJC also served as an expert consultant to the United States Congress during the drafting of IMBRA. *European Connection & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355, 1361 (D. Ga. 2007).

130. European Connections specialized in providing matchmaking services between American men and women from Eastern Europe and the former Soviet Republics. *Id.* at 1359. The company employed eight employees who spoke Ukrainian and Russian and served as translators or interpreters. *Id.* European Connections operated several mail-order bride websites out of Alpharetta, Georgia in the United States. *Id.* Additionally, European Connections maintained business relationships with approximately 200 to 250 Russian matchmaking services. *Id.*

131. *Id.* at 1358. European Connections specifically alleged that IMBRA's disclosure requirement operated as an impermissible prior restraint and a content-based restriction on constitutionally protected commercial speech. *European Connection & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355, 1358 (D. Ga. 2007). Commercial speech rights protected by the First Amendment are "limited to communications about the availability and characteristics of products and services, and communications which are intended to propose a commercial transaction." *Id.* at 1370 (citing *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n*, 447 U.S. 557 (1980)).

132. IMBRA defines an IMB as:

a corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States, that charges fees for providing dating, matrimonial, matchmaking services, or social referrals between United States citizens or nationals or aliens lawfully admitted to the United States as permanent residents and foreign national clients by providing personal contact information or otherwise facilitating communication between individuals.

8 U.S.C. § 1375a(e)(4)(A).

IMBRA's definition of an IMB specifically excludes non-profit organizations and matchmaking organizations that operate domestic dating services. 8 U.S.C. § 1375a(e)(4)(B).

133. *European Connections*, 480 F. Supp. 2d at 1376.

134. *Id.* at 1368.

Connections' First Amendment Rights.¹³⁵ The Court reasoned that IMBRA did not regulate or suppress the commercial speech rights of IMBs by mandating background disclosures.¹³⁶ IMBRA does not prevent IMBs from "touting" their matchmaking services in order to induce commercial transactions.¹³⁷ The Court also concluded that the requirements under IMBRA were substantially related to regulating the IMB industry and were not unduly burdensome.¹³⁸ The court found that the State had an "asserted interest . . . in protecting female clients of IMBs from fraud, deception, and abuse by United States male clients who utilize IMBs to market themselves as desirable mates."¹³⁹ Moreover, most of the information that European Connections and other IMBs are required to disclose under IMBRA is self-disclosed by the male clients anyway; therefore, the disclosure requirements are not onerous.¹⁴⁰

As for the Equal Protection challenge, the court held that Congress had a rational basis for distinguishing IMBs from other types of matchmaking services.¹⁴¹ The court reasoned that Congress had ample evidence to support its conclusion that for-profit IMBs contributed more to domestic violence against foreign women compared to other matchmaking services.¹⁴² Additionally, the court found that IMBs are different than other matchmaking companies because they offer a broad range of services.¹⁴³ In sum, IMBRA has passed constitutional scrutiny from at least one federal court, and European Connections failed to meet the burden necessary to entitle it to a permanent injunction against the enforcement of IMBRA.¹⁴⁴

135. *Id.* at 1376.

136. *Id.* at 1369-70.

137. *Id.* at 1370.

138. *European Connection & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355, 1375 (D. Ga. 2007)

139. *Id.* at 1371-72.

140. *Id.* at 1375.

141. *Id.* at 1380.

142. *Id.* at 1378. Congress did not target cultural and religious non-profit matchmaking services for regulation because they lack the "customer-centric motivation" to satisfy male customers that IMBs have. *Id.*

143. *European Connection & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355, 1379 (D. Ga. 2007). These other services offered by IMBs include, but are not limited to, counseling on obtaining fiancée visas, attorney referral services, and interpreter-assisted e-mail and telephone introduction services. *Id.*

144. *Id.* at 1381.

C. Taiwan

1. The Law

In 2003, Taiwan outlawed advertisements featuring mail-order brides from mainland China in Article 89 of the Cross Strait Relations Act.¹⁴⁵ Marriage agencies that advertise Chinese brides in Taiwan will be subject to a fine between \$100,000 to \$500,000.¹⁴⁶ Taiwan has also revised its marriage laws in an attempt to regulate marriages between Taiwanese men and mail-order brides from Vietnam.¹⁴⁷ In 2005, Taiwan enacted a law requiring imported brides from Vietnam to be at least twenty years old and fluent in the Chinese language.¹⁴⁸ Furthermore, the age difference between the bride and groom cannot be greater than twenty years.¹⁴⁹ Taiwanese men and their Vietnamese brides must also be interviewed by the Council of Local Authorities for International Relations prior to registering the marriage.¹⁵⁰ In 2006, Taiwan barred any new marriage brokers from registering within the country and vowed to monitor existing brokers more carefully.¹⁵¹

145. Regulations for Advertising Goods, Labor, and General Services of the Mainland Area in the Taiwan Area, Art. 6 (2003) (Taiwan). The law also forbids the advertising of investment opportunities, real estate development projects, certain professional occupations, and other goods and services in China. *Id.*

146. Lin, *infra* note 152.

147. See Hiroki Nagamochi, *Taiwan's "20" Policy Thwarts Bride Hunt*, THE ASHAI SHIMBUN, May 7, 2005, available at http://taiwanact.net/article.php?id_article=9. An increasing number of Taiwanese bachelors are opting to marry Vietnamese women because the number of eligible Taiwanese women has decreased. *Id.* The Taiwanese government has established a policy to discourage marriages between foreign brides and Taiwanese men because of issues related to human trafficking. *Id.* This policy aims to further differentiate Taiwan from China as a country that respects and promotes human rights. *Id.*

148. *Id.*

149. *Id.*

150. Hiroki Nagamochi, *Taiwan's "20" Policy Thwarts Bride Hunt*, THE ASHAI SHIMBUN, May 7, 2005, available at http://taiwanact.net/article.php?id_article=9. The government interviews the couple to ensure that the marriage is genuine and that the woman is not being illegally trafficked into Taiwan. Eyton, *supra* note 74. Approximately 50 percent of couples have not been approved for marriage because they provided inconsistent information during the interview. *Id.*

151. *Trafficking in Persons Report*, *supra* note 100, at 194.

2. Purpose for Enacting the Law

The laws regulating marriages between Taiwanese men and foreign brides were enacted to prevent human trafficking and prostitution.¹⁵² The Taiwanese government became concerned about the increasing number of unregulated marriage agencies operating within the country.¹⁵³ The marriage agencies are registered as businesses, but are not regulated by business laws.¹⁵⁴ According to one Taiwanese official, marriage agencies “pose a threat to social order” and lead to broken families and domestic violence.¹⁵⁵ The divorce rate among foreign brides and Taiwanese men is considerably higher than the average divorce rate in Taiwan.¹⁵⁶ Foreign brides in Taiwan also face an increased risk of being abused and exploited by their husbands.¹⁵⁷ Moreover, foreign brides are subjected to social prejudice and have trouble adapting to Taiwanese society.¹⁵⁸

3. Effectiveness of the Law

The number of marriages involving foreign brides and Taiwanese men dropped by forty percent since Taiwan enacted stricter laws regulating marriage.¹⁵⁹ The laws have helped to reduce the number of quick and bogus marriages involving mail-order brides.¹⁶⁰ Specifically,

152. See Jean Lin, *Legislator Calls for Better Regulation of Marriage Agencies*, TAIPEI TIMES, Dec. 26, 2005, available at <http://www.taipetimes.com/News/taiwan?pubdate=2005-12-26>. The Ministry of the Interior in Taiwan also established a special committee to target IMBs involved in illegal immigration, “disturbing commercials or advertisements,” and human trafficking. *Id.* Approximately 16,000 Asian foreign brides have disappeared after arriving in Taiwan; many of these women have become prostitutes. *Id.* Furthermore, tragic events related to human smuggling involving mail-order brides captured the attention of the Taiwanese government. See Eyton, *supra* note 74. On August 26, 2003, the Taiwanese coast guard suspected a vessel of trafficking illegal immigrants from Mainland China into Taiwan. *Id.* The vessel attempted to escape and forced the illegal immigrants to jump into the sea. *Id.* Twenty-two women were involved and six drowned as a result of the incident. *Id.*

153. Lin, *supra* note 152. An estimated 300 to 400 marriage agencies operate businesses in Taiwan. Nagamochi, *supra* note 147.

154. Lin, *supra* note 152.

155. *Id.*

156. Nagamochi, *supra* note 147.

157. See Eyton, *supra* note 74.

158. *Id.* Mail-order brides from Southeast Asia frequently have difficulty learning Mandarin Chinese. *Id.* Consequently, these women have trouble seeking legal help and redress if they are abused. *Id.* Furthermore, mail-order brides are often discriminated against because many Taiwanese citizens view them as sexual commodities or domestic servants. *Id.*

159. Nagamochi, *supra* note 147.

160. *Id.* Many marriage brokers in Taiwan offer men “bullet speed” weddings to Vietnamese women. *Id.* These weddings are advertised as a packaged deal that includes a brief visit to Vietnam

the law requiring no more than a twenty year age differential between foreign brides and Taiwanese men has “hurt” business for Taiwanese marriage brokers.¹⁶¹ Additionally, Taiwanese police are enforcing the laws by arresting marriage brokers involved in illegal matchmaking rings.¹⁶² “[P]olice stings involving the underworld” in Taiwan continue to uncover “pseudo-brides” that are eventually trafficked into prostitution.¹⁶³ As a result, Taiwanese authorities offer training to law enforcement officials on trafficking issues and assisting victims of trafficking.¹⁶⁴

D. Belarus

1. The Law

Belarus is a primary source for women trafficked into countries in North America, Europe, the Middle East, and Asia.¹⁶⁵ Consequently, lawmakers in Belarus have taken remedial measures to prevent and combat human trafficking.¹⁶⁶ In 2004, Belarusian president Alexander Lukashenko signed a presidential decree requiring companies to use only Belarusian models in their advertising.¹⁶⁷ The decree was intended

to meet the mail-order bride. *Id.* The entire matchmaking and wedding process can take as little as four or five days. *Id.*

161. Jennings, *supra* note 70 (stating, incorrectly, that the statutory age gap is 10 years; the correct statutory age gap is 20 years).

162. *Id.* Taiwanese police disbanded an illegal matchmaking ring operating out of Ho Chi Minh City in April 2007. *Id.* Two suspected marriage brokers were arrested and a raid on one home uncovered more than 100 mail-order brides. *Id.*

163. Nagamochi, *supra* note 147.

164. *Trafficking in Persons Report*, *supra* note 100, at 194.

165. *Id.* at 62. The Government of Belarus is currently ranked as a Tier 2 Watch List country because it does not fully comply with the minimum standards to eradicate human trafficking. *Id.* Specifically, the Belarusian Government has failed to provide trafficking victims with adequate protection and assistance. *Id.* Victims were also pressured and sometimes forced to assist law enforcement officers in investigating and prosecuting human traffickers. *Id.* However, the United States State Department did acknowledge Belarus as making progress in its efforts to prevent human trafficking. *Id.*

166. See UNITED STATES DEPARTMENT OF STATE, *TRAFFICKING IN PERSONS REPORT*, 62 (2007), available at <http://www.state.gov/documents/organization/82902.pdf> [hereinafter *Trafficking in Persons Report*]; H.E. Natalya Petkevich, Deputy Head of the Admin. of the Pres. of the Rep. of Belarus, Statement at the United Nations Headquarters International Conference: Trafficking In Women and Girls: Meeting the Challenge Together, (Mar. 5, 2007), available at http://www.un.int/belarus/conference/statement_petkevich_en.pdf.

167. Anna Volk, *Slavery and Belarus*, BELARUS NEWS AND ANALYSIS, Aug. 23, 2005, available at <http://www.data.minsk.by/belarusnews/082005/100.html>. Lukashenko issued the decree because he noticed that companies were not using Belarusian models on their billboard

to encourage companies to hire Belarusian women as models so that they would not have to go abroad to find work and risk falling prey to human traffickers.¹⁶⁸ In 2005, Belarus also enacted a presidential decree designed to end trafficking in persons, including mail-order brides.¹⁶⁹ The decree requires all agencies that send Belarusian citizens abroad for employment to be licensed by the Ministry of Internal Affairs.¹⁷⁰

2. Purpose for Enacting the Law

The legislation was intended to provide better systemic regulation of marriage and modeling agencies operating in Belarus.¹⁷¹ Trafficking in persons is a major problem for Belarus, partially because of its geographic location at the “crossroads of Europe” and its low standard of living.¹⁷² Belarus continues to be a source and transit country for women trafficked into the commercial sex industry.¹⁷³ The Belarusian government intended for the presidential decree and ensuing legislation to prevent marriage agencies and other businesses from trafficking and exploiting Belarusian women.¹⁷⁴ Previously, the Belarusian government had unsuccessfully relied on non-governmental organizations to address issues related to human trafficking.¹⁷⁵ The overall goal of the legislation is to provide Belarusian citizens with the “opportunity to receive objective information” and make informed decisions about companies like modeling and marriage agencies.¹⁷⁶

3. Effectiveness of the Law

None of the marriage agencies operating in Belarus immediately complied with the law’s licensing requirements.¹⁷⁷ Instead, many

advertisements. *Id.* Some companies, such as Shell Oil, refused to advertise in Belarus after the decree was issued. *Id.*

168. *Id.*

169. Act on External Labour Migration (1999) No. 169-Z (Belr.). The legislation also includes laws for attracting foreign workers into Belarus. *Id.*

170. *Id.* The licensing process is established by the Belarusian Legislature. *Id.* at Article 4.

171. Petkevich, *supra* note 166.

172. *Id.*

173. *Trafficking in Persons Report*, *supra* note 100, at 62.

174. Volk, *supra* note 167.

175. *Trafficking in Persons Report*, *supra* note 100, at 62.

176. Petkevich, *supra* note 166. These businesses offer services that tend to “serve as channels for human trafficking.” *Id.*

177. Volk, *supra* note 167. Marriage agencies continue to be popular among Belarusian women despite concerns about human trafficking. *Id.* According to the former director of the marriage agency Lonely Hearts, “there is a huge demand for this kind of service in Belarus” because “there are not enough men for all the women in the country.” *Id.*

marriage agencies chose to ignore the law and operate within the “underground economy” of Belarus.¹⁷⁸ But Belarusian law enforcement authorities have been aggressive in enforcing laws that generally prohibit trafficking in persons.¹⁷⁹ In 2006, the government initiated ninety-five prosecutions for human trafficking.¹⁸⁰ Moreover, the government has continued to raise public awareness about human trafficking.¹⁸¹

IV. RECOMMENDATIONS TO IMPROVE REGULATION OF INTERNATIONAL MARRIAGE AGENCIES

The Philippines, the United States, Taiwan, and Belarus have all taken different legal approaches to address problems within the mail-order bride industry. The ineffectiveness of the Philippine law shows the difficulty in imposing a total ban on the industry.¹⁸² Moreover, the Taiwanese law requiring less than a twenty year age differential can be too easily manipulated. For example, a couple can always be dishonest about their true age or men can simply search for women who are at least nineteen years younger. The United States and Belarus, however, have implemented more practical and effective responses in regulating the mail-order bride industry. The laws of both nations emphasize education for mail-order bride recruits and ensure the credibility of international marriage agencies. Other nations should model their laws after the United States and Belarus when attempting to regulate the mail-order bride industry.

Undoubtedly, it will be difficult to measure whether the potential mail-order brides in foreign nations will alter their decision to marry based on the information provided.¹⁸³ Added to this difficulty is the fact that many mail-order brides come from very different cultural and social

178. *Id.* However, the law did result in the closing of two Belarusian modeling agencies and the imprisonment of a modeling agency director. *Id.*

179. *Trafficking in Persons Report*, *supra* note 100, at 62. Article 181 of the Belarusian criminal code prohibits trafficking persons for the purposes of sexual exploitation and forced labor. *Id.*

180. *Id.*

181. *Id.*

182. *See* Resolution Urging the Senate Committee on Youth, Women, and Family Relations to Conduct an Inquiry, in Aid of Legislation, on the Growing Number of Filipino Mail Order Brides, on the Non-Implementation of Relevant Laws for the Purpose Resulting in the Violation and Continuous Desecration of our Women, with the End-In-View of Charting Remedial Measures to Protect Further the Dignity of the Filipinas, Phil. S. Res. No. 101 (Aug. 29, 2007); Perez, *supra* note 1, at 232; Morgan, *supra* note 56, at 435-36.

183. *See* Greenwood, *supra* note 116.

environments. For example, a mail-order bride from a developing country may not value the same information about a potential spouse as the average Western woman. Nonetheless, helping mail-order brides make informed decisions about a potential spouse remains key, regardless of how they choose to assess or ultimately use this information.

A. *Stronger Legislative Response from Importing and Exporting Countries*

All countries primarily involved in the mail-order bride industry must issue a strong legislative response in order to effectively regulate IMBs, especially countries that import and export large numbers of mail-order brides.¹⁸⁴ The mail-order bride industry has been largely unregulated for years, leaving countless female victims to abuse and exploitation.¹⁸⁵ Numerous mail-order brides will continue to suffer unless more countries issue laws to address the issues of domestic violence, human trafficking, and prostitution frequently linked to the mail-order bride industry.¹⁸⁶ Moreover, mail-order brides will be better protected if both their native country and the country they are immigrating to have laws that regulate IMBs. The laws of the importing and exporting countries need not be identical, but their overall goal should be to inform and educate potential mail-order brides.¹⁸⁷ Human traffickers operating within the mail-order bride industry prey on women who are uneducated, unskilled, impoverished, and generally vulnerable.¹⁸⁸ Laws that seek to educate and enlighten women about the mail-order bride industry will serve to empower such women. Thus, countries can greatly balance the power disparity between mail-order brides and IMBs by simply providing mail-order bride recruits with pertinent legal information.¹⁸⁹

184. See *USCIS Report*, *supra* note 4, at 1-2.

185. See *Hearing*, *supra* note 9, at 18 (statement from Clark).

186. *Id.* at 17.

187. See generally, *Trafficking in Persons Report*, *supra* note 100, at 5.

188. See *Hearing*, *supra* note 9, at 17 (statement from Clark).

189. Critics of IMBRA argue that it is paternalistic in labeling foreign women as naïve, innocent victims and American men as dominating abusers. See Erin K. Pleasant, *The International Marriage Broker Regulation Act: Protecting Foreign Women or Punishing American Men?*, 29 CAMPBELL L. REV. 311, 317 (2007). However, laws like IMBRA that provide mail-order brides with information on their legal rights and responsibilities should be viewed as empowering, rather than patronizing. These laws will assist mail-order brides in making informed decisions. Unlike many engaged women, mail-order brides are in the unique position of having to relocate to a foreign

Some critics have argued that it is unfair for countries to target IMBs for regulation while exempting other matchmaking and personal dating services.¹⁹⁰ For example, these critics point out that a mail-order bride is just as likely to meet an abusive spouse on one of the exempted personal dating websites as on an IMB website.¹⁹¹ But this argument ignores the issues and concerns that are unique to the mail-order bride industry. IMBs, unlike other personal dating services, thrive on stereotypes and power imbalances that leave mail-order brides particularly susceptible to abuse and exploitation.¹⁹² IMBs are also distinguishable from other dating services because they have been repeatedly linked to human trafficking and prostitution.¹⁹³ Furthermore, as the court in *European Connections v. Gonzales* aptly noted:

The rates of domestic violence against immigrant women are much higher than those of the U.S. population as a whole and have in common with women brokered through international marriage brokers a number of factors, including the dependency of the immigrant woman on the U.S. citizen for her legal status.¹⁹⁴

Countries affected by the mail-order bride industry can achieve the goal of protecting mail-order brides from abuse and exploitation in several ways. First, all countries with a significant number of IMB businesses operating within their borders should require these companies to obtain an operating license. The licensing information should include the name or names of persons who will be legally responsible for the agencies' activities, the number of employees at the agency, and a list of countries or regions from which the agency intends to recruit mail-order brides. This will ensure that the marriage agencies are offering legitimate matchmaking services, and are not fronts for human trafficking or prostitution.¹⁹⁵ Furthermore, countries can disseminate the

country where the laws on immigration and marriage will likely be unfamiliar. See 8 U.S.C. § 1375 (repealed 2005). Thus, it is essential to provide mail-order brides with needed legal information.

190. See Pleasant, *supra* note 189, at 321.

191. See *id.*

192. See *Hearing, supra* note 9, at 19 (statement from Clark); *USCIS Report, supra* note 4.

193. See *Hearing, supra* note 9, at 18-19; THE BUREAU FOR INT'L NARCOTICS AND LAW ENFORCEMENT AFFAIRS, U.S. DEP'T OF STATE, BE SMART, BE SAFE . . . DON'T BECOME A VICTIM OF THE TRADE IN PEOPLE, (Jan. 1, 2001), available at <http://www.state.gov/p/inl/rls/fs/jan/4229.htm> (listing mail-order bride agencies as a seemingly legitimate business that may be a front for human trafficking).

194. *European Connection & Tours, Inc. v. Gonzales*, 480 F.Supp. 2d 1355, 1361 (D. Ga. 2007).

195. This is akin to the Belarusian law requiring agencies that send Belarusian citizens abroad to obtain a special license. See Act on External Labour Migration (1999) No. 169-Z (Belr.).

licensing information to perspective mail-order brides and male consumers. Countries should also use the licensing information to keep track of the number of IMBs currently operating within the country.

Nations that are significantly affected by the mail-order bride industry should also require IMBs to disseminate information to mail-order brides about their legal rights and responsibilities as immigrants.¹⁹⁶ Mail-order brides particularly need information on laws regarding human trafficking, domestic violence and abuse, parental rights, and other general rights and protections they have as immigrants.¹⁹⁷ Information on legal issues like domestic violence and abuse will help to even the power imbalance between mail-order brides and their prospective spouses.

Additionally, mail-order brides need information about their future spouses. This should include all the background and criminal information required by marriage agency customers under United States law.¹⁹⁸ But mail-order brides should only receive this information after they have decided to meet, and possibly marry, a male customer.¹⁹⁹ A mail-order bride should not receive the background information of every customer that is interested in marrying her; she should only receive the background information of a male customer that she is interested in meeting. Furthermore, the law should require mail-order brides to provide their future spouses with the same background information via the IMB.²⁰⁰

Countries should also create laws to increase public awareness about the problems and dangers associated with the mail-order bride industry.²⁰¹ For example, countries could create legislation requiring IMBs to post warnings about human trafficking and prostitution on their websites or informational posters inside their offices. Additionally, laws could require that any radio or television advertisements marketing an international matchmaking service be followed by a warning about

196. This is similar to the United States law that requires IMBs to issue information pamphlets to mail-order bride recruits. *See* 8 U.S.C. § 1375a(2).

197. As the United States Congress has previously noted, when most mail-order brides immigrate to a nation, they are ignorant of that country's immigration laws. 8 U.S.C. § 1375 (repealed 2005). Consequently, many mail-order brides fear automatic deportation if they report domestic violence or abuse. *Id.*

198. *See* 8 U.S.C. § 1375a(3).

199. *See* Pleasant, *supra* note 189, at 311-12 (criticizing the unfairness of IMBRA in requiring men to disclose private and personal information to potential mail-order brides).

200. Requiring mail-order brides to provide reciprocal background information will address the unfairness in forcing only men to disclose personal information. *See id.* at 327-38.

201. Belarus has taken notable efforts to increase public knowledge about human trafficking. *Trafficking in Persons Report, supra* note 100, at 63.

common dangers associated with the mail-order bride industry. Furthermore, countries should use government-sponsored public service announcements to educate the public about crimes linked to the mail-order bride industry.

B. Stricter Penalties

Nations that regulate the mail-order bride industry must adopt stiffer penalties for IMBs that violate the law. According to non-governmental organizations in Taiwan that specialize in anti-trafficking prevention, fraudulent marriages continue to be used “as a vehicle for human trafficking . . . because the penalties for the fake husbands [in Taiwan are] lenient.”²⁰² Thus, countries regulating the IMB industry need to ensure that penalties for violating the law are strong enough to serve as a deterrent. Penalties should include mandatory jail time and a fine that is based on the profits of a marriage agency. Proportional fines will protect against large-scale marriage agencies simply viewing the fines as part of the cost of doing business. Furthermore, repeated violations should result in increased penalties, including the permanent suspension of a marriage agency’s license to operate. Although mandatory imprisonment and heavy fines may appear to be harsh penalties, human trafficking, sexual abuse, and domestic violence are all serious crimes that may result if marriage agencies are not properly regulated.²⁰³ Harsh penalties also show the country’s commitment and dedication to ending the abuses associated with the mail-order bride industry. Furthermore, legitimate marriage agencies should not have difficulty complying with laws that promote the safety and protection of mail-order brides.

C. Consistent Enforcement

In order for laws regulating IMBs to be effective, countries must be willing to devote substantial time and resources to enforce the laws. Laws and penalties adopted to regulate the mail-order bride industry will not have a significant impact unless there is consistent and continuous enforcement. One way to ensure the enforcement of laws regulating the mail-order bride industry is to perform random audits of marriage agencies. The main purpose of these audits would be to ensure that

202. THE BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: CHINA (TAIWAN ONLY) (Mar. 8, 2006), available at <http://www.state.gov/g/drl/rls/hrrpt/2005/61606.htm>.

203. See *Hearing*, *supra* note 9, at 21 (statement from Sen. Clark).

IMBs are providing potential mail-order brides with the proper information and required disclosures. Furthermore, audits could be used to investigate agencies that may be involved in human trafficking. Moreover, countries should consider creating a task force or other intergovernmental agency that will focus specifically on enforcing these laws. In addition to law enforcement officers, the task force should also consist of social workers, attorneys, and volunteers who can help to assist mail-order brides. Social service agencies and other assistance groups can help mail-order brides feel more comfortable in discussing sensitive issues like domestic violence and abuse.²⁰⁴

Law enforcement agencies should request the assistance of the public in enforcing laws that regulate marriage brokers. For example, law enforcement agencies could establish an anonymous hotline to report IMBs that are suspected of being involved in human trafficking or prostitution.²⁰⁵ Furthermore, an anonymous hotline may be useful to mail-order brides who are being exploited or subjected to abuse but fear revealing their identity. The hotline would also be particularly helpful to expose marriage agencies that continue to operate illegally in “the underground.”²⁰⁶ The developing countries that supply mail-order brides may not be able to implement all these resources because of economic reasons. Nonetheless, these countries can take smaller, less expensive steps to combat the abuse of mail-order brides by raising the public’s awareness of the issue.

D. Collaboration Among Nations That Regulate the Mail-Order Bride Industry

Jurisdictional issues are a major obstacle for countries that attempt to enforce laws against IMBs operating abroad.²⁰⁷ However, this problem can be resolved if countries regulating the mail-order bride industry enter into cooperative treaties. *The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children*²⁰⁸ is an example of a cooperative international treaty that has

204. See Mobydeen, *supra* note 2, at 971-72.

205. An anonymous hotline or “tipline” would help to eliminate the fear and stigma some individuals may have about reporting an IMB. See Perez, *supra* note 1, at 232-33.

206. See Volk, *supra* note 167.

207. See Vigilar, *supra* note 34.

208. See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 25, Annex II, U.N. GAOR, 55th Sess., Supp. No. 49, U.N. Doc. A/45/49 (Nov. 15, 2000) (entered into force Dec. 25, 2003) [hereinafter Anti-Trafficking Protocol].

been used to combat human trafficking internationally. Countries regulating IMBs could enter into a similar treaty to regulate the mail-order bride industry on a global scale.²⁰⁹ The Anti-Trafficking Protocol is an especially useful example considering the various links between human trafficking and the IMB industry.²¹⁰ The Anti-Trafficking Protocol was ratified on December 25, 2003 by 117 nations.²¹¹ The treaty is primarily designed to prevent trafficking, protect victims, and promote cooperation in achieving these goals among member nations.²¹² Specifically, the Anti-Trafficking Protocol obligates member countries to provide protection and support for trafficking victims,²¹³ provide information and measures to stop trafficking in persons,²¹⁴ and encourage the cooperation of law enforcement officials between member countries.²¹⁵ If countries significantly impacted by the IMB industry

209. The Anti-Trafficking Protocol is useful to address general issues related to human trafficking; however, a similar treaty is needed to address issues and concerns specific to mail-order brides and IMBs. *See Hearing, supra* note 9.

210. *See Hearing, supra* note 9; BE SMART, BE SAFE, *supra* note 193.

211. Signatories to the CTOC Trafficking Protocol, United Nations Office on Drugs and Crime (Dec. 25, 2005), available at <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>.

212. Niko Kyriakou, *U.S. Joins Int'l Treaty Against Human Trafficking*, ONE WORLD US (Nov. 11, 2005), available at <http://us.oneworld.net/article/view/122030/1/4536>. The article further notes the overlapping of the IMB industry and human trafficking: "Girls as young as 13—mainly from Asia and Europe—are trafficked as so-called "mail-order brides." *Id.*

213. Section II Article 6 provides in part:

Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

- (a) Information on relevant court and administrative proceedings;
- (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

Anti-Trafficking Protocol, *supra* note 208.

214. *Id.* at Section III. Article 9 states in part: "State parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons." *Id.*

215. *Id.* at Section III. Article 10 provides in part:

Law enforcement, immigration or other relevant authorities of State Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law to enable them to determine:

Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators of victims of trafficking in persons;

The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

The means and methods used by organized criminal groups for the purpose of trafficking

entered into a similar agreement, mail-order brides would receive additional protection and fraudulent companies would more likely be prosecuted.

In addition to signing an international treaty, countries should also agree to extradite IMBs that are being prosecuted for violating the laws of another nation. Countries should also share information about marriage agencies that are suspected of human trafficking or other abuses, or that have been found guilty of violating the law. Furthermore, law enforcement officers should create an international database with the information of IMBs operating within different countries. The database will help to prevent IMBs from becoming undetectable if they decide to operate in a different country. Lastly, law enforcement officials in all countries that regulate IMBs should be generally cooperative in assisting with ongoing investigations and prosecutions of marriage agencies.

V. CONCLUSION

Marriages arranged by international marriage brokers are not inherently immoral or necessarily a bad idea. There are IMBs that offer legitimate and valid matchmaking services.²¹⁶ Regardless of how one may feel about women being traded as commodities, mail-order marriages remain legal in most parts of the world.²¹⁷ Unfortunately, mail-order brides only tend to be heard about when the relationship goes tragically wrong, with few successful marriages ever making the headline news.²¹⁸ One critic of IMBRA complains: “Few statistics are available on how many ‘mail-order marriages’ are happy.”²¹⁹ In fact, some argue the use of the term “mail-order bride” is in and of itself pejorative because it imposes negative stereotypes on all marriages between foreign brides and Western men.²²⁰

in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

Id.

216. See, e.g., *Constable*, *supra* note 12.

217. See *USCIS Report*, *supra* note 4, at 3.

218. Jeremy Hainsworth, *Mail-Order Brides Often Tricked by Cruel, Unscrupulous Suitors*, *Winnipeg Free Press*, Oct. 10, 2006, at A10.

219. Wendy McElroy, *Mail-Order Bride Law Brands U.S. Men Abusers*, *GENDER RELATIONS IN PROGRESS*, Apr. 1, 2006, at 61.

220. See Hainsworth, *supra* note 218. Some have questioned whether the term “mail-order bride” should be considered a racial slur when it is used to refer to foreign brides from Asia. Annie Warburton, *His and Hers Slurs and Worse*, *MERCURY*, Sep. 10, 2005, at B8.

Nonetheless, there are numerous documented cases of IMBs that merely serve as fronts for human trafficking and prostitution.²²¹ Further, marriages involving mail-order brides are unique because the mail-order bride often lacks both power and resources.²²² In order to help remedy this power imbalance, the Philippines, the United States, Taiwan, and Belarus have each enacted laws that regulate the mail-order bride industry. However, additional legal measures are needed to protect mail-order brides. Other countries impacted by the industry also need to adopt regulations. Information and full disclosure should be the key principles behind any laws enacted to regulate IMBs. Additionally, countries must be willing to devote time and resources to enforce laws that regulate the industry. Lastly, law enforcement officials in different countries must be willing to cooperate in order to end the exploitation and abuse rife within the industry. This goal can best be achieved by an international treaty. The current state of the mail-order bride industry and its countless victims require that nations adopt measures to prevent and prosecute fraudulent IMBs.

221. See *Hearing*, *supra* note 9, at 40 (statement from Jackson).

222. See *USCIS Report*, *supra* note 4, at 4.

