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Amy Elson  
*Indiana University School of Law*

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# The Mail-Order Bride Industry and Immigration: Combating Immigration Fraud

AMY L. ELSON\*

Are you lonesome tonight? Are you still looking for that perfect woman with whom you can spend your life? Statements like these flash glaringly across the luminous computer screen as men across the globe access web sites offering the luring promises of female companionship and guaranteed matrimony. With the rapid growth of the Internet and increased access by the general public, the mail-order bride industry has reached an all-time high. "Users can select a wife from on-screen listings of hundreds of young Filipina, Thai, or Russian women at the click of a mouse . . ."<sup>1</sup> Classified ads advertise Internet addresses offering "English-speaking girls from the Philippines. Devoted, soft-spoken, cooperative, appreciative lifemates."<sup>2</sup> Potential husbands and suitors need only a credit card to buy memberships in the various agencies, to access the addresses of women, or to arrange visits with the women they desire on the electronic glare of the computer screen.<sup>3</sup> With the increase in availability of mail-order brides comes an increase in immigration to the nations from which the prospective bridegrooms originate. How are these nations dealing with this resulting increase in immigration, and what policies are they developing to address the issues presented by this new and growing form of immigration?

The mail-order bride industry is comprised of an international network that trafficks women from less developed countries to men in industrialized nations.<sup>4</sup> Prior to the proliferation of Internet sites and widespread Internet access, the mail-order bride business was conducted mainly through the

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\* J.D., 1998, Indiana University School of Law, Bloomington; B.A., 1995, *summa cum laude*, Indiana University.

1. Emily Rose, *Adverts Selling Women Flood on to the Internet*, THE GUARDIAN, Nov. 13, 1995, at 3, available in LEXIS, News Library, GUARDN File.

2. Nirmal Ghosh, *Tough Act Cleaning Up Mail-Order Bride Business*, STRAITS TIMES (Singapore), June 13, 1996, at 1, L2, available in LEXIS, News Library, STRAIT File.

3. *Id.*

4. Eddy Meng, Note, *Mail-Order Brides: Gilded Prostitution and the Legal Response*, 28 U. MICH. J.L. REFORM 197, 198 (1994). In fact, at least in North America, the presence of mail-order brides is not a new phenomenon. Mail-order brides played a significant role in the early settlement of both the United States and Canada. *Id.*

catalog industry.<sup>5</sup> Today, however, anyone with access to a computer and the Internet can scan cyberspace for mail-order companionship.<sup>6</sup> A basic search of the Internet using a well-known search engine revealed an astonishing number of sites offering numerous pictures and detailed descriptions of women participating in these “introduction” services.<sup>7</sup> The majority of these prospective mail-order brides come from developing nations, especially “from South and Southeast Asia, the Philippines, Thailand, Sri Lanka, India, Taiwan, Macao, South Korea, Hong Kong, and China.”<sup>8</sup> Brides from Eastern Europe are becoming increasingly common as well.<sup>9</sup>

Why do these women turn to the mail-order bride industry? The overarching reason is poverty. For example, women living in the Philippines must face unemployment and malnutrition on a daily basis.<sup>10</sup> Social and cultural practices may also lead some of these women to become mail-order brides.<sup>11</sup> These factors, however, are not causing concern among the Immigration Departments of various nations. The concern, instead, is about the possibility that mail-order brides may be seeking husbands not for love and companionship, but for an easy immigration route—a ticket to a green card. The fear is that once these women have immigrated to nations such as Australia, Great Britain, and the United States, they will remain married only long enough to secure permanent citizenship and will then divorce their

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5. For example, catalogs, such as Angel International, sold videotapes of women for \$20 each. Men who purchased the tapes could then write to the women who appeared on them in hope of finding a bride. Josh Simon, *I Love You Miss 2420*, LIFE, Feb. 1994, at 55.

6. Ghosh, *supra* note 2, at L2.

7. For example, the site located at <http://www.filipina.com/orderin.html> offers its user a customizable search of thirteen different catalogs, each of which contains information about roughly twenty women. The site located at <http://www.filipina.com> had been visited 187,322 times from March 1996 to Oct. 2, 1997. Another organization, called *A Foreign Affair: The Premier Introduction Service*, offers “introductions” to Asian, Latin American, European, and Russian women at its address <http://www.loveme.com>. The service also offers arranged tours for men to meet the women they select from the home page. Those wishing to find Russian and Ukrainian women may do so at <http://www.olvit.iasnet.ru/Admin/list.htm> or through *The American-Russian Connection* located at <http://www.amer-rus-conn.com/>. Those looking for Asian women may do so through many different services, one of which is entitled *China Girls Dating Service* and is located at <http://www.claire-org./chinagirls/>. The Internet has more sites from which one can browse for women than can feasibly be listed in this Note. The great availability of web sites, however, attests to the consumer demand fanning the flames of the growing mail-order bride industry.

8. Meng, *supra* note 4, at 202.

9. *Id.*

10. *Id.* at 203.

11. Many young Filipinas migrate to large urban areas where there is commonly a greater ratio of women to men. This fact, coupled with the pressure on women to marry before age thirty, may lead many Filipinas to seek marriage through a mail-order bride organization. *Id.* at 203-04.

husbands. Alternatively, immigration officials fear that mail-order brides will use their marriages only as a means through which they can then sponsor the rest of their families for immigration status.<sup>12</sup> In response to these fears, several nations, including Australia, Great Britain, and the United States have taken measures to respond specifically to the problems raised by the mail-order bride industry and the accompanying possibility of marriage fraud.

Several industrialized countries are fighting the proliferation of the mail-order bride industry through modification of their immigration laws. As the largest "exporter" of mail-order brides, however, the Philippines has been forced to address the problem of emigration. In 1994 alone, more than 300,000 Filipinas immigrated to other nations.<sup>13</sup> Of these 300,000, many left the Philippines to find work while roughly 19,000 left to join husbands and fiances in other nations, mostly in the United States.<sup>14</sup> Many of the Filipinas have fallen victim to the mail-order bride business. The Philippine government has not responded to this flight through the modification of its immigration laws; rather, it has taken a different approach. In an effort to curb the abuses perpetrated upon young Filipinas by the mail-order bride industry, President Corazon Aquino signed a law in 1990 outlawing the Philippine mail-order bride business.<sup>15</sup> The law makes it illegal to advertise mail-order bride agencies or to distribute any publication "promoting the solicitation of Philippine women for marriage to foreigners."<sup>16</sup> Violation of the law could result in a prison sentence of up to eight years and fines of nearly one thousand dollars.<sup>17</sup> This effort to criminalize the mail-order bride industry has only been partially successful, leaving the countries to which these brides immigrate to deal with the problems created by the industry.

The United States has addressed the mail-order bride problem by changing its immigration laws. In the United States, marriage has traditionally played an integral role in the development of laws dealing with the immigration and

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12. A recent study dealing with Filipinas who married Australian men, 30% of whom emigrated to Australia as mail-order brides, revealed that several of them expected their marriages to Australian men would "enable them to support their families in the Philippines or to sponsor them for immigration." *Id.* at 204.

13. Ninotchka Rosca, *The Philippine's Shameful Export: Emigrant Women*, NATION, Apr. 17, 1994, at 522, available in LEXIS, News Library, NATION File.

14. *Id.*

15. *Aquino Calls Halt to Mail-Order Brides*, L.A. TIMES, June 14, 1990, at A18.

16. *Id.*

17. *Philippines: Stops "Mail-Order Bride" Trade*, INTER PRESS SERVICE, June 14, 1997, available in LEXIS, World Library, INPRES File.

naturalization of aliens.<sup>18</sup> “The existence and preservation of close family ties form the basis for numerous benefits and waivers under the law. Unfortunately, these special privileges are being abused by many people who feign legitimate relationships to circumvent the law.”<sup>19</sup> According to the former Commissioner of the Immigration and Naturalization Service (INS), “one-sided marriage fraud,” in which a “smooth-talking alien” convinces an individual that the marriage is real poses a serious problem:

Immediately upon acquisition of the immigration benefit (sometimes literally upon the steps of the church or cityhall), the alien abandons the petitioner. In fiancé cases, INS can do nothing if the marriage occurs within the 90-day window. In cases of adjustment or immigration, the Service can do nothing if the spouses have resided together but one day. It is difficult for an individual to realize and admit that he or she has been duped by a clever alien; it is twice as hard to learn that the alien cannot be removed from the United States.<sup>20</sup>

In 1985, Congress was so concerned about the proliferation of mail-order bride marriage scams that it recommended that the statutory definition of fiancé be altered to include requirements of prior meetings, common language, and/or a firm intent to marry.<sup>21</sup>

The United States also amended its immigration policy dealing with mail-order brides. Prior to 1986, the INS required that a marriage between a citizen and an immigrant was “bona fide” before the immigrant spouse would be granted permanent resident status.<sup>22</sup> The courts refused to uphold the “viable marriage” standard because of procedural due process concerns, and, following the request of the INS for statutory authority for the viability standard,

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18. *First Session on Fraudulent Marriage and Fiancé Arrangements to Obtain Permanent Resident Immigration Status: Hearing before the Subcomm. on Immigration and Refugee Policy of the Comm. on the Judiciary, 99th Cong. 99-43 (1985)* [hereinafter *Hearings*] (statement of Alan C. Nelson, Commissioner, Immigration and Naturalization Service).

19. *Id.*

20. *Id.* at 14.

21. *Id.* at 72 (statement of Roger L. Conner, Executive Director, Federation for American Immigration Reform) (“The business of mail order marriages has spread rapidly, and even if one acknowledges that in some rare cases legitimate cultural purposes are served by completely arranged marriages, there is still no excuse for retaining such a loophole in the books given today’s ease of transcontinental travel.”) *Id.*

22. Meng, *supra* note 4, at 211.

Congress passed the Immigration Marriage Fraud Amendments of 1986 (IMFA).<sup>23</sup> The IMFA provided the INS with clear authority to establish procedures and rules designed to eliminate marriage fraud.<sup>24</sup> It created the classification of conditional permanent resident (CPR) status to deal with the problem of marriage fraud.<sup>25</sup> An alien receives the conditional status if she or he enters the United States through marriage to a permanent resident or citizen of the United States. In order to be relieved of this status, the CPR must petition the INS before the second anniversary of the date the status was granted.<sup>26</sup> The petitioning process is designed to provide the INS with the opportunity to determine whether the CPR married with the intention of evading immigration laws.<sup>27</sup> If the INS determines that the marriage was bona fide, the CPR is granted permanent resident status; however, if the marriage is determined to be fraudulent, the CPR loses lawful status and may be deported.<sup>28</sup>

The aforementioned method was the primary "weapon" used by the United States against the mail-order bride industry until 1996, when the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was signed into law by President Clinton.<sup>29</sup> The Act, comprised of six titles, is designed to address the problem of illegal immigration to the United States. Title VI of the act specifically addresses the mail-order bride industry by imposing new restrictions on it.<sup>30</sup> The Act states that:

There is a substantial "mail-order bride" business in the United States. With approximately 200 companies in the United States, an estimated 2,000 to 3,500 men in the United States find wives through mail-order bride catalogs each year. However, there are no official statistics available on the

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23. *Id.* at 212.

24. *Id.* at 213.

25. 8 U.S.C. § 1186(a)(1), (g) (1988). *See also* Meng, *supra* note 4, at 213.

26. 8 C.F.R. § 216.2(a) (1997). *See also* Meng, *supra* note 4, at 213.

27. 8 C.F.R. § 216.3(b). *See also* Meng, *supra* note 4, at 213.

28. 8 C.F.R. § 216.4(a)(6). *See also* Meng, *supra* note 4, at 213.

29. Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1375 (Supp. 1996).

30. *INS Details Major Provisions of New Immigration Law*, U.S. NEWSWIRE, Mar. 26, 1997, available in LEXIS, News Library, USNWR File.

number of mail-order brides entering the United States each year.<sup>31</sup>

The Congress also specifically found that many mail-order marriages are fraudulent under United States law.<sup>32</sup> The Act specifically requires that those “international matchmaking organizations”<sup>33</sup> doing business in the United States provide recruited women with immigration and naturalization information required by the INS at the time they are recruited.<sup>34</sup> Any organization found by the Attorney General to violate the requirement of information dissemination is subject to a fine of not more than \$20,000.<sup>35</sup>

The United States, as evidenced by the passing of the Illegal Immigration Reform and Immigrant Responsibility Act, is taking the immigration and other problems posed by the mail-order bride industry quite seriously. Other countries as well are experiencing the problems fostered by this growing industry. Among them are Australia and Great Britain.

Unlike the United States, Great Britain has not yet passed a law specifically designed to address the immigration issues posed by the blossoming of the mail-order bride industry. Great Britain continues to deal with prospective marriage fraud through the application of the “primary purpose rule,” which bears great similarity to the pre-1996 “viable marriage” standard employed in the United States by the INS. Under the primary purpose rule, immigration officials attempt to ferret out fraudulent marriage claims by interviewing prospective entrants.<sup>36</sup> Under this test, couples must

31. 8 U.S.C. § 1375(a)(1).

32. *See id.* § 1375(b)(1).

33. “International matchmaking organization” is defined by the Act as:

a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or aliens lawfully admitted for permanent residence, dating, matrimonial, or social referral services to nonresident citizens, by [exchanging telephone numbers or addresses, providing a selection of photographs or providing a social environment in another country]. *Id.* § 1375(e)(1)(A).

34. *See id.* § 1375(b)(1). The information must be provided in the recruit’s native language and may include information about CPR status, marriage fraud penalties, and the unregulated nature of the business. *Id.*

35. *See id.* § 1375(b)(2)(A).

36. Christopher Bell, *Migrant Madness; Asylum Switch ‘Would Open Door to Refugees’ Baker’s Attack as Labour Makes Yet More Promises*, DAILY MAIL, Apr. 2, 1992, at 2, available in LEXIS, World

persuade immigration authorities that their primary purpose for marrying was not to be admitted to Great Britain.<sup>37</sup> Undoubtedly, however, as the mail-order bride industry continues to grow and flourish via the Internet, Great Britain will also need to establish a law specifically designed to combat the immigration problems, such as marriage fraud, posed by the mail-order bride industry.

Australia is currently facing this problem as well. As of 1994, official Australian immigration data indicated that as many as 20,000 Australian men had Filipino wives, many of whom entered Australia through the mail-order bride system.<sup>38</sup> The perpetration of marriage fraud to avoid immigration rules is not one with which Australia is unfamiliar. According to the standards set forth in the Migration Act of 1958, in order for a spouse to be granted an entry permit, the spouse must have "entered into a marriage recognised as valid for the purposes of the Act."<sup>39</sup> Furthermore, like both the United States and Great Britain, Australia employs a test designed to address the validity of the marriage. The question is whether the marriage relationship is "genuine and continuing."<sup>40</sup> In *Minister for Immigration, Local Government and Ethnic Affairs v. Dhillon*, the Full Court of the Federal Court declared this test to be "whether at the time at which the matter has to be decided it can be said that the parties have a mutual commitment to a shared life as husband and wife to the exclusion of others."<sup>41</sup> Through application of this standard of review, Australian immigration officials will be able to address a small portion of the marriages that are entered into only to gain admittance to Australia. However, as the mail-order bride industry continues to flourish, the immigration problems raised by it will likely increase. It remains a definite possibility that Australia as well will be forced to create a law specifically designed to address the mail-order bride industry and the immigration issues it raises.

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Library, TXTNWS File.

37. Richard McKee, *To What Purpose?*, NEW L. J. PRAC., Dec. 9, 1994, at 1701. There exists only one exception to the rule: if there is a child of the marriage with a "right of abode" in the United Kingdom, the child is considered to be adequate evidence of the couple's marital devotion. *Id.*

38. Debbie Singh, *Fiji-Women: Marriages With Australians Less Than Heavenly*, INTER PRESS SERVICE, Sept. 19, 1994, available in LEXIS, World Library, INPRES File.

39. Regulation 135, Australian Migration Act of 1958 (1958). See also Immigration Review Tribunal, *Re: Georges Mahfoud IRT* Reference No. 92/00580, Number 1754.

40. Immigration Review Tribunal, *Re: Georges Mahfoud IRT* Reference No. 92/00580, Number 1754.

41. Unreported, delivered May 8, 1990, available in Immigration Review Tribunal, *Re: Georges Mahfoud IRT*, Reference No. N92/00580.

Although the majority of mail-order brides immigrate to countries like Australia, Great Britain, and the United States in genuine hope of creating a happy and long-lasting marriage with a “westerner,” undoubtedly some of them, even if only a small portion, may use the mail-order bride industry as nothing more than a convenient method by which to commit marriage fraud and defraud immigration agencies. The challenge of preventing this type of immigration fraud is one that must be faced, sooner or later, by all of the industrialized nations to which these brides are immigrating. One possible strategy for dealing with this emerging immigration issue would be to adopt some common, cooperative regulation, similar to that which has been adopted in the United States. Regulations could require mail-order bride agencies to inform their “recruits” about the penalties for marriage fraud and could regulate the mail-order bride industry within the participating nations.

As the popularity and accessibility of the Internet continues to increase, the number of women who immigrate to industrialized nations as mail-order brides will likely increase as well. While the intentions of some of these women may be uncertain, one certainty does remain: immigration fraud is a factor that must be considered as nations develop policies and strategies designed to address the blossoming mail-order bride industry.