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MAIL ORDER FEMINISM

MARCIA ZUG*

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Maybe there will always be people who question the validity of our bond. To them, I say, "It's real, it's there! Till death do us part." I believe that it's not so much how you get married but what you make of your marriage that matters. . . . I didn't expect to find love when I signed up with that agency, but I did. I feel very, very lucky.¹

Why would a man seek to marry a woman he has never met? Why would a woman agree? The common assumption is the man is looking for a woman he can dominate and the bride is a woman desperate enough to say yes.² This characterization is ubiquitous and it explains

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1. Lera Loeb, *Yes, This Woman is a Mail Order Bride*, GLAMOUR MAGAZINE (June 1, 2009), <http://www.glamour.com/sex-love-life/2009/06/yes-this-woman-is-a-mail-order-bride>, archived at <http://perma.cc/93QC-UH3T> (describing her marriage).

2. *Id.* ("Most people never think of a 27-year-old career woman like me when they hear the words *mail-order bride*. They imagine someone who doesn't speak English, who's been

the widespread concern regarding mail order marriages. This fear of mail order marriages, however, is recent. Mail order marriages have existed for centuries, and they were usually welcomed.³ In some cases, the women were even lauded as heroes.⁴ Previous generations encouraged mail order marriages as a necessary response to a disparity in the marriage market.⁵ They viewed these marriages as good for men, good for women and good for America.⁶ The question, then, is whether modern mail order marriages really differ so drastically from these previous incarnations.

Critics argue that the purpose of modern mail order relationships is to circumvent the progressive ideals of egalitarian marriage and exploit and abuse women.⁷ Yet, there is little evidence to support this conclusion. Rather, the explanation for the growing popularity of mail order marriage is much simpler—for many men and women, mail order marriages are their best chance for marriage.

At first glance, the idea that American men are seeking mail order brides because there is a shortage of marriageable American women seems absurd. There is no shortage of women in America. In fact, women slightly outnumber men.⁸ Nevertheless, gender parity does not mean a wife for every man. For a growing segment of American men, the number of marriageable women, i.e., women willing to marry them, is shrinking drastically.⁹ For these men, marriage is becoming more and more elusive. At the same time however, the importance of marriage has not disappeared.¹⁰ In fact, for lower middle-class and working-class families, and men in particular, marriage is often the difference between success and failure.¹¹

As Berkeley Law Professor Melissa Murray has noted, in America, “marriage is the social safety net—or at the very least, the

shipped in, like property, to be subservient to her husband. ‘Are you allowed to go out on your own?’ an acquaintance once asked me. Another person wanted to know whether I had a curfew—seriously. If someone associates me with those kinds of stereotypes, Steve and I both get upset, because it’s degrading. But I try not to take it too personally.”)

3. See Marcia Zug, *Lonely Colonist Seeks Wife: The Forgotten History of America’s First Mail Order Brides*, 20 DUKE J. GENDER L. & POL’Y 85, 86 (2012).

4. *Id.*

5. *Id.* at 87–88, 92.

6. See *id.* at 86.

7. See, e.g., Marie-Claire Belleau, *Mail-Order Brides in a Global World*, 67 ALB. L. REV. 595, 596 (2003) (describing the American husband as “typically looking for a docile, submissive, and subservient bride whom he can control and dominate”).

8. See U.S. CENSUS BUREAU, 2010 CENSUS BRIEFS: AGE AND SEX COMPOSITION (2011), available at <http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf>, archived at <http://perma.cc/TWB4-HR3X>.

9. See, e.g., HANNA ROSIN, *THE END OF MEN AND THE RISE OF WOMEN* 93 (2012).

10. *Id.*

11. See, e.g., GUY GARCIA, *THE DECLINE OF MEN: HOW THE AMERICAN MALE IS TUNING OUT, GIVING UP, AND FLIPPING OFF HIS FUTURE* xv (2008).

means by which we patch what is left of the disintegrating social safety net.”¹² For many lower-income families, marriage provides access to healthcare, childcare and a second income.¹³ It also means the loss of a job is difficult, not devastating. Moreover, because men are the ones increasingly facing job instability and unemployment, marriage is particularly important for their financial well-being.¹⁴ However, although marriage provides significant economic benefits, the social benefits of marriage may be just as critical.¹⁵

In America, marriage is a choice. If you are married, it means someone considers you worth marrying. Failure to marry signals the opposite, and increasingly, American women are looking at American men and finding them unworthy.¹⁶ Mail order marriage provides a solution and it is a solution that benefits the foreign brides just as much as their American husbands. Consequently, instead of disparaging these marriages, the focus should be on how law and policy can encourage and protect these relationships.

This Essay will argue that America’s current marriage crisis is a problem that could be solved by encouraging mail order marriages. Specifically, Part I of this Article will show how the current marriage crisis is the result of an increasing educational gap between American men and women that is leaving less educated men with few marriage prospects. It will further argue that the loss of marriage prospects is concerning both because marriage is often the social institution that supports men as their job prospects falter and because it has the potential to create an angry and dangerous underclass of men who feel bypassed by the American dream. Part II of this Article will suggest mail order marriage as a solution to this crisis and it will address, and reject, the commonly held assumption that mail order marriages are a vehicle for abuse. Part III will further demonstrate that mail order brides are not exploited and that like

12. Melissa Murray, *Black Marriage, White People, Red Herrings*, 111 MICH. L. REV. 977, 997 (2013) (emphasis omitted).

13. *Id.*

14. For example, seventy-five percent of children raised in single-parent homes experience poverty before they turn eleven as compared with only twenty percent of children from two-parent households. Charles A. Smith, *Father Matters*, KAN. ST. UNIV., 5 (March 6, 2009), http://www.k-state.edu/wwparent/aboutdads/Blog/Entries/2009/3/6_Test_files/Father_Matters.pdf, archived at <http://perma.cc/XQ2D-8QG8>. In addition, having a father in the picture produces children who “tend to be smarter, have better psychological health, do better in school, and get better jobs,” according to researchers. DAN KINDLON & MICHAEL THOMPSON, *RAISING CAIN: PROTECTING THE EMOTIONAL LIFE OF BOYS*, 98 (1999).

15. See *United States v. Windsor*, 133 S. Ct. 2675, 2689–90 (2013) (involving the right of the surviving partner in a same sex-marriage recognized by the state of New York to avoid substantial estate taxes).

16. See, e.g., GARCIA, *supra* note 11, at xiv.

the men, brides also receive significant benefits from mail order marriages. Specifically, this section will argue that mail order brides are using marriage as a form of empowerment and that it is time we start viewing them as feminists, rather than victims.

I. THE MARRIAGE CRISIS

For years, journalists, commentators, politicians and pundits have been discussing America's "marriage crisis." Marriage rates are plummeting: in 1960, seventy-two percent of Americans were married, now it's less than fifty percent.¹⁷ At the same time, cohabitation rates are sky-rocketing. Modern couples are fifteen times more likely to live together outside of marriage than they were back in 1960 and "almost half of [these] cohabitating households include children."¹⁸ However, the decline in marriage is not the same as a decline in the desire to marry. A study by the Pew Research Center found that although forty percent of unmarried adults believe that marriage is obsolete, half still stated they wished to marry.¹⁹ For Americans, marriage continues to represent the essential values that are important to intimate relationships,²⁰ and as a result, in America, marriage represents the highest form of commitment.²¹ In fact, it is this belief in the superiority of marriage that is at the core of the biggest marriage issue of our time: whether same-sex couples have the right to marry.

In *Perry v. Schwarzenegger*,²² the case concerning the constitutionality of California's proposition 8, which defined marriage as a

17. D'Vera Cohn et al., *Barely Half of U.S. Adults are Married—A Record Low*, PEW RESEARCH SOC. & DEMOGRAPHIC TRENDS (Dec. 14, 2011), <http://www.pewsocialtrends.org/2011/12/14/barely-half-of-u-s-adults-are-married-a-record-low/>, archived at <http://perma.cc/M6PM-GE4B>.

18. Aja Gabel, *The Marriage Crisis: How Marriage has Changed in the Last 50 Years and Why it Continues to Decline*, UNIV. VA. MAGAZINE, Summer 2012, available at http://uvamagazine.org/features/article/the_marriage_crisis#.UZZfYZVgPHg, archived at <http://perma.cc/DV8L-F2EQ>.

19. *Id.*

20. As a result, marriages continue to be the most stable relationships and are therefore good for families and particularly children. Consequently, the state has also recognized marriage means a greater likelihood a child will be raised by both parents and children raised with both parents do better. KINDLON & THOMPSON, *supra* note 14, at 99. (noting that children with involved fathers were less likely to engage in delinquent behaviors, such as selling drugs and vandalism). In fact, with regard to suicide the rates are overwhelming higher for teenage boys, as eighty-six percent of all suicides committed by older adolescents are committed by boys. *Id.* at 160.

21. This is not true for all countries. In Europe, couples maintain long-term stable family relationship regardless of marriage. See, e.g., RALPH RICHARD BANKS, IS MARRIAGE FOR WHITE PEOPLE? HOW THE AFRICAN AMERICAN MARRIAGE DECLINE AFFECTS EVERYONE 24 (2011).

22. 704 F. Supp. 2d 921, 970 (N.D. Cal. 2010), *aff'd sub nom.* *Perry v. Brown*, 671 F.3d 1052 (9th Cir. 2012).

heterosexual relationship, the sole issue was the expressive function of marriage.²³ In California, same-sex couples were entitled to the same rights and privileges as heterosexual couples with the exception that they could not legally call their relationships “marriage.”²⁴ Nevertheless, the California district court found this semantic difference significant because, as the court explained, “marriage is widely regarded as the definitive expression of love and commitment in the United States.”²⁵ As the California District Court understood, in America, whether you are married or unmarried makes all the difference.²⁶

A. *Marriage Exclusion*

The same-sex marriage debate brought attention to the issue of marriage exclusion, but because the discussion of same-sex marriage focuses on a legal impediment to marriage, it tends to obscure the fact that there are other marriage barriers. For example, in his recent book, *Is Marriage for White People?*, Professor Ralph Richard Banks

23. *Perry*, 704 F. Supp. 2d at 994 (“[D]omestic partnerships exist solely to differentiate same-sex unions from marriages. . . . [W]hile domestic partnerships offer same-sex couples almost all of the rights and responsibilities associated with marriage, the evidence shows that the withholding of the designation ‘marriage’ significantly disadvantages plaintiffs.”).

24. *Id.*

25. *Id.* at 970; see also GARCIA, *supra* note 11, at 69 (noting that in fact, one of the results of this high regard for marriage is that it is creating marriage-class gap: richer couples use marriage as a stepping-stone for the more “difficult and expensive goal of raising a family” but lower class couples often have their families in reverse order: they have children before marriage, because they view marriage as the ultimate commitment and want to wait until they are both financially and emotionally ready; yet having the children before marriage can put extra pressure on the relationships and make them more likely to fail and thus increase the numbers of lower-income, single-parent families).

26. The same-sex marriage debate has focused national attention on the concept of marriage as important and desirable. Proponents of same-sex marriage cite the hundreds of legal benefits that attach to marriage, but they also note that the social and emotional benefits that attach to the concept of marriage are at least as important. *Perry v. Schwarzenegger* is solely about the intangible benefits of marriage and how permitting same-sex marriage confirms the value of these relationships. Similarly, same-sex marriage’s critics also confirm the continuing importance of marriage, when they express fears that this important institution will be devalued or discarded. For example, James Dobson of Focus on the Family has argued that same-sex marriage devalues marriage and thus makes opposite marriage less attractive. *Larry King Live: Interview with Dr. James Dobson* (CNN television broadcast Nov. 22, 2006) (transcript), available at <http://transcripts.cnn.com/transcripts/0611/22/lkl.01.html>, archived at <http://perma.cc/PWR3-5WLJ>. North Carolina State Rep. Paul Stam stated that when marriage is not limited to different-sex couples, “those who are considering whether to get married or not, and who don’t have strong opinions one way or the other, just don’t” Bob Geary, *The Right Wing’s Twisted Arguments Against Gay Marriage*, INDY WEEK (Sept. 7, 2011), <http://indyweek.com/indyweek/the-right-wings-twisted-arguments-against-gay-marriage/Content?oid=2650009>, archived at <http://perma.cc/KKB2-5QYH>.

looks at the exclusion of African American women from the institution of marriage.²⁷ Banks's book focuses on the financial and educational success of African American women, and he shows how the achievements of these women have outpaced those of African American men.²⁸ According to Banks, this disparity has created a situation in which many women choose to forgo marriage altogether rather than marry a man with inferior financial and educational prospects.²⁹

Banks's book focuses on the African American community, but he notes that the trends he discusses are increasingly mirrored in the general population.³⁰ The educational and financial prospects of women across all racial and ethnic groups have been rising for decades while the possibilities for men have stagnated or declined.³¹ For the first time in American history, women earn more than men.³² On average, studies show that women "between the ages of twenty-one and thirty [now] earn[] 117 percent of wages of [men] in the same age group."³³ Women are also more educated; for example, a 2005 study from New York revealed that "53 percent of working women in New York [had college degrees], while only 38 percent" of the men had graduated from college.³⁴ Moreover, this change has not gone unnoticed. Journalist Hanna Rosin recently wrote a best-selling book, entitled *The End of Men and the Rise of Women*, in which she shows the extent to which men are faltering.³⁵ Rosin refers to the current generation of American men as a "Cardboard Man," by which she means a man unable to adapt to changing times who insists on keeping his lifestyle and ambitions the same despite the fact that traditional male jobs and roles have changed.³⁶

Books like Rosin's describe women's increasing successes as a result of their ability to change while also noting that men have been less successful at adapting to the new "knowledge economy." In the past, manufacturing jobs used to offer stable, well-paid employment for unskilled male workers, but these jobs are being eliminated or outsourced, and as a result, men without college degrees no longer have a clear path to upward mobility.³⁷ At the same time, these men

27. BANKS, *supra* note 21, at 33.

28. *Id.* at 38–39.

29. *Id.* at 46–47.

30. *Id.* at 44–45 (noting that "[w]hite follows black").

31. GARCIA, *supra* note 11, at xii.

32. *Id.* at xi–xii.

33. *Id.* at xii.

34. *Id.*

35. ROSIN, *supra* note 9, at 149–55 (noting that women now outnumber men on college campuses, and they also earn almost sixty percent of all business bachelors degrees).

36. *Id.* at 8.

37. GARCIA, *supra* note 11, at 19.

are also failing to get the skills and training they need to take advantage of the employment opportunities that are available and the result is a significant decline in wages and lifestyle for lower middle and working class men, but it is not only their economic prospects that are being decimated.³⁸ When men's job prospects falter, so do their marriage prospects.

B. What American Women Want

Books like *Is Marriage for White People?* and *The End of Men* demonstrate that American women continue to want marriage, but these books also show that as women's financial prospects rise, they are increasingly unwilling to marry lower status men.³⁹ As Rosin notes, most of the upwardly mobile women she interviewed stated they would like to marry, but only if they could find men of comparable achievements and motivations or men who, at the very least, would not be a drain on the family's resources.⁴⁰ In a telling example, Rosin describes a grocery store encounter with a single mother named Bethenny who explained her unwillingness to consider her child's father as a marriage prospect by pointing to the groceries in her shopping cart and stating, "Calvin would just mean one less granola bar for the two of us."⁴¹

Economic and cultural changes have allowed women like Bethenny to decide they're better off single, but for men, these shifting dynamics have been devastating.⁴² Married men do better. For men, the health benefits of marriage alone are shocking; studies show "married men are less likely to develop heart . . . disease, cancer, high blood pressure, diabetes, or serious depression."⁴³ One interesting study even showed that the average married male heart attack victim arrives at the hospital half an hour before single men.⁴⁴ In

38. ROSIN, *supra* note 9, at 4 ("In the Great Recession, three-quarters of the 7.5 million jobs were lost by men" and "[t]he worst-hit industries were overwhelmingly male, and deeply identified with macho: construction, manufacturing, [and] high finance.").

39. *See also* GARCIA, *supra* note 11, at xiv (noting that as women rise and men continue their downward slide, "more and more women are . . . unable to find men . . . they think are worth marrying").

40. ROSIN, *supra* note 9, at 2–3 (noting that Bethenny stated she would like to marry but clearly viewed most of the available men as drains on her resources rather than adding value to her life: "[b]y keeping Calvin[, her daughter's father,] at arm's length, Bethenny could remain queen of her castle, and with one less mouth to feed, they might both be better off.").

41. *Id.*

42. *Id.* at 91 ("[F]or all the hand-wringing over the lonely spinster, the real loser in society—the only one to have made hardly any financial gains since the 1970s—is the single man . . .").

43. *Id.* at 68.

44. *Id.*

fact, the significance of these health benefits was so great, it led Bernard Cohen and I-Sing Lee, researchers studying this phenomenon, to conclude that “being unmarried is one of the greatest risks that people voluntarily subject themselves to.”⁴⁵ For many men, however, their single status is not voluntary, and for these men, the inability to marry and provide for a family is upending their very sense of themselves.⁴⁶

Geoffrey Canada, the founder, president and CEO of the Harlem Children’s Zone, aptly captures this loss in his observation that “[i]t used to be where it was clear [that being a man] was about having a job and providing for your family. I think men struggled—we maybe weren’t the most enlightened folk, but at least we knew who we should be.”⁴⁷ As Canada recognizes, modern men are losing not only their ability to earn a living, but also the very definition of what it means to be a man; and what is most concerning about this is the fact that when men cannot achieve the positive characteristics of “being a man,” they often turn to roles that are self-defeating and self-destructive.⁴⁸ As Guy Garcia writes in his book, *The Decline of Men*, “[t]he symptoms of the male malaise are already showing as men of all ages become increasingly angry, suspicious, reactionary, and isolated. Men are opting out, coming apart, and falling behind. They are losing their sense of place in society and their direction as individuals.”⁴⁹

II. THE MAIL ORDER SOLUTION

In *Is Marriage for White People?*, Banks advises African American women to increase their dating pool by looking outside of their racial group.⁵⁰ Similar advice should be offered to American men. If American women are rejecting large swaths of the male population as

45. *Id.*

46. ROSIN, *supra* note 9, at 8–9 (“They lost the old architecture of manliness, but they have not replaced it with any obvious new one.”).

47. GARCIA, *supra* note 11, at 136, 139.

48. *Id.* at 137, 139; *see also id.* at xv (noting that these changing dynamics have created “a vast pool of undereducated, lower income bachelors for whom the economic, social, and emotional benefits of a stable family environment are permanently out of reach”); ROSIN, *supra* note 9, at 68 (“Copious studies prove that marriage benefits the man much more than the woman . . . married men are happier, healthier, and live longer than their single counterparts. (Also, contrary to the bachelor myth, they report more sexual satisfaction.)”).

49. GARCIA, *supra* note 11, at xiii. Moreover, as Garcia warns, this situation is not just bad for men, it is bad for women. Such marginalized men are more likely to “seek solace in the hypermasculine rituals of violence and aggression with an ugly undercurrent of homophobia, misogyny, and masochism.” *Id.* at xiii–xiv.

50. BANKS, *supra* note 21, at 181 (“If black women don’t marry because they have too few options, and some black men because they have too many, then black women, by opening themselves to interracial marriage, could address both problems at once.”).

undesirable, men should be encouraged to find women who don't feel that way. Men seeking mail order marriages have already reached this conclusion.⁵¹

A. *Feminism's Rejects*

Studies demonstrate that many of the men seeking mail order brides are precisely those who have been left behind by the rise of women: a 1998 study of the men using mail order services found that only fifty percent have two or more years of college.⁵² That means that half of the men seeking mail order brides are those most hurt by the changing job market as well as those increasingly likely to be excluded from marriage.

Letters from men to potential mail order brides confirm their experience with rejection by American women.⁵³ In one typical letter written to a Russian woman named Olga, the suitor stated that he was looking for a woman who was not a feminist and lamented the fact that "American women are only interested in their own careers."⁵⁴ The man explained he was looking for "a wife who'll take care of our home and children."⁵⁵ The man worked as an installer of garage doors.⁵⁶

Critics of mail order marriage seize upon the anti-feminist aspects of such letters as proof that these men are seeking women to dominate and oppress, yet the anti-feminist rhetoric in these letters is misleading.⁵⁷ As feminist author Susan Faludi has noted, "feminism" is often simply "a scapegoat for wider feelings of social and economic displacement and powerlessness, including a diminished

51. See LYNN VISSON, *WEDDED STRANGERS: THE CHALLENGES OF RUSSIAN-AMERICAN MARRIAGES* 46 (expanded ed. 2001) ("People who choose a spouse from a different culture often do so because they are unable to find a place in their own society . . . and would prefer a mate unaware of their alienation.").

52. Kate O'Rourke, Note, *To Have and To Hold: A Postmodern Feminist Response to the Mail-Order Bride Industry*, 30 *DENV. J. INT'L. & POL'Y* 476, 479 (2002) (noting that nearly all had high school diplomas but that only fifty percent had two or more years of college).

53. This is the conclusion reached by Ericka Johnson, a researcher at Linköping University in Sweden, who conducted hundreds of interviews with men and women contemplating mail order marriage, and who stated that she initially "found the vehemence with which the men discredited American women in their letters a little surprising, but it came up so frequently that . . . I could only assume they were responding to what must be a very frustrating dating scene for them. Obviously they were not finding the type of woman they wanted to marry in America, and maybe they were not even finding women who want to get married to them at all." ERICKA JOHNSON, *DREAMING OF A MAIL ORDER HUSBAND: RUSSIAN-AMERICAN INTERNET ROMANCE* 27 (2007).

54. *Id.* at 26.

55. *Id.*

56. *Id.*

57. *See id.* at 27.

sense of male power in relation to assumptions about women's real or imagined social gains."⁵⁸

Although men's letters to potential mail order brides express a rejection of feminism and feminists, their actions tell a different story. In many instances, the same men who write that they are looking for women who are not "feminists," are specifically choosing to court smart, well-educated and accomplished women.⁵⁹ According to the Vice Counsel for Immigrant Visas at the U.S. Embassy in Moscow,

For the most part these women are far better educated than the men. I see women doctors, scientists etc. [sic] being petitioned for by truck drivers, gas station attendants, farmers with very little money. Some of them can barely afford to do this because they need to earn an income that is 25% above poverty level.⁶⁰

Consequently, despite the anti-feminist rhetoric of their letters, the men's actions seems to indicate that their gripe is not with women's success or empowerment, but rather with the fact, as they perceive it, that this success has led American women to reject marriage and family and these men in particular.⁶¹

American men seeking mail order brides often seem to be searching for a foreign version of the type of woman who is rejecting them at home. Interviews with these men confirm their frustration with the domestic dating scene.⁶² In one poignant example, a man on one of the Russian bride tours made the following observation:

The foreign women say in their personal ads they want to love and be loved. In contrast, American women have numerous demands like exact height and weight of a guy, a salary over \$100,000, fit body, must like specific sports, films, etc. I find all this makes in [me] [sic] ineligible with such women. I don't have enough money and I'm not fit enough. I consider myself average looking . . . I like the fact that Ukrainian women are impressed that I have a job at all, they don't seem to care what I do, but simply that I have been at it for as long as I have [he has been a UPS driver for 20 years] shows them I am reliable.⁶³

58. NICOLE CONSTABLE, ROMANCE ON A GLOBAL STAGE: PEN PALS, VIRTUAL ETHNOGRAPHY, AND "MAIL-ORDER" MARRIAGES 67 (2003).

59. Lisa Anne Simons, Marriage, Migration, And Markets: International Matchmaking and International Feminism 8 (June 2001) (Ph.D. dissertation, University of Denver), available at <http://www.usaimmigrationattorney.com/images/MarriageMigrationMarkets.pdf>, archived at <http://perma.cc/4J3X-KR7Y>.

60. *Id.* at 118–20.

61. JOHNSON, *supra* note 53, at 27 (speculating that this anger at the feminist movement may be because "marriage has come under criticism from parts of the feminist movement").

62. *Id.*

63. Simons, *supra* note 59, at 112.

Examination of mail order marriages also demonstrates that the women can be quite assertive in their relationships: many of the brides take charge of the family finances or steer their husband's career prospects.⁶⁴ Not only does this call the submissive stereotype into question, but it demonstrates how marriage can help secure men's, often shaky, footing in the middle class. For example, a Russian mail order bride named Masha, married Paul, a forty-year-old math teacher from Indiana who she described as patient and attentive, but terrible with money.⁶⁵ Masha recalled how, early in the marriage, she asked about the bills and received a dreadful shock when she discovered his significant debt.⁶⁶ "How can you owe that much?" she kept asking Paul and she immediately took charge of the family's finances.⁶⁷ As a result, within a few years, they were out of debt and saving to buy a house.⁶⁸

Similarly, in her book, *Confessions of a Mail Order Bride*, the author, a Thai mail order bride named Wanwadee Larsen, records the shock she felt when she discovered that her "professor" husband would soon be out of a job for having "made no progress [on his] Ph.D."⁶⁹ She writes, "what kind of twisted dream is this that I have come so far to live? To have a husband with no job—in America?"⁷⁰ Larsen did not leave her husband, but she also did not accept her husband's aimless lifestyle; instead, she engaged in what she called a "campaign of attrition" against her husband's lack of ambition and high marijuana use, until he changed his life around.⁷¹ Her persistence worked and by the end of the book, her husband had a permanent academic position,⁷² and Larsen was also on her way to attaining an art degree and her own academic position.⁷³

B. Mail Order Husbands: Weirdos, Losers and Abusers

The above descriptions of men relying on their mail order wives stand in stark contrast to the usual portrayal of men seeking such

64. VISSON, *supra* note 51, at 220.

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. WANWADEE LARSEN, *CONFESSIONS OF A MAIL ORDER BRIDE: AMERICAN LIFE THROUGH THAI EYES* 113 (1989).

70. *Id.*

71. *Id.* at 178 (resulting in "renewed fitness—he is jogging again . . . and his reinvigorated ambition as a doctoral candidate has grown").

72. *Id.* at 297.

73. See *Wanwadee Larsen*, FLORENCE-DARLINGTON TECHNICAL COLLEGE, <http://www.fdtc.edu/academics/programs/divisions/TG/HUM/instructors/larsen.asp>, archived at <http://perma.cc/Q8XV-MZGR> (last visited Nov. 4, 2014).

marriages. In her book *Wedded Strangers*, Lynn Visson records the typical comments regarding these men such as “[they are] stiffs, weirdos and those who drink too much,”⁷⁴ and “It’s not a normal love interest that’s driving them, it’s fantasy.”⁷⁵ However, the most pervasive and damning description of men seeking mail order brides is that they are seeking women to control and abuse. In their book, *Mail-Order Brides: Women for Sale*, Mila Glodava and Richard Onikuza espouse this view, stating that “[o]ur experiences and observations of others show that . . . those who have used the mail-order bride route to find a mate have control in mind more than a loving and enduring relationship.”⁷⁶ Other critics echo those concerns, claiming that violence is common and pervasive in mail order marriages.⁷⁷ One of the best known of these mail order marriage critics is the Tahirih Justice Center. The Tahirih Justice Center advocates on behalf of immigrant women, and its website specifically states that mail order marriages “attract predators” and that a “growing number of matches are made between foreign women and abusive US men.”⁷⁸ In addition, some critics make even more extreme accusations, arguing that there is no such thing as a consenting mail order bride: according to opponents such as Natalia Khodyreva, a well-known feminist researcher and activist in Russia, mail order brides are simply victims and “all marriage agencies are trafficking women.”⁷⁹

1. Trafficking

The perception of mail order brides as probable victims of abuse is widespread,⁸⁰ but there is surprisingly little proof to support such assertions. Under the Tahirih Justice’s website heading “How Widespread is the Problem of Abuse?” is the statement that there are “no

74. VISSON, *supra* note 51, at 209.

75. *Id.*

76. MILA GLODAVA & RICHARD ONIZUKA, *MAIL-ORDER BRIDES: WOMEN FOR SALE* 26 (1994).

77. Vanessa B.M. Vergara, Note, *Abusive Mail-Order Bride Marriage and the Thirteenth Amendment*, 94 NW. U. L. REV. 1547, 1547 (2000) (discussing an example of violence in one mail-order relationship).

78. *Campaign to Prevent Abuse and Exploitation Through the International Marriage Broker (IMB) Industry*, TAHIRIH JUSTICE CENTER, <http://tahirih.org/advocacy/policy-areas/imb-campaign/>, archived at <http://perma.cc/959f-WN8V> (last visited Nov. 4, 2014).

79. Simons, *supra* note 59, at 70.

80. There have been a number of high profile murders of mail order brides; the most well known was the 2000 murder of a mail order bride named Anastasia King who was killed by her husband, who had a restraining order placed against him by a previous immigrant wife. King’s death was horrible and tragic and created the national perception that men entering mail order marriages were doing so to exploit and sexually abuse women. See, e.g., Suzanne H. Jackson, *Marriages of Convenience: International Marriage Brokers, “Mail-Order Brides,” and Domestic Servitude*, 38 U. TOL. L. REV. 895, 900 (2007).

national statistics reflecting what the prevalence of abuse is in ‘brokered’ marriages.”⁸¹ More specifically, there are no statistics indicating that this form of introduction, marriage brokers, pen pal clubs, etc., increases the risk of abuse at all.⁸²

In addition, there is even less support for the accusation that mail order brides are trafficked: when Khodyreva, the Russian feminist who declared “all marriage agencies are trafficking women” was asked for documentation of this fact, she admitted she had no proof simply stating that it was a well-known fact that did not require documentation to back it up.⁸³ This is incorrect. The facts about trafficking are highly disputed and virtually all research indicates that mail order brides are not trafficked.⁸⁴ For example, with regard to Russian women, studies show that the trafficking of these women is done through job agencies and tourist firms, not marriage brokers.⁸⁵ According to Kateryna Levchenko, the director of the anti-trafficking organization La Strada (based in Kiev) there is no “evidence that marriage agencies are a major part of trafficking networks.”⁸⁶ Similarly, an examination conducted by the Ukrainian government also found no evidence that mail order marriage companies are used to traffick women.⁸⁷

2. Mail Order Abuse

Support for the proposition that mail order marriages lead to higher levels of abuse is also weak. In her work on the mail order bride industry, doctoral student Lisa Simons traced the citations for most of these assertions and found they stemmed either from general newspaper articles,⁸⁸ rather than research studies, or from research

81. *Frequently Asked Questions: International Marriage Broker Regulation Act of 2005 (IMBRA)*, TAHIRIH JUSTICE CENTER, 2 <http://tahirih.org/site/wp-content/uploads/2009/03/frequentlyaskedquestionsaboutimbrea.pdf>, archived at <http://perma.cc/J67Y-HBJB> (last visited Nov. 4, 2014).

82. In fact, the studies that have been conducted reveal that mail order marriages result in the same or slightly higher levels of marital satisfaction as traditional marriages. See Simons, *supra* note 59, at 8 (citing a study of 163 Asian mail order brides that revealed moderately high levels of marital satisfaction); see also *id.* at 11 (noting studies of Filipino-Australian marriages that show these marriages are “no more prone to marital discord than any other marriages” and actually have a divorce rate at or lower than the national Australian average); *id.* at 30 (citing a nine-month study by the Swedish ombudsman concluding that the mail order bride business was neither unethical nor unlawful).

83. Simons, *supra* note 59, at 70.

84. *Id.* at 70, 74.

85. *Id.* at 70.

86. *Id.*

87. *Id.*

88. I myself contributed to this trend. In May 2012, I wrote an article for the New Republic magazine in which I supported my assertion that these relationships have

on immigrant women in general.⁸⁹ Mail order brides can be victims of abuse. In the United States, the public perception regarding the high rate of abuse of mail order brides stems from two highly publicized murders of mail order brides in Washington State.⁹⁰ However, abuse of women by men is a problem throughout the world.⁹¹ Moreover, although immigrant women in general are more likely to be victims of abuse than non-immigrant women,⁹² there is little evidence that this rate is higher for mail order brides. In fact, it is probably lower.⁹³

higher levels of abuse by citing the U.S. Governmental Report on matchmaking, which in turn cited a newspaper article, *The Blossoming Business of Imported Love* (Krich). See Marcia Zug, *The Latest Victim of GOP Intransigence? Mail-Order Brides*, THE NEW REPUBLIC (May 17, 2012), <http://www.newrepublic.com/article/politics/103338/vawa-brides-violence-women-adams>, archived at <http://perma.cc/3M9G-RT5k>.

89. Simons, *supra* note 59, at 12 (noting that most scholarly articles claiming high levels of abuse cite to journalists or relying on studies showing high levels of abuse against undocumented immigrant women). Simons summarizes the studies behind the government report, stating:

Findings of the report indicate that these concerns—fraud and abuse—are *not significantly tied to matchmaking* as a form of immigration. The report contain[ed] anecdotal evidence of problems but no firm data are supplied to substantiate the[se] generalizations. The report cites figures of unspecified origin and unrepresentative sample data and then bases estimates (and thus policy) on them. The study gives statistics on domestic violence in the U.S. in general, and then makes an assumption that the foreign born women who met men through an IMO [International Matchmaking Organization] are more likely to be abused. The further assumption is that U.S. men searching for foreign wives are more likely to be abusive or controlling. This is unsupported

Id. at 39–40.

90. See Roxanne Sims, *A Comparison of the Laws in the Philippines, the U.S.A., Taiwan, and Belarus to Regulate the Mail-Order Bride Industry*, 42 AKRON L. REV. 607, 610 (2009) (describing the 1995 murder of Susana Blackwell, a Filipino mail order bride, and the 2002 murder of Anastasia King, a mail order bride from Kyrgyzstan).

91. See Simons, *supra* note 59, at 28–29.

92. Studies show that more than half of immigrant women are three times more likely to be abused than non-immigrant women. See, e.g., Giselle Aguilar Hass et al., *Battered Immigrants and U.S. Citizen Spouses*, LEGAL MOMENTUM 5 (Apr. 24, 2006), http://www.academia.edu/2236701/battered_immigrants_and_U.S._citizen_spouses, archived at <http://perma.cc/MAF4-SW2W>. Tahiri Justice used this study to prove higher rates of abuse for mail order brides, stating that:

[B]ecause only US citizens are entitled to sponsor foreign fiancé(e)s/spouses for K1/K3 visas, the two typical routes for women who meet men through IMBs to come to the United States, it is reasonable to expect that abuse rates in marriages between US citizens and immigrant women generally would be indicative of abuse rates in marriages between US citizen/IMB's US male clients and immigrant women/IMB's foreign female clients specifically.

TAHIRI JUSTICE CENTER, *supra* note 81, at 81.

93. JOHNSON, *supra* note 53, at 105 (citing to a report from a Norwegian women's shelter noting an increase in the number of foreign brides who were seeking shelter from abusive men, including some who had imported multiple foreign wives in a row); see also

Typically, foreign women's increased risk of abuse is attributed to their dependency on their American husbands for their immigration status.⁹⁴ A woman married to an American man is eligible for permanent residency after two years of marriage, yet this adjustment of status requires a joint application.⁹⁵ Consequently, until this adjustment occurs, citizen husbands can exert significant control over their wives by refusing to join their petition.⁹⁶ In fact, it was this concern that immigration law was being used to oppress and abuse foreign women that led Congress to create a new form of immigration relief specifically for immigrant wives.⁹⁷

In 2001, Congress amended The Violence Against Women Act (VAWA) in order to permit abused, immigrant spouses to self-petition for permanent residency.⁹⁸ Moreover, Congress was particularly concerned about mail order brides.⁹⁹ However, when the Immigration and Naturalization Service examined the self-petitions made by abused immigrant women in order to determine, as Congress had asked, "the extent of domestic abuse in mail-order marriages," it concluded that only one percent of the abuse cases brought to their attention involved women who had met their husbands through mail order bride companies.¹⁰⁰ Congress assumed there would be evidence of significant abuse, but there was not. Nevertheless, the lack of such evidence should not be surprising. Mail order brides immigrate legally, and as a result, they are actually likely to have lower rates of abuse than many other immigrant wives.

Suzanne H. Jackson, *To Honor and Obey: Trafficking in 'Mail-Order Brides,'* 70 GEO. WASH. L. REV. 475, 481 (2002) (discussing a study by the CIA criticizing IMOs for failing to screen clients and allowing underage women to advertise but conceding that such companies were not traffickers).

94. Hass et al., *supra* note 92, at 3, 7.

95. *Id.* at 3; *see also* COMM'R OF THE IMMIGRATION AND NATURALIZATION SERV. & THE DIR. OF VIOLENCE AGAINST WOMEN OFFICE AT THE DEP'T OF JUSTICE, INTERNATIONAL MATCHMAKING ORGANIZATIONS: A REPORT TO CONGRESS 10, 14 (1999), *available at* http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/imbra/research-reports0and-data/Mobrept_full.pdf/at_download/file, *archived at* <http://perma.cc/CY3T-PMA5> [hereinafter A REPORT TO CONGRESS].

96. Hass et al., *supra* note 92, at 3.

97. *Id.* at 4.

98. *See* Violence Against Women Act, 8 U.S.C. § 1154(a)(1)(B)(ii)(I) (2001).

99. A REPORT TO CONGRESS, *supra* note 95, at 2, 19.

100. *Id.* at 10, 15–16. It is difficult to know exactly how many women enter the United States as mail order brides, yet even under the most conservative estimates, mail order marriages account for far more than one percent of all marriages. In 1996, the Immigration and Nationality Service estimated that there were between 4,000-6,000 mail order marriages per year and that these marriages represented 2.7 to 4.1 percent of all immigration involving female spouses. Robert J. Scholes, *Appendix A, The "Mail Order Bride" Industry and its Impact on U.S. Immigration*, GOOD WIFE (1998), <http://www.goodwife.com/index.php?pid=18>, *archived at* <http://perma.cc/CAR3-3KXF>.

C. Immigration Law Protects Mail Order Brides

Most mail order brides immigrate to the United States on K-1 visas.¹⁰¹ This Visa allows the foreign woman to enter the United States and then gives her ninety days to decide whether to marry her fiancé.¹⁰² The ninety-day period provides the potential bride with a chance to spend substantial time with her fiancé and learn about his life and community before deciding whether to marry.¹⁰³ Then, after the woman is married, she becomes a conditional resident for the next two years with all the rights and privileges of residency.¹⁰⁴ Conditional residents can work, drive and attend school.¹⁰⁵ Consequently, as soon as she is married, a mail order bride can earn her own money, have her own friends, learn English, get a job and travel. Then, after two years, she is eligible to have her conditional residency status changed to permanent residency, after which her immigration status is no longer contingent on the continuation of her marriage.¹⁰⁶ Moreover, if she is subject to abuse during the conditional residency period she can, as discussed above, self-petition for permanent residency and does not need her husband's assistance.¹⁰⁷

The International Marriage Broker Regulation Act (IMBRA) also protects mail order brides.¹⁰⁸ IMBRA guarantees that mail order brides are informed of their right to be free of domestic and sexual abuse, and their right to self-petition in case of abuse.¹⁰⁹ Interviews with mail order brides indicate this information requirement is effective. Most foreign brides are aware of the fact "that in the U.S. if a man hurts a woman, there are ways to get help."¹¹⁰ In addition, IMBRA also protects mail order brides by requiring matchmaking organizations to provide information on the U.S. citizen client to both the foreign woman and Department of Homeland Security

101. Commonly referred to as Fiancée visas. I.N.A. § 101(a)(15)(K)(i); 8 U.S.C. § 1101(a)(15)(K)(i) (2000).

102. 8 U.S.C. § 1101(a)(15)(K)(i) (2000).

103. See, e.g., Simons, *supra* note 59, at 76.

104. A conditional resident has the right to work, to travel abroad, and to reenter the country. See 8 C.F.R. § 216.1 (2008) ("[T]he rights, privileges, responsibilities and duties which apply to all other lawful permanent residents apply equally to conditional permanent residents . . .").

105. *Id.*

106. A REPORT TO CONGRESS, *supra* note 95, at app. A-10.

107. Vergara, *supra* note 77, at 1552.

108. 8 U.S.C.A. § 1375a (West 2013).

109. Specifically, the act requires U.S. Immigration and Customs Enforcement to provide an informational booklet to fiancée visa holders on the legal rights and resources available to immigrant victims of domestic violence. They are given information about domestic abuse and sexual assault hotlines, the illegality of domestic abuse, child abuse and sexual assault. *Id.*

110. Simons, *supra* note 59, at 69.

before allowing any contact.¹¹¹ Specifically, IMBRA requires international matchmaking organizations to search for their clients' names among the sex offender public registries,¹¹² and it then requires the company to obtain a signed certificate from the U.S. client documenting his criminal history, including any arrests related to alcohol or substance abuse.¹¹³ It also requires the U.S. client to provide a personal history indicating how many previous marriages were terminated, the dates of the termination, whether the client had previously sponsored any foreign fiancées, the ages of any minor children and all states and countries he has resided in since he was eighteen years old.¹¹⁴ Lastly, the Act places a limit on the frequency and number of fiancée visas that can be applied for.¹¹⁵ Consequently, together VAWA and IMBRA provide protections for mail order brides that are substantial and also significantly greater than those available to their undocumented counterparts.

D. Undocumented Foreign Brides

Mail order brides are the only foreign spouses entitled to a criminal background history on their intended spouse. This puts them in

111. TAHIRIH JUSTICE CENTER, *supra* note 81, at 2–3.

112. 8 U.S.C.A. § 1375a(d)(2)(A)(i) (West 2006).

113. *Id.* § 1375a(d)(2)(B)(i)–(iv).

114. *Id.* § 1375a(d)(2)(B)(v)–(vii). For years after enactment, many of these requirements were still not implemented and the most notable problem was the lack of an enforcement mechanism. See UNITED STATES GOV'T ACCOUNTABILITY OFFICE, GAO-08-862, INTERNATIONAL MARRIAGE BROKER REGULATION ACT OF 2005: AGENCIES HAVE IMPLEMENTED SOME, BUT NOT ALL OF THE ACT'S REQUIREMENTS 23–24 (2008), available at <http://www.gao.gov/assets/208/279505.pdf>, archived at <http://perma.cc/F4VG-QUYU>. However, on March 19, 2013, these requirements were finally implemented as part of the Violence Against Women Reauthorization Act of 2013. Specifically, 8 U.S.C. § 1375a(a)(5)(A)(iii) now states,

The Secretary of Homeland Security shall provide to the Secretary of State, for inclusion in the mailing described in clause (i), any criminal background information the Secretary of Homeland Security possesses with respect to a petitioner under subsection (d) or (r) of section [1184 of this title]. The Secretary of State, in turn, shall share any such criminal background information that is in government records or databases with the K nonimmigrant visa applicant who is the beneficiary of the petition. The visa applicant shall be informed that such criminal background information is based on available records and may not be complete. The Secretary of State shall also provide for the disclosure of such criminal background information to the visa applicant at the consular interview in the primary language of the visa applicant.

Id. § 1375a(a)(5)(A)(iii). In addition, the revisions now include penalties of between \$5,000 and \$25,000 per violation and possible imprisonment of up to five years. *Id.* § 1375a(d)(5)(A)(i), § 1375a(d)(5)(B)(i).

115. The purpose of this is to reduce the likelihood that mail order marriages can provide men with an easy way to use and abuse multiple women. Violence Against Women Act of 2005, Pub. L. No. 109-162, § 832(a)(4)(A), 119 Stat. 2960, 3067–68 (2006) (codified at 8 U.S.C. § 1184 (West 2006)).

a unique position and arguably makes them less likely to become victims of abuse than other foreign spouses. In addition, because foreign spouses do not all have the same legal status, this difference casts doubt on the usefulness of using studies involving foreign spouses in general, and undocumented women in particular, to demonstrate the frequency of likelihood of mail order bride abuse.

Under United States immigration law, not all foreign wives are similarly situated: marriage to an American citizen makes the foreign spouse eligible for citizenship. Nevertheless, spouses who enter the country illegally are still subject to deportation regardless of marriage.¹¹⁶ Under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, all undocumented immigrants are eligible for deportation and those present in the U.S. for more than one year were also subject to a ten-year ban on re-entry.¹¹⁷ What this means is that regardless of marriage to an American citizen, undocumented wives remain ineligible for permanent immigration status,

116. Pub. L. No. 104-208 § 301, 110 Stat. 3009-546 (1996), codified at 8 U.S.C.A. § 1182(a)(9)(B) (West 2008). Immigration policy was changed on March 4, 2013 to permit undocumented immigrants married to American citizens to apply “for a special waiver instead of having to leave the country and face tough penalties before obtaining their legal papers through a U.S. citizen spouse.” Daniel González, *New Obama Policy Aids Immigrant Spouses*, ARIZ. REPUBLIC (Jan. 22, 2013), <http://www.azcentral.com/news/politics/articles/20130110obama-new-policy-aids-immigrant-spouses.html>, archived at <http://perma.cc/6XD8-FKFL>; see also Jessica Vaughan, *New Waiver Shields Sponsored Illegal Aliens from Penalties*, CTR. FOR IMMIGRATION STUDIES, (Jan. 7, 2013), <http://www.cis.org/vaughan/new-waiver-shields-sponsored-illegal-aliens-penalties>, archived at <http://perma.cc/CZ5F-ATWT> (reporting that the Obama administration’s new waiver will assist illegal aliens in “avoid[ing] penalties enacted by Congress in the mid-1990s”).

117. See Pub. L. No. 104-208 § 301, 110 Stat. 3009-546, 3009-576 (1996) (codified at 8 U.S.C.A. § 1182(a)(9)(B) (West 2008)). Individuals who enter the country without a valid visa cannot apply for a green card without first returning to their home country. This is true regardless of their marriage to a U.S. citizen. Additionally, once such individuals have left the country, those who were in the U.S. more than 180 days will face a multi-year ban on re-entry (180 days of unlawful presence triggers a three-year ban on re-entry, one year or more triggers a ten-year ban). There has, however, been a slight improvement. On March 4, 2013, United States Citizenship and Immigration Services (USCIS) began allowing individuals whose only ground of inadmissibility is unlawful presence to apply for a waiver of this ground while still in the U.S. Previously, applicants had to leave the U.S. and face the bar on re-entry without knowing if they would be barred from returning home. See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *Provisional Unlawful Presence Waivers* (Apr. 24, 2014), <http://www.uscis.gov/family/family-us-citizens/provisional-waiver/provisional-unlawful-presence-waivers>, archived at <http://perma.cc/E2S-QZ2L>. The recent change is a clear improvement, yet the number of people eligible is still quite limited. First, unlawful presence must be the only inadmissibility ground. Second, and more problematic, the applicant must be able to demonstrate that the U.S. citizen spouse would experience extreme hardship if the waiver is not granted. *Id.* This is a difficult standard. It is not enough to simply show that the citizen spouse will miss the alien. The strongest arguments are those based on a serious medical condition, that they are the citizen’s main caregiver, or the alien would be returning to a country in a state of active war or political upheaval. Common results of separation such as a family separation and financial hardship are typically insufficient.

and must live in constant fear of deportation and the potential separation from their children. Furthermore, because any attempts to seek employment, education, or a social network could reveal their immigration status and threaten their ability to stay in the United States, undocumented wives are also likely to be isolated and wary of seeking out government benefits or assistance.¹¹⁸ Lastly, because their undocumented condition has no time limit, deportation remains an ever-present threat.

VAWA attempted to address the above concerns by permitting battered, undocumented wives to self-petition for adjustment of immigration status and also avoid the inadmissibility bar.¹¹⁹ Nevertheless, even with these protections, undocumented wives remain in a far more vulnerable position than mail order brides. Although the VAWA self-petition provision protects the two groups in similar ways, undocumented wives and mail order brides hold widely disparate immigration statuses, and studies on immigration status and abuse confirm the significance of this difference. For example, in her work regarding the willingness of battered immigrant women to seek police assistance, American University Professor Leslye Orloff found that the reporting rate for women with stable permanent immigration status was 43.1 percent, that it dropped to 20.8 percent for women who were in the United States legally, but on temporary non-immigrant visas, and that it dropped to 18.8 percent if the woman was undocumented.¹²⁰ Orloff's study did not include K-1 immigrants, but their reporting rates should be at least as high as that of non-permanent legal immigrants and perhaps closer to that of those with permanent immigration status.¹²¹ Consequently, Orloff's study strongly suggests that the rates of abuse experienced by undocumented wives cannot be used to demonstrate the likelihood of abuse in mail order marriages. Moreover, the possible reasons for the different reporting rates observed by Orloff further counsel against conflating the experiences of undocumented wives with those of mail order brides.

Specifically, many scholars have suggested that undocumented women are reluctant to report abuse because they live in perpetual fear of deportation, and as a result, have significant distrust of the legal system. These women may therefore find it particularly difficult

118. See, e.g., TAHIRIH JUSTICE CENTER, *supra* note 81, at 2.

119. 8 U.S.C.A. § 1154(a)(1)(A)(v)(1)(cc) (West 2014).

120. Leslye Orloff et al., *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA WOMEN'S L.J. 43, 59 (2003). All of these rates were still substantially lower than the reporting rates for U.S. citizen women. *Id.*

121. Because those who come over as fiancées have conditional status for two years, their immigration is less secure than a Legal Permanent Resident.

to accept that the same legal system that can force them out of the country, away from their friends and family, is also interested in protecting them from domestic abuse.¹²² In contrast, mail order brides enter legally, and as a result, these women may be less likely to view the U.S. government with the same level of hostility. In fact, mail order brides may even be inclined to trust the government, at least with regard to protection from domestic abuse, given that by the time a mail order bride arrives in the United States, the government will have already demonstrated its commitment to her safety by providing her with information regarding her rights in the case of domestic abuse and a detailed criminal history of her intended spouse. Lastly, since the mail order bride will have already successfully navigated the immigration system in order to adjust her status to conditional permanent resident, further interactions with governmental entities may no longer appear quite so daunting.

Tahirih Justice and others assume that high rates of domestic abuse among undocumented immigrant women must automatically translate into high rates of abuse for mail order brides. However, the very different legal status of these two groups casts doubt on this assumption. Consequently, although it is true that immigrant women experience higher rates of abuse than non-immigrant women, there is little justification for believing mail order brides are particularly vulnerable to abuse.

III. MAIL ORDER FEMINISM

Mail order marriages provide a solution to the current marriage crisis and there is little evidence that it fosters abuse, but these facts alone do not mean mail order marriages should be encouraged. The most common criticism of mail order marriages is that they exploit women.¹²³ Those opposed to these marriages believe mail order brides are poor and vulnerable women whose lack of options have forced them to consent to a marriage where they will be dominated by a controlling and disrespectful husband.¹²⁴ However, research on mail order brides indicates that, contrary to this common perception, mail order marriages are actually empowering for women and increase

122. Sahar Fathi, *Bias Crime Reporting: Creating a Stronger Model of Immigrant and Refugee Populations*, 49 GONZ. L. REV. 249, 261, 261 n.15 (citing IMMIGRANT & REFUGEE (I/R) REPORT AND ACTION PLAN: 2007–2009, CITY OF SEATTLE 7 (2007) (making this point with regard to the claims of undocumented workers)); see also LEIGH GOODMARK, A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL SYSTEM 72-73 (2012) (noting the particular challenges faced by immigrant women, and describing a woman who called the police on her abusive husband and wound up in deportation proceedings).

123. See Vergara, *supra* note 77, at 1557.

124. See, e.g., Belleau, *supra* note 7, at 596.

women's value rather than diminish it.¹²⁵ Consequently, critics of mail order marriage may actually be harming the very women they claim they are trying to protect.¹²⁶

History has demonstrated that laws and policies aimed at protecting women from making "bad" choices should be treated with skepticism.¹²⁷ Nineteenth and early twentieth century laws were rife with protectionist policies, such as laws enacted to exclude women from some occupations or limit their involvement in others.¹²⁸ As many have recognized, however, although these laws claimed to protect women, they "actually functioned more to subordinate and restrict women" by portraying them as weak, dependent, and maternal.¹²⁹ As feminist writer Ann Lucas has noted, such laws were designed primarily to protect women's reproductive and nurturing capacities and were used to "reinforce sociolegal norms about women's proper social and familial roles."¹³⁰ Modern criticisms of mail order marriages raise many of the same concerns.

A. *Modern Mail Order Bride Bans*

The United States does not ban mail order marriages. Countries that do, however, defend these bans as protecting women from trafficking, abuse and exploitation.¹³¹ These are the same concerns raised by American critics in regard to mail order marriage. Nevertheless, countries banning mail order marriage seem at least as concerned with controlling women as with protecting them.

1. *The Philippines' Ban*

In 1990, the Philippines passed Republic Act No. 6955, which banned international matchmaking and international matchmaking organizations.¹³² Despite this ban, a 2007 report estimates 300,000

125. Sims, *supra* note 91, at 630 n.189.

126. See, e.g., Bonnie Erbe, *Let's Ban Imports of Brides*, DESERT NEWS, Oct. 22, 2006, at GO2, available at <http://desertnews.com/article/650200348/Lets-ban-imports-of-brides.html?pg=all>, archived at <http://perma.cc/VK6P-APGM> ("Let's not just make it tougher for American men to hook up with 'mail order brides' over the Internet and import them, let's ban the practice altogether.").

127. Ann Lucas, *The Currency of Sex: Prostitution, Law, and Commodification*, in *RETHINKING COMMODIFICATION: CASES AND READINGS IN LAW AND CULTURE* 248, 255 (Martha M. Ertman & Joan C. Williams eds., 2005).

128. *Id.*

129. *Id.*

130. *Id.*

131. See *infra* Part III.A.1, III.A.2.

132. 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

to 500,000 Filipino mail order brides continue to leave the Philippines each year.¹³³ Responding to this report, Senate President Manuel Villar issued a press release asking “[w]here are our women?” and vowing to enforce the Act to prevent further “violation of Filipino women.”¹³⁴ Villar claimed he was worried about the welfare of Filipino women, but his concern seems at least as much a worry about the loss of such a significant portion of the marriageable female population.

The Philippines is well known for its male-controlled culture and the appeal of mail order marriage bans may actually be the fact that they limit Filipino women’s options and help keep these women shackled at home: as one Filipino women’s advocate stated, “[t]his is a very patriarchal culture. Men here brag about having concubines. Most Filipino men would have no idea what ‘gender relations’ means.”¹³⁵ Mary Lou Alcid, executive director of Kanlugan (a NGO working on the international problems of labor migration) echoed these sentiments, adding that such beliefs permeate the highest levels of Filipino society.¹³⁶ According to Alcid, “[t]he president is our number one macho. He is a chauvinist who has five wives—only one official of course—but it is no secret that he has other families. He jokes that this is why he is overweight, because he has to eat five meals every day.”¹³⁷ Mail order marriage gives Filipino women a means of leaving this culture and, despite the ban, it is one they are still choosing.

2. Cambodia

Other countries instituting such bans also seem similarly concerned about the loss of “their” women. Over the past five years, thousands of Cambodian women have left the country to marry Korean men.¹³⁸ During this same period, Cambodia has instituted a number of bans on mail order marriages including a prohibition on marriages between Cambodian women and foreign men over fifty, a ban on marriage between Cambodian women and Korean men, and

Propaganda Materials in Furtherance Thereof and Providing Penalty Therefore, Rep. Act No. 6955, §§ 1–2 (June 13, 1990) (Phil.), *available at* http://www.lawphil.net/statutes/repacts/ra1990/ra_6955_1990.html, *archived at* <http://perma.cc/V3RC-PB7K>.

133. Press Release, Senate of the Philippines, .5M Filipinas Leave RP Yearly Under Threats Of Danger (Aug. 30, 2007), *available at* http://www.senate.gov.ph/press_release/2007/0830_villar1.asp, *archived at* <http://perma.cc/M2SC-UHKS>.

134. *Id.*

135. Simons, *supra* note 59, at 97.

136. *Id.* at 98.

137. *Id.*

138. See Lee Kyung-sook, *To Prevent Human Trafficking, Cambodia Bans International Marriages to Koreans*, ASIA FOUND., Mar. 31, 2010, <http://asiafoundation.org/in-asia/2010/03/31/to-prevent-human-trafficking-cambodia-bans-international-marriages-to-koreans/>, *archived at* <http://perma.cc/ALK3-48P8>.

in 2008, a ban on all foreign marriages.¹³⁹ Like the Philippines, the Cambodian government explained their bans as an effort to protect Cambodian women.¹⁴⁰ In a formal document to the Korean Embassy, the Cambodian government explained that the ban on marriage with Korean men was “to prevent the trafficking of Cambodian women.”¹⁴¹ However, as Dr. Shin Hei-soo, a prominent women’s rights activist and representative of the National Movement for the Eradication of Sex Trafficking, noted, the problem with this explanation is that Cambodian officials identify “almost all migrant brides in Korea as ‘trafficked victims.’”¹⁴² Dr. Shin recounted a conversation with a Cambodian official in which she realized the Cambodian official “viewed [all] marriages to Korean men as trafficking” and she had to explain that “a marriage through a broker doesn’t mean trafficking.”¹⁴³

Cambodia’s view of women is concerning. As one Cambodian official noted with regard to the mail order ban, “[w]omen are weaker than men, so we try to protect the weakest first.”¹⁴⁴ Such statements, in conjunction with the bans, have led a number of human rights groups to object to Cambodia’s mail order marriage bans because they discriminate against women and their right to choose who they marry.¹⁴⁵ However, limiting marital choice may be precisely what Cambodia intends to do. Cambodia is a relatively small country and the impact of the mail order bride industry has been significant.¹⁴⁶ Observers note that in certain villages, almost all the young women have left to marry foreigners.¹⁴⁷ It is therefore not surprising that the Cambodian government wishes to halt this exodus.

Unlike Cambodia or the Philippines, America is not likely to ban mail order marriages, but the protectionist rhetoric used to

139. Julie Masis, *Cambodia: No Country for Old Men*, ASIA TIMES, Apr. 2, 2011, http://www.atimes.com/atimes/Southeast_Asia/MD02Ae01.html, archived at <http://perma.cc/X65V-VD9C>; see Chhay Channyda, *Cambodia: Foreign Marriage Ban Lifted*, PHNOM PENH POST (Nov. 27, 2008), <http://www.wluml.org/node/4903>, archived at <http://perma.cc/M4NB-MLLG>; Kyung-sook, *supra* note 138 (this ban was lifted after six months).

140. *Cambodia Bans Marriage to Korean Men*, THE CHOSUNILBO, Mar. 22, 2010, http://english.chosun.com/site/data/html_dir/2010/03/22/2010032200462.html, archived at <http://perma.cc/H8GD-2G4F>.

141. Kyung-sook, *supra* note 138.

142. *Id.*

143. *Id.*

144. Masis, *supra* note 139.

145. *Id.* Taiwan has also issued mail order marriage bans. In 2003, Taiwan outlawed ads featuring Chinese brides and subjected marriage agencies publishing such ads to fines between NT\$ 100,000 and 500,000. It has also revised its marriage laws to regulate marriages between Taiwanese men and brides from Vietnam requiring that the women be at least twenty years old, fluent in Chinese and the age difference between the two to be no more than 20 years. See Sims, *supra* note 90, at 625.

146. Masis, *supra* note 139.

147. *Id.*

discuss these marriages may nevertheless be harming the women the speakers are ostensibly trying to protect. As feminist philosopher María Lugones has noted, “[t]hrough traveling to other people’s ‘worlds’ we discover that there are ‘worlds’ in which those who are the victims of arrogant perception are really subjects, lively beings, resisters, constructors of visions”¹⁴⁸ In short, we must be wary of condemning mail order marriages as bad for women simply because it is not a choice most American women would make.

B. Mail Order Equality

American women have spent the last fifty years trying to banish the separate spheres ideology that once dominated marriage discourse and they have fought hard to overcome stereotypes about women’s proper roles.¹⁴⁹ There is no evidence, however, that foreign women find abandoning this traditional family structure emancipatory.¹⁵⁰ In fact, mail order marriage participants frequently indicate frustration with forced gender equality; for example, such concerns are apparent in the correspondence between Polina, a young Russian woman from Smolensk, and her American suitor.¹⁵¹ In this letter, Polina disparages gender equality because, at least in Russia, it has been a raw deal from women:

I’ve got a gentle character. I never was able to be active in a relationship. But over the last 70 years Russian men have stopped feeling that they are the head of the family and a pillar of support for women. From childhood on we were told that men and women are equal in everything. Many of our men are infantile, and women have to decide everything for them. A new type of woman has been formed in the Soviet Union. Deep down, a woman has become more of a man than a woman. Our poet Evtushenko was right in saying that “the best men are women.” In my character there are no such male traits, although, like all women in our country, I have to hustle—rush to work, study, stand on line, do

148. María Lugones, *Playfulness, “World”-Travelling, and Loving Perception*, in *MAKING FACE, MAKING SOUL, HACIENDO CARAS: CREATIVE AND CRITICAL PERSPECTIVES BY FEMINISTS IN COLOR* 390, 402 (Gloria Anzaldúa ed., 1990).

149. This is the idea of the male breadwinner and female homemaker. See, e.g., Jody Lynee Madeira, *The Family Capital of Capital Families: Investigating Empathic Connections Between Jurors and Defendants’ Families in Death Penalty Cases*, 2011 MICH. ST. L. REV. 858, 878 (“[The American family] has been influenced by the antebellum model of ‘separate spheres,’ which held that the home was the site of “moral, ethical and religious education” provided by the wife-mother, while the husband-father worked to provide for the family outside the home.”).

150. Simons, *supra* note 59, at 87.

151. VISSON, *supra* note 51, at 49–50.

housework. Gradually, all of this leads to the loss of one's feminine core, to a roughness of which I'm very frightened."¹⁵²

As Polina's letter makes clear, equality in Russia meant the women were doing everything and, for women like Polina, it was far from liberating.

In her book *Romance on a Global Stage*, anthropology professor Nicole Constable makes a similar observation.¹⁵³ Constable notes,

[o]ften lacking in [the] critique of marriage and gender relations [is] an appreciation of the variety of ways in which women in different sociocultural contexts might define liberation. To work for a wage might be liberating to a middle-class American woman, but not to a woman who has worked in fields or a factory for subsistence since childhood.¹⁵⁴

Consequently, although anti-feminist rhetoric is common in letters to mail order brides and mail order marriages are frequently attacked as patriarchal and oppressive, the relationship between mail order marriage and feminism is complicated.

1. *Mail Order Marriage and Feminism*

Male mail order marriage participants typically say they are seeking women who are not feminists, and the women commonly deny feminist intentions.¹⁵⁵ However, both parties use mail order marriage for the very feminist goal of increasing choice and combating disempowerment.¹⁵⁶ In countries where women have little power to effect change at either a personal or national level, interviews with potential mail order brides reveal that the women view such marriages as a means of reasserting power over their lives.¹⁵⁷ Similarly, interviews with the potential husbands demonstrate that they also turn to mail order marriage as a way of combating their own sense of disempowerment, most frequently in relation to American women.¹⁵⁸ Thus, as researcher Lisa Simons, who conducted numerous interviews with mail order marriage participants noted, both groups use

152. *Id.*

153. CONSTABLE, *supra* note 58, at 65.

154. *Id.*

155. Simons, *supra* note 59, at 95–96.

156. *Id.* at 91–92.

157. *See id.* at 92–93.

158. *Id.* at 91–92 (noting that the women expressed the common themes of “the disenfranchised the world over” such as the inability “to use their own power and creative potential to effect change in their lives and/or improvements in their community or nation”).

mail order marriages to combat the “sense of disempowerment and rejection from the state of gender relations in their own country and community” and she suggests that “their coming together across unequally stratified national boundaries [is] one possible way of bridging those differences” and reasserting control.¹⁵⁹

Men seeking mail order brides are typically assumed to be looking for women they can dominate, and even before the current recession, mail order marriage often appealed to men who saw themselves as victims of the changing role of men and women.¹⁶⁰ At the same time however, many of these men support female equality. Edward, an American man married to a Russian woman typifies these complicated feelings; when asked about his views on gender equality, he made the following statement:

During the seventies I supported the equality and equal opportunity for women that they worked for. And I still do. It's the way I was raised. [But] [s]omewhere in the seventies the women's movement was hijacked. “Women of the world unite against the bourgeois-proletarian male domination!” The net result was that women were taught to view all male-female relationships as a power struggle where somebody wins and somebody loses. Every American woman I met at some point turned our relationship into a struggle for power.¹⁶¹

Edward's statement reveals a man who is not opposed to increased power and opportunities for women, but one who does object to the idea that female equality must mean male decline. Moreover, Edward is not alone in conflating these two ideas. The title of Hanna Rosin's book, *The End of Men and the Rise of Women*, links these

159. *Id.* at 92.

160. *See, e.g.*, ROSIN, *supra* note 9, at 93–94.

Over the years, researchers have proposed different theories to explain the erosion of marriage in the lower classes: the rise of welfare, [or] the disappearance of work for men. . . . But Edin thinks the most compelling theory is that marriage has disappeared because women are . . . set[ting] the terms for marriage—and usually they set them too high for the men around them to reach. “I want that white-picket-fence dream,” one woman told Edin, and the men she knew just didn't measure up, so she had become her own one-woman mother/father/nurturer/provider. . . .

. . . .
The whole country's future could look much as the present does for many lower-class African-Americans: The mothers pull themselves up, but the men don't follow. First-generation college-educated white women may join their black counterparts in a new kind of middle class, where marriage is increasingly rare.

Id.

161. VISSON, *supra* note 51, at 207.

two ideas explicitly; Rosin also notes that objecting to or fearing male decline should not be considered anti-feminist.¹⁶² At one point in *The End of Men*, Rosin interviews a man named David, whose girlfriend makes significantly more money than him, and asks him why he has such uneasiness with the changing roles of marriage.¹⁶³ After thinking about the question he responds, “It’s because our team is losing. All the things we need to be good at to thrive in the world we imagine existing in ten or twenty or even fifty years from now are things that my female friends and competitors are better at than me. Than us.”¹⁶⁴

Men’s perception of their growing disempowerment is correct, but it also has the potential to make them more sympathetic to women’s disempowerment.¹⁶⁵ According to a 2000 UN report of masculinity:

[M]ost men remain disempowered in relation to elites (composed of both men and women) that wield political and economic power . . . It is this experience of disempowerment that potentially connects some men and women across the patriarchal divide, and offers the possibility of linking a gender politics that challenges patriarchy with a wider politics of social transformation.¹⁶⁶

Consequently, the appeal of a mail order marriage may not be that it introduces men to woman they can dominate, but that it connects them to women who have also experienced similar disempowerment and thus it connects them to an equal.

2. *American Husbands Do Housework*

The idea that mail order marriage increases marriage equality is also an idea repeatedly expressed by the mail order brides themselves. Despite the widespread discussion regarding the antifeminist characteristics of mail order marriages, many mail order brides seek foreign husbands precisely because they see them as less patriarchal and more egalitarian than their male countrymen.

For example, as Harvey Balzer, director of Georgetown University’s Russian Area program noted, Russian women are tired of “domestic dictators.”¹⁶⁷ According to Balzer, “Even [the Russian] men I know who write about women’s rights wouldn’t get up from

162. ROSIN, *supra* note 9, at 16.

163. *Id.* at 58–59.

164. *Id.* at 61.

165. Simons, *supra* note 59, at 91.

166. *Id.*

167. VISSON, *supra* note 51, at 52–53.

the dinner table to help clear the dishes.”¹⁶⁸ As a result, Balzer notes that the American man who claims to be seeking an “unliberated woman,” looks to the Russian woman like a “liberated man.”¹⁶⁹ The owner of a mail order bride service in Russia echoed these sentiments, stating, “Russian men can’t provide for the family, and they don’t pay attention to their families. . . . That really doesn’t agree with us women. . . . Plus, they don’t value what we do for them. And men in our country are prone to alcoholism.”¹⁷⁰

Russian mail order brides frequently express the view that Russian men have failed to uphold their part of the marriage bargain; these men have lost their sense of responsibility for their wives and children, they cannot hold down a job and they drink.¹⁷¹ Russian women have been forced to assume the role of family breadwinner and as a result, many are attracted to American men because of their desire to undertake the traditional male marriage responsibilities.¹⁷² Zina, a mail order bride from Russia, explained this attraction stating that Russian women see division between the sexes as beneficial because it means “men know what is wanted of them, and what their obligations are.”¹⁷³

Zina met her American husband, Robert, through a mail order bride agency.¹⁷⁴ Robert was looking for a traditional wife “who would build a home life for him,” but in return, he was happy to accept the traditional husband role of protector and provider.¹⁷⁵ Zina found this very appealing. According to Zina, “In Russia . . . all men know what women’s obligations are—to sew, to cook, they know all that by heart. But they have no idea whatsoever of what their obligations might be. Here it’s just the opposite. The men know what is wanted of them and what their obligations are.”¹⁷⁶

Tamara, a beautiful blonde-haired, blue-eyed thirty-two-year-old secretary from Irkutsk expressed similar appreciation for her bald, forty-seven-year-old, TV repairman husband.¹⁷⁷ Although outsiders

168. *Id.* at 53.

169. *Id.*

170. JOHNSON, *supra* note 53, at 53 (noting that Russian men do tend to drink a lot more than men in America and many have a very hard time providing for families).

171. VISSON, *supra* note 51, at 210.

172. *Id.*

173. *Id.* at 216.

174. *Id.*

175. *Id.*

176. *Id.* The men also appreciate that the women want them to assume this role. For Peter, married to a Russian woman named Tanya, her appreciation of him assuming the male protector/provider role was one of the biggest advantages of a foreign bride. He noted “she’s so much more feminine and appreciative than American women.” VISSON, *supra* note 51, at 218.

177. *Id.* at 217.

might be skeptical of this pairing, it is clear that Tamara thinks she is the lucky one in the relationship.¹⁷⁸ Tamara explained that at first her friends were skeptical of her decision to become a mail order bride but now, her friends back in Russia are “tearing their hair out from jealousy.”¹⁷⁹

Studies of mail order brides confirm that these women believe marriage to a foreigner will give them a chance at a better life, and that part of this “better life” is marriage to a man who respects women.¹⁸⁰ Mail order brides consistently express the belief that Western men are held to a higher standard of ethics in relationships with women and consequently treat them better.¹⁸¹ For example, Tanya, a twenty-four-year-old Russian woman with a three-year-old child explained that what attracted her to Peter, a twenty-nine-year-old engineer from Wisconsin was that he was kind and would listen to her: “He calls me every day from work to see if I need anything. Very few Russians would do that.”¹⁸²

Similarly, in describing why she listed with a mail order bride company, Olga, a twenty-nine-year-old music teacher from Russia stated:

Everyone knows that life in America is much better than here in Russia. Even poor people there have cars, houses and color TVs. And there’s always plenty of food to eat. But the most wonderful thing about America is the men. They’re much more handsome than Russian men. They don’t have gold fillings . . . or rotted teeth like all my old boyfriends. And they don’t boss you around and treat you like you’re their slave. I dream every night of going to the United States, marrying a handsome man and having children. I can’t wait to go. As soon as I find the right man, I’m going to apply for an exit visa.¹⁸³

Both Tanya and Olga’s statements make clear that part of their reason for seeking an American husband is the belief that American husbands treat their wives with greater respect. Moreover, this belief is not limited to Russian women; other foreign women also express these sentiments. As one Filipino women’s advocate explained:

178. *Id.*

179. *Id.*

180. See Simons, *supra* note 59, at 82; see also JOHNSON, *supra* note 53, at 21 (“[A]s different as the women are, they do have one thing in common: the longing for a better future and the belief that having a husband and a family is an important component of that future.”).

181. Simons, *supra* note 59, at 69.

182. VISSON, *supra* note 51, at 218.

183. *Id.* at 51–52.

“Most Filipino men would have no idea what ‘gender relations’ means. Powerful, educated Filipinas intimidate them. Accomplished women might as well be attracted to foreigners because a Filipino man wouldn’t want them anyway.”¹⁸⁴

3. *Desperate?*

Foreign women view mail order marriage as a way to achieve respect and equality in their marriages and many bristle at the suggestion they are seeking such marriages out of desperation. For example, a Filipino woman, named MaryBeth, provided the following explanation of her motivations for seeking a mail order marriage and her frustration with the victim stereotypes:

I was aware of pen-pal clubs but had not thought to use one myself until I met an American man in Manila who had come to meet his girlfriend. We became friends, and he encouraged me to try this way of meeting someone. I was suspicious at first. I had heard the reports and comments of people who assumed you had to be desperate to do this. I didn’t consider myself desperate. I had a good job. I did not need to get married or seek better opportunities elsewhere.¹⁸⁵

Mail order brides like MaryBeth do not fit the stereotype of the desperate, vulnerable woman and the fact that brides like MaryBeth are common may be the strongest indication that this stereotype is unfounded. Although men seeking mail order brides commonly express a preference for “traditional wives,” most mail order brides work,¹⁸⁶ and at least one Russian bride site specifically notes that men should expect that within a few months after arriving in America, their wife will become bored and want a job.¹⁸⁷ Interestingly, few men seem to object: studies show that American men seeking mail order brides support their wives’ desire to work.¹⁸⁸ The difference however, is that American men believe foreign women, unlike American women, will not prioritize work over family or place their career in competition with their husband’s.¹⁸⁹ Interviews with mail order brides confirm this perception is often correct, but it does not mean mail order brides are docile or desperate; for example, when

184. Simons, *supra* note 59, at 97.

185. *Id.* at 83.

186. *See id.* at 100.

187. JOHNSON, *supra* note 53, at 31.

188. *See, e.g.*, Simons, *supra* note 59, at 112.

189. *Id.*

a potential mail order bride named Olga was asked if she saw herself working after marriage she replied: “Yes, I’m going to be a teacher . . . I wouldn’t want to be entirely dependent on my husband and I don’t want to just sit around at home.”¹⁹⁰ Olga then further clarified, “I don’t want a career. I’m not a feminist. My family will be my first priority, but I do want to have a job and make some money.”¹⁹¹ Lastly, when asked what she would do if her husband did not want her to work, she made a face “as if she didn’t think that would happen,” but then shrugged and said, “[w]ell, in that case we’ll have to talk about it and compromise.”¹⁹²

C. Marriage for Sale

One final objection to mail order marriage is the belief that it commodifies something that should not be commodified, and that in doing so it exploits women. As marriage historian Nancy Cott has written, “American rhetoric and popular culture . . . put love and money on opposite sides of the street. Mercenary or cold-blooded motives for marrying [are] labeled crass, unethical, and destined for disastrous fate.”¹⁹³ Cott further notes that Americans view the love aspect of marriage as not only essential, but almost divine.¹⁹⁴ According to Cott, modern beliefs about marriage hold that “[o]nly through some ‘mysterious attraction’ that ‘just happens’ [are] two young people supposed to find each other” and she adds the Americans view “romance in marriage as something which, like their religion, must be believed in to hold society together.”¹⁹⁵ Mail order marriages, conversely, do not “just happen” and they often include financial considerations.¹⁹⁶ Successful mail order marriages therefore appear to directly threaten the belief in the superiority of romantic marriage. Nevertheless, with a divorce rate hovering around fifty percent,¹⁹⁷ there is reason to question the American preference for romantic marriage, particularly given the fact that commodifying marriage empowers women.¹⁹⁸

190. JOHNSON, *supra* note 53, at 32.

191. *Id.*

192. *Id.* Interestingly, although Russian women are quick to disparage the concept of feminism, Johnson notes this may simply be semantics. According to Johnson, “as negatively as feminism is viewed in Russia, its counterpart, the concept of women’s solidarity, is very strong, both politically and in daily practice. The term ‘feminist’ is an insult but many women are comfortable professing solidarity with other women.” *Id.* at 36.

193. NANCY F. COTT, PUBLIC VOWS: A HISTORY OF MARRIAGE AND THE NATION 150 (2000).

194. *See id.*

195. *Id.*

196. Simons, *supra* note 59, at 86.

197. JOHNSON, *supra* note 53, at 63.

198. COTT, *supra* note 193, at 150.

Evidence shows that the commodification of care giving relationships does not hurt either the quality or the sincerity of the care.¹⁹⁹ As Dartmouth professor Deborah Stone has argued, the exchange of money does not stop the growth of love.²⁰⁰ Stone notes that study after study of nursing home aides, home health aides, childcare workers, nannies, and au pairs demonstrates that despite the fact they were paid to care for strangers, women in these professions commonly formed a bond with their clients and came to consider them family.²⁰¹

Conversations with mail order brides also demonstrate that love and money are not necessarily opposites. As Masha, the Russian woman who married Paul, explained, her first consideration in becoming a mail order bride “was to secure a decent life for her daughter” and thus, initially the marriage was a clear exchange.²⁰² Masha stated:

[T]he way I feel about Paul is this: you’re giving me a decent life for myself and my child, and so I’m giving you love. After all, what I was thinking about back in Kharkov wasn’t where can I find love but will I have money today to buy bread for me and my child?²⁰³

However, after living with Paul in America, Masha noted that these two elements became fused, “How can I not love a man who’s being so kind to me and my child?”²⁰⁴

As the marriage between Masha and Paul shows, the exchange of care and affection in return for money, security and a decent lifestyle is often explicit in mail order marriages, but this arrangement does not preclude the development of love, and despite the American aversion to these arrangements, the commodification of marriage can actually create more egalitarian marriages.²⁰⁵ In fact, a number

199. Deborah Stone, *For Love Nor Money: The Commodification of Care*, in *RETHINKING COMMODIFICATION: CASES AND READINGS IN LAW AND CULTURE* 271, 277 (Martha M. Ertman and Joan C. Williams eds., 2005).

200. *Id.* at 275.

201. *Id.* For example, it is quite common for nannies and other childcare workers to describe themselves as being like a second mom to the kids they care for. According to one such provider:

[T]hese children, they are so close to you. You’re like a second mom to them. And you being there when they come home after school—you listen to the different little things they want to talk with you about. It becomes a personal thing, where, you know, they can’t get to mom right away. But they can get to you.

Id.

202. VISSON, *supra* note 51, at 231.

203. *Id.*

204. *Id.*

205. See Margaret Jane Radin, *Contested Commodities*, in *RETHINKING COMMODIFICATION: CASES AND READINGS IN LAW AND CULTURE* 81, 89 (Martha M. Ertman and Joan C. Williams eds., 2005).

of feminist scholars have even argued that it is the failure to commodify marriage that actually creates the greatest harm to women.²⁰⁶ According to these scholars, it is our current conception of marriage which encourages women to provide their services for free that devalues women and the work they do in marriage.²⁰⁷

As Professor Robin West has written, by encouraging wives to work for free, we are encouraging a woman to think of herself “as the conduit for the pleasures of others, rather than acting toward the maximization of her own”²⁰⁸ West notes that women who routinely perform “harmful altruistic acts” in which they consistently put the needs of others before their own “lose[] the sense of integrity necessary to [maintain their own] individualism.”²⁰⁹ According to West, there is no reason why the family *should* be any more altruistic than the marketplace, particularly when this altruism harms women.²¹⁰

Professor West’s analysis clearly has implication for mail order marriages. Mail order marriages are often explicit exchanges, and therefore, according to West, may be actually more beneficial to women than the idealized, romantic marriage.²¹¹ A mail order bride who makes her sacrifices, and performs caregiving for her husband and family as part of a contractual understanding is empowered by her actions in a way the “loving,” altruistic, wife is not.²¹² As Svetlana, a potential Russian bride from Moscow noted: “Love has become a luxury . . . I’ll be old and gray before we [Russian women]

206. *See, e.g., id.*

207. *See id.* (likening marriage to prostitution but noting that wives, unlike prostitutes, do not realize they are selling their sexual services). Women in such relationships “try to understand what they are doing as giving, as equal sharing, while their sexuality is actually being taken from them.”

208. ROBIN WEST, *CARING FOR JUSTICE* 120 (1997) (emphasis omitted).

209. *Id.* at 121 (emphasis omitted).

210. *See id.* at 121–22 (explaining that the families are more altruistic in the marketplace in large part because “women behave more altruistically than men within families”).

211. *Id.*

212. For example, feminist scholar Martha Nussbaum has argued that the real question is how to expand the options and opportunities for women workers and “how to increase the humanity inherent in their work, and how to guarantee that workers of all sorts are treated with dignity.” Martha C. Nussbaum, *Taking Money for Bodily Services*, in *RETHINKING COMMODIFICATION: CASES AND READINGS IN LAW AND CULTURE* 243, 247 (Martha M. Ertman & Joan C. Williams eds., 2005). Consequently, Nussbaum has argued that if prostitution increases options for women and provides them with more dignified opportunities than other types of work it should be favored. *Id.* at 243, 246–47. A similar argument can be made with mail order marriage. Such marriages have the potential to increase opportunities for women by providing them with the means of financial remuneration for their work as a housewife. The problem, as Nussbaum would see it, is not in the sale of their marriage or wifely services but guaranteeing their dignity and protection. *Id.* at 246–47.

can afford love.”²¹³ Forcing women like Svetlana to wait for “love” may be the least helpful thing we can do.

CONCLUSION

Statistics on the success rates of mail order marriages are hard to verify. Encounters International, one of the biggest matching making agencies, claims 104 marriages and four divorces in seven years.²¹⁴ Similarly, a lawyer who specializes in fiancée visas noted that in eight years, she had seen 600 mail order marriages and twenty-one divorces.²¹⁵ In addition, at least one study claims the success rates for mail order marriages is eighty percent after five years, which, if accurate, would be a much better success rate than the fifty percent rate for American marriages in general.²¹⁶ No one is arguing that mail order marriages should become the norm, simply that it is time to stop demonizing these unions and recognize their potential benefits. Mail order marriages provide options to men and women who find their domestic marriage opportunities limited and disempowering. These marriages give participants a way of re-asserting control and finding a fulfilling, if unconventional, route to marriage.

213. VISSON, *supra* note 51, at 57.

214. *Id.* at 213.

215. *Id.*

216. JOHNSON, *supra* note 53, at 63.